



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	Waterfall Park Developments Ltd
RM reference:	RM 180584
Location:	Arrowtown – Lake Hayes Road, Wakatipu
Proposal:	To construct a hotel complex, associated buildings, bridges with associated earthworks and restoration and repurposing heritage buildings for commercial use.
Type of Consent:	Land use
Legal Description:	Part Lot 3 Deposited Plan 5737 held in Computer Freehold Register 666857; Section 69 Block VII Shotover Survey District held in Computer Freehold Register OT250/39; Lot 2 Deposited Plan 507367, Lot 1 Deposited Plan 27503, and Lots 1-2 Deposited Plan 23038 held in Computer Freehold Register 789176.
Zoning:	Waterfall Park Zone / Rural General
Activity Status:	Non complying
Notification:	6 September 2018
Commissioners:	Commissioners D Mead and G Sweetman
Date Issued:	13 March 2019
Decision:	Granted Subject To Conditions

UNDER THE RESOURCE MANAGEMENT ACT 1991

IN THE MATTER OF an application by Waterfall
Park Developments Limited to build and operate a
hotel complex

Council File: RM180584

DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL HEARING COMMISSIONERS D MEAD AND G SWEETMAN APPOINTED PURSUANT TO SECTION 34A OF THE ACT

The Proposal

1. We have been given delegated authority to hear and determine this application by the Queenstown Lakes District Council ("Council") under section 34 of the Resource Management Act 1991 ("the Act") and, if granted, to impose conditions of consent.
2. This decision contains the findings on the application for resource consent and has been prepared in accordance with section 113 of the Act.
3. Waterfall Park Developments Limited (the applicant) applied for resource consent from the Council and the Otago Regional Council for:
 - (a) Land use consent to construct and operate a hotel complex containing 380 rooms, restaurants, conference/event facilities, a wellness centre and chapel, storage buildings and undertake associated earthworks and landscaping.
 - (b) Land use consent for restoration and repurposing of the existing heritage "Ayrburn Stone Farm Buildings" (protected building #110) to include a restaurant and bar, storage, retail and equipment hire.
 - (c) Land use consents and water permits to construct bridges, culverts and crossings for vehicles and pedestrians over Mill Creek, as well as construct new weirs and undertake widening in places of Mill Creek.
4. The Otago Regional Council (the ORC) granted the five following separate non-notified resource consents on 5 September 2018¹:
 - (a) Land use consent to erect/place six weir structures, seven single span bridges and two culvert crossings over, in and on the bed of Mill Creek and to disturb and alter the bed of Mill Creek for the purposes of placing the instream structures and widening/reshaping Mill Creek and providing vehicle, pedestrian and cycle access over Mill Creek;

¹ Mr Goldsmith provided copies of these consents in his pre-circulated memorandum of 17 January 2019.

- (b) Water permit to permanently dam the flow of Mill Creek for the purpose of establishing amenity ponds above weirs;
 - (c) Land use consent to construct and maintain a defence against water for the purpose of flood protection;
 - (d) Water permit to permanently divert the flow of Mill Creek for the purpose of flood protection; and
 - (e) Water permit to temporarily divert the flow of Mill Creek for the purpose of undertaking instream works.
5. This decision relates to the land use consents sought from the Queenstown Lakes District Council. We set out the reasons that consent is required below.

The Site

6. A description of the site and receiving environment within which the application will operate can be found in the applicant's AEE. The description accords with our impressions from our visits to the site and surrounding area. The site comprises a number of land holdings. The hotel development will be contained largely within the Waterfall Park landholding, with part of the development straddling the adjacent Ayrburn farm. The heritage buildings are located on the Ayrburn farm landholding, but only part of this title is subject to the consent application. For ease of reference we refer to the 'application site', being the site of the hotel development and the Ayrburn farm heritage buildings.
7. The current legal road access to the hotel site is via Waterfall Park Road. This road reserve joins the Arrowtown - Lake Hayes Road on a difficult bend where there is a significant level difference between Arrowtown-Lake Hayes Road and Waterfall Park Road. As a result, actual vehicle access is via a formed accessway that crosses private land, joining Arrowtown Lake Hayes Road at the foot of a rising bend. This current access arrangement is universally agreed to be unsuitable and unsafe for any form of more intensive use of the hotel site, including construction activities. The Ayrburn farm buildings are accessed by a driveway that also joins the Arrowtown - Lake Hayes Road at the same point as the existing access to the hotel site. Access to the hotel site and the Ayrburn farm buildings is to be by way of a new private road that crosses land to the south. This road has been authorised by a separate resource consent (RM171280) that is currently the subject of an appeal to the Environment Court.

Notification, Submissions and Affected Party Approvals

8. The application was publicly notified on 6 September 2019 and 13 submissions were received, 12 in opposition.
9. Four written approvals were provided from:
- (a) Dean Whaanga, on behalf of Te Ao Marama Inc.;
 - (b) Chris Meehan, on behalf of Waterfall Park Developments Ltd;
 - (c) Graeme and Rowena Hill, of Lot 2 DP 12664; and

(d) B. C. O'Malley, on behalf of the Millbrook Country Club Ltd.²

10. By the time of the hearing, the only submitters who wished to be heard were Mr John Blair and Friends of Lake Hayes Inc. An email dated 17 January 2019 from Heritage New Zealand Pouhere Taonga advised that they would not be speaking to their submission, and that the applicant had now completed a heritage assessment for the entire site and obtained an archaeological authority from them.

The Council's section 42A report summarised the submissions generally as follows:

- The application is contrary to Part 2 of the Resource Management Act 1991 (RMA), the National Policy Statement (NPS) for Freshwater Management, and the objectives and policies of Operative District Plan (ODP), Proposed District Plan (PDP), Otago Regional Policy Statement (RPS), and the Proposed Otago RPS.
- The proposed development will degrade the water quality of Mill Creek and Lake Hayes. The quality of Mill Creek will also be impacted by the close proximity of the hotel during construction and ongoing operation, particularly in respect of stormwater runoff.
- The potential for sediment and nutrients to enter into Mill Creek and subsequently Lake Hayes in heavy rainfall events from exposed areas where earthworks have occurred.
- That the effects of climate change needed to be addressed, concerning the increased frequency of heavy rainfall events.
- There is insufficient municipal infrastructure to support the proposed development, including but not limited to potable water, wastewater and road infrastructure.
- The scale of development is too large for the subject site, and that the effects of the hotel operation during the day and night, such as traffic and noise, will affect the peaceful rural character of the surrounding area.
- The height breach of the wellness centre and one of the accommodation blocks will mean that the buildings cannot blend into the environment. The density and scale of development proposed is not appropriate given the surrounding environment.
- Given Rural General zoned land in the Wakatipu Basin is still subject to the district plan review process, and an Environment Court decision is yet to be released for RM171280, it is not appropriate to consider the application.

The District Plan and Resource Consents Required

11. Full details of the resource consents required and the status of the proposed activity are set out in the application and Council's section 42A report. The application requires consent under both the Operative District Plan (ODP) and the Proposed District Plan (PDP).
12. The site is split-zoned. Most of the development is within the Waterfall Park Zone (WPZ) of the PDP. The WPZ is deemed the operative zone. The WPZ was generally rolled over from the ODP.

² This written approval was provided by Mr Goldsmith on 18 December 2018.

13. Part of the development is located within the Rural General Zone of the ODP and, at the time of lodgement, the Wakatipu Basin Rural Amenity Zone (WBRAZ) of the PDP.

Operative District Plan

14. As outlined in the section 42A report, the following consents are required under the ODP:

Part 5 - Rural General Zone

- A **controlled** activity resource consent pursuant to Rule 5.3.3.2 i(a) for the alteration to buildings. It is proposed to alter existing buildings located within Ayrburn Domain. Council's control is with respect to:
 - external appearance;
 - associated earthworks, access and landscaping;
 - provision of water supply, sewage treatment and disposal, electricity and telecommunication services.
- A **restricted discretionary** activity resource consent pursuant to Rule 5.3.3.2 xi for the proposed non-compliance with site standard 5.3.5.1 (iii) (a) due to the maximum gross floor area of all buildings on site exceeding 100m². In this instance the gross floor area of the majority of the hotel buildings will exceed 100m². Council's discretion is restricted to this matter.
- A **restricted discretionary** activity resource consent pursuant to Rule 5.3.3.2 xi for the proposed non-compliance with site standard 5.3.5.1 (vi) (a) due to the location of buildings within 15m from an internal setback. In this instance it is proposed to locate some of the buildings in the hotel complex up to, and over the site boundaries. Council's discretion is restricted to this matter.
- A **discretionary** activity resource consent pursuant to Rule 5.3.3.3 i (a) for the proposed construction of buildings.
- A **discretionary** activity resource consent pursuant to Rule 5.3.3.3 iii for the proposed visitor accommodation.
- A **non-complying** activity resource consent pursuant to Rule 5.3.3.4 i for the proposed commercial activities to be located within the Rural General Zone portion of the application area.
- A **non-complying** activity pursuant to Rule 5.3.3.4 vi as the proposal breaches zone standard 5.3.5.2 i in regard to building height. It is proposed to construct buildings that will exceed the 8m maximum building height for the zone. The breaches are as follows:
 - Building A (Reception & Facilities Building) – max. height 12.8m = 4.8m breach
 - Building B (Hotel Block) – max. height 15.7m = 7.7m breach

- Building C (Hotel Block) – max. height 15.8m = 7.8m breach
- Building D (Hotel Block) – max. height 15.5m = 7.5m breach
- Building E (Hotel Block) – max. height 15.5m = 7.5m breach
- Building G (Wellness Centre) – max. height 9.8m = 1.8m breach
- Building F (Chapel) – max. height 8.7m = 0.7m breach
- A **non-complying** activity pursuant to Rule 5.3.3.4 vi as the proposal breaches zone standard 5.3.5.2 ii in regard to setback from road boundaries. It is proposed to construct buildings that will be located within 20m of a road boundary. In this instance a portion of Building C (Hotel Block) will be located within the 20m road boundary setback from the existing Waterfall Park Road.
- A **non-complying** activity pursuant to Rule 5.3.3.4 vi as the proposal breaches zone standard Rule 5.3.5.2.v.a and construction Rule 5.3.5.2.v.c noise limits

Part 12 – Special zones

- A **non-complying** activity pursuant to Rule 12.2.3.5 xii as the proposal breaches zone standard Rule 12.2.5.2.ix.b noise limits. This zone sets stringent limits that are likely to be infringed by the proposed activity.
- A **non-complying** activity pursuant to Rule 12.2.3.5 xii as the proposal breaches zone standard Rule 12.2.5.2.ix.c noise limits. This rule regulates sound received in surrounding zones by requiring compliance with noise limits for each surrounding zone.

Part 13 - Heritage

- A **discretionary** activity resource consent pursuant to Rule 13.2.3.2 i (a) for the alteration to a Category 2 protected buildings located within Ayrburn Domain (Ref. No. 110 – Ayrburn Homestead and Stone Farm Buildings)

Part 14 – Transport

- A **restricted discretionary** activity resource consent pursuant to Rule 14.2.2.3 ii for the proposed non-compliance with site standard 14.2.4.1 v as disabled parking spaces in guest parking areas 3, 4 and 5 breach requirements in Appendix 7. In this instance a minimum aisle width of 8m is required. The following breaches are present:
 - Parking Area 3 - 7m aisle width – 1m shortfall
 - Parking Area 4 – 7m aisle width – 1m shortfall
 - Parking Area 5 – 6m aisle width – 2m shortfall.
- A **restricted discretionary** activity resource consent pursuant to Rule 14.2.2.3 ii for the proposed non-compliance with site standard 14.2.4.1 xi as the queuing spaces provided does not meet Table 2 requirements. The breaches are as follows:
 - Staff Parking Space 2 – 6m queuing length required; 4m provided = 2m shortfall

- Staff Parking Space 3 – 6m queuing length required; none provided = 6m shortfall.
- A **restricted discretionary** activity resource consent pursuant to Rule 14.2.2.3 ii for the proposed non-compliance with site standard 14.2.4.2 i as the proposed length of vehicle crossings does not meet requirements for parking areas 1 and 3. In these areas the length of the vehicle crossings will be approximately 25m, exceeding the 9m maximum length by approximately 16m.
- A **restricted discretionary** activity resource consent pursuant to Rule 14.2.2.3 ii for the proposed non-compliance with site standard 14.2.4.2 iv as proposed sightlines from accessways cannot be complied with. Given the activity is a non-residential use, and the internal road will have a maximum speed limit of 50km/h, sight distances of 80m are required in each direction. The breaches in the following areas are listed below:
 - Guest Parking 2 – 35m sightline = 45m shortfall
 - Guest Parking 3 – 55m sightline = 25m shortfall
 - Staff Parking 1 – 60m sightline = 20m shortfall
 - Staff Parking 2 – 60m sightline = 20m shortfall
 - Coach Parking 2 – 70m sightline = 10m shortfall
 - Guest Parking 4 – 50m sightline = 30m shortfall
 - Guest Parking 8 – 70m sightline = 10m shortfall
 - Guest Parking 10 – 50m sightline = 30m shortfall.
- A **restricted discretionary** activity resource consent pursuant to Rule 14.2.2.3 ii for the proposed non-compliance with site standard 14.2.4.2 vi as the proposed separation distance between an access and an intersection for Guest parking area 4 cannot meet the required 25m separation distance (being approximately 18m).

Part 17 - Utilities

- A **restricted discretionary** activity resource consent pursuant to Rule 17.2.3.3(iv) for construction of new flood protection works. The Council shall restrict the exercise of its discretion in relation to this matter to effects on the natural character natural conservation and landscape values of the river and lake bed and margins; and public access, recreation and enjoyment of the river and lake bed and margins.

Part 18 - Signs

- A **discretionary** activity resource consent pursuant to Rule 18.2.5 for the proposed signage to be located throughout the proposed development. The proposed signs will be greater than the 2m² maximum permitted.
- A **discretionary** activity resource consent pursuant to Rule 18.2.5 for affixing signage onto a Category 2 Protected Feature (Ref. No. 110).

Part 22 – Earthworks

- A **restricted discretionary** activity resource consent pursuant to Rule 22.3.2.3 (a) for infringing the following site standards pertaining to earthworks:

- Rule 22.3.3 (i) where the proposed earthworks will exceed the 1000m³ maximum volume within a 12 month period. It is proposed to undertake a total volume of 41,890m³ of earthworks.
- Rule 22.3.3 (a) (i) as the proposal will exceed the maximum cut depth of 1m. It is proposed to undertake up to 6m of cut, exceeding the maximum of 1m by 5m.
- Rule 22.3.3 (a) (ii) as cuts and batters are proposed to be laid back greater than 65°.
- Rule 22.3.3 (v) as the works will be undertaken within 7m of the stream and will exceed 20m³ in volume in on consecutive 12 month period.

Proposed District Plan

15. As outlined in the section 42A report, the following consents are required under the PDP:

Chapter 24 - (Wakatipu Basin) (pursuant to Section 86(B)(3))

- A **discretionary** activity resource consent pursuant to Rule 24.4.21 for activities on or over the surface of waterbodies.
- A **restricted discretionary** activity resource consent pursuant to Rule 24.5.7 for the proposed non-compliance with buildings being located within 30m of the bed of a wetland, river or lake. In this instance it is proposed to locate buildings up to 5.6m from a river, with raised decking, being part of the building, to be located next to the stream (i.e. no setback). Discretion is restricted to:
 - Indigenous biodiversity values
 - Natural hazards
 - Visual amenity values
 - Rule 22.3.3 (i) where the proposed earthworks will exceed the 1000m³ maximum volume within a 12 month period.

Chapter 42 – Waterfall Park (deemed operative pursuant to section 86F)

- A **controlled** activity resource consent pursuant to Rule 42.4.5 for buildings. Council's control is reserved to:
 - a. the external appearance of the building and coherence with surrounding buildings;
 - b. natural hazards where the proposal results in an increase in gross floor area:
 - the nature and degree of risk the hazard(s) pose to people and property;
 - whether the proposal will alter the risk to any site; and
 - the extent to which such risk can be avoided or sufficiently mitigated.
- A **controlled** activity resource consent pursuant to Rule 42.4.6 for resort facilities in the Village Area (V) of the Structure Plan. Council's control is reserved to:
 - a. general
 - location and external appearance of buildings;
 - setback from roads;
 - setback from internal boundaries;
 - vehicle access and street layout;

- outdoor living space;
 - street scene including landscaping;
 - enhancement of ecological and natural values;
 - provision for internal walkways, cycle ways and pedestrian linkages; and
 - noise.
- b. natural hazards where the proposal results in an increase in gross floor area:
 - the nature and degree of risk the hazard(s) pose to people and property;
 - whether the proposal will alter the risk to any site; and
 - the extent to which such risk can be avoided or sufficiently mitigated.
- A **discretionary** activity resource consent pursuant to Rule 42.5.1 for buildings that are to be located closer than 6m to the zone boundary, and closer than 7m to Mill Creek. In this instance it is proposed to locate buildings up to 5.6m from a river, with raised decking, being part of the building, to be located next to the stream (i.e. no setback).
- A **non-complying** activity resource consent pursuant to Rule 42.5.3 for buildings that exceed the 8m maximum height limit for buildings used for visitor accommodation and those associated with the activity. The breaches are as follows:
 - Building A (Reception & Facilities Building) – max. height 12.8m = 4.8m breach
 - Building B (Hotel Block) – max. height 15.7m = 7.7m breach
 - Building C (Hotel Block) – max. height 15.8m = 7.8m breach
 - Building D (Hotel Block) – max. height 15.5m = 7.5m breach
 - Building E (Hotel Block) – max. height 15.5m = 7.5m breach
 - Building G (Wellness Centre) – max. height 9.8m = 1.8m breach
 - Building F (Chapel) – max. height 8.7m = 0.7m breach.
- A **non-complying** activity resource consent pursuant to Rule 42.4.1 for activities that are not within the activity area allocated for them in the Structure Plan. Buildings D, C and B are located on the eastern side of Mill Creek and not entirely contained in the Village Area of the structure Plan (being located in the Open Space & Passive, Passive Recreation Area).

For completeness, the applicant has noted that part of Building A is located south of the Waterfall Park zone and therefore requires a non-complying activity consent under the above rule as it is outside the structure plan area. As the building component located outside of the zone is covered by the Rural General zone, it is not a non-complying activity under the provisions of Rule 42.4.1

Chapter 25 – Earthworks (pursuant to section 86(B)(3))

- **Restricted Discretionary** Activity consent under Table 25.3 Rule 25.5.11 for earthworks volumes on slopes

- **Non Complying Activity** consent under Table 25.3 Rule 25.5.12 for sediment entering a waterway
- **Discretionary Activity** consent under Table 25.3 Rule 25.5.20 for distance from watercourses.

Chapter 26 – Historic Heritage

- **Restricted Discretionary Activity** consent under Rule 26.5 Table 2, Rule 26.5.6 for external alterations and additions to a Category 2 heritage feature. Discretion is restricted to:
 - the effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6;
 - where the heritage feature is located within a heritage precinct, the effects of the proposal on the key features of the heritage precinct as identified in Section 26.7.
- **Restricted Discretionary Activity** consent under Rule 26.5 Table 2, Rule 26.5.7 for external alterations and additions to a Category 2 heritage feature. Discretion is restricted to:
 - the effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6;
 - where the heritage feature is located within a heritage precinct, the effects of the proposal on the key features of the heritage precinct as identified in Section 26.7.
- **Restricted Discretionary Activity** consent under Rule 26.5 Table 2, Rule 26.5.8 for development within a setting or extent of place, being new buildings and structures, earthworks requiring consent under Chapter 25, car park areas exceeding 15m² within the view from a public road, and car park areas exceeding 40m² located elsewhere. Discretion is restricted to:
 - Development within the setting, or within the extent of place where this is defined in the Inventory under Rule 26.8;
 - The extent of the development and the cumulative effects on the heritage feature, and its setting or extent of place;
 - The effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (the NESCS)

16. We concur with the reporting officer's assessment that the proposal requires a discretionary activity consent under Regulation 8 as it is not a permitted, controlled or restricted discretionary activity.

Overall consent status

17. The applicant and Council agree that the consents should be bundled and that the overall consent status is as a non-complying activity.

The Hearing

18. A hearing to consider the application was convened on 22 January 2019, in Queenstown. The Commissioners undertook a site visit prior to the hearing.
19. The applicant was represented by Mr Warwick Goldsmith, legal counsel. Pre-circulated evidence was provided by:
 - (a) Stephen McDougall (Studio Pacific Architecture) – main hotel
 - (b) Jessie Sutherland (Sutherland Architecture Studio Ltd) – Ayrburn Domain architecture
 - (c) Stephen Popenhagen (Paterson Pitts Group) – engineering design
 - (d) Stuart Minty (ENGCO) – structural engineering
 - (e) Jayne Richards (Fluent Solutions) – water supply and wastewater servicing
 - (f) Andy Carr (Carriageway Consultants) – transportation
 - (g) Tony Milne (Rough & Milne Landscape Architects Ltd) – landscape
 - (h) Dr Ruth Goldsmith (Ryder Environmental) – aquatic ecology
 - (i) Jeff Brown (Brown & Company) - planning
 - (j) Robin Miller (Origin Consultants) – heritage
 - (k) Damian Ellerton (Marshall Day Acoustics) – noise
 - (l) Gary Dent (Fluent Solutions) – flood management and stormwater
 - (m) Steve Osborne (Wilsons Contracting Ltd) – construction management.
20. We also heard from Chris Meehan, George Wadsworth-Watts and Lauren Christie, all representatives of Waterfall Park Developments Limited. Mr Meehan spoke to written evidence. We also received pre-circulated evidence from Ciaran Keogh (Environmental Consultants Otago) relating to soil contamination, who we did not require to attend the hearing.
21. The Council was represented by Andrew Woodford, senior planner for the Council. He was supported at the hearing by the following experts:
 - (a) Alan Hopkins (Consulting Engineer) – transport, services, earthworks, hazards
 - (b) Helen Mellsop (Consultant Landscape Architect) – landscape assessment
 - (c) Keren Bennett (4Sight Consulting) - ecology³
 - (d) John Brown (Plan.Heritage) – historic heritage

³ Ms Bennett also provided ecological advice to the ORC on the proposal.

- (e) Dr Stephen Chiles (Chiles Ltd) – noise.
- 22. Council's section 42A report recommended that we grant consent, subject to conditions
- 23. Submitters Mr Blair and Richard Bowman, Secretary, and Kathleen O'Sullivan, Treasurer, for Friends of Lake Hayes Society Incorporated (FOLH) appeared at the hearing.
- 24. Dr Schallenberg provided expert evidence for FOLH, however he was not available to present this evidence during the hearing. FOLH had sought that the hearing be adjourned so he could attend at a later date. As we had read his evidence and had no questions of him, we saw no reason to adjourn the hearing for this purpose.
- 25. The hearing was adjourned on 23 January 2019 to allow for an amended set of recommended conditions to be discussed between Council staff and the applicant. These conditions were received on Friday 15 February 2019 and the hearing was closed on Friday 22 February 2019.
- 26. Prior to the hearing, the Commissioners issued a direction under section 91 of the RMA relating to deferral of the hearing pending the outcome of the road appeal. Subsequent correspondence from the applicant, council and counsel for some of the submitters resulted in the Commissioners withdrawing that Direction.

Summary of the Evidence Heard

- 27. The following is a brief outline of the submissions and evidence presented. This summary does not detail everything that was advanced at the hearing but captures key elements.

Evidence for the applicant

- 28. As evidence for this hearing was pre-circulated and pre-read by the Commissioners, for the most part the applicant's witnesses responded to questions. Mr Brown, Dr Goldsmith and Mr Meehan presented additional evidence.
- 29. Mr Goldsmith, legal counsel, outlined in his submission what he saw to be the key issues for our consideration; these being:
 - (a) The particularities around the site and its zoning, including the structure plan;
 - (b) The relationship of this application with the road approved under RM171280, and subject to appeal;
 - (c) Public access to Mill Creek;
 - (d) Ecological considerations, including the relevance of the National Policy Statement on Freshwater Management (NPSFM) to this application, and the consents already granted by the ORC;
 - (e) The weighting of the Operative and Proposed District Plans and Regional Policy Statements;

- (f) The effects of the proposed development on water quality, what is provided for under the zoning, jurisdictional boundaries between the Council and ORC, and the relationship with the approved ORC consents; and
 - (g) The adequacy of the recommended consent conditions.
30. Mr Goldsmith elaborated on the history of the site and the status of the zoning and structure plan that applies to the WPZ. This structure plan shows a number of 'development areas'. A feature of the zone is that buildings, where located in these areas, are a controlled activity. Visitor Accommodation development is a controlled activity, while up to 100 residential units may be built. In other words, the zone enables a considerable amount of development to occur, albeit within limits as to coverage, height and building placement.
31. The hotel development is only partly located within the development areas shown in the structure plan. The evidence of the applicant was that the proposed development would lead to fewer adverse effects and improved on-site amenity, compared to if development was confined to the areas identified in the structure plan. Mr Goldsmith stressed that the proposed development maintained the building coverage allowance for the zone, and so locating development in an alternative way to that set out in the structure plan would not reduce the balance between built and green space.
32. His submission in respect to the alternative road access sought by way of RM 171280 was that it is necessary to provide physical access to the site and to provide infrastructure connections to serve the development. Construction of the road would commence immediately should the consent be confirmed. He advised that the Environment Court had made it clear that the applicant was fully entitled to apply for consent for the road and was under no obligation to link the road to anything other than the WPZ. He remained of the view that section 91⁴ was not an available option for the Commissioners should we be concerned about granting consent to the hotel development in advance of the road consent being confirmed. He was also of the view that section 104(6)⁵ was not relevant and that the appropriate response to any concerns was a 'condition precedent' offered by the applicant. This condition would state that construction of the hotel could not commence until the road consent has been granted, or words to that effect. Mr Goldsmith also noted that because the applicant owned the land over which the new road was to traverse, the applicant was prepared to offer further landscaping to be located to screen the proposed road, as a condition of this consent, if that was considered necessary.
33. In relation to public access to Mill Creek, and in response to the section 42A report, Mr Goldsmith submitted that section 229⁶ is not relevant to this application; but that the proposal would result in the creating of public access along the length of Mill Creek within the application site, with section 6(d)⁷ being a significant factor in this hearing. In respect of the NPSFM, he submitted that the ecological improvements that would be achieved through riparian planting, revegetation of the steeper slopes and the retirement of the land from any further agricultural or forestry activity will achieve a significant number of regional objectives and policies, and that this should be a relevant element in deciding whether to grant consent.

⁴ Deferral pending application for additional consents

⁵ A consent authority may decline an application for a resource consent on the grounds it has inadequate information to determine the application.

⁶ Purposes of esplanade reserves and esplanade strips

⁷ The maintenance and enhancement of public access to and along...rivers.

34. In respect of plan weighting and consistency, he submitted that the proposal is consistent with the various plans and policy statements and reminded us that Mr Brown's and Mr Crawford's assessments were unchallenged by any expert evidence, except in respect to water quality by FOLH.
35. In his view, the only remaining issue in contention addressed by potentially conflicting expert evidence was that of the effects of the development on water quality. He submitted that, taking into account what the WPZ enables as a controlled activity, there were potentially significantly worse consequences for water quality than what is proposed. He submitted that there is no substance in the evidence presented by FOLH that would justify the refusal of consent; rather that their concerns are addressed through the approved ORC consents and the recommended consent conditions. He was of the view that the ORC had considered the proposal in full and had imposed conditions to minimise adverse effects on in-stream values, as well as in respect of earthworks. He submitted that while the condition sought by FOLH fell within the jurisdiction of the ORC and was already addressed by ORC, the concern prompting the condition would also be addressed through the recommended consent conditions.
36. In response to FOLH's evidence, he submitted that the Council and ORC are fully aware of the state of Lake Hayes, that the consent conditions are adequate to avoid sediment being released into Mill Creek and that the examples of other developments in Wanaka and the presumption of non-compliance with conditions were not relevant. In response to Dr Schallenberg's evidence, he submitted that there was little dispute with the evidence, beyond that of the timing of the forest clearance on site and the relevance to a cyanobacteria bloom in February 2018. To assist in addressing FOLH's concerns, he offered a consent condition for water quality monitoring, should consent be granted. He also confirmed that the 1995 and 2017 documents referenced in Dr Schallenberg's evidence are not statutory documents. Finally, he submitted Part 2 is relevant, and that it was achieved through this consent.
37. On questioning, he submitted that the written approval submitted as a memorandum signed by himself and the Millbrook Country Club Inc constituted a written approval under section 95 of the RMA. He offered an updated condition 31(c) in respect of a post-construction safety audit. He confirmed construction access would occur from the new road for the hotel development and the homestead driveway for the Ayrburn Domain development. We were provided a plan which showed the WPZ structure plan overlaying the hotel. This plan also showed a 26m difference in height from the valley floor to the top of the adjacent ridgelines. In his view, the structure plan is not fit for purpose and not much thought had been given to it through the PDP review. Irrespective, the Commissioners focus should be on the effects of not complying with the structure plan, which for the most part generated effects that are internal to the site. The applicant acknowledged the condition suite still needed some work.
38. Mr Meehan, director of the applicant and CEO of Winton, provided an overview of the proposal, which included the acquisition of the land, the development constraints that apply and the opportunities presented by the site and the proposed development. He spoke of his personal relationship with the site, having visited the site as a child. In response to FOLH's assertion that the clearance of the pines and larches had resulted in a cyanobacteria bloom, he advised that the clearance had occurred in August and November 2016, followed immediately by an aerial drop of grass seed, resulting in grass covered slopes by mid-2017. The 17,000 shrubs and trees that had been planted since had all been rabbit-proofed and irrigated.

39. Mr Wadsworth-Watts provided a plan of the planting already undertaken; of which he advised 95% is native, the remainder being exotic to reflect the colours in the landscape. He also talked to the model that was presented at the hearing and the video shown to the Commissioners, advising that these were to scale and had been developed using Council LIDAR⁸ and Paterson Pitts data. Mr Goldsmith submitted that the planting plan should form part of the decision.
40. Mr McDougall's evidence addressed the design issues involved. Locating the main hotel buildings to the eastern side of the stream, rather than the western side as set out in the structure plan, would lead to a better outcome in terms of on-site amenity, as well as landscape and landform considerations. In his opinion, the site could easily absorb the additional height sought. In response to a question for the need for the 7m riparian setback infringements, he advised that if the width of the buildings were reduced, the length of the buildings would need to be extended to comply with the required dimensions for hotel rooms. He also noted that the development of the site is constrained by topography and the internal road. The riparian planting and landscaping to be provided mitigates any adverse effects on the amenity of the stream. He took issue with the need to provide lobbied doors to the main reception building as a means of managing noise issues. In his view, lobbied doors would detract from the design integrity of the building and/or require considerable internal floorspace for them to be accommodated.
41. Mr Popenhagen's evidence outlined the civil engineering design, including earthworks profiles. He advised that the majority of the earthworks are to be in the base of the valley with only small cuts proposed into the slopes. His initial view was that the proposal would result in a similar volume of earthworks as to that anticipated through the structure plan. Mr Goldsmith later clarified that Mr Popenhagen subsequently noted that developing in the identified structure plan areas would most likely result in more earthworks than the current proposal.
42. Mr Dent talked through the construction process, which would limit areas of open ground through a staged process where earthworks and construction is undertaken progressively and involve a series of sediment retention ponds. These ponds would be able to be accommodated on site. The site would be progressively stabilised through the different stages. Sedimentation would be monitored throughout and management measures adapted as necessary. In his view, this is a small site and the amount of earthworks is confined. In terms of flooding he advised that the development would not add to any downstream flooding. He had factored climate change in for 10 to 100 year events and had taken a conservative approach in doing so. Post development, stormwater would be treated through ponds and swales, except in one location where a proprietary device will be used.
43. Mr Osborne was of the view that the Earthworks Management Plan, proposed as a condition of consent, should be seen as a live document that can and should be adapted as construction progressed. This was to ensure efficient management of earthworks.
44. Ms Christie advised that the construction period has a lot of variables, and that it would take between 24 and 32 months between earthworks starting and buildings being completed. She reminded us that the proposed Construction Management Plan sets out that works would be staged over four work areas.

⁸ Light Detecting and Ranging

45. Mr Brown spoke to supplementary evidence. He accepted and relied on Mr Osborne's unchallenged expert evidence that the earthworks can be undertaken with minor adverse effects and in accordance with the ORC's consent conditions and the regional plan's permitted activity standards. In his view, Dr Goldsmith's evidence was to be preferred over Dr Schallenberg's evidence, as it was unclear that the latter had fully appreciated the suite of consent conditions proposed; had fully taken into account the other measures proposed for ecological improvements and the ORC consent conditions and what they require. The consent conditions, including that offered by Mr Goldsmith, would ensure that adverse effects on water quality are avoided. He was of the view that the effects on water quality will be positive. He reiterated his view that the proposal is consistent with the objectives and policies of the ODP, the PDP and the operative and proposed Regional Policy Statements. He also considered the proposal achieves objective A1 of the NPSFM and the proposal as a whole achieves the purpose of the Act.
46. In response to questions, Mr Brown clarified that in his opinion the effect of the increased height above that permitted is not significant. If anyone was of the view that the effects are more than minor, these effects are mitigated. He informed us that all lakes and rivers in Queenstown are identified as being outstanding natural features. He considered section 104(1)(ab) is not triggered, as there are no adverse effects that need to be offset or compensated, rather they are already appropriately avoided or mitigated.
47. Ms Richards confirmed her view that the existing Council three waters infrastructure has sufficient capacity to accommodate the proposal.
48. Mr Miller and Ms Sutherland advised that it would be hard to undertake the adaptive reuse of the heritage buildings without the hotel development to support the proposed uses. Residential use had been considered, but it is not a viable option. In terms of the stability of the buildings without intervention, the cart shed would not be likely to survive a good storm. The dairy is in a better state. The stable building only has a 0 to 10 rating in terms of the National Building Standard for seismic strength and is in not as good a state as you would expect from viewing it. They agreed that the conditions should be bolstered to include specific methodology for works on the heritage buildings. The waterwheel, not a listed heritage feature, is to be retained as part of the landscaping but the stone wall in the location of the wellness centre is not, as it is unstable and not a heritage feature.
49. Mr Minty explained the geotechnical issues present. There had been extensive investigations of the site at the start of the project. Cuts of around 12m into the slopes would be required if development was to occur in the structure plan areas and this would require significant more time and effort than what is proposed. There are far more geotechnical constraints on the western part of the site, which consists of a schist bluff. The eastern slope is local soils, topsoil and alluvial soils.
50. Mr Carr talked to the outstanding areas of dispute between him and the Council. He felt there was a simple solution to a (vehicle) swept paths issue relating to one of the parking areas, which could be resolved through a condition. He acknowledged that the proposal would result in more traffic than if the development stayed within the controlled activity limits of the zone. However, he remained of the view that the public roading network in the vicinity is not heavily trafficked and there is adequate capacity to accommodate the extra traffic. There would be no adverse effects resulting. He pointed out that his analysis had been completed on the worst case scenario, where there is a conference in session and the hotel is fully occupied. In

reality, there would not be a conference every day of the week; nor would the hotel be fully occupied.

51. Mr Ellerton briefly spoke to noise issues. He saw no need for lobbied doors to control internal noise generated by activities in the main hotel building, while he considered that the noise limits proposed by the applicant were appropriate. He disputed Dr Chile's position that a 75dB LAeq should apply to the use of amplified music in any outdoor area, given that a condition would require compliance with lower noise levels beyond the site at all times, and recommended that a 85dB LAeq should apply.
52. Mr Milne discussed the unresolved landscaping issues. In response to Council comments about retaining trees on the Ayrburn farm site, he did not think the trees are necessary for visual mitigation, and rather thought there would be a positive effect if they were removed. The six poplars are nearing the end of life. He considered that there would be negligible to low effects on the Beadle property to the south, with no views of the hotel buildings; however, additional landscaping proposed for the new road is warranted by this development. He had not visited the Blair property; however, in his view, it is surrounded by trees and 350 to 400m from the site. Any view would be limited to the top of the southern-most part of Building A. In 5 or so years, landscaping mitigation would completely screen it.
53. The proposed development would not affect views down the valley from properties to the north and east, nor would it impact on any outstanding natural landscapes or features. It is very visually contained by the landform. The screening proposed by the road would also add another layer of screening. He was satisfied by the riparian landscaping / planting mix shown in the indicative plan provided by Dr Goldsmith in the request for further information and did not see the need for more height for shading purposes, while acknowledging there would be some adjustment through detailed design. Overall, he remained of the view that any adverse effects are no more than minor.
54. Dr Goldsmith spoke to supplementary evidence. She advised of the parameters of water quality monitoring that the ORC is undertaking at the Fish Trap site, downstream of the site. She is satisfied that the ORC consent conditions address the key water quality concerns of the FOLH. Lake Hayes becoming hyper-eutrophic, as alleged by FOLH, was a very low risk, and even if a sediment pond failed, it would not cause the lake to become hyper-eutrophic. She disagreed with Dr Schallenberg that the cyanobacteria bloom was related to vegetation clearance on the site. The TLI scores for the Lake have improved since 2010. Dr Goldsmith noted that a condition has been offered that fertiliser would not be used on site, except to assist with hydro-seeded grass. The proposed development would contribute to reducing nutrient and sediment run-off through revegetation and stock exclusion. The development is consistent with key restoration strategies and will have positive ecological effects. Riparian planting would increase habitat and reduce nuisance algae growth; weir installation would increase habitat variation and benefit trout spawning; and kōaro habitat and spawning areas would be improved and protected.
55. The height of the buildings would have a positive effect on instream ecology, through increased shading. While there is a short term risk through the construction period, she is confident that it can be managed, and overall any adverse effect is outweighed by the benefits. Only a small part of the site would be in hard surfaces, with stormwater managed by swales. As an urban site, nitrogen and phosphorus would not usually be present. She had been involved and would continue to be involved with the sediment and erosion controls, earthworks and construction management plans and riparian planting. She was also involved

with drafting the offered water monitoring condition. The ORC will be able to undertake real time monitoring.

56. While Mr Niven was present, we had no questions of him.

Submitters

57. Mr Bowman and Ms O'Sullivan spoke to the FOLH submission and presented a photo montage of sediment related issues arising from urban development within the District. FOLH's position was that the in-stream works and works in riparian margins would result in increased levels of sediment and nutrient discharge and they were of the view the measures proposed to manage these discharges were not adequate, especially in high intensity rainfall events. They were concerned about the risk of sediment losses through what they considered could be a long construction period, over a 4.4ha site, and that the clearance of forest that had occurred on the site would exacerbate this. Post construction, other approaches might improve water quality, including through wetlands, detainment ponds and sediment traps.
58. FOLH's pre-circulated evidence also added concern about whether the earthwork management measures during the construction phase could be relied upon, citing other examples within the District that were not working, and whether the Council and the ORC could uphold the conditions of consent. The FOLH evidence was accompanied by expert evidence from Dr Marc Schallenberg, an experienced freshwater scientist, with particular expertise in respect of Lake Hayes. He most recently co-wrote the "Lake Hayes restoration and monitoring plan 2017". His evidence focussed on three issues, being that:
- (a) The water quality of Mill Creek and Lake Hayes exceeds central government and regional council water quality guidelines for some attributes;
 - (b) The vegetation clearance and earthworks in the catchment contributed to high phosphorus loads to the lake and resulted in cyanobacterial blooms; and
 - (c) Minimisation of nutrient and sediment loads into the Lake is a key management action necessary to restore Lake water quality.
59. Dr Schallenberg's conclusion was that there is no headroom left for nutrient transfers from land to water in this catchment, and that this should raise concern that the short and long term effects of the proposed development could negatively impact the water quality.
60. The FOLH had little faith that the measures proposed to control sediment run off would work, particularly in an extreme rainfall event, and that effects could not be managed if they could not be measured. They also had little faith in the ORC undertaking monitoring or enforcing the consent conditions it had imposed. They considered that if measures were not put in place then Lake Hayes would be at significant risk. While acknowledging that this site would not be the only source of contamination into Lake Hayes, Mr Bowman sought that there be specific and targeted in-stream monitoring put in place so as to monitor any discharge from the site.
61. Ms O'Sullivan was of the view that the ORC is responsible for water quality; but felt that the ORC was not clear that this was its responsibility. They did not agree with the ORC's decision to authorise the related discharge and in-stream works and were of the view that the ORC had not taken into account impacts on Lake Hayes, only impacts on Mill Creek. She acknowledged that the scope of the hearing was on how sediment would be managed on site. She sought

that their recommended condition be imposed to manage the externalities from the development of the site; that is, any discharges into Mill Creek.

62. Mr Blair, a registered architect and long term resident of 46 years. He questioned why the hotel needed to be at a scale three times larger than the Crowne Plaza in Queenstown and how this scale would affect traffic, utilities and noise. That the operator was not known was of concern, as this could have impacts on the design of the proposal. He felt that there was insufficient bus parking and carparking provided on the site and questioned how the hotel would be serviced. Given his experience with vibration from the trees being removed, he was concerned that construction noise and vibration would not be mitigated. He thought it unlikely, based on his own situation, that the site would get any water pressure and he was concerned who would pay for services to be upgraded.
63. Mr Blair was of the view that the applicant should not be allowed to exceed the height rules in the District Plan. The visual amenity of the relationship of the buildings to the stream was of concern, as was noise from traffic and construction in a rural area. Finally, he strongly disagreed that the proposal would enhance Lake Hayes.

Council response

64. Dr Chiles advised he agreed with Mr Ellerton on most issues. He maintained that a 75 Db LA_{eq} limit was appropriate for the outdoor speaker, but if the limit was tied to the overarching noise limits, then a 85 Db LA_{eq} sound level would not lead to a breach. He maintained that if the outdoor courtyards of Building A were to be used after 8pm that the doors to these areas should be lobbied. He was not concerned about noise from people sitting outside but did note that there is potential for rowdy patrons. The lobbied doors were to help control the escape of noise from activities within the hotel.
65. He said that any construction noise and vibration effects would be dealt with by management plans and would need to comply with the District Plan standards, noting that a reasonable level of disturbance is acceptable. In terms of traffic noise effects on Mr Blair; the site itself is a low speed environment and vehicles are at reasonable distance. While there will be traffic noise, the environment is changing. It is not a remote rural environment and within what the District Plan allows.
66. Ms Mellsop agreed with Mr Milne that the trees on the Ayrburn farm site are over-mature and not in a good condition. She had recommended that the trees be retained in response to PDP provisions requiring protection of landscape character, as part of a landscape unit and landscape setting of heritage, rather than for screening purposes or visual mitigation. In her view, the riparian planting appears to be amenity planting rather than planting aimed at improving ecological conditions, for example there was the opportunity to ensure a greater number of shade trees to be provided. She preferred Mr Milne's recommended condition 4.1.4 in respect of landscape maintenance and irrigation. Ms Mellsop remained of the view that adverse effects on the natural character of Mill Creek are more than minor because of the height of buildings, the number of bridges and culverts and the proximity of buildings to the stream. In her view, Mill Creek is an unmodified watercourse with currently no buildings along its reach. She agreed with Mr Milne that planting near the road was needed in respect of effects on Beadle property.
67. Ms Bennett clarified that she also provided expert advice to the ORC for the consents they approved. She acknowledged FOLH's concerns about water quality but was of the view that

generally the sediment control approach is appropriate. There should be ongoing inspection requirements to ensure the measures are operating as anticipated, which included inspection during and after storm events. The draft conditions of consent did need work to ensure they appropriately reflected the sensitivity of the receiving environment. With regard to landscaping, given the site, there should be a minimum five-year irrigation period. The riparian planting proposed is low growing and as shown, there is not enough shading cover provided. Having said that, the final plans to be developed provided scope for more shade trees to be identified. While the riparian margin was less than the usual 10m standard for providing a self-sustaining margin, this was more relevant in a less managed environment. In this case, there would be constant management and she was not concerned about some narrower widths. The riparian planting would also have benefits of stabilising the streambank.

68. Mr Hopkins was happy with the post-construction traffic audit condition offered by the applicant. He agreed that the earthworks management plan condition appeared to be 'light' in relation to what needs to be achieved. He referred to the condition needing to provide sufficient direction and certainty over the earthworks management measures and stormwater control devices. If the road is to be used for construction access, it should be completed to some degree to address dust effects, while noting that this is not so important if there is a cut to fill balance on the site. He agreed with Mr Carr's suggested approach to confirming vehicle swept paths and would liaise with Mr Carr on this with a redraft of the condition. In respect of developing within the structure plan slopes, he noted that any building platforms would also need access. On reflection of his evidence, he was satisfied that this consent could proceed separately to the road stopping. The two conditions relating to the use of the existing legal road were of forefront importance and should be moved to the start of the condition suite. He remained of the view that a covenant should be imposed to ensure that the legal road could not be used for access.
69. In respect to the conditions and the FOLH concerns, he agreed with FOLH that there is a problem with large storms causing issues with sediment retention devices and that these may need to be designed to cover a specific sized event. He also recommended a bond condition in the event that site construction commenced but is not completed. In terms of Mr Blair's concerns, he noted that water pressure is actually too high, and that Mr Blair is not on the same water supply line.
70. Mr Brown agreed with Mr Miller and Ms Sutherland that the conditions should be bolstered to include specific methodology for works on the heritage buildings and should include certification by the Council prior to any works commencing. He confirmed that the waterwheel is not covered by the District Plan. In his opinion, the proposal is a very good response to the site and the applicant has shown a good understanding of the heritage issues present. While there would be some minor adverse effects, there were more significant positive benefits on balance.
71. Mr Woodford provided an update to his section 42A report with minor corrections. He remained of the view that the proposal is acceptable and an appropriate response to a constrained site, meets both section 104D tests and should be granted. He spoke to the matters raised through the hearing that should be addressed in any conditions, noting:
 - (a) The riparian planting should address trout habitat
 - (b) The noise issue with the outdoor areas should at least involve a timely entry and exit, or no one to be seated outside after 8pm

- (c) The earthworks management plan should be more adaptive and more robust
 - (d) Any section 116 commencement condition should tie to a specific date
 - (e) The irrigation condition needs to be clearer.
72. In response to submissions, he noted that stormwater ponds are not waterways and that the parking provided meets District Plan standards. He advised that research had identified that there was a former methamphetamine lab on site, which may trigger the NESCS. He disagreed with Ms Mellsop on natural character effects and was of the view that the proposed riparian planting would result in no more than minor effect on stream character as long as more ecological character was provided, rather than the current amenity focus.
73. Mr Woodford's opinion was that water quality was beyond the Council's jurisdiction and rests with the ORC. He had no problem with the applicant volunteering a monitoring condition, noting that this was not a condition that could be imposed under the ODP or PDP.

Applicant's right of reply

74. Mr Goldsmith noted that the experts were 95% in agreement in respect of the concerns of the health of Lake Hayes. In respect of the FOLH concerns, he was of the view their concerns were focused on the construction period, did not consider the unchallenged long term benefits of the proposal, they had provided no evidence the applicant would not comply with conditions and had not considered the offered monitoring condition. Dr Goldsmith had an email from the ORC advising monitoring had commenced. He found the photomontage supplied by FOLH irrelevant as these were all of bigger developments involving multiple properties and building sites, in a different location.
75. Mr Goldsmith's view was that Mr Blair's concerns over the scale of the hotel were unfounded, given the position of the hotel in the valley. The noise conditions were sufficient. Mr Milne's evidence in respect to the old poplars and natural character should be preferred to Ms Mellsop, who had not considered the significant change the WPZ provides for. A covenant restricting use of the existing road was not necessary. Finally, Mr Goldsmith acknowledged the room for improvement in the proposed conditions of consent and sought that the hearing be adjourned for these to be amended.

Matters in Contention

76. After analysis of the application and supporting evidence (including proposed mitigation measures and volunteered conditions), submissions and a full review of the section 42A report, the proposed activity raises the following issues that are in contention between the parties:
- (a) Bulk and scale of the hotel development and consequential effects on infrastructure, roading and amenity;
 - (b) Effects on water quality and natural character of Mill Creek and Lake Hayes;
 - (c) The relationship of the application with the resource consent for the new road.

Bulk and scale of the hotel development and consequential effects on infrastructure, roading and amenity

77. By way of context, the standards for the Waterfall Park Zone (WPZ) include a height limit of 8m and a building coverage limit of 5% of site area. A structure plan identifies building areas, while a 7m building set back is required from the edge of Mill Creek. The proposed development is partly outside the nominated development areas, while several buildings exceed the height limit. The proposed development is within the coverage limit for the zone. There are a number of places where buildings are located within the 7m set back.
78. In terms of the effects of additional building height, the landscape evidence was that the site's topography ensures that there are no adverse effects beyond the site's boundary. The steep sided valley contains any effects. Neighbouring properties that overlook the site from the north or east have either given their written consent or would otherwise look down into the development. The additional height has only a marginal effect on the views obtained.
79. The main reception building (and its additional height) would be able to be seen fleetingly from Arrowtown-Lakes Hayes Road, while one of the accommodation blocks may be visible from the south, depending upon what vegetation is retained across intervening land. The landscape evidence was that these effects were of little consequence. Our finding with regard to landscape and visual effects is that the proposed development will not generate significant adverse effects on the landscape of the Waterfall Park zone, or the wider rural area. The specific issue of the effect of the buildings on the natural character of Mill Creek is addressed below.
80. The Council's landscape assessment suggested that some of the trees on the Ayrburn farm should be retained to help maintain the rural character of the area. The applicant questioned the need to do so, given the planting involved in the application, and the age of the trees. On this specific issue, we find that there is no need to retain the trees indicated for the purposes of mitigating visual and landscape effects.
81. In terms of other effects generated by the increased scale of development, the additional floorspace does result in more on-site car parking and more vehicle movements on access roads, than might otherwise occur. The additional car parking and traffic may generate more earthworks and hard surfaces and additional stormwater runoff. However, these effects can be mitigated through the conditions relating to landscaping, earthworks and stormwater management. As for wider traffic generation, the expert evidence was that the surrounding road network could accommodate the traffic to be generated. The only area of uncertainty was whether additional planting was required on the new access road subject to RM 171280. The applicant indicated that they had proposed additional planting as part of mediation relating to appeals against the decision to grant consent to the road. The applicant would be happy to offer a condition to this application that the additional planting be provided as the applicant owns the land where the planting would be located.
82. Our assessment is that other, non-landscape, off-site effects are limited in nature and can be accommodated by the existing environment. We see no reason to condition the additional planting proposed, leaving that issue to be resolved through the road appeal process.
83. Mr Blair also raised concerns about the adequacy of water supply and wastewater disposal. Council's and applicant's expert evidence was that there were no issues with providing

necessary infrastructure. Relying on that evidence, we find no infrastructure-related reasons to refuse consent.

Effects on water quality of Mill Creek and Lake Hayes

84. Effects on water quality of Mill Creek and Lakes Hayes was the main issue in contention between the parties, in particular whether actual and potential effects of earthworks could be adequately avoided or mitigated.
85. It was common ground that Mill Creek has high ecological and natural character values, while the immediate receiving environment for any sediments or contaminants discharged into the stream was Lake Hayes. The Lake also has high ecological and recreational values and is showing signs of stress.
86. The main position of the parties can be summarised as follows:
87. The applicant pointed to the long term benefits from development – substantial revegetation of slopes is underway, riparian planting is proposed, while stock will not be able to use the site. Stream bank erosion will reduce. The development will create stable building platforms and areas of hard surface that will reduce sediment runoff compared to if the site was maintained in pasture. Measures will be put in place to intercept runoff from car parking and vehicle access areas so that contaminant loads will be minimised.
88. The applicant accepts that during the construction phase, there is elevated risk of sediment generation as areas are earthworked and works occur in the stream bed. Measures can be put in place to mitigate these risks. Works will need to be undertaken in accordance with Regional Council consent conditions as well as regional plan standards relating to earthworks. An earthworks management plan has to be prepared and approved. Furthermore, the applicant offered a water quality monitoring condition that would require them to monitor and report on water quality as it entered and exited their site. This would help to isolate whether the development was adding to sediment and contaminant loads, and if so, allow for remedial action to be taken.
89. Submitters, particularly FOLH, wished to see no development due to the potential risks to Lake Hayes from earthworks, or least works halted until a whole of catchment approach had been prepared and agreed. If works were to be authorised, then their view was that quantifiable controls and limits needed to be placed on discharges. FOLH suggested that should we grant consent, that we imposed a condition that would set quantitative water quality limits for sediment load (turbidity), nutrients (phosphorus, nitrates) or bacteria (e.coli) in Mill Creek, which would include monitoring, sampling, a response to breaches and independent peer review. This was a point they reinforced in comments on proposed conditions.
90. Council's view was that management plans should be able to appropriately control earthwork effects. At the end of the hearing they indicated that they would recommend a more refined management plan condition than that proposed in the hearing report.
91. Specific matters that we need to address are:
 - a) What jurisdiction we have under a district level land use consent to manage discharges into water bodies

- b) Whether the proposed management plans can adequately manage adverse effects and associated risks.

Ability to control discharges

92. Mr Goldsmith submitted that water quality falls within the jurisdiction of the ORC; the jurisdictional boundary in respect of sedimentation being that a territorial authority deals with managing sediment on land and a regional council discharges into water.
93. Mr Goldsmith drew our attention to Rule 12C.1.1 of the Regional Plan Water – the discharge of water or any contaminant to water, or onto or into land in circumstances which may result in a contaminant entering water, is a permitted activity⁹ subject to standards; and conditions 6 and 7 of RM18.088.01 granted by the ORC. It was his view that the concerns raised by FOLH had been addressed in the ORC consents or otherwise addressed by evidence presented during this hearing.
94. Nevertheless, he acknowledged that the District Plan controls earthworks (if not water quality) and that the proposed conditions could be improved to better state the objective of the management plans and the techniques to be used.
95. As outlined earlier, at the hearing Mr Woodford advised us that he considered water quality is beyond the Council's jurisdiction and rests with the ORC. However, he agreed that the Council can and does control how earthworks are managed so as to, amongst other outcomes, reduce the risks of adverse effects on water quality occurring. Both the ODP and the PDP provide direction on managing the effects of land use on water quality and ecology, including protecting the habitat of trout and salmon¹⁰, maintaining/retaining and improving water quality through appropriate land management and use¹¹, safeguarding the life-supporting capacity of water through integrated management¹², avoiding adverse effects on Mill Creek and ecological values¹³ and ensuring earthworks minimise sediment generation and off-site discharge.¹⁴
96. Our finding is that we do have the ability to manage earthworks but must be mindful that the scope of our consideration is limited by section 31 of the RMA: the functions of territorial authorities. We were very mindful that the ORC had already granted consent for stream works and that the Regional Plan Water specifically includes rules relating to discharges of sediment and other contaminants into waterbodies. In other words, it is within our powers to control how earthworks are undertaken, but not to the extent of setting standards or limits to discharges to Mill Creek.

Management Plans

97. All experts agreed that during earthworks and works in proximity to stream environments there were risks of adverse consequences occurring, such as elevated sediment loads during storm events, while a series of storms can overwhelm on-site control measures. Measures like staging of earthworks, progressive stabilisation and ensuring all sediment run off passed

⁹ This is subject to a number of requirements, including not resulting in a conspicuous change in colour or visual clarity of a noticeable increase in local sedimentation in the receiving water.

¹⁰ Objective 4.1.4 ODP

¹¹ Objective 4.3.4.4 and Objective 22.6 ODP, Objective 3.2.4.6 and 24.2.4PDP

¹² Objective 5.4 ODP

¹³ Objective 12.1.2 ODP; Objective 3.2.4.1 PDP

¹⁴ Policy 25.2.1.1 PDP

through some form of appropriately sized and maintained retention device prior to discharge would see risks reduced to an acceptable level. While the site was constrained in area, there was room to accommodate appropriate management devices. Mr Osborne further pointed out that early involvement of the earthworks contractor in the design of mitigation measures would mean that the required facilities could be built and maintained during the construction period. A management plan is the appropriate tool to manage the risks involved.

98. While management plans are an important tool, it was noted that the total area to be earthworked is still important in controlling risks. On this point, the WPZ structure plan shows a large development area on the steep western side of Mill Creek. It was put to us that development within this area is likely to generate more earthworks and greater landform changes than the proposed development on the eastern side, and as a result would involve a greater risk of adverse sedimentation effects. We agree with that assessment and therefore find that the proposed layout is beneficial in terms of key concerns relating to earthworks and potential effects on Mill Creek. Having said that, there is a need to manage the earthworks required.
99. Turning to the content of management plans, in Council's comments after hearing from the applicant and submitters, they noted the need for greater direction within conditions as to how earthworks were to be managed. Mr Goldsmith submitted that the existing ORC consents could be used as a benchmark against which the adequacy of earthwork management plans could be assessed. That is, the management plans should put in place the earth working measures and management practices to ensure that the ORC conditions can be complied with.
100. We received a revised set of conditions from the applicant after the hearing. These revised conditions considerably expanded upon the draft conditions relating to earthwork management. The draft conditions include the need to prepare an 'earthworks management plan' (EMP). Council commented that they considered a separate condition requiring an Environmental Management Plan was needed. The applicant contended that most of the matters in the Council's new condition had been incorporated into the applicant's revised earthworks management plan condition, as well as the construction management plan condition, and there was no need for a separate, but similar, condition.
101. The proposed objectives of the applicant's revised EMP are to "avoid as far as practicable, and minimise when avoidance is not practicable, adverse effects arising from earthworks activities. In particular the EMP shall seek to ensure compliance with Condition 7 of the ORC Consent RM18.088.01 (relating to the discharge of silt/sediment into Mill Creek)".
102. In turn, the ORC condition reads:

During the construction phase of the land surrounding Mill Creek, the consent holder shall ensure that all dirty runoff is diverted into sediment removal devices and that:

- (a) *there shall be no conspicuous change in the clarity of Mill Creek directly downstream of the site (NZTM 2000 E1269651 N5013239); and*
- (b) *no individual discharge or runoff shall result in a conspicuous change in the clarity of Mill Creek after a distance of 50 metres.*

103. The proposed EMP condition goes on to reference erosion and sedimentation control measures are to be in accordance with GD05 ("Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region", June 2016) with variations as necessary to take into account local site soils and rainfall patterns.
104. In addition, the EMP is to identify roles and responsibilities, develop high rainfall event procedures and set in place an incident control and reporting processes, as well as regular monitoring.
105. Having reviewed the evidence and the additional material received post the hearing we have formed the view that there is the potential for significant adverse effects to be generated from earthworks. We note the word potential – the likelihood of adverse effects is weather dependent along with the nature and extent of site management. We further find that it is reasonable and appropriate that the land use consent impose conditions that manage the earthworks process, working alongside the regional consent conditions. The management plan technique is the appropriate tool to do so and the revised conditions provide an appropriate framework. However, we see benefits (further risk management) from amending the proposed conditions.
106. In our view the objective of the EMP should be clarified. The objective should be to take all practicable steps in managing earthworks to ensure compliance with Condition 7 of the ORC Consent RM18.088.01 (relating to the discharge of silt/sediment into Mill Creek).
107. We see no benefit, and some potential confusion, with a new Environmental Management Plan condition as proposed by the Council, being in addition to the EMP. Having said that, we agree that the content of the Council's condition be included in the applicant's version of the EMP. Accordingly we have made amendments.
108. In addition to the above at the hearing, Mr Goldsmith also offered a condition of consent, on an *Augier* basis under section 108AA(1)(a), that would require the consent holder to undertake water monitoring before, during and after the construction of the hotel, with the same parameters are measured by the ORC at the fish trap site, and results provided to the ORC and Council. We see this offer to be a positive contribution from the applicant. However, we hasten to say that this offer does not lessen the need for a robust management plan to be prepared and implemented.

Effects on Natural Values of Mill Creek

109. Ms Mellsop, Council's landscape expert, was of the view that the proposed works would have a moderate adverse effect on the natural character of Mill Creek. Buildings would encroach into the stream bank setback while taller buildings than those enabled by the zone would be built. In her view this would further compromise the creek's natural character, which she noted had already been compromised by the removal of forest from the site. Mr Blair also expressed concern about the relationship of the buildings with the stream, considering that there would be adverse effects on visual amenity.
110. Mr Milne's view was that effects would be no more than minor. The zone allowed for a degree of development which would change the stream's setting while extensive riparian planting was proposed. Mr Brown also identified that development of one form or another is anticipated by the zone provisions. He considered that Mill Creek and its natural conservation values would be enhanced by riparian planting and stock protection.

111. Mr Woodford's assessment was that effects on natural character would also be minor, taking into account what the WPZ and associated structure plan provide for on the site.
112. We prefer Mr Milne's advice and agreed with Mr Woodford and Mr Brown that the WPZ anticipates development occurring in proximity to Mill Creek and the associated changes to its character. From our site visit and the evidence presented to us, it is evident that the site has already been modified by previous actions and the stream does not have a 'natural' setting. Taking into account what the WPZ provides for and the mitigation measures proposed by the applicant, we consider that any adverse effects on the natural character of Mill Creek are no more than minor.

Proposed road

113. As we outlined earlier, the current legal road access to the hotel site is unsafe and unsuitable, both for construction purposes as well as to serve the hotel activity. To address this, the applicant proposes access to the site be by way of a new private road approved under a separate resource consent (RM171280), which is currently the subject of an appeal to the Environment Court.
114. Of concern to us is ensuring that there is safe, formed road access to the site. In our view, it would be problematic to grant consent to the development of the site if it could not be safely accessed. Should the Environment Court uphold the road appeal after we grant consent to the hotel development, then the hotel development would effectively be land-locked and inaccessible. Pressure may be placed on the Council to upgrade and possibly modify the existing Waterfall Park Road. We do not consider this would be a satisfactory outcome. It was this concern that initially lead us to issue a Direction as to delaying the hearing of the hotel consent until the road appeal decision was made. Advice from the applicant and the Council was that the issue could be addressed by a suitably worded condition precedent. On the basis of that advice we heard the application.

115. The section 42A report contained only a very general condition relating to road access:

Prior to occupation of any buildings the main access to the site from Arrowtown – Lakes Hayes Road shall be constructed and complete under RM171280.

116. The applicant's draft condition attached to the application appeared to leave open a number of options as to road alignment.
117. During the hearing we discussed with the Council and the applicant the potential issues with the conditions proposed, including the possibility of tying the commencement of the current consent to the date that the road consent is granted.
118. At the end of the hearing, the applicant offered amended conditions of consent that sought to address the concerns raised. They proposed a condition that would state that the hotel consent cannot be implemented until and unless:
 - (a) The necessary consents/approvals have been obtained to enable construction of road access from the Arrowtown-Lake Hayes Road to the site;
 - (b) Construction of that road access has been completed as required by the relevant consents/approvals subject to this condition.

- (c) The road access required by this condition shall be as approved under RM171280 (if RM171280 becomes operative) or as approved under another consent process provided it is in the same location, and of the same minimum standard, as proposed under RM171280.
- 119. Construction of the road access required by this condition would include completion of all the mitigation roadside landscaping (mounding and tree planting excluding the pin oaks) detailed on Baxter Design Group Attachment B, C and D, all dated 19 November 2018, located east of Mill Creek and south of the road access.
- 120. Completion of construction for the purposes of this condition may be to either a sealed surface or a compacted metal surface provided that, if it is a compacted metal surface, appropriate steps are taken to avoid dust being generated by traffic movements. Steps taken to avoid dust must be by a method which provides continuous protection such as the application of water by fixed spray irrigation (not by mobile water carts), temporary Otta-sealing, or the application of a dust suppression product approved by Council (such as a suitable emulsion polymer).
- 121. In addition to the above the applicant also proposed conditions that would require construction traffic to use the new road, while the eastern section of the legal Waterfall Park Road, being the section located east of the site subject to this application, cannot be used at any time for any access to the development. This condition applies to earthworks and construction, as well as ongoing operation of the development.
- 122. Having considered the matter we are satisfied that a condition precedent is appropriate in this case. Having said that we have a number of issues with the proposed condition and have amended the conditions so that:
 - (a) No works are undertaken on the site until the road is in place and all necessary consent conditions fulfilled.
 - (b) The condition refers to alternative (replacement) road access to that of Waterfall Park Road to make it clear that the new road is not in addition to that road.
 - (c) The alternative road must be designed in accordance with the conditions of that consent, except as modified by this consent.
 - (d) It is clear that when the condition refers to a different road consent, but in the same location, the condition means a similar alignment to that proposed in RM 171280.
 - (e) It is clear that a metal surface is only appropriate for the construction phase.
 - (f) It includes an advice note that identifies that the condition is offered by the applicant to avoid any suggestion that the conditions are seeking to frustrate the implementation of the hotel consent.
- 123. Provided these matters are specified, then we consider that the hotel consent can be granted.

Statutory Assessment

124. We closed the hearing on Friday 22 February 2019, following receipt of amended conditions from the applicant, and associated comments from submitters who attended the hearing and from the council.
125. On the 19 February 2019 the Panel hearing submissions on Stage 2 of the Proposed District Plan released their recommendations. These were to be taken to full Council on 7 March 2019 for ratification and subsequently the Council's decision publicly notified. The release of the recommendation report means that some further weight needs to be given the PDP, while noting that until the recommendations have been adopted by the Council and any appeals have been lodged, the Stage 2 provisions are not operative.
126. The recommendations have two implications for this decision.
127. Firstly, the Panel found that, in relation to the hotel site, the most appropriate zone for the 'wedge' shaped area zoned Rural General in the ODP would be Waterfall Park Zone and that the structure plan in Chapter 42 should be amended to identify this area as open space and visitor related activities.
128. Secondly, on the zoning of Ayrburn Farm, the Panel recommended that¹⁵:

'after considering the relevant policy framework of the NPSFM and Partially Operative RPS 2019, we have concluded that unless land within the (Lakes Hayes) catchment is served by a reticulated wastewater treatment scheme, we should recommend that land be zoned Rural Amenity. At the time of preparing this report, none of the land in this area was served by a reticulated wastewater scheme.'

The upshot of this recommendation is that rather than be zoned for rural-residential development, the site should retain a rural type zoning.

Section 104D Assessment

129. It was common ground between the parties that the application was for a non-complying activity under the District Plan. We note that even if we considered that the application satisfied one or other of the gateway tests under section 104D, we still have the discretion as to whether or not to grant consent under s.104. In this section of our decision we undertake a section 104D assessment.
130. In doing so, we have considered the adverse effects taking into account our findings set out in relation to the principal issues in contention, other effects not in contention and the relevant objectives and policies of the Operative and Proposed District Plans.
131. We find that any adverse effects are no more than minor, provided amended conditions are imposed, as outlined above and detailed below. As a result, the proposal meets the section 104D(1)(a) gateway test.
132. While we have already concluded that the effects on the environment will be no more than minor and therefore the application can proceed to be evaluated under section 104, for completeness we have considered whether the proposal is contrary to the objectives and

¹⁵ Stage-2/Recommendation-Reports/Report-18.5-Chapter-24-Wakatipu-Basin-Area-C, para 34.

policies of the Operative and Proposed District Plans. As detailed below in our consideration of objectives and policies, we find that the proposal is not contrary to the objectives and policies of either the Operative or Proposed District Plans. As a result, the proposal also meets the section 104D(1)(b) gateway test.

Section 104 (1) of the Act

133. Having concluded that the proposal is neither contrary to the objectives and policies of the Operative or Proposed District Plans and that the effects are not more than minor, we now turn to the evaluation under section 104.

134. Subject to Part 2 of the Act, section 104 sets out those matters to be addressed by the consent authority when considering a resource consent application, as follows:

(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to –

(a) any actual and potential effects on the environment of allowing the activity; and

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) any relevant provisions of –

(i) a national environmental standard [not applicable];

(ii) other regulations [not applicable];

(iii) a national policy statement [not applicable];

(iv) a New Zealand coastal policy statement [not applicable];

(v) a regional policy statement or proposed regional policy statement;

(vi) a plan or proposed plan [i.e. the operative District Plan]; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.'

(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

(3) A consent authority must not –

(a) when considering an application, have regard to –

...

(ii) any effect on a person who has given written approval to the application

...

Section 104D(1)(a) Effects on the Environment Assessment

Adverse effects

135. In considering adverse effects on the environment, we have not taken into account those effects that might be experienced by people who have given their written approval. Four written approvals have been obtained. As a result of these written approvals, landscape and visual effects are limited to views into the site from Arrowtown- Lake Hayes Road and into the site from across the valley to the south. As discussed, we have found any adverse effects to be limited in nature.
136. With regard to the main issue in contention – earthworks and effects on Mill Creek – it was pointed out to us that under the Operative District Plan, no earthworks rules applied to the WPZ. Under the Proposed District Plan earthwork rules do apply, however these rules are not yet operative. To this extent there is a degree of uncertainty as to the weight we can give the PDP provisions. Having said that, the PDP clearly intends that earthworks are controlled in the WPZ (and the Rural zone).
137. Other effects relating to infrastructure, traffic and transport are not of significance.
138. Noise management was an area of some debate between Council and the applicant. Council's expert considered that where there were exterior decks that might be used frequently by guests and visitors to the hotel during evenings, then there should be lobbied doors between these outdoor areas and the interior areas of the hotel reception building where music may be played. The lobbied doors would help to address 'noise' escaping from the interior if doors were constantly being opened and closed as people moved between the indoor and outdoor areas. The applicant was concerned that the lobbied doors would affect the aesthetics of the design and take up space. They also pointed to the need to work within the noise limits set.
139. Our understanding is that the lobbied doors are in the form of an additional layer of management to that of the noise limits that apply. They are intended to deal with a situation which may be difficult to manage. Given the requirement, however, to comply with the overall noise limits, we do not consider that the lobbied doors are necessary as specific condition of consent.

Positive effects

140. There is a range of positive effects associated with the development. Mr Crawford and Ms Bennett considered that the proposal would have positive effects from the riparian planting adjacent to Mill Creek which would benefit ecology and have a flow on effect on the wider environment, especially Lake Hayes
141. Mr Brown considered that the restoration and adaptive re use of the heritage buildings represents a positive enhancement of heritage values and would result in significant beneficial effects for the three stone farm buildings, providing essential repair and maintenance, and a

viable future with greater opportunity for public access and appreciation of their recognised historic heritage values.

Overall

142. Overall, we conclude that the effects of the proposed development will be acceptable within the context of the site, and any off-site adverse effects can be appropriately managed through the conditions of consent to ensure that they are no more than minor.

Section 104D(1)(ab) Positive effects to offset or compensate for adverse effects

143. Neither Mr Woodford or Mr Brown specifically addressed this section, but we note their opinions on the positive effects that may arise from the granting of the consent. Neither assessment raised any residual adverse effects that would require offsetting or compensation. We agree.

Section 104(1)(b) Relevant Planning Documents Assessment

144. In accordance with section 104(1)(b) (i) to (v) of the Act, the following national environmental standards and national policy statement are relevant to the proposed development:
- (a) The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (the NESCS)
 - (b) The National Policy Statement for Freshwater Management 2014, as amended in 2017 (the NPSFM).
145. There are no other national environmental standards, regulations or national policy statements relevant to the proposed development.
146. The Operative and Proposed Regional Policy Statements for the Otago Region are relevant. However, there was no evidence relating to these policy statements that was fundamental to any assessment of the effects of the development, nor was there any areas of dispute between the parties. As such we do not need to further address the Policy Statements.
147. An Operative District Plan and a Proposed District Plan are in play. As noted, the hotel site is mostly within the WPZ of the PDP. This zoning is now operative. That part of the application site outside the WPZ is zoned Rural General under the ODP and Wakatipu Basin Rural Amenity Zone under the PDP.
148. Mr Goldsmith pointed out that the development met the WPZ objectives and policies. However, he cautioned that the provisions of the zone are relatively 'thin'. We agree with that assessment, but be that as it may, we must work within the stated objectives and policies. The need for a Part 2 assessment to address potential incompleteness is addressed below.
149. With regard to the rural zoned component of the hotel site, the recommendation of the PDP Hearings Panel is that the wedge shaped area be rezoned Waterfall Park. While not yet ratified by the Council, this seems a likely outcome. Nevertheless, if the land remained a rural zone our view is that the hotel development will not offend any objectives and policies relating to maintenance of rural activities and associated landscape values due to the topography present and the land being mostly enveloped by the WPZ.

150. The Operative and Proposed District Plans relating to the rural component of the site were analysed by Mr Brown and Mr Woodford in their evidence and they largely came to the same conclusions. Mr Woodford was of the view that the relevant objectives and policies in the ODP and those in the PDP with respect to the landscape classification and the associated effects of the development on the rural environment are closely aligned to each other and seek to achieve the same outcomes.
151. For that part of the hotel reception building that straddles the rural zone boundary, the Panel's recommendations on the PDP essentially maintain a rural zoning for this land. As we have discussed under effects, we do not see that part of the hotel development creating adverse landscape or visual effects.
152. While most of the submitters were of the view that the proposal was contrary to the objectives and policies of the ODP and PDP, we did not receive any evidence of exactly which objectives and policies these were. Perhaps the most relevant objectives and policies of concern to submitters relate to earthworks. The PDP contains a chapter on earthworks (Chapter 25). This contains objectives that refer to minimising adverse effects on the environment and maintaining landscapes and visual amenity values. There is also a need to recognise the benefits of earthworks, including for tourism infrastructure.
153. Policies include the need to protect Outstanding Natural Features from the adverse effects of earthworks. Lake Hayes is identified as an Outstanding Natural Feature in the PDP. Other policies refer to managing the area and volume of earthworks so as to minimise adverse effects on water bodies.
154. The earthwork provisions of the PDP are not yet settled, with a decisions version released that modifies some notified provisions. Nevertheless, the PDP provides an emerging management framework. In our assessment, the application is compatible with their intent, subject to the modified conditions attached.

Section 104(1)(c) Other Matters

155. The most relevant other matter referred to was Lake Hayes Restoration and Management Plan referred to in Dr Schallenberg's evidence. As we have discussed, the state of the receiving environment of Lake Hayes is a matter that we have taken into account in our consideration of earthwork effects and their management.

Part 2

156. In relation to Part 2 of the Act, Mr Goldsmith's submission was that there was a need for a broad, overall judgement under Part 2 of the RMA, given the age of the ODP, the PDP not yet being the dominant document, and arguably, some doubt as to the robustness of the Waterfall Park objectives and policies. Mr Crawford agreed that an assessment was warranted. Both assessments were that the development was consistent with Part 2 of the Act. There are positive features in terms of heritage protection and public access to Mill Creek, both being matters of national importance. There would be no significant adverse effects on the natural character of Mill Creek and, if anything, the planting and landscaping would represent an improvement over the current condition. Amenity values are to be maintained and enhanced. The Commissioners therefore accept Mr Goldsmith's submission and Mr Crawford's advice that a Part 2 assessment does not undermine or run counter in any way to our findings under section 104(1).

Determination

157. In exercising our delegation under sections 34 and 34A of the Act and having regard to the matters discussed above under sections 104 and Part 2 of the Act, the Commissioners have determined that consent to the non-complying activity resource consent application by Waterfall Park Developments Ltd be granted, subject to conditions.
158. Reasons for the decision are:
- a) The hotel development (taking into account the additional building height) is located and designed in such a way as to ensure no significant landscape and visual effects are generated beyond the site.
 - b) The restoration and adaptive re use of the Ayrburn farm heritage buildings is a significant, positive feature of the development that may not otherwise occur.
 - c) Appropriate steps (by way of condition) are to be taken to mitigate adverse effects during the construction phase, particularly in terms of earthworks, and during the operation of the hotel.



D Mead (Chair)

For the Hearings Commission

APPENDIX 1 – Conditions of Consent

APPENDIX 1 - CONDITIONS OF CONSENT

GENERAL CONDITIONS

1. That the development must be undertaken/carried out in accordance with the following plans:

- Paterson Pitts Group, Sheet 1, Overview, Rev D, 2/07/2018
- Paterson Pitts Group, Sheet 2, Ayrburn Domain, Rev D, 2/07/2018
- Paterson Pitts Group, Sheet 3, Hotel Reception area, Rev D, 2/07/2018
- Paterson Pitts Group, Sheet 4, Service Area and Coach Parking, Rev D, 2/07/2018
- Paterson Pitts Group, Sheet 5, Access Road 02 and Buggy Path, Rev D, 2/07/2018
- Paterson Pitts Group, Sheet 6, Access Road 02 and Buggy Path, Rev D, 2/07/2018
- Paterson Pitts Group, Sheet 7, Access Road 02 and Buggy Path, Rev D, 2/07/2018
- Paterson Pitts Group, Sheet 8, Access Road 02 and Coach Turn around, Rev D, 2/07/2018
- Paterson Pitts Group, Sheet 9, Road 01 Longsection Ch870m – CH1054m, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 10, Road 02 Longsection Ch490m – CH750m, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 11, Road 02 Longsection Ch470m – CH1000m, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 12, Road 02 Longsection Ch990m – CH1013m, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 13, Ayrburn Access Longsection, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 14, Reception Loop Longsection, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 15, Guest Parking 04 Access Longsection, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 16, Guest Parking 05/06 Access Longsection, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 17, Pedestrian and Buggy Path Longsection, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 18, Pedestrian and Buggy Path Longsection, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 19, Pedestrian and Buggy Path Longsection, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 20, Culvert Cross Sections, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 21, Bridge Cross Sections, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 22, Bridge Cross Sections, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 23, Typical Cross Sections, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 24, Typical Cross Sections, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 25, Typical Cross Sections, Rev C, 29/05/2018
- Paterson Pitts Group, Sheet 26, Earthworks, Rev A 2/07/2018
- Paterson Pitts Group, Sheet 27, Earthworks, Rev A 2/07/2018
- Paterson Pitts Group, Sheet 28, Earthworks, Rev A 2/07/2018
- Studio Pacific Architecture, Masterplan, Drawing No RC02-05 Rev B, 05/07/2018
- Studio Pacific Architecture, Site Access and Networks, Drawing No RC03-01 Rev B, 05/07/2018
- Studio Pacific Architecture, Main Facilities Functional Plan Diagram Drawing No RC03-02 Rev B, 05/07/2018
- Studio Pacific Architecture, Functional Plans Diagrams, Drawing No RC03-03 Rev B, 05/07/2018
- Studio Pacific Architecture, Signage Platforms Locations and Keys, Drawing No RC03-04 Rev B, 05/07/2018
- Studio Pacific Architecture, Building Platform Levels, Drawing No RC03-05 Rev B, 05/07/2018
- Studio Pacific Architecture, Site Coverage Diagrams, Drawing No RC04-02 Rev B, 05/07/2018
- Studio Pacific Architecture, Site Setback Diagrams, Drawing No RC04-03 Rev B, 05/07/2018
- Studio Pacific Architecture, Road Setback Diagrams, Drawing No RC04-04 Rev B, 05/07/2018
- Studio Pacific Architecture, 3D Height Compliance Diagram, Drawing No RC04-05 Rev B, 05/07/2018
- Studio Pacific Architecture, Masterplan Area Schedule, Drawing No RC05-01 Rev B, 05/07/2018
- Studio Pacific Architecture, Building A – Level 00 (Ground), Drawing No RC11-04 Rev B, 05/07/2018
- Studio Pacific Architecture, Building A – Level 01 Drawing No RC11-05 Rev B, 05/07/2018
- Studio Pacific Architecture, Building A – Level 02 (Roof), Drawing No RC11-06 Rev A, 16/04/2018
- Studio Pacific Architecture, Building A – Elevations, Drawing No RC11-07 Rev A, 16/04/2018

- Studio Pacific Architecture, Building A – Elevations, Drawing No RC11-08 Rev A, 16/04/2018
- Studio Pacific Architecture, Building A – Sections, Drawing No RC11-09 Rev A, 16/04/2018
- Studio Pacific Architecture, Building A2 – Level 00 (Ground) and Roof, Drawing No RC12-01 Rev A, 16/04/2018
- Studio Pacific Architecture, Building A2 – Elevations, Drawing No RC12-02 Rev A, 16/04/2018
- Studio Pacific Architecture, Buildings B- Level 00 Ground, Drawing No RC14-01 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings B-Level 01 and 02, Drawing No RC14-02 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings B-Level 03, Drawing No RC14-03 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings B-Level 04 (Roof), Drawing No RC14-04 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings B-Elevations, Drawing No RC14-05 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings B-Sections, Drawing No RC14-06 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings C-Level 00 (Ground), Drawing No RC15-01 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings C-Level 01 & 02, Drawing No RC15-02 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings C-Level 03, Drawing No RC15-03 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings C-Level 04 (Roof), Drawing No RC15-04 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings C-Elevations, Drawing No RC15-05 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings C-Sections, Drawing No RC15-06 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings D-Level 00 (Ground), Drawing No RC16-01 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings D-Levels 01, 02 and 03, Drawing No RC16-02 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings D-Level 04 (Roof), Drawing No RC16-03 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings D-Elevations, Drawing No RC16-04 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings D-Sections, Drawing No RC16-05 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings E-Level 00 (Ground), Drawing No RC17-01 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings E-Level 01 and 02, Drawing No RC17-02 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings E-Level 03, Drawing No RC17-03 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings E-Level 04 (Roof), Drawing No RC17-04 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings E-Elevations, Drawing No RC17-05 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings E-Sections, Drawing No RC17-06 Rev B, 05/07/2018
- Studio Pacific Architecture, Buildings F-Level 00 (Ground), Drawing No RC18-03 Rev A, 16/04/2018
- Studio Pacific Architecture, Buildings F-Elevations, Drawing No RC18-04 Rev A, 16/04/2018
- Studio Pacific Architecture, Buildings G-Level 02 (Lower Entry), Drawing No RC19-04 Rev A, 16/04/2018
- Studio Pacific Architecture, Buildings G-Level 01, Drawing No RC19-05 Rev A, 16/04/2018
- Studio Pacific Architecture, Buildings G-Level GF (Upper Entry) Drawing No RC19-06 Rev A, 16/04/2018
- Studio Pacific Architecture, Buildings G-Level 01 (Roof), Drawing No RC19-07 Rev A, 16/04/2018
- Studio Pacific Architecture, Buildings G-Elevations Drawing No RC19-08 Rev A, 16/04/2018
- Studio Pacific Architecture, Buildings G-Sections, Drawing No RC19-09 Rev A, 16/04/2018
- SA Studio, Proposed Ayrburn Domain, RC_008 Rev C, dated 01 June 2018
- SA Studio, Proposed Site Plan, RC_011 Rev C, dated 01 June 2018
- SA Studio, Site Roof Plan, RC_012 Rev B, dated 16 April 2018
- SA Studio, Areas Schedule, RC_013 Rev B, dated 16 April 2018
- SA Studio, Existing Stable Plan, RC_101 Rev B, dated 16 April 2018

- SA Studio, Stable Ground Plan 100, RC_107 Rev B, dated 16 April 2018
- SA Studio, Stable First 100, RC_108 Rev B, dated 16 April 2018
- SA Studio, Amenity Annex Floor Plan, RC_109 Rev B, dated 16 April 2018
- SA Studio, Proposed Stable Elevations, RC_200 Rev B, dated 16 April 2018
- SA Studio, Stable Section, RC_300 Rev B, dated 16 April 2018
- SA Studio, Stable Sections, RC_301 Rev B, dated 16 April 2018
- SA Studio, Stable Views + Materials, RC_800 Rev B, dated 16 April 2018
- SA Studio, Annex Building Views, RC_802 Rev B, dated 16 April 2018
- SA Studio, Existing Cart Shed, RC_1000 Rev B, dated 16 April 2018
- SA Studio, Proposed Cart Shed, RC_1001 Rev B, dated 16 April 2018
- SA Studio, Cart Shed Elevations, RC_1200 Rev B, dated 16 April 2018
- SA Studio, Existing & Proposed Dairy, RC_2000 Rev B, dated 16 April 2018
- SA Studio, Garden Shed, RC_3000 Rev B, dated 16 April 2018
- SA Studio, Garden Shed Views, RC_3800 Rev B, dated 16 April 2018
- Rough & Milne, Landscape Strategy, Waterfall Park Hotel, dated April 2018 (including Plan Revisions A dated 31 May and 05 July 2018)
- Baxter Design Group, Attachments B, C and D, all dated 19 November 2018
- Waterfall Park, Stage 1 & 2 Planting Areas, 401, dated 25 January 2019.

Stamped as approved on 13 March 2019 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.
3. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.

GENERAL

4. 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 May 2018 and subsequent amendments to that document up to the date of issue of this resource consent.

Note: The current standards are available on Council's website via the following link:
<http://www.qldc.govt.nz>

5. The owner of the land being developed shall provide a letter to the Manager of Resource Management Engineering at Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this development and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.7 & 1.8 of QLDC's Land Development and Subdivision Code of Practice, in relation to this development.

EARTHWORKS

To be completed prior to the commencement of any earthworks on the site

6. At least five working days prior to commencing excavations, the consent holder shall provide the Manager of Resource Management Engineering at Council with the name of a suitably qualified professional as defined in Section 1.7 of QLDC's Land Development and Subdivision Code of Practice who must be familiar with the Geosolve report 'Waterfall Park Development Arrowtown – Lake Hayes Road' ref 150098.03 dated May 2018 and who shall supervise the excavation and filling procedure, retaining wall construction, and any ground improvement. Should the site conditions be found unsuitable for the proposed excavation/construction methods, then a suitably qualified and experienced engineer shall submit to the Manager of Resource Management Engineering at Council new designs/work methodologies for the works prior to further work being undertaken, with the exception of any necessary works required to stabilise the site in the interim.
7. At least five working days prior to commencing work on site the consent holder shall advise the Manager of Resource Management Engineering at Council of the scheduled start date of physical works and confirm compliance with the 'prior to commencement of works' conditions detailed in Conditions 8 to 13 below.
8. At least 20 working days prior to the commencement of earthworks, the consent holder shall submit an Earthworks Management Plan (EMP) prepared by appropriately qualified personnel to the Manager of Resource Management Engineering at Council for review and certification. Earthworks shall not proceed until an EMP has been certified by Council as meeting the terms of Condition 9.
9. The objectives of the EMP are to:
 1. Ensure compliance with Condition 7 of the ORC Consent RM18.088.01 (relating to the discharge of silt/sediment into Mill Creek). Refer to Advice Note 5 for wording of Condition 7 of RM18.088.01.
 2. Ensure that appropriate measures are put in place to avoid as far as practicable, and minimise when avoidance is not practicable, other adverse effects arising from earthworks activities.

The EMP shall include as a minimum:

- a) Measures to control and/or mitigate any dust (including water supply source).
- b) Erosion and sedimentation control measures (specifically regarding risk to Mill Creek) in accordance with GD05 (*"Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region", June 2016*) with specific variations to take into account local site soils and rainfall patterns.
- c) On-going dust and sedimentation monitoring practices.
- d) Construction methodology in respect to staging and areas of exposed ground (noting Condition 21 below).
- e) Procedures to be used before, during and after any high rainfall or high wind events.
- f) Procedures for a failure of sedimentation control measures including the consent holder notifying the Council and the Otago Regional Council within 24 hours of any incident that results in a breach of Condition 7 of ORC Consent RM18.088.01, and an Incident Report protocol requiring an Incident Report to be lodged with Council and the Otago Regional Council within five-working days advising the nature of the incident, what management measures were in place to prevent the incident from occurring, the probable cause(s) of the incident, and what corrective actions have been taken to prevent recurrence.

- g) A nominated Environmental Representative to oversee day-to-day implementation of earthwork controls and related administrative activities (including weekly inspections). The role of the Environmental Representative is to verify that the management measures prescribed in the EMP are present, functional and adequate (i.e. reasonable and practical), observe the site for actual or potential adverse environmental effects, identify maintenance requirements for implemented management measures, and verify preparedness for adverse weather conditions where rain and/or wind is forecast.
 - h) Roles, responsibilities, and contact details (phone and email) for all relevant site staff (foreman) and key personnel (including environmental roles). Contact details are also to be provided for key Regional and District Council staff.
 - i) Site induction content, process, attendance requirements and registers. This shall include but not be limited to:
 - i. Basic roles and responsibilities for management of earthworks;
 - ii. Specific locations within the site of environmental significance or risks, including exclusion zones and sensitive receptors;
 - iii. Scope and conditions of resource consents applicable to the works;
 - iv. The limit of clearing and earthworks for each stage of works;
 - v. Procedures for managing storm events (wind and rain).
 - j) Sub-contractor management with respect to this plan.
 - k) Public complaint protocol and registers.
 - l) Document version control processes.
10. The consent holder shall develop and document a process of periodically reviewing the EMP. The process shall focus on identifying opportunities for continual improvement of processes and practices to ensure that the EMP is relevant to the work under the resource consent. Where undertaken, updates to the EMP shall be submitted to Council for review and certification. Updates to the EMP shall be undertaken by the Contractor when:
- a) The construction program moves from one stage to another; or
 - b) Any significant changes have been made to the construction methodology since the original plan was certified by the Council for that stage; or
 - c) There has been an environmental incident and investigations have found that the management measures are inadequate; or
 - d) Directed by Council's Monitoring and Enforcement team through enforcement.
- The consent holder shall provide the Council with an electronic copy of the most up to date and complete version of the plan at all times.
11. The consent holder shall ensure that the measures contained in the certified EMP are implemented and installed where necessary **prior** to the commencement of any earthworks on site and shall remain in place until the finished surface has been topsoiled and grassed/vegetated or otherwise permanently stabilised, to the satisfaction of the Manager of Resource Management Engineering at Council. The consent holder shall ensure that the measures are monitored and maintained on an ongoing basis to ensure they remain effective.
12. Prior to commencing earthworks on site, the consent holder shall obtain and implement a traffic management plan approved by Council if any parking, traffic or safe movement of pedestrians will be disrupted, inconvenienced or delayed, and/or if temporary safety barriers are to be installed within or adjacent to Council's road reserve.

13. Prior to commencing any earthworks on the site, and subject to conditions 67 and 68, the consent holder shall install a construction vehicle crossing, which all construction traffic shall use to enter and exit the site. The minimum standard for this crossing shall be a minimum compacted depth of 150mm AP40 metal that extends 20m into the site.

To be monitored throughout earthworks

14. The earthworks site management shall be undertaken in accordance with the certified EMP required under Condition 8 and a copy of this plan shall be accessible on site at all times. All contractors shall have a copy of this plan and shall be aware of their obligations to maintain site control measures and ensure ongoing compliance with Condition 7 of ORC Consent RM18.088.01 (refer Advice Note 5 for condition wording). The consent holder shall ensure that all staff (including all sub-contractors) involved in, or supervising, works onsite have attended a site induction in accordance with the requirements of the accepted EMP.
15. The consent holder shall ensure that no earthworks, temporary or permanent, breach the boundaries of Part Lot 3 DP 5737, Sec 69 Block VII Shotover SD, Lot 2 DP 507367, Lot 1 DP 27503 and Lots 1 -2 DP 23038. This includes temporary stockpiling of material.
16. As per Condition 68, the consent holder shall ensure that the eastern section of the legal Waterfall Park Road is not used for access to the site throughout construction. The consent holder shall install a temporary or permanent barrier (fence, bund, etc) prior to the commencement of any works on the site to ensure this condition is complied with.
17. The consent holder shall ensure that all earthworks are undertaken in accordance with the recommendations of the Geosolve report '*Waterfall Park Development Arrowtown – Lake Hayes Road*' ref 150098.03 dated May 2018.
18. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at his/her expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to Part Lot 3 DP 5737, Sec 69 Block VII Shotover SD, Lot 2 DP 507367, Lot 1 DP 27503 and Lots 1 -2 DP 23038.
19. If at any time Council officers, or its elected representatives, receive justifiable complaints about or proof of effects from vibration sourced from the earthworks activities approved by this resource consent, the consent holder at the request of the Council shall cease all earthworks activities and shall engage a suitably qualified professional who shall prepare a report which assesses vibration caused by earthworks associated with this consent and what adverse effect (if any) these works are having on any other land and/or buildings beyond this site. Depending on the outcome of this report, a peer review may be required to be undertaken by another suitably qualified professional at the consent holder's expense. This report must take into consideration the standard BS 5228:1992 or a similar internationally accepted standard. Both the report and peer review (if required) shall be submitted to Council for review and certification. The Consent holder shall implement any measures proposed in the report that will mitigate any negative effects of the vibration.
20. The consent holder shall notify the Manager of Resource Management Engineering at Council if any cracking, movement, structural distress or damage to any existing buildings, structures, underground services, public roads, pathways and/or surrounding land occurs and work shall stop immediately. Works shall only recommence when agreed by the Council.
21. The consent holder shall ensure that only cleanfill material is deposited at the site. Cleanfill material is defined as material that when buried/placed will have no adverse effect on people or the environment, and includes virgin natural materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:
 - a) combustible, putrescible, degradable or leachable components;

- b) hazardous substances;
- c) products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;
- d) materials that may present a risk to human or animal health such as medical and veterinary waste, asbestos or radioactive substances;
- e) liquid waste.

Acceptable materials include bricks, pavers, masonry blocks, ceramics, un-reinforced concrete, reinforced concrete where any protruding steel is cut off at the concrete face, fibre cement building products, road sub-base, tiles and virgin soils (including rock, sand, gravel, clay) - provided they are uncontaminated. Any other materials will require the prior written approval of Council prior to disposal at the site. Topsoil shall be used for final cover only.

On completion of earthworks

- 22. On completion of earthworks and prior to the construction of any buildings, 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 professional as defined in Section 1.2.2 and demonstrates to Council that the proposed building platforms are suitable for building development. In the event that the site conditions within the building platforms 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 certification 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. Where any buildings are to be founded on fill that has not been certified in accordance with NZS 4431:1989, the foundations of the building shall be designed by a suitably qualified engineer and a corresponding producer statement shall be submitted to the Manager of Resource Management Engineering at Council.
- 23. On completion of each stage of the earthworks, the consent holder shall complete the following:
 - a) All exposed areas shall be top-soiled and grassed/revegetated or otherwise permanently stabilised.
 - b) Any damage to all existing road surfaces and berms that result from earthwork carried out for this consent shall be remedied.

CONSTRUCTION

To be completed prior to the commencement of any construction on the site

- 24. At least 20 working days prior to the commencement of physical works (general earthworks and any ground improvement excluded), the consent holder shall provide a development specific Construction Management Plan (CMP) prepared in conjunction with the primary construction contractor/s and appropriately qualified personnel to the Manager of Resource Management Engineering at Council for review and certification. Physical works (general earthworks and any ground improvement excluded) shall not proceed until a CMP has been certified by Council.

The objectives of the CMP are to:

- 1. avoid as far as practicable, and minimise when avoidance is not practicable, adverse effects arising from construction activities; and
- 2. ensure compliance with the EMP certified by the Council in accordance with condition 9 in relation to site specific earthworks.

This plan shall include but not be limited to:

- a) Location of vehicle access to the site from the QLDC road network (noting Conditions 67 and 68 below).
- b) Site access;
- c) Contractor parking;
- d) Loading/unloading areas;
- e) Machinery parking;
- f) Site containment fencing/gates;
- g) Refuelling areas and spill management protocol;
- h) Measures to limit migration of soil to the surrounding road network;
- i) Inspection and cleaning of material from surrounding road network (if/when required);
- j) Noise limit monitoring and management;
- k) Mitigation and monitoring of any vibration or noise in accordance with NZS6803:1999;
- l) Erosion and sediment controls in accordance with the EMP as well as confirmation from a suitability qualified professional that the measures have been installed in accordance with the EMP;
- m) A nominated Environmental Representative to oversee day-to-day implementation of environmental controls and administrative activities (including weekly inspections) and actively support other key management roles. The role of the Environmental Representative is to verify that the management measures prescribed in the CMP are present, functional and adequate (i.e. reasonable and practical), observe the site for actual or potential adverse environmental effects, identify maintenance requirements for implemented management measures, and verify preparedness for adverse weather conditions where rain and/or wind is forecast;
- n) Roles, responsibilities, and contact details (phone and email) for all relevant site staff (foreman) and key personnel (including environmental roles). Contact details are also to be provided for key Regional and District Council staff;
- o) Site induction content, process and attendance requirements and registers; This shall include but not be limited to:
 - i. Basic roles and responsibilities for environmental management;
 - ii. Specific locations within the site of environmental significance or risks, including exclusion zones and sensitive receptors;
 - iii. Scope and conditions of resource consents applicable to the works;
 - iv. Environmental management measures stipulated in the CMP;
 - v. Procedures for notifying of potential environmental incidents;
 - vi. Sub-contractor management with respect to this plan;
 - vii. Heritage and archaeological protocol (excluding those matters covered under Condition 62);
 - viii. Health & Safety;
 - ix. Public complaint protocol and registers;
 - x. Document version control processes.
- p) The ability to amend and adapt the plan from time to time as a consequence of monitoring, changing site circumstances, and factors not previously anticipated.

25. The consent holder shall develop and document a process for periodically reviewing the CMP. This shall include regular reviews with a focus on identifying opportunities for continual improvement and to take into account the results from ongoing monitoring and maintenance as required under condition 24 of this consent. Where undertaken, updated to the SMP shall be submitted to Council for review and certification. Updates to the EMP shall be undertaken by the Contractor when:
- a) The construction program moves from one stage to another; or
 - b) Any significant changes have been made to the construction methodology since the original plan was certified by the Council for that stage; or
 - c) There has been an environmental incident and investigations have found that the management measures are inadequate; or
 - d) Directed by Council's Monitoring and Enforcement team through enforcement.

The consent holder shall provide the Council with an electronic copy of the most up to date and complete version of the plan at all times

26. The consent holder shall ensure that the erosion and sedimentation control measures contained in the accepted CMP are implemented and installed where necessary **prior** to the commencement of construction activities on site and shall remain in place until the finished surface has been topsoiled and grassed/vegetated or otherwise permanently stabilised, to the satisfaction of the Manager of Resource Management Engineering at Council. The consent holder shall ensure that the measures are monitored and maintained on an ongoing basis to ensure they remain effective.
27. Prior to commencing construction works on site, the consent holder shall obtain and implement a traffic management plan approved by Council if any parking, traffic or safe movement of pedestrians will be disrupted, inconvenienced or delayed, and/or if temporary safety barriers are to be installed within or adjacent to Council's road reserve.
28. Prior to the commencement of construction of the Ayrburn Domain restaurant building, the consent holder shall complete construction of the flood protection wall/path north of the building in accordance with the Fluent Solutions 'Waterfall Park Hotel Development – Flood Assessment, Management Proposal, and Effects Assessment' Job No. Q000391 dated April 2018.
29. Prior to the commencement of physical construction works (general earthworks and any ground improvement excluded), the consent holder shall obtain 'Engineering Review and Acceptance' from the Queenstown Lakes District Council for all development works and information requirements specified below. An 'Engineering Review and Acceptance' application shall be submitted to the Manager of Resource Management Engineering at Council and shall include copies of all specifications, calculations, design plans and Schedule 1A design certificates as is considered by Council to be both necessary and adequate, in accordance with Condition 4, to detail the following requirements:
- a) Extension of the Council DN225 PVC water main with a suitably sized water main with a minimum diameter of 225mm from the intersection of Arrowsmith-Lake Hayes Rd and Speargrass Flat Rd to the property boundary. Any required approvals from Council's Transportation or Infrastructure Team for this installation shall be obtained prior to the commencement of works.
 - b) The provision of a potable water supply to each serviced building within the development from the QLDC 225mm main extended with a suitably sized water main with a minimum diameter of 225mm from the intersection of Arrowsmith-Lake Hayes Road and Speargrass Flat Road under Condition 29a. This shall include a bulk flow meter, valve, and backflow prevention, for each building located at the main access road near the entrance to the building. If desired the individual bulk flow meters and backflow prevention at each building may be replaced with a single bulk flow meter and backflow prevention for a group of buildings (such as the hotel buildings) where the backflow risk is assessed to be similar for each building and where the group of buildings are proposed to be owned by a single entity. If a single meter is utilised for a group of buildings, this shall be located on

the extended suitably sized water main from the intersection of Arrowtown-Lake Hayes Road and Speargrass Flat Road, easily locatable and prior to the first point of offtake for the group of buildings. Where required, the design shall include a pressure reducing valve to ensure flows/pressures are within acceptable Council limits.

- c) The provision of a fire fighting sprinkler supply to each commercial building or group of commercial buildings proposed to be owned by the same entity within the development in accordance with Drawing B2-7 of the QLDC Land Development & Subdivision Code of Practice 2018, with adequate pressure and flow in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies 2008.
- d) The provision of fire hydrants with adequate pressure and flow to service the development with a minimum Class FW2 fire-fighting water supply in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies SNZ PAS 4509:2008 (or superseding standard). Any alternative solution must be approved in writing by the Area Manager for the Central North Otago branch of the New Zealand Fire Service.
- e) The provision of a centralised wastewater pump station or multiple pump stations to collect and convey the total development peak wet weather flow in accordance with QLDC standards. The pump station shall include suitable emergency storage and/or generator backup and shall be connected to a SCADA (Supervisory Control and Data Acquisition) system or suitable alternative monitoring system, to be approved by Council, to protect the pump station against any system failure and/or overloading. The system shall be designed to wholly comply with Council standards for possible future vesting.
- f) The provision of a wastewater rising main from the pump station/s approved under condition 29e to the QLDC 300mm main on Arrowtown-Lakes Hayes Road or other connection point as agreed with QLDC's Chief Engineer. Any required approvals from Council's Transportation or Infrastructure Team for this installation shall be obtained prior to the commencement of works.
- g) The provision of gravity wastewater reticulation from each commercial building within the development to the wastewater pump station designed under Condition 29e.
- h) The provision of a stormwater collection and disposal system which shall provide primary protection for the development, in accordance with Council's standards (Code of Practice) and/or Auckland City GD01 (*"Stormwater Management Devices in the Auckland Region", December 2017*) unless specifically stated otherwise. This shall include, but not be limited to, the following:
 - i. Stormwater disposal from the main access road to Mill Creek via mud-tanks fitted with submerged y-syphon outlets feeding to swales or attenuation ponds.
 - ii. Stormwater disposal from hill slopes above the main access road in the form of cut off drains feeding to Mill Creek via swales or attenuation ponds.
 - iii. Stormwater disposal from vehicle parking areas shall be treated via mud-tanks with y-syphon outlets and either pass through an attenuation (settlement) pond or swale prior to disposal to Mill Creek. If swales are to be used these shall be designed in accordance with the requirements of Auckland City GD01 Section C6.2. If attenuation (settlement) ponds are proposed these shall be designed to achieve a 75% total suspended solid (TSS) reduction prior to discharge.
 - iv. Stormwater runoff from Guest Parking 11 shall be treated via a small attenuation (settlement) pond to the north of the Wellness Centre prior to direct piped disposal to Mill Creek. Noting if insufficient area is proven to exist for a suitable attenuation pond the Council may consider alternative treatment in the form of a proprietary mudtank filtration device. The elected treatment shall achieve a 75% total suspended solid (TSS) reduction prior to discharge.
 - v. Stormwater disposal from all building roof areas shall be via swales or attenuation ponds to Mill Creek. If demonstrated to be appropriate engineer designed soakage to ground may be utilised for smaller auxiliary buildings (the Pavilion & Chapel) and sheds. If soakage is to be utilised, percolation testing shall be undertaken at the individual soak pit locations to confirm soakage. A copy of the test results shall be provided and shall be in general accordance with

the “Acceptable Solutions and Verification Methods for New Zealand Building Code Clause: E1 Surface Water”.

- i) The provision of a secondary stormwater protection system for the development consisting of secondary flow paths to cater for the 1% AEP storm event and/or setting of appropriate building floor levels to ensure that there is no inundation of any buildable areas, and no increase in run-off onto land beyond the site from the pre-development situation.
- j) The provision of a main sealed access road (Road 1 & 2) running north/south through the development and providing access to each building and associated carpark within the development (as shown in the plans contained within Condition 1) in accordance with Council standards. As a minimum this access road shall be constructed to Figure E30 of the QLDC CoP with the following specific exceptions –
 - i. Footpaths need not be provided (these are provided separately off-road).
 - ii. Parking/loading in the movement lane shall not be permitted and shall be restricted through the install of broken yellow ‘no parking’ lines.
 - iii. The Road 1 and 2 intersection in the vicinity of Building B shall be formed as a 90 degree bend (not tee intersection) with continuous kerb and channel for the full arc radius.
 - iv. The design of the main internal access road shall include a physical barrier (bund, fence etc) in the vicinity of Building B to ensure the site cannot be accessed from the existing formation of Waterfall Park Road.
 - v. The culvert crossing of Mill Creek associated with the road shall be constructed in accordance with Fluent Solutions ‘Waterfall Park Hotel Development – Flood Assessment, Management Proposal, and Effects Assessment’ Job No. Q000391 dated April 2018, with levels set specifically as per Appendix 5 (Freeboard Allowances) of this report. This shall include suitable vehicle fall barriers.
 - vi. The access shall include the provision of a series of bollards (or similar physical barrier) between the live carriageway and footpath at the north-western corner of Guest Park 11. The bollards shall be located where there is potential desire lines for pedestrians to stray from the path onto the roadway (short cutting) when accessing to/from the Pavilion building.
 - vii. The minimum legal road width shall be 9m for Road 01 from chainage 930m to chainage 1040m and for all of Road 02.
 - viii. Road 1 from chainage 900 to 960 shall be formed as a 6.7m wide carriageway to accommodate bus movements. North of chainage 960, the carriageway width may taper back to 5.5m.
- k) The construction and sealing of all vehicle manoeuvring and car parking areas to Council’s standards and AS/NZS 2890.1:2004 (Parking Facilities – Off-Street Car Parking). Parking and loading spaces shall be clearly and permanently marked out.

The accessibility park servicing the Wellness Centre shall either be located within Guest Parking 10 with dimensions and tracking curves to prove safe and practical use or it shall be relocated to Guest Parking 11 and a sealed access path to the building provided in compliance with Council standards.

- l) The provision of road marking and signage for all roads, car parks, and circulation/ manoeuvring aisles. This shall specifically include road marking, surface treatment and/or signage as required to alert drivers to the presence of key pedestrian and cart crossing points. All signage and marking shall be in accordance with the Manual of Traffic Signs and Markings (MOTSAM).
- m) If any changes to the alignment have been made from the Paterson Pitts Group drawings listed in Condition 1, the provision of updated vehicle tracking curves for the section of roadway affected by the changes in alignment for an 8m rigid truck (rubbish truck) and 12.5m rigid bus (tour coach) for intended paths for each vehicle through the development. For clarity, this excludes any changes required as per Condition 29(j).

- n) The provision of a design and access statement in accordance with Section 3.2.6 of the QLDC Land Development and Subdivision Code of Practice for all roads associated with the development. This statement shall confirm how target operating speeds will be achieved.
 - o) The provision of a pre-construction independent road safety audit in accordance with Section 3.2.7 of the QLDC Land Development and Subdivision Code of Practice for all roads, intersections, and parking & circulation aisles associated with the development. All concerns raised by this audit shall be resolved to an extent accepted by the Manager of Resource Management Engineering at Council.
 - p) The provision of lighting plans and supporting calculations for all roads and pedestrian lighting at/near road crossing locations and intersections in accordance with NZS1158:2005 with P levels adjusted for specific activity areas within the development, and the Southern Light lighting strategy. Details are also to be provided of specific measures to reduce disturbance to invertebrates and fish within Mill Creek. This shall include, but not be limited to; no direct lighting of the creek channel, installation of motion sensor lighting when near to the creek, and the use of LED lights that are shielded and have a wavelength that will minimise their attractiveness. Any lighting installed on private roads, car parks, paths shall be isolated from the Council's lighting network circuits, privately maintained, and all operating costs shall be the responsibility of the development owner/operator.
 - q) The provision of an off-road pedestrian and golf-cart path formed as a minimum 1.2m wide width of compacted 100mm depth AP20 gravel or timber as applicable as shown on Sheets 2 to 8 of the Paterson Pitts Group drawings detailed in Condition 1. This path shall link all commercial buildings within the development and shall link to the public pedestrian path which runs from the southern boundary of the site to the Arrowtown-Lake Hayes Road.
 - r) The bridges associated with the pedestrian/cart path shall be constructed in accordance with Fluent Solutions 'Waterfall Park Hotel Development – Flood Assessment, Management Proposal, and Effects Assessment' Job No. Q000391 dated April 2018, with levels set as per Appendix 5 (Freeboard Allowances) of this report.
 - s) The design of the off-road pedestrian and golf-cart path for the length on the true right of Mill Creek, from access road culvert 1 north, shall include swales and culverts to capture and convey overland stormwater flows from the hill slopes above to Mill Creek.
 - t) The provision of Design Certificates for all engineering works associated with this subdivision/development submitted by a suitably qualified design professional (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.
 - u) The provision of a Design Certificate submitted by a suitably qualified design professional for the Wastewater Pump Station/s required for the wastewater reticulation. The certificates shall be in the format of IPENZ Producer Statement PS1.
30. Prior to commencing works on the relevant building, the consent holder shall provide confirmation to Council that the design of each building has incorporated the following-
- a) Minimum floor levels of the buildings are set as per the Fluent Solutions 'Waterfall Park Hotel Development – Flood Assessment, Management Proposal, and Effects Assessment – Appendix 5 (Freeboard Allowances)' Job No. Q000391 dated April 2018 and Condition 29(i) above.
 - b) A specific liquefaction assessment has been carried out as per Section 5.5 of the Geosolve 'Geotechnical Report for Resource Consent – Waterfall Park Development, Arrowtown – Lake Hayes Road' dated May 2018 and ref no.150098.03.

- c) A specific lateral spreading assessment has been carried out as per Section 5.6 of the Geosolve *'Geotechnical Report for Resource Consent – Waterfall Park Development, Arrowtown – Lake Hayes Road'* dated May 2018 and ref no.150098.03.

To be monitored throughout construction

31. The construction site management shall be undertaken in accordance with the accepted CMP required under Condition 24 and a copy of this plan shall be accessible on site at all times. All contractors shall have a copy of this plan and shall be aware of their obligations to maintain site control measures and ensure ongoing compliance with Condition 7 of the ORC Consent RM18.088.01 (refer Advice Note 5 for condition wording). The consent holder shall ensure that all staff (including all sub-contractors) involved in, or supervising, works onsite have attended a site induction in accordance with the requirements of accepted CMP.
32. As per Condition 68, the consent holder shall ensure that the eastern section of the legal Waterfall Park Road is not used for access to the site throughout construction. The consent holder shall install a temporary or permanent barrier (fence, bund, etc) prior to the commencement of any works on the site to ensure this condition is complied with.
33. All newly constructed foul sewer and stormwater mains shall be subject to a closed circuit television (CCTV) inspection carried out in accordance with the New Zealand Pipe Inspection Manual. A pan tilt camera shall be used and lateral connections shall be inspected from inside the main. The CCTV shall be completed and reviewed by Council before any surface sealing.
34. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at their expense, to clean the roads.
35. If at any time Council officers, or its elected representatives, receive justifiable complaints about or proof of effects from vibration sourced from the construction piling activities approved by this resource consent, the consent holder at the request of the Council shall cease all earthworks activities and shall engage a suitably qualified professional who shall prepare a report which assesses vibration caused by earthworks associated with this consent and what adverse effect (if any) these works are having on any other land and/or buildings beyond this site. Depending on the outcome of this report, a peer review may be required to be undertaken by another suitably qualified professional at the consent holder's expense. This report must take into consideration the standard BS 5228:1992 or a similar internationally accepted standard. Both the report and peer review (if required) shall be submitted to Council for review and certification. The Consent holder shall implement any measures proposed in the report that will mitigate any negative effects of the vibration.

To be completed when works finish and before commercial operation of any building

36. Prior to the commercial operation of any building, the consent holder shall complete the following:
 - a) Complete and implement all certified works detailed in Condition 29 above.
 - b) Submit to Council 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this development at the consent holder's cost. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Roads (including right of way), Water, Stormwater, and Wastewater reticulation (including pump station and rising main).
 - c) Undertake and submit to Council the results of a post construction safety audit of all public roads and access ways/right of ways, to confirm construction in accordance with plans reviewed and accepted by Council and that minor unforeseen issues identified are remedied. Recommendations from this post construction safety audit will not include amendment to roading alignments but may require amendment to road markings, signage and other minor changes to appropriately mitigate

unforeseen safety concerns identified. All recommendations shall be completed at the Consent Holder's expense to Council's satisfaction.

- d) Submit to Council a copy of the Mill Creek Floodway Maintenance Plan (FMP) certified by the Otago Regional Council under RM18.088.01.
 - e) Remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
 - f) Obtain a Code of Compliance Certificate under a Building Consent for any retaining walls constructed as part of this consent which exceed 1.5m in height or are subject to additional surcharge loads as set out in Schedule 1 of the Building Act.
 - g) Install any power supply and/or telecommunications connections to the buildings underground from existing reticulation and in accordance with any requirements/standards of the network provider's requirements.
 - h) Submit to Council Completion Certificates from both the Contractor and Approved Engineer for all infrastructure engineering works completed in relation to or in association with this development (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1B and 1C Certificate.
 - i) Submit to Council Completion Certificates from both the Approved Contractor and Approved Certifier for the Wastewater Pump Station. The certificates shall be in the format of IPENZ Producer Statement PS3 and PS4.
37. Prior to commercial operation of the Ayrburn Domain buildings, the consent holder shall provide for certification by Council a specific Flood Hazard Management Plan as related to the increased risk of flooding discussed under Section 6.1.4 of the Fluent Solutions 'Waterfall Park Hotel Development – Flood Assessment, Management Proposal, and Effects Assessment' Job No. Q000391 dated April 2018. This plan shall outline ongoing procedures for monitoring of flood levels during periods of prolonged rainfall and if required closing off to the public of specific areas (carparks, landscape areas etc). This plan shall be made well known to building owners, operators and staff.

ON-GOING CONSENT CONDITIONS

38. The consent holder shall ensure that any building owners, operators and key operational staff are provided with a copy of the accepted Mill Creek Floodway Maintenance Plan (as per Condition 36d) and shall ensure maintenance requirements, inspections, and corrective actions contained therein are undertaken to ensure suitable flood conveyance and stability of the Mill Creek channel through the development site.
39. The consent holder shall ensure that any building owners, operators and key operational staff are provided with a copy of the Flood Hazard Management Plan for the Ayrburn Domain buildings (as certified under Condition 37) and shall ensure procedures for monitoring of flood levels and addressing flood risk are undertaken to ensure public safety.
40. Five years after the hotel becomes operational, the consent holder shall commission a long section survey of the Mill Creek channel and engage a hydrologist/geomorphologist to compare the completed survey against the levels designed and constructed under the Fluent Solutions 'Waterfall Park Hotel Development – Flood Assessment, Management Proposal, and Effects Assessment' Job No. Q000391 dated April 2018. Where the assessing hydrologist/ geomorphologist determines the conveyance of the channel has significantly reduced the ability to convey the design event, specific remediation shall be recommended, and these works shall be undertaken by the consent holder. Evidence of the survey, hydrologist/ geomorphologist assessment, and recommendations/remedial works shall be provided to the Manager of Resource Management Engineering at Council within one month after completion.

41. No additional buildings (including extensions), beyond those approved under this consent may be built within Activity Areas V, R and V/R/S shown on the Waterfall Park Zone Structure Plan.
42. No buildings, structures or tracks may be built or formed within the site above the height 380 masl.
43. Landscaping shall be maintained on an ongoing basis as per Condition 52.

MANAGING SOIL CONTAMINANTS

44. Prior to works commencing on site, the consent holder shall provide a Remedial Action Plan (RAP) prepared by a suitably qualified and experienced practitioner for review and acceptance by the Compliance Manager, Council. The RAP shall be prepared in general accordance with Contaminated Land Management Guideline No.1 – Reporting on Contaminated Sites in New Zealand, Ministry for the Environment (revised 2011), and shall include (but not be limited to) a detailed discussion of the remedial options available and the extent of remedial works required, the necessary pre-remediation site management procedures (e.g. fencing, warning signs, stormwater diversion, etc), that will avoid, mitigate, or remedy any adverse effects of the remedial works on human health.

Advice Note: Implementation of the RAP may require additional consents under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health and Regional Plan: Waste.

45. Within three months of the completion of any required remedial works, the consent holder shall provide a Site Validation Report (SVR) to the Compliance Manager, Council for review. The SVR shall be prepared by a suitably qualified and experienced practitioner, and in accordance with the Ministry for the Environment publication Contaminated Land Management Guidelines, No.1 (revised 2011). The SVR should contain sufficient detail to address the following matters:

- a) summary of the works undertaken, a statement confirming whether the disturbance works have been completed in accordance with the Remedial Action Plan;
- b) the location and dimensions of the excavations carried out, including a relevant site plan;
- c) records of any unexpected contamination encountered during the works, if applicable
- d) the location and dimensions of contaminated soil remaining on site including a relevant site plan (if applicable);
- e) a summary of sampling and analysis undertaken for validation sampling, and for unexpected contamination (if applicable), tabulated analytical results including laboratory transcripts, and interpretation of the results in the context of the NESCS
- f) copies of disposal dockets for the material removed from site, if any
- g) details regarding any complaints and/or breaches of the procedures set out in the Remedial Action Plan.

All sampling undertaken on site, including site validation testing, shall be overseen by a suitably qualified and experienced contaminated land professional. All sampling shall be undertaken in accordance with CLMG, No. 5 – Site Investigation and Analysis of Soils, Ministry for the Environment, revised 2011 or updated version.

46. In the event that ongoing management is still required after the SVR has confirmed remedial goals are achieved, the consent holder shall provide a Long Term Monitoring and Management Plan (LTMMMP) no later than two months after completion of the site validation works, to the Compliance Manager, Council for review and certification. The LTMMMP shall be prepared by a suitably qualified and experienced practitioner (SQEP) and in accordance with Contaminated Land Management Guideline No. 1: Reporting on Contaminated Sites in New Zealand (Ministry for the Environment, Wellington, NZ).

Revised 2011). As a minimum the Long Term Monitoring and Management Plan shall address the following specific matters:

- a) Identification of relevant hazards associated with residual contamination in soil and groundwater;
- b) Protection of maintenance/excavation workers undertaking subsurface works with the principal exposure pathways comprising direct contact and/or ingestion of contaminated soil and dust or inhalation of vapours;
- c) activities involving the handling of soil and/or groundwater during excavation work;
- d) procedures to manage the potential construction of building structures or pavements over the contaminated area dispenser area;
- e) procedures to manage the potential construction of building structures or pavements over the contaminated area dispenser area;
- f) the final dimensions and location of any on-site encapsulation areas;
- g) procedures for monitoring any encapsulation areas and maintaining the integrity of the impervious seal over the area;
- h) procedures for preventing stormwater infiltration into the encapsulation areas if the integrity of the area become compromised;
- i) frequency and procedures for monitoring and reporting stormwater discharge;
- j) procedures for identifying the location of any encapsulation pit and any metre exclusion zones around the area;
- k) identification of responsible parties and contact persons in relation to the site;
- l) procedures for reporting to the Council;
- m) procedures for the review of the LTMMMP.

ECOLOGY

- 47. Prior to implementing any riparian landscaping works, the consent holder shall provide the Council with a copy of the Koaro Habitat Plan certified by ORC under RM18.088.01.
- 48. To the extent not already dealt with in Condition 47, prior to the commencement of any works on the site, the consent holder shall submit a detailed riparian planting plan prepared by appropriately qualified personnel to the Manager Resource Consents at Council for review and acceptance. The objective of the plan is to protect and enhance ecological values within Mill Creek, particularly relating to trout and kōaro. The riparian planting plan will, at a minimum, detail:
 - a) Planting plans and species lists;
 - b) Plant maintenance and monitoring (including weed and pest control);
 - c) The anticipated level of stream shade and how planting will reduce the potential for nuisance algal growth within Mill Creek;
 - d) The location and extent of any specific planting intended to enhance potential spawning habitats for fish, specifically kōaro;

- e) Eco-sourcing of plants from the Lakes Ecological Region.
49. The riparian planting plan accepted under condition 48 shall be implemented within the first planting season following construction of the buildings, and the plants shall thereafter be maintained (including irrigation as required for a five year period) in accordance with that plan. If any plant or tree should die or become diseased it shall be replaced within the next available planting season.
50. Water Monitoring
- a) The consent holder shall arrange for:
 - i. Water monitoring samples to be taken from Mill Creek for the purpose, in the manner and at the frequency detailed in subclauses b-e. below;
 - ii. The results of the water monitoring to be forwarded to the Otago Regional Council and the Queenstown Lakes District Council within five working days after the results of each water sample are available.
 - b) The purpose of the water monitoring is to inform the consent holder and the regulatory authorities of the water quality in Mill Creek on a regular basis for a specified period, and to assist the Otago Regional Council in particular to gain a better understanding of the contribution of the site to water quality issues affecting the wider Mill Creek and Lake Hayes catchments. For that purpose, each water sample shall be tested for the same water quality parameters as are measured by the Otago Regional Council at the Mill Creek Fish Trap downstream of the site.
 - c) Water samples shall be:
 - i. Taken from the upstream end of Mill Creek within the site and at the downstream end of Mill Creek within the site;
 - ii. Forwarded for testing by an independent service provider qualified to test water samples for the purpose detailed in subclause b. above.
 - d) Water samples shall be taken:
 - i. Monthly for a period of at least six months prior to commencement of any works authorised by this consent;
 - ii. Monthly throughout the period of the works authorised by this consent;
 - iii. Quarterly (every three months) for the three year period following commencement of the commercial operation of the hotel.
 - e) Wherever reasonably possible, the taking of water samples shall coincide with the monthly monitoring tests carried out by the Otago Regional Council at the Fish Trap downstream of the site.

EXTERNAL APPEARANCE

51. Building materials and colours shall be in accordance with the materials and colours that have been approved under Condition 1 of this consent. Any amendments shall be provided by the consent holder to the Monitoring Planner of the Council for certification prior to being used on the building.

LANDSCAPING

52. The consent holder shall undertake landscape planting / protection of the site in accordance with the landscaping approved under Condition 1 and as required by Conditions 48 and 49. The approved landscaping shall be implemented within the first planting season following construction of the buildings, and the plants shall thereafter be maintained (including irrigation as required for a five year period) in accordance with that plan. If any plant or tree should die or become diseased it shall be replaced within the next available planting season. Fertiliser shall not be applied to assist planting within the site except for the initial application of hydroseeded grass. For the avoidance of doubt, this condition also applies

to the approximately 16,800 plants already planted within the site as at the date of this consent as detailed on 'Waterfall Park, Stage 1 & 2 Planting Areas, dated 25 January 2019'.

NOISE

53. Noise from the site shall comply with the following noise limits:
- a) Sound from non-residential activities measured in accordance with NZS6801:2008 and assessed in accordance with NZS6802:2008 shall not exceed the following noise limits at any of the points marked R1-R12 in Figure 1 below:
 - (i) daytime (0800 to 2000 hrs) 50dB LAeq (15 min)
 - (ii) night-time (2000 to 0800 hrs) 40dB LAeq (15 min)
 - (iii) night-time (2000 to 0800 hrs) 70dB LAFmax
 - b) The noise limits in (a) shall not apply to construction sound which shall be assessed in accordance with NZS6803:1999.



Figure 1: Noise measurement and assessment positions

54. Prior to commencement of operations, the consent holder shall provide to the Manager Resource Consents a letter from a suitably qualified acoustic consultant that noise from all building services plant on site has been designed to adopt the best practicable options to mitigate and control noise beyond the application site to an appropriate level in addition to meeting the noise limits in Condition 53 above.
55. Prior to commencement of operations, the consent holder shall provide to the Manager Resource Consents a letter from a suitably qualified acoustic consultant that all building envelope constructions have been designed to adopt the best practicable options to mitigate and control noise beyond the application site to an appropriate level in addition to meeting the noise limits in 53 above. The letter shall state the maximum sound level assumed in each space.

56. The use of amplified music in any outside area shall cease at 8pm. Should outdoor speakers be used during the day, they shall not exceed a noise level of 85dB LAeq at 1m in addition to meeting the noise limits in Condition 53 above.
57. The Building A restaurants and lounge bar shall have all windows and doors closed between the hours of 8pm and 8am.
58. Building A shall have all windows and doors closed at all times when it is used for a function where amplified music is being used.
59. Amplified music in Building A and the Ayrburn Domain restaurant shall only be played through the installed in-house systems. The system shall have an automatic sound limiting device installed that has been commissioned by a suitably qualified and experienced acoustic consultant or specialist. Prior to commencement of operations, the consent holder shall provide to the Planning Manager a letter from a suitably qualified acoustic consultant that an automatic sound limiting device has been installed and the sound level at which the system has been set.

For clarity, the sound limiting device will need to be set at a level that ensures compliance with Condition 53.

SIGNS

60. The signage materials, location and colours authorised by this consent shall be in accordance with the signage plans contained in Condition 1. Final colours and/or materials for signs shall be submitted to Council for certification prior to installation.

HERITAGE

61. Prior to deconstruction activities, the consent holder shall provide to the Monitoring Planner of the Queenstown Lakes District Council a detailed photographic, drawn and written survey which records the nature of each structure prior to modification. Details shall be provided for the following buildings:
 - a) The Stables
 - b) The Cart Shed
 - c) The Dairy Building.

Note: Where an approved and valid Archaeological Authority exists any relevant survey information or reporting collated as a requirement of this Authority may be substituted to avoid unnecessary duplication of recording.

62. The survey required by Condition 61 shall primarily be a photographic survey and shall be undertaken using digital photography in RAW and High quality JPEG (Greater than 10 megapixels) formats to provide an archival record of structures prior to alteration.
63. The survey required by Condition 61 shall be supported by location maps and written or drawn notes sufficient to identify the content of the photographic survey and any changes to the existing structures.
64. Within three-months of completion of the physical works, the consent holder shall provide to the Monitoring Planner of the Queenstown Lakes District Council an updated electronic survey of 'as built' works. The survey shall also include a copy of the Ayrburn Farm HIA prepared by Origin Consultants.
65. At least 20 working days prior to works commencing on the Stables or Cartshed, the consent holder shall provide a final Heritage Construction Management Plan (Heritage CMP) prepared by appropriately qualified personnel for the relevant building to the Manager Resource Consents for review and acceptance detailing the construction methodology for adaption of that building. The Council shall

respond within 10 working days of receiving the Heritage CMP. The objective of the final Heritage CMP is to manage the construction process to avoid or mitigate potential impacts on built heritage.

The Heritage CMP shall include as a minimum:

- a) Pre-start meeting requirements with contractors;
- b) The methods for site preparation, working practices and use of machinery;
- c) The methods for avoiding damage or protecting heritage fabric from damage that may potentially occur during construction;
- d) Identification of the portions of the buildings that need to be temporarily deconstructed, including discussion of reasons for temporary relocation, methods for temporary removal, relocation and storage;
- e) Communication processes;
- f) The manual methods for monitoring potential risk of damage from construction activities;
- g) The processes for remediation of accidental damage to the buildings arising from the works and any associated activities;
- h) Provision for the Heritage CMP to be adapted as site conditions change or unexpected situations arise.

ACCIDENTAL DISCOVERY

66. If the consent holder discovers any feature or archaeological material that predates 1900, heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:

- a) stop work within the immediate vicinity of the discovery or disturbance;
- b) advise the Council, the Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the New Zealand Pouhere Taonga Act 2014 and;
- c) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may only recommence following consultation with Council.

ROAD, ACCESS AND MAINTENANCE

67. This consent shall lapse five years after grant of consent, and cannot be implemented until and unless:

- i. the necessary consents/approvals have been obtained to enable construction of alternative road access to that of Waterfall Park Road, from the Arrowtown-Lake Hayes Road to the site;
- ii. construction of that road access has been completed as required by the relevant consents/approvals subject to this condition.
 - a) The road access required by this condition shall be as approved under RM171280 (if the approval of RM171280 is not over-turned) or as approved under another resource consent provided it is in the same general alignment, and of the same minimum standard, as set out in RM171280 and detailed in the plans referred to in the following subclause.
 - b) Construction of the road access required by this condition shall include completion of all the mitigation roadside landscaping (mounding and tree planting excluding the pin oaks) detailed on

Baxter Design Group Attachment B, C and D, all dated 19 November 2018, located east of Mill Creek and south of the road access.

- c) No works may commence on the site until the alternative road access has been built. Vehicle access to the site, for the purposes of all earthworks and construction activities authorised by this consent, must be by way of the road access required by this condition.
 - d) Completion of construction for the purposes of this condition may be to either a sealed surface or a compacted metal surface for use during the construction phase of the project only. If a compacted metal surface is provided, then appropriate steps are to be taken to avoid dust being generated by construction traffic movements. Steps taken to avoid dust must be by a method which provides continuous protection such as the application of water by fixed spray irrigation (not by mobile water carts), temporary Otta-sealing, or the application of a dust suppression product approved by Council (such as a suitable emulsion polymer).
 - e) Condition 52 (maintenance of landscaping) shall apply to the landscaping referred to in subclause c above.
 - f) Nothing in this condition applies to any soil remediation activity or any works relating to Ayrburn Domain (the heritage protected Ayrburn Farm buildings) authorised by this consent. Those activities may be implemented regardless of whether or not this condition has been complied with.
 - g) The road access must be sealed and completed to the satisfaction of the Manager of Resource Management Engineering at Council prior to commencement of commercial operations authorised by this consent.
68. The consent holder shall ensure that the eastern section of the legal Waterfall Park Road, being the section located east of the site subject to this application, is not used at any time for any access to the development. This condition applies to earthworks and construction, as well as ongoing operation of the development.
69. Prior to commercial operation of any building/s, the legal alignment of Waterfall Park Road through the development site shall be altered to match and contain the north-eastern portion of the internal access road (Road 02).
70. Prior to use of the portion of the internal access road contained within the QLDC road reserve, the consent holder shall enter into a legal agreement with QLDC for the ongoing maintenance by the consent holder of the portion of the internal access road (Road 02) contained within the Council legal road reserve (Waterfall Park Road). The final wording may be reviewed by the Council's solicitors at the consent holder's expense.
71. Prior to use of the portion of the internal access road contained within the QLDC road reserve, the consent holder shall register with Land Information New Zealand an easement in gross in favour of the Council over the privately owned section of Road 01 and the northern privately owned section of Road 02 to ensure ongoing Council and public access. For clarity, the portion of road this condition refers to is the section between the legal road and the road access referred to in Condition 67. The final wording of the easement instrument shall be checked and approved by the Council's solicitors at the consent holder's expense prior to registration to ensure that all of the Council's interests and liabilities are adequately protected.
72. The easement referred to in Condition 71 shall also apply to the pedestrian and golf-cart path referred to in Condition 29q to ensure public pedestrian access through the site from the southern boundary to the northern waterfall.

BOND

73. The consent holder shall execute and register a bond in favour of Council in respect of revegetation and permanent stabilisation of the site as required by Condition 21(a). The following requirements shall apply to the bond:
- a) The bond shall be executed and registered prior to the commencement of any earthworks on the site.
 - b) The bond document shall be approved by Council solicitors prior to execution, and all legal costs incurred by Council in respect of the drafting and approval of the bond document shall be paid by the consent holder.
 - c) It is acknowledged that the earthworks may be carried out in stages, as determined by the consent holder. The bonded amount shall be in respect of one or more stages, as elected by the consent holder. Earthworks may only be commenced in such stage(s) as is/are covered by the bond. The bonded amount shall be reviewed prior to the commencement of any stage(s) not already covered by the bond and the bonded sum may be increased or reduced accordingly from time to time as stages are completed and prior to future stages being commenced.
 - d) The bonded amount shall be sufficient to cover all costs associated with permanent stabilisation of the relevant parts of the site containing the relevant stage(s) of the earthworks plus 50% (the additional 50% being a contingency sum to cover possible cost increases). For the purpose of calculating the bond amount, the consent holder shall apply to the Council a cost estimate prepared by the contractor engaged to carry out earthworks on the site which details the works covered by the cost estimate.
 - e) The bond document shall authorise the Council to enter the site and carry out any uncompleted works required by Condition 23(a) provided that the Council has first given the consent holder at least one month's written notice requiring those works to be carried out and the consent holder has failed to carry out those works within that one month period.
 - f) The bond shall be discharged by Council when all works required by Condition 23(a) have been completed to the satisfaction of Council.

REVIEW

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

Advice Notes:

1. This consent triggers a requirement for Development Contributions, please see the attached information sheet for more details on when a development contribution is triggered and when it is payable. For further information please contact the DCN Officer at QLDC.
2. The consent holder is advised that any retaining walls, including stacked stone and gabion walls, proposed in this development which exceeds 1.5m in height or walls of any height bearing additional surcharge loads will require Building Consent, as they are not exempt under Schedule 1 of the Building Act 2004.
3. Prior approval via a Connection to Council Services for a Temporary Water Take is required if Council's water supply is to be utilised for dust suppression during earthworks. This shall include the use of a backflow prevention device to prevent contamination of Council's potable water supply.
4. An archaeological assessment that is relevant to the proposal and an Archaeological Authority must be obtained from Heritage New Zealand by the consent holder and a copy provided to Queenstown Lakes District Council before any earthworks or demolition is commenced on the site. Please be aware that the protection of archaeological sites takes precedence over any resource consent or building consent. Note this may apply to any variations to this consent.
5. Condition 7 of Otago Regional Council Consent RM18.088.01 reads as follows:

During the construction phase of the land surrounding Mill Creek, the consent holder shall ensure that all dirty runoff is diverted into sediment removal devices and that:
 - a) there shall be no conspicuous change in the clarity of Mill Creek directly downstream of the site (NZTM 2000 E1269651 N5013239); and
 - b) no individual discharge or runoff shall result in a conspicuous change in the clarity of Mill Creek after a distance of 50 metres.
6. Conditions 41, 42 and 50 were offered by the applicant on an Augier basis.