



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	J & A Nichol
RM Reference:	RM170299
Location:	118 Faulks Road, Wanaka
Proposal:	Three lot subdivision and identification of building platforms
Type of Consent:	Subdivision
Legal Description:	Lot 1 DP 21489
Zoning:	Rural General
Activity Status:	Discretionary
Notification:	Public
Commissioners:	Wendy Baker and Robert Nixon
Date Issued:	11 January 2018
Decision:	Granted subject to conditions

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of the Queenstown Lakes District Plan
IN THE MATTER	of an application for resource consent to undertake a subdivision creating 3 residential allotments
BY	J & A NICHOL – RM170299

DECISION OF COMMISSIONERS ROBERT NIXON AND WENDY BAKER

Introduction

1. The application site is located in a rural area on the south-western corner of Maxwell and Faulks Roads, approximately 4 km from Wanaka. The applicant proposes to undertake a 3 lot subdivision identifying a residential building platform on each. The application site comprises 3.25 ha and is legally described as Lot 1 DP 21469. Proposed lots 1 – 3 range in area from 0.8 ha to 1.45 ha. Lot 1 contains an existing dwelling.
2. We have been delegated the Council's powers pursuant to Section 34A to hear and decide this application.

Hearing and Site Visit

3. We undertook a site visit on 27 November 2017 accompanied by Mr Andrew Woodford, Council Senior Planner. As part of the site visit we viewed the site from Faulks and Maxwell Roads, we walked across proposed Lots 1 and 2, viewing the profile poles erected on Lots 2 and 3.
4. The hearing was held in Wanaka on 27 November 2017.
5. We adjourned the hearing on 27 November 2017 having heard all evidence and closing submissions. The adjournment was to allow for the Applicant to provide the following:
 - Full set of Affected Party Approvals

- Computer Freehold Register including plan page
 - Set of volunteered conditions annotated with Council Officers' comments
6. The Applicant provided the final details on Friday 8 December 2017. We considered these on 14 December 2017 and closed the hearing on this date having been satisfied that we have sufficient information to reach a decision.

Abbreviations

7. "ODP" – the Operative District Plan
 "PDP" – the Proposed District Plan
 "RPS" – the Regional Policy Statement
 "PRPS" – the Proposed Regional Policy Statement
 "the Applicant" – J & A Nichol
 "VAL" – Visual Amenity Landscape
 "RBP" – Residential Building Platform

Appearances

8. For the applicant:
 Mr M Walker – Counsel
 Mr D Curley – Planning Consultant
 Mr B Espie – Landscape Architect
 Mr J Nichol – Landowner was present to answer any questions

Submitters

Mr J Howarth on behalf of the Upper Clutha Environmental Society

Council Officers

Mr A Woodford – Reporting Senior Planner
 Mr R Denney – Consultant Landscape Architect
 Ms C Evans – Committee Secretary

9. The Council's 42A report and the applicant's evidence were pre-circulated in accordance with the requirements of the Act. We pre-read that material and took it as read.

The Application

10. The application is described in reasonable detail in paragraphs 4.2 – 4.6 of the Assessment of Effects on the Environment (AEE) lodged with the application. We do not repeat that material and adopt it. We noted during the hearing that the proposal was lacking in key detail in respect of volunteered consent notices for design controls and curtilage.
11. The Applicant amended the application on two counts as set out in Mr Curley's evidence at paragraph 23:

- A curtilage area has been added to each of the three proposed lots. The application now stipulates that all outdoor domestic activities must be contained within the curtilage areas and all land outside the curtilage areas must be maintained as open pasture by way of grazing, cropping or seasonal mowing.
- The application now stipulates that the total footprint of all buildings within each building platform shall not exceed 600m².

Submissions

12. The application was publicly notified on 25 May 2017 with submissions closing on 23 June 2017. One submission was received from the Upper Clutha Environmental Society opposing the application in its entirety.

Reasons consent is required

13. The site is zoned Rural General in the ODP. We agree with the Applicant and the Council Planner that the proposal falls to be considered as a discretionary activity under the ODP and that resource consent is required for the following reason:

- A discretionary subdivision activity consent pursuant to Rule 15.2.3.3(vi) for subdivision and location of RBPs in the Rural General zone.

14. In terms of other relevant matters, the site is identified as being within a Visual Amenity Landscape (VAL) classification the ODP¹. We concur with both the Applicant and the Council Planner that the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) does not apply to this application.

Relevant Statutory Provisions

15. Section 104 sets out the matters to be considered in determining an application for resource consent. Under Section 104B we may grant or refuse consent. Under Section 106 we may refuse subdivision consent or impose conditions relating to the provision of access and effects of natural hazards. If we grant consent we may impose conditions under Sections 108 and 220.

Relevant Regional Policy Statement Provisions (RPS and PRPS)

16. Both the Operative and Proposed Regional Policy Statements are relevant to this application.
17. The AEE lodged with the application did not refer us to the RPS. Mr Woodford referred us to Parts 5 and 9 of the RPS as containing relevant objectives and policies.

¹ Appendix 8B, Map 1

18. The PRPS was notified on 23 May 2015, and decisions were notified on 1 October 2016. 26 Notices of Appeal have been lodged. Mr Woodford identified that the relevant objectives and policies are found in Part B Chapters 1, 3, 4 and 5.
19. Mr Curley advises at paragraph 51 of his evidence that he considers that the subdivision as proposed will be consistent with the relevant RPS and PRPS. However, he does not direct us to any reasoning or references upon which this view is based.
20. We concur with Mr Woodford's identification of the relevant Objectives and Policies in both the RPS and the PRPS.

Relevant District Plan Provisions

21. The Section 42A report at paragraph 7.3.1 referred us to Parts 4, 5, 15 and 22 of the ODP. Mr Curley in Appendix D to his evidence references only Objectives in Parts 4, 5 and 15. We note that Mr Woodford whilst listing Part 22 as relevant, does not refer us to any provisions. We consider Parts 4, 5 and 15 are relevant and Part 22 is not.
22. Mr Woodford at paragraph 7.3.2 referred us to Chapters 3, 6, 21 and 27 of the PDP, and to the extent that this has weight, we consider these are relevant. Mr Curley does not refer us to any provisions in the PDP, other than to identify that if the rules were operative, then the proposal would require a discretionary activity consent². We note that to date one decision has been released on the PDP and it relates to the Millbrook zone only, which is not relevant to this application.

The existing environment

23. The site forms part of a cluster of small rural properties with dwellings, between Faulks Road and the Cardrona River to the west. In contrast, the land extending to the east comprises open pastoral land. The environment is described in detail in the first two paragraphs of Section 4.1 of the AEE and paragraphs 8-10 of the landscape report appended to the AEE. It is also described by Mr Denney in his evidence³. There is no dispute in terms of the description and we adopt all three for the purposes of this decision.

Permitted baseline

24. Mr Woodford set out in his report at paragraph 7.2.1 the range of activities that are permitted in the Rural General zone and we adopt that list. In our view the permitted baseline is of limited relevance given all subdivision and structures require resource consent.

Written Approvals

25. There was some confusion about the approvals at the hearing. On 14 December the Applicant provided us with a full set of all the approvals obtained and a map indicating which properties were owned and occupied by those providing approvals. The map is reproduced

² Evidence of D Curley, paragraph 5.2

³ Evidence of R Denney, paragraphs 3 – 6

below and shows properties A through F. All owners and occupiers of properties A through E have provided approvals and we can confirm that we have therefore disregarded any effects on those parties. One of the owners of the property marked F has not provided approval and we have therefore considered effects on that owner.



Legal Submissions and Evidence

Council Planner

26. Andrew Woodford, Council Senior Planner prepared a report pursuant to Section 42A containing a landscape report and an engineering report upon which it was based. He listed the following actual and potential effects on the environment as relevant:

- Effects on natural and pastoral character
- Landscape and visual amenity effects
- Cumulative effects
- Earthworks
- Services
- Access and traffic
- Natural Hazards
- Reverse Sensitivity
- Positive Effects

27. In his assessment, Ms Woodford considered that the adverse effects on rural character, landscape and visual amenity of the landscape would be significant and that they would not be suitably avoided, remedied or mitigated. He considered that the proposal would result in adverse cumulative effects on the landscape resulting from the density of the proposed lots and the building platforms. He considered that the proposal would result in adverse effects which are inappropriate in this location.

28. Mr Woodford is of the opinion that the proposal is generally inconsistent with the relevant objectives and policies of the ODP and PDP and that it does not promote the overall purpose of the RMA.
29. Mr Woodford concludes that there may be some potential to reduce the domesticating effects on the landscape by providing a more detailed mitigation-planting concept, clustering the proposed RBPs and existing buildings.

Council Engineer

30. Tim Dennis, Consultant Engineer, prepared a report which generally recommended any engineering related issues could be dealt with by conditions. The Applicant agreed with the recommended conditions, and as there were no matters in dispute we excused Mr Dennis from attending the hearing.

Council Landscape

31. Richard Denney, Consultant Landscape Architect, prepared a report on the landscape aspects of the proposal. He concluded that the proposal would degrade the pastoral character through over-domestication resulting from the small lot sizes proposed and resulting intensive rural residential land use. Mr Denney considers that the development will be highly visible from Faulks and Maxwell Road. He states that from perspectives where the development is not visible, this is due to screening by vegetation which is not located on the subject site, and which therefore cannot be relied upon. Screening is also provided by vegetation located on proposed Lot 1 which is not identified on the submitted landscape plan.
32. Mr Denney identifies that there is potential to provide visual mitigation through mass planting. However, he considers that this would intensify the pattern of rural residential domestication. At paragraphs 30-38 of his evidence Mr Denney also expressed concerns about cumulative effects. He considers that the proposed subdivision and dwellings, when added to the existing pattern of development, will exceed threshold of the VAL in this location to absorb development.

Legal Submissions

33. Michael Walker presented legal submissions for the applicant identifying that whether this proposal is granted or declined hinges on the adverse visual impacts and effects on the landscape. We concur with Mr Walker that no other matters of significance were raised in the course of the hearing. The thrust of Mr Walker's submissions is that the evidence of Messrs Smith and Espie (landscape report attached to AEE and landscape evidence for the Applicant respectively) is to be preferred over that of Mr Denney for the Council.

Applicant Planner

34. Dan Curley presented planning evidence for the Applicant; he also prepared the AEE. Included in his evidence as Appendix C was correspondence from September 2017 between himself and Mr Woodford, in which Mr Woodford stated that he could support one additional allotment. There was no dispute about this at the hearing, and we accept that the

Mr Woodford could support proposed Lot 2, but not Lot 3. Mr Curley considered that proposed Lot 3 can be accommodated based on Mr Espie's evidence.

Applicant Landscape

35. Ben Espie provided landscape evidence for the Applicant. He adopted the report of Paul Smith which was submitted with the application. Mr Espie stressed that the Rural General zone does not have a minimum allotment size, but instead directs that development only occur in locations with capacity to absorb change. Mr Espie agrees with Mr Denney⁴ that the proposal will effectively intensify the degree of domesticity that is present in this location. Their opinions differ in respect of whether or not this of sufficient impact to compromise the landscape character of the VAL. Mr Espie considers that the effects remain contained to an area which already has a more 'rural living' character and that any visual impacts do not spread beyond the immediate site.
36. In terms of visual effects, Mr Espie advised us that at the time a resource consent application for a dwelling is made then landscaping could be required to mitigate any adverse visual effects of the additional dwellings. On questioning, Mr Espie agreed that it was possible to establish some planting at the time of subdivision.

Submitter

37. Mr Howarth, representing the Upper Clutha Environmental Society, stated that in the Society's view that the applicant had not meaningfully avoided, remedied or mitigated adverse effects. Mr Howarth drew our attention to the additional domestication that would be associated with each of the future residential dwellings, in the form of storage, play equipment, vehicles etc. He considers that the proposal will result in degradation of the landscape and over domestication of both the site and the surrounding area (paragraph 8.6 of the submission).
38. On page 4 of the submission Mr Howarth included a copy of Council's 2015 map showing consented building platforms. He opined that given what had already been approved, the cumulative effects of two additional residences in this location would be significant and adverse.

Effects Assessment

39. In most areas the applicant, the Council and the submitter were in agreement and we do not address those matters further other than to record that we agree with these assessments. The areas of contention at the hearing were:
 - Landscape effects on rural character, natural character and visual amenity;
 - Visual Amenity
 - Cumulative effects on the landscape

⁴ Evidence of B Espie, paragraph 16

Landscape

40. It appeared to us that the two Landscape Architects were in agreement with regards to the identification of the relevant effects, and that the area of divergence related to the degree of those effects.
41. Both agreed that proposal would increase the domestic character of the subject site. Mr Espie considered the site could absorb this and opined that the wider VAL would not be affected, whereas Mr Denney considered that incremental increase would visually affect the character of the wider VAL. Mr Howarth essentially agreed with Mr Denney's assessment.
42. We prefer the evidence of Mr Espie. In our opinion the subject site and immediate surroundings are already akin to a rural living environment. The proposal will not result in rural living character extending beyond the existing cluster of rural dwellings. Whilst we agree with both Landscape Architects that the site will become increasingly domesticated by the proposal, we consider that the character of the subject site and its surrounds will not change significantly as a result. As a consequence we consider that the adverse effects of the proposal on the character of the wider VAL will be insignificant. However we then had to consider whether the proposed development would further emphasise the visual impacts of the cluster itself, and the amenity of residents within it. With respect to the latter, we acknowledge that all but one written consent have been obtained.

Visual Amenity


43. . We consider that the visibility of the two new future dwellings which will eventuate on the building platforms 2 and 3 has the potential to result in considerable adverse effects, particularly development on proposed Lot 3 fronting Maxwell Road. A future dwelling on Lot 3 will be clearly visible from Maxwell Road and beyond and it is our view that the landscaping put forward by the applicant at the hearing is insufficient to mitigate these potential visual effects. We consider this is a matter that needs to be addressed, albeit that Maxwell Road does not carry a significant volume of traffic. Mr Espie considers that the visual impact for persons using Maxwell Road will not change substantially. We disagree. However, in our view substantial landscaping could adequately mitigate these effects.
44. We also concur with Mr Denney that the limited views from Faulks Road are a result of landscaping which is either on the subject site but not shown as protected on the landscape plan, or are located off site, which we have no ability to protect.
45. We had requested the Applicant prepare a set of volunteered conditions with comments from the Council. These agreed conditions which were submitted to us on 14 December 2017 are actually Council conditions with comments from the applicant. They include a condition to increase the extent of landscaping proposed, and there was no agreement on some aspects of this.. Condition (k) as drafted by Mr Denney is reproduced in full below, with comments from Mr Espie. We record here that regardless of having drafted conditions, we remain cognisant that Mr Denney does not support the granting of this consent. The


information submitted on 14 December also included a document labelled 'Structural Landscape Ideas' which showed the following additions on proposed Lot 3:


- an amended curtilage area:
- two additional trees on the northeastern corner; and
- four additional trees on the north and west areas of the curtilage.

k) A landscape plan shall be submitted to council for certification based on the landscape plan submitted with the application Structural Landscape Plan Ref 1140 – SLP2 dated 08/11/2017 and shall include the following:


- A domestic curtilage area shall be shown for each lot and shall not exceed 3000m² in total area (including the building platform). The curtilage area for Lot 3 shall not extend within 40m of the legal road boundary of Maxwell Road or within 70m of the western boundary of the lot.
 - All mitigation planting shall be located within the domestic curtilage area.
 - All existing trees as of 30th November 2017 within Lot 1 over 6m in height, and that are located outside of the building platform shall be identified on the plan to ensure a structural framework of trees is retained for context and scale of potential development within the building platform. Any wilding species, problem species such as birch, or brightly coloured ornamental species such as red oaks, red maples, golden elms or variegated species shall not be identified on the plan. Wilding species are defined as (*Lodgepole Pine - Pinus contorta*, Black Pine - *P. nigra*, Scots Pine - *P. sylvestris*, Maritime Pine - *P. pinaster*, Monterey Pine - *P. radiata*, European Larch - *Larix decidua*, Douglas Fir - *Pseudotsuga menziesii*, Sycamore - *Acer pseudoplatanus*, and Common Hawthorn - *Crataegus monogyna*).
 - The location of vehicle access drives for Lots 1 and 2 shall be clearly identified and labelled, and shall be accessed from Faulks Road only.
 - All existing trees as of 30th November 2017 within 10m of the northern boundary of the curtilage area of Lot 2 and the southern boundary of the curtilage area of Lot 1 shall be identified on the plan and exclude wilding, problem and ornamental species as per condition c) above.
 - No less than 15 trees within Lot 1 to be planted within Lot 1 curtilage area in no less than 3 clusters to be placed to the east, west and north of the platform. Trees to have a mature height of no less than 8m, include no less than 6 evergreen species, and shall exclude wilding, problematic or ornamental species as per condition c) above. Trees to be planted at a grade of no less than a PB40 and 2m height at time of planting.
 - No less than 5 existing or planted trees to be identified west of the building platform within Lot 2 to maintain a visual buffer with the neighbouring lot to the south. Trees to be evergreen with a mature height of no less than 8m and shall exclude wilding, problematic or ornamental species as per condition c) above.
- l) All planting as per the council certified landscape plan certified by condition k) of this consent shall be fully implemented. All trees shall be planted to no less than a PB40 grade with a height of no less than 1.8m and be double staked and secured to good horticultural standard. A slow release fertiliser and an organic mulch shall be applied to each tree.


 Vivian Espie Ben
Agree with this.


 Vivian Espie Ben
This would mean deleting the stand of amenity trees proposed in the NE corner of Lot 3. I disagree with this.

 Vivian Espie Ben
My comments in evidence regarding Lot 1 were that the status quo will essentially continue here. If the current occupants wanted to thin out the trees, they could. I do not see it as an adverse effect if this continues to be the case. Notwithstanding that, I do not see it as a "die in the ditch" issue; this condition would be tolerable.

 Vivian Espie Ben
Agree.

 Vivian Espie Ben
It appears that this condition would require all of the existing trees along the Lot2/Lot 3 boundary to be retained. The application made it clear that this was not proposed. This would place evergreen trees directly in the northern aspect of a Lot 2 dwelling. I do not see that these trees are required for mitigation and no comments at the hearing suggested that they were.

 Vivian Espie Ben
I assume this condition is intended to refer to Lot 3. Overall, I do not see this as necessary but it could be tolerated.

 Vivian Espie Ben
I do not see the purpose of this given that the landowners to the south (120 Faulks Rd) have given written approval to the proposal.

 Vivian Espie Ben
Agree.

46. We now turn our minds as to whether the condition as set out above in either Mr Denney's or Mr Espie's form sufficiently mitigates the adverse visual effects of adding future dwellings on proposed Lots 2 and 3. As we consider this a key element of the application, each point is addressed in order.

- We concur with both Landscape Architects and consider this condition is essential in combination with the proposed consent notice regarding the use of the curtilage areas to retain to predominantly open pastoral views into the subject site.
- We agree with Mr Espie that the stand of trees to be retained and potentially added to in the northeastern corner of proposed Lot 3 would be precluded by this condition as currently worded. We consider this stand to be important in order to soften views towards future dwellings on proposed Lots 2 and 3 and therefore amend the condition to include that. For reasons set out in point iii) below we also exclude existing trees on proposed Lot 1 from this condition:

- ii) All mitigation planting shall be located within the domestic curtilage area **with the exception of**
- **8 trees to be located and /or protected in the northeastern corner of Lot 3; and**
 - **Existing trees identified on Lot 1**
- iii) Mr Espie considers this condition unnecessary, however on balance we prefer the evidence of Mr Denney that the views from Faulks Road towards the subject site are screened by existing vegetation on proposed Lot 1 (as well as the vegetation off the subject site on the neighbouring allotment on the corner of Faulks and Maxwell). We consider that to mitigate views to proposed Lot 2 in particular, but also to Lot 3, the retention of the large existing trees on proposed Lot 1 is essential.
- iv) We agree that proposed Lots 1, 2 and 3 should be accessed from Faulks Road. We consider that this condition should go further, and ensure there is only one access from Faulks Road to all allotments. We are also of the view that the proposed access to Lot 3 is the most appropriate and that any future access to Lot 3 from Maxwell Road should be precluded. We therefore amend this condition to read:
- iv) The location of vehicle access drives for Lots 1 and 2 shall be clearly identified and labelled, and shall be accessed from Faulks Road only. **One vehicle crossing shall serve Lots 1, 2 and 3 and the first portion of the access shall be shared.**

Consequential amendments to the consent notice are required to ensure this remains in perpetuity.

- v) We note that in both v) and vi) where Mr Denney refers to Lot 1 this should be Lot 3. We consider that the trees along the proposed Lot 2/3 boundary are important in mitigating views to the future dwelling on Lot 2 and as a backdrop to Lot 3 from Maxwell Road. The row of trees has a rural character with a shelterbelt appearance which is appropriate in the setting. We accept Mr Espie's concern that these trees are directly north of the proposed Lot 2 building platform. However, they are located around 25m from the boundary of the building platform and we do not consider that retention of these trees would result in undue shading.

Given that there is no approval from the owners and occupiers of the property to the west we also consider that the trees further along the boundary of the proposed 2/3 Lots should be retained as well as the trees along the west boundary of proposed Lot 2.

- vi) We see limited possibilities for a cluster of trees to the north of the building platform on proposed Lot 3 without significant shading, given the narrow curtilage here. However, Mr Espie has stated that this condition can be 'tolerated' so we assume this can be achieved.

We are of the view that substantial structural planting is needed within this proposed building platform to provide sufficient mitigation for a future dwelling, even taking into consideration that at the time a dwelling is proposed further planting is likely to be required.

- vii) We concur with Mr Espie that there is no ability to consider the adverse effects on the neighbours to the south as both the owners and the occupiers have provided approval. We consider that this condition serves no resource management purpose.

47. With the above amendments, it is our view that structural landscaping can be provided that sufficiently mitigates the adverse visual effects of the proposal. We note that further landscaping particularly within the curtilage area of Lot 3 will be required at the time a dwelling is constructed to soften views from Maxwell Road. This is of such importance that we consider it needs to be included within a consent notice to alert future owners.

Cumulative effects

48. We are of the opinion that the location can absorb the additional future dwellings without the character of the site changing in a substantial way. Equally we consider that the addition of two future dwellings will not change the character of the wider environment. The cumulative effects of this proposal are in our view minimal.

Overall Consideration of the Proposal on the Environment

49. In conclusion, we consider that the only significant adverse effects associated with this proposal are visual. These effects eventuate from the addition of two future dwellings. We have reached the view that with sufficient structural landscape planting at the time of subdivision and a requirement for a further landscape plan and planting at the time a dwelling is constructed, the effects can be adequately mitigated such that the visual amenity of the location, site and surroundings is maintained.

Objectives and Policies

Operative District Plan

50. Part 4, Objective 4.2.5 seeks that any subdivision, use and development is undertaken in a manner which avoids, remedy and mitigate adverse effects on landscape and visual amenity values. Policy 1 encourages development to occur in those areas with greater potential to absorb change. We accept that this site has potential to absorb development although additional landscaping is required particularly in respect of proposed Lot 3. The proposal is consistent with this Policy.
51. Policy 4 relates to Visual Amenity Landscapes (VAL) and seeks to avoid, remedy or mitigate the adverse effects on VALs which are highly visible from public places and visible from roads; and also to mitigate the loss of or enhance the natural character by appropriate planting and landscaping. A future dwelling on proposed Lot 3 has the potential to be highly visible from Maxwell Road. However with substantial planting and landscaping this can be

mitigated such that the visual effects from this public road are acceptable. Subject to conditions to achieve this, the proposal is consistent with this Policy.

52. Policy 8 seeks to avoid cumulative degradation resulting in densities of subdivision and development where the benefits of further planting and building are outweighed by adverse effects on landscape values and over domestication of the landscape. This proposal does not exceed that threshold and we are satisfied it is consistent with this Policy.
53. Policy 9 relates to preserving the visual coherence of the landscape, encouraging appropriate placement of structures and using appropriate exterior colours, and local, natural materials in construction. The proposal includes a consent notice in relation to materials to be used on future buildings which will assist in achieving this for future buildings. The proposed building platforms are located within relatively flat areas well setback from public places. With the inclusion of additional vegetation on Lot 3, future dwellings will be in harmony with the landscape and not dominant. The proposal is considered neutral in respect of this policy.
54. Policy 17 seeks to encourage land use in a manner which minimises adverse effects on open character and visual coherence. With the open area alongside Maxwell Road it is considered that the existing open character is maintained and the proposal is consistent with this Policy.
55. Part 5, 5.2 Objective 1 seeks to protect the character and landscape value of the rural area, with Policy 1.7 aiming to preserve the visual coherence of the landscape, and Policy 1.8 aiming to avoid the location of structures in prominent locations. Given our findings above we consider the proposal consistent with this objective.
56. Part 5, 5.2 Objective 2 deals with the retention of life supporting soils. We acknowledge that this land is somewhat marginal agriculturally (at least in its present state) as well as being reasonably intensively subdivided already, and consider the proposal is neutral in relation to this objective.
57. Part 5, 5.2 Objective 3 relates to rural amenity. We consider that the rural amenity of the area in terms of affecting rural land practices and uses will not change as a result of this proposal with sufficient distance and similarities between this proposal and the character of neighbouring properties to mitigate any reverse sensitivity issues. The proposal is consistent with this objective.
58. The proposal is largely consistent with the objectives and policies in Part 15, Subdivision as they relate to ensuring the subdivision is appropriately serviced. Objective 5 seeks to maintain or enhance the amenities of the built environment through the subdivision and development process. Policy 5.2 refers to not adversely affecting landscape or visual qualities. In light of our findings we consider the proposal is consistent with this policy.

59. Chapter 6, Landscape, Objective 6.3.1 requires protection of the rural landscapes. Of relevance, Policy 6.3.1.4 reads as follows:

6.3.1.4 That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.

The policy provisions of the PDP would in their current form impose a more severe test on those under the ODP. However we can only give minimal weight to the provisions of the PDP because no decisions have yet been released, including those on the relevant landscape provisions.

To the limited extent however that the PDP has weight, we conclude that the scale of development proposed through this application would be neutral or consistent to its objectives and policies.

RPS and PRPS

60. The Regional Policy Statements (Operative and Proposed) are given effect to through the District Plan and Proposed District Plan. Suffice to record here that we have considered the objectives and policies as set out earlier and conclude that the conclusions reached in terms of the District Plans are applicable also to the Regional Plans. Although expressed in much more general terms, the policy framework in these plans in our view supports a grant of consent.

Part 2 of the RMA

61. We understand that there is currently a conflict in the case law as to whether it is necessary to consider a proposal against Part 2 of the Act. For completeness we have considered Part 2. Our assessment of the application is that the purpose of the Act is achieved through this proposal. It will provide economic benefit to the Applicant through additional housing and does not offend any of the matters outlined in section 5(2).

62. The proposal will enable the efficient use and development of natural and physical resources under section 7(b). It will maintain and enhance amenity values under section 7(c). It will maintain and enhance the quality of the environment under section 7(f).

63. There are no section 8 matters of relevance.

64. For the reasons set out in this decision, we consider the application to satisfy the relevant matters in Part 2 of the Act, and overall will achieve the purpose of the Act.

Overall Assessment

65. The Act seeks to avoid, remedy and mitigate adverse effects associated with developments. We consider that the adverse effects of this application can be appropriately avoided, remedied or mitigated, and that the proposal is consistent with the relevant objectives and

policies of the Operative and Proposed District and Regional Plans. It also meets Part 2 of the Act.

66. Accordingly, we determine that consent be granted subject to the attached conditions which are imposed under sections 108 and 220 of the Act.

11 January 2018

A handwritten signature in black ink, appearing to read 'Wendy Baker', with a stylized, cursive script.

Wendy Baker

A handwritten signature in black ink, appearing to read 'Robert Nixon', with a stylized, cursive script.

Robert Nixon

APPENDIX 1 – Consent Conditions

APPENDIX 1 – GENERAL CONDITIONS

1. That the development must be undertaken/carried out in accordance with the plans:
 - Lots 1, 2 & 3 Being a Proposed Subdivision of Lot 1 DP 21469 118 Faulks Road, Wanaka, dated 9 January 2017, Job 117, Sheet 2 of 2
 - Structural Landscape Plan J. Nichol – Faulks Road, Wanaka, drawn by Vivian+Espie, Ref 1140-SLP2 dated 08.11.2017 and hand annotated

stamped as approved on 11 January 2018

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

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

To be completed prior to the commencement of any works on-site

4. The owner of the land being developed shall provide a letter to the 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.
5. The consent holder shall install measures to control and/or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with NZS 4404:2004 and 'A Guide to Earthworks in the Queenstown Lakes District' brochure, prepared by the Queenstown Lakes District Council. These measures shall be implemented **prior** to the commencement of any earthworks on site and shall remain in place for the duration of the project, until all exposed areas of earth are permanently stabilised.
6. Prior to commencing works within the road reserve of Faulks or Maxwell Roads, 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.

7. Prior to the commencement of any works on the land being developed the consent holder shall provide to the Queenstown Lakes District Council for review and approval, copies of design certificates in the form of Schedule 1A of QLDC's Land Development and Subdivision Code of Practice, specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (3), to detail the following engineering works required:
 - a) Provision of a minimum supply of 2,100 litres per day of potable water to Lots 2 and 3 that complies with/can be treated to consistently comply with the requirements of the Drinking Water Standard for New Zealand 2005 (Revised 2008).
 - b) The formation of the right of way serving the lots to Council's standards. Provision shall be made for stormwater disposal from the carriageway. Passing bays/road widening shall be provided at intervals not greater than 50m for all single lane access roads, or as otherwise approved by Council.

To be monitored during earthworks

8. 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 the subject site.

To be completed before Council approval of the Survey Plan

9. Prior to the Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall complete the following:
 - a) All necessary easements shall be shown in the Memorandum of Easements attached to the Survey Plan and shall be duly granted or reserved.

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

10. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
 - a) The consent holder shall provide "as-built" plans and information required to detail all engineering works completed in relation to or in association with this subdivision to the Subdivision Planner at Council. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Roads (including right of ways and access lots) and Water reticulation (including private laterals and toby positions).
 - b) A digital plan showing the location of all building platforms as shown on the survey plan shall be submitted to the Subdivision Planner at Council. This plan shall be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.

- c) The consent holder shall submit to the Subdivision Planner at Council chemical and bacterial tests of the water supply that clearly demonstrate compliance with the Drinking Water Standards for New Zealand 2005 (Revised 2008). The chemical test results shall be no more than 5 years old, and the bacterial test results no more than 3 months old, at the time of submitting the test results. The testing must be carried out by a Ministry of Health recognised laboratory (refer to <http://www.drinkingwater.co.nz/mohlabs/labmain.asp>).
- d) In the event that the test results required in Condition 10(c) above show the water supply does not conform to the Drinking Water Standards for New Zealand 2005 (Revised 2008) then a suitably qualified and experienced professional shall provide a water treatment report to the Subdivision Planner at Council for review and certification. The water treatment report shall contain full details of any treatment systems required to achieve potability, in accordance with the Standard. The consent holder shall then complete the following:
 - i) The consent holder shall install a treatment system that will treat the subdivision water supply to a potable standard on an ongoing basis, in accordance with Drinking Water Standards for New Zealand 2005 (Revised 2008). The design shall be subject to review and certification by Council prior to installation and shall be implemented prior to the issue of section 224(c) certification for the subdivision.

OR

- ii) A consent notice shall be registered on the relevant Computer Freehold Registers for the lots, subject to the approval of Council. The consent notice shall require that, prior to occupation of the dwelling an individual water treatment system shall be installed in accordance with the findings and recommendations contained within the water treatment report submitted for the RM170299 subdivision consent. The final wording of the consent notice shall be reviewed and approved by Council's solicitors prior to registration.
- e) The consent holder shall provide evidence to the satisfaction of the Subdivision Planner at Council as to how the water supply will be monitored and maintained on an ongoing basis.

The legal documents that are used to set up or that are used to engage the management company are to be checked and approved by the Council's solicitors at the consent holder's expense to ensure that all of the Council's interests and liabilities are adequately protected.

- f) Written confirmation shall be provided from the electricity network supplier responsible for the area, that provision of an underground electricity supply has been made available (minimum supply of single phase 15kva capacity) to the net areas of all saleable lots and that all the network supplier's requirements for making such means of supply available have been met.
- g) Written confirmation shall be provided from the telecommunications network supplier responsible for the area, that provision of underground telephone services has been made available to the net area of all saleable lots and that all the network supplier's requirements for making such means of supply available have been met.

- h) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
- i) All earthworked/exposed areas shall be top-soiled and grassed/revegetated or otherwise permanently stabilised.
- j) Domestic water and fire fighting storage is to be provided for Lot 1 as follows. A minimum of 20,000 litres shall be maintained at all times as a static fire fighting reserve within a 30,000-litre tank. Alternatively, a 7,000 litre fire fighting reserve is to be provided for each dwelling in association with a domestic sprinkler system installed to an approved standard. A fire fighting connection in accordance with Appendix B - SNZ PAS 4509:2008 (or superseding standard) is to be located no further than 90 metres, but no closer than 6 metres, from any proposed building on the site. Where pressure at the connection point/coupling is less than 100kPa (a suction source - see Appendix B, SNZ PAS 4509:2008 section B2), a 100mm Suction Coupling (Female) complying with NZS 4505, is to be provided. Where pressure at the connection point/coupling is greater than 100kPa (a flooded source - see Appendix B, SNZ PAS 4509:2008 section B3), a 70mm Instantaneous Coupling (Female) complying with NZS 4505, is to be provided. Flooded and suction sources must be capable of providing a flow rate of 25 litres/sec at the connection point/coupling. The reserve capacities and flow rates stipulated above are relevant only for single family dwellings. In the event that the proposed dwellings provide for more than single family occupation then the consent holder should consult with the NZFS as larger capacities and flow rates may be required.

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

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

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

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

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

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

- k) A landscape plan shall be submitted to council for certification based on the landscape plan approved Structural Landscape Plan Ref 1140 – SLP2 dated 08/11/2017 and hand annotated and shall include the following:
 - i) A domestic curtilage area shall be shown for each lot and shall not exceed 3000m² in total area (including the building platform). The curtilage area for Lot 3 shall not extend within 40m of the legal road boundary of Maxwell Road or within 70m of the western boundary of the lot.
 - ii) All mitigation planting shall be located within the domestic curtilage area with the exception of the planting required by points iii) through vi) below. For the avoidance of doubt the tree shown on the approved plan immediately to the west outside the curtilage area of Lot 3 should not be included.
 - iii) All existing trees as of 11 January 2018 within Lot 1 over 6m in height, and that are located outside of the building platform shall be identified on the plan to ensure a structural framework of trees is retained for context and scale of potential development within the building platform. Any wilding species, problem species such as birch, or brightly coloured ornamental species such as red oaks, red maples, golden elms or variegated species shall not be identified on the plan. Wilding species are defined as (Lodgepole Pine - *Pinus contorta*, Black Pine - *P. nigra*, Scots Pine - *P. sylvestris*, Maritime Pine - *P. pinaster*, Monterey Pine - *P. radiata*, European Larch - *Larix decidua*, Douglas Fir - *Psuedotsuga menziesii*, Sycamore - *Acer pseudoplatanus*, and Common Hawthorn - *Crataegus monogyna*).
 - iv) The location of vehicle access drives for Lots 1, 2 and 3 shall be clearly identified and labelled, and shall be accessed from Faulks Road only. Lots 1, 2 and 3 shall share one vehicle crossing and the initial portion of the drive
 - v) All existing trees as of 11 January 2018 generally along boundary of Lot 2 and Lot 3 and along the west boundary of Lot 2 shall be identified on the plan and exclude wilding, problem and ornamental species as per condition iii) above.
 - vi) No less than 15 trees within Lot 3 to be planted within Lot 3 curtilage area in no less than 3 clusters to be placed one each to the east, west and north of the platform. Trees to have a mature height of no less than 8m, include no less than 6 evergreen species, and shall exclude wilding, problematic or ornamental species as per condition iii) above. Trees to be planted at a grade of no less than a PB40 and 2m height at time of planting.
- l) All planting as per the council certified landscape plan certified by condition k) of this consent shall be fully implemented. All trees shall be planted to no less than a PB40 grade with a height of no less than 1.8m and be double staked and secured to good horticultural standard. A slow release fertiliser and an organic mulch shall be applied to each tree.

Ongoing Conditions/Consent Notices

11. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant Titles by way of Consent Notice pursuant to s.221 of the Act.
 - a) All future buildings shall be contained within the Building Platforms as shown as Covenant Area X as shown on Land Transfer Plan XXXXX and shall not exceed 600m² of coverage per building platform.
 - b) All domestic landscaping and structures including but not limited to clotheslines, outdoor seating areas, external lighting, swimming pools, tennis courts, play structures, domestic vehicle parking, pergolas, and ornamental or amenity gardens and mown lawns shall be confined to the domestic curtilage area as shown on the certified Landscape Plan.
 - c) All planting and existing trees as identified on the certified landscape plan shall be maintained and irrigated in accordance with the plan. If any tree or plant shall die or become diseased it shall be replaced within 12 months as per the certified landscape plan, and replaced with a tree no less than a PB40 grade and 1.8m in height. Any existing wilding species shall only be replaced with non-wilding species of similar form and nature, and exclude the use of highly ornamental or problem species such birch, red oaks or maples, golden elms or variegated species.
 - d) The maximum height for any building on Lots 2 & 3 shall be 5.5 metres above existing ground level.
 - e) The maximum height for any building on Lot 1 shall be no higher than the existing dwelling's roof apex above existing ground level. For the purpose of this condition, the existing dwelling is that residential unit on site at 1 January 2018.
 - f) All external colours of all new buildings and alterations to any existing buildings (from the 30th November 2017) within the approved building platform including but not limited to roof, walls, spouting, joinery etc. shall be of natural tones of grey, green or cool browns with a colour light reflectivity value (LRV) of between 7% and 35%, or of natural materials that fall within the above colour range. All gutters, spouting, and downpipes shall match the roof colour.
 - g) All above ground water tanks shall be a dark recessive colour to match or be similar to the roof colour of dwellings within the approved building platform with a LRV of between 7% and 35% and shall be located within the domestic curtilage only as shown on the certified landscape plan.
 - h) Vehicle gateways shall be of a standard farm gate design to a height of no more than 1.2m, and shall be constructed of natural materials such as unpainted timber or steel to not be visually obtrusive (monumental) and consistent with traditional rural gateways. There shall be no wingwalls.
 - i) All external lighting to be down lighting only and shall not create light spill beyond the property boundary. External lighting shall not be used to accentuate or highlight built form as viewed from beyond the property. All external lighting shall be located within the domestic curtilage area only and shall not be used on gateways onto Faulks Road or within 5m of the Faulks Road boundary.

- j) Any fencing shall be post and rail and/or post and wire designed to be consistent with traditional rural fencing.
- k) All land outside of the marked domestic curtilage areas as shown on the certified landscape plan shall be maintained as open pasture by way of grazing, cropping or seasonal mowing and shall remain free from buildings and shall not be used for storage of vehicles, freight containers, or temporary structures such as shelters. For the avoidance of doubt, the existing minor structures outside the curtilage areas on Lots 1 and 3 are to be removed as volunteered by the applicant at the hearing.
- l) Access drives up to the domestic curtilage area shall be gravel of a local stone and shall not have any concrete kerb and channels.
- m) Access to Lots 1, 2 and 3 shall be from Faulks Road only via a shared vehicle crossing point. No access shall be obtained from Maxwell Road.
- n) There shall be no lineal planting along property boundaries such as hedges, shelterbelts or mass planting to a boundary beyond that shown on the certified landscape plan.
- o) At the time buildings are erected on the lots, a landscape plan shall be submitted to Council showing structural planting within the curtilage area designed to soften and obscure views of the buildings from public locations.
- p) At the time dwellings are erected on the lots, the owners for the time being shall engage a suitably experienced person as defined in sections 3.3 & 3.4 of AS/NZS 1547:2012 to design an onsite effluent disposal system in compliance with AS/NZS 1547:2012. The design shall take into account the Soil Classification Assessment prepared by AR & Associates dated 27 Mar 17. The proposed wastewater system shall be subject to review by Council prior to implementation and shall be installed prior to occupation of the dwelling.

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

- q) The wastewater disposal field shall be blocked off to vehicular traffic and stock. This shall be achieved through use of a physical barrier, such as fencing or other suitable measures that will prevent vehicles and stock from passing over the disposal area.

- r) At the time a dwelling is erected on Lots 2 and 3, domestic water and fire fighting storage is to be provided. A minimum of 20,000 litres shall be maintained at all times as a static fire fighting reserve within a 30,000 litre tank. Alternatively, a 7,000 litre fire fighting reserve is to be provided for each dwelling in association with a domestic sprinkler system installed to an approved standard. A fire fighting connection in accordance with Appendix B - SNZ PAS 4509:2008 (or superseding standard) is to be located no further than 90 metres, but no closer than 6 metres, from any proposed building on the site. Where pressure at the connection point/coupling is less than 100kPa (a suction source - see Appendix B, SNZ PAS 4509:2008 section B2), a 100mm Suction Coupling (Female) complying with NZS 4505, is to be provided. Where pressure at the connection point/coupling is greater than 100kPa (a flooded source - see Appendix B, SNZ PAS 4509:2008 section B3), a 70mm Instantaneous Coupling (Female) complying with NZS 4505, is to be provided. Flooded and suction sources must be capable of providing a flow rate of 25 litres/sec at the connection point/coupling. The reserve capacities and flow rates stipulated above are relevant only for single family dwellings. In the event that the proposed dwellings provide for more than single family occupation then the consent holder should consult with the NZFS as larger capacities and flow rates may be required.

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

Advice Note

- 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 Council.

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170299

Thursday, 11 January 2018

Maxwell Road
Legal Road



Faulks Road
Legal Road

DP 8
12660

Lot 3
1.45ha

40.0
25.0
Proposed Building
Platform
1000m²

DP 2
21469

Existing Easement – T.880246
Right to convey electricity in
favour of Lot 2 DP 21469

Existing Easement – EC.758675.3
Right to store water in favour
of Lot 2 DP 21469

Existing Easement – T.875821.3
Right to convey water in favour
of Lot 2 DP 21469

Lot 2
1.00ha
(0.99ha net)

40.0
25.0
Proposed Building
Platform
1000m²

Proposed ROW Easement
over Lot 2 in favour
of Lots 3

Lot 1
0.80ha
(0.73ha net)

Garage

Dwelling

Proposed
Building
Platform
1000m²

Proposed ROW Easement over Lot 1
in favour of Lots 2 & 3

DP 1
357756

Existing easement to convey
electricity in favour of
Lot 2 DP24169 T.880246

Existing easement to convey
electricity in favour of proposed
Lot 1 T.880246

DP 2
357756

Existing easement to convey electricity
in favour of proposed Lot 1 & Lot 2 DP24169
T.880246

Electricity Transformer

BRIAN WEEDON LAND SURVEYING LTD

15 Kanuka Rise, Wanaka

t: 03 443 9543 m: 0272178721
email: brianweedon@xtra.co.nz

Lots 1, 2 & 3 Being a Proposed Subdivision
of Lot 1 DP 21469
118 Faulks Road, Wanaka

Notes

Lot Areas & Dimensions Subject to Survey

Drawn

Scale 1:1250 @ A3

Date 9 January 2017

Job 1172

Sheet 2 of 2



REF: 1140 - SLP2
DATE: 08.11.2017
SCALE: 1:750 @ A3

RM170299 - ESPIE EVIDENCE - APPENDIX 1:
AMENDED PROPOSED STRUCTURAL LANDSCAPE PLAN

Structural Landscape Plan
J. Nichol - Faulks Road, Wanaka

vivian+espie
landscape management and planning

vivian+espie Limited Resource Management and Landscape Planning
PO Box 2014 Queenstown
Physical Address: Unit 15, 75 Glands Drive, Invercargill, Queenstown
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