DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

UNDER s104 RESOURCE MANAGEMENT ACT 1991

Applicant: Ray Jiang – Luxe Stay Limited

RM reference: RM181277

Application: Application under Section 88 of the Resource Management Act 1991

(RMA) to for land use consent to undertake visitor accommodation from an existing residential unit, for up to 365 nights per calendar year for up

to six (6) guests.

Location: 28B Dart Place, Fernhill, Queenstown

Legal Description: Unit 2 and Accessory Unit 2A, 2B and 2C, Deposited Plan 24529 held in

Record of Title OT16C/127 (and Lot 20 Deposited Plan 19867 held in

Record of Title OT16C/128).

Operative Zoning: Low Density Residential Zone (Medium Density Residential Sub-Zone)

Proposed Zoning; Lower Density Suburban Residential

Activity Status: Restricted Discretionary

Notification Decision: Limited Notified

Delegated Authority: Alicia Hunter, Senior Planner

Final Decision: GRANTED SUBJECT TO CONDITIONS

Date Decisions Issued: 20 March 2019

SUMMARY OF DECISIONS

1. Pursuant to Section 104 of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in **Annexure 1** of this decision imposed pursuant to Section 108 of the RMA. <u>The consent only applies if the conditions outlined are met</u>. To reach the decision to grant consent the application was considered (including the full and complete records available in Council's file and responses to any queries) by Alicia Hunter, Senior Planner, as delegate for the Council.

1. PROPOSAL AND SITE DESCRIPTION

Section 2.0 of the Section 42A (S42A) report prepared for Council (attached as Annexure 2) provides a full description of the proposal, the site and surrounds and the consenting history.

2. NOTIFICATION, SUBMISSIONS AND OBLIGATION TO HOLD A HEARING

The application was limited notified on 20 November 2018.

One submission was received during the submission period which has since been withdrawn as discussed in Section 3 of the S42A report. There are no submitters who wish to be heard if a hearing is held and the consent authority does not consider a hearing is necessary.

A decision under section 100 of the Act to not hold a hearing was made by Ms Katrina Ellis (Planning Team Leader, Resource Consenting) on 20 March 2019.

3. THE PLANNING FRAMEWORK

This application must be considered in terms of Section 104 of the Resource Management Act 1991. Section 6.0 of the S42A report outlines S104 of the Act in more detail.

The application must also be assessed with respect to Part 2 of the Act which is to promote the sustainable management of natural and physical resources. Section 8 of the S42A report outlines Part 2 of the Act.

3.1 RELEVANT PLAN CONSIDERATIONS

The subject site is zoned Low Density Residential.

As per the District Plan, the purpose of the Low Density Residential Zone is to provide for low density permanent living accommodation, maintaining a dominance of open space and low building coverage.

The zone seeks to maintain and enhance the low density residential areas with ample open space, low rise development and minimal adverse effects experienced by residents. Other activities are permitted in the zone provided they meet environmental standards which keep the activities compatible with residential activity and amenity. A number of established activities, mainly visitor accommodation facilities, have been scheduled to ensure full protection of these activities acknowledging their contribution to the local economy. The relevant provisions of the Plan that require consideration can be found in Part 7.

In respect of this activity, resource consent is required for the following reasons:

- A **restricted discretionary** activity resource consent pursuant to Rule 7.5.3.4 (i) for Visitor Accommodation use in the Low-Density Residential Zone. Councils discretion is in respect of:
 - (a) The location, external appearance and design of buildings;
 - (b) The location, nature and scale of activities on site;
 - (c) The location of parking and buses and access;
 - (d) Noise: and
 - (e) Hours of operation
- A restricted discretionary activity pursuant to Rule 7.5.3.4 (vi) as the proposal breaches site standard 7.5.6.2 (iii) (f) in regard to part of a building being used for Visitor Accommodation located within 4m of an internal boundary, where the adjoining site is zoned residential. In this instance, it is proposed to locate the visitor accommodation activity within the existing building that is within 4.0m of internal residential boundaries, in particular the building is approximately 1.5m from the eastern boundary and 3.5m from the southern boundary. Council's discretion is restricted to this matter.

Note: It is noted that, in relation to the setback from Unit 28A, there is some conflict between the setback requirements of Rule 7.5.6.2iii(f), as set out above, and the provision in Rule 7.5.6.2iii(c), which states that in the Low Residential Zone no setback is required from an internal boundary where buildings share a common wall on that internal boundary. For the purposes of this decision, it is considered that Rule 7.5.6.2iii(c) requiring no setback prevails over Rule 7.5.6.2iii(f).

PROPOSED DISTRICT PLAN - STAGE 1 DECISIONS

Council notified its decisions on Stage 1 of the Proposed District Plan (**Stage 1 Decisions Version 2018**) on 5 May 2018. The subject site is zoned Lower Density Suburban Residential by the Stage 1 Appeals Version 2018, however there are no rules with immediate legal effect, for which this proposal requires consent.

PROPOSED DISTRICT PLAN - STAGE 2 NOTIFIED VERSION

Council notified Stage 2 of the Proposed District Plan (Stage 2 Notified Version 2017) on 23 November 2017. The visitor accommodation provisions are subject to Stage 2 of the PDP but the Council decisions are pending. While the objectives and policies of the PDP have immediate legal effect pursuant to s86A(2) of the Act, there are no rules with legal effect that have relevance to this application.

3.2 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

Sub clause 7 of the NES states that a piece of land is not considered to be a HAIL site if it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it. The piece of land in this instance is currently being used for residential purposes and therefore it is considered that the piece of land to which this application relates is not a HAIL site, and therefore the NES does not apply.

4. SUMMARY OF EVIDENCE HEARD

This is not applicable in this case as there has not been a hearing.

5. PRINCIPAL ISSUES IN CONTENTION

The principal issues arising from the application and section 42A report are:

- Whether the scale, location and intensity of the proposed visitor accommodation use is appropriate and compatible with the surrounding character of the Low Density Residential zone.
- Whether the effects arising from the activity will compromise the amenity of persons and the surrounding environment.
- Whether the proposed management measures are appropriate to manage and/or mitigate adverse effects relating to noise, nuisance and traffic related amenity effects.
- Does the proposal achieve the intent of the objectives and policies in both the ODP and PDP

The findings relating to these principal issues of contention are outlined in Section 7 of the attached S42A report.

6. ASSESSMENT

6.1 Actual and Potential Effects (s104(1)(a))

Actual and potential effects on the environment have been addressed in Section 7.2.2 of the S42A report prepared for Council and provides a full assessment of the application. Where relevant conditions of consent can be imposed under section 108 of the RMA as required to avoid, remedy or mitigate adverse effects. A summary of conclusions of that report are outlined below:

Having regard to the assessment in Section 7.2.2 of the S42A report, I consider the proposal will not result in adverse effects on the established residential character of the area that are more than minor or

would undermine the intent of the low density zone. Subject to conditions of consent and the activity operating in accordance with the VMP, the amenity of surrounding residents will be maintained so than any adverse effects can be appropriately avoided, remedied or mitigated.

Given the location, nature and scale of the proposed and existing visitor accommodation activities I consider that this proposal will not represent the crossing of a threshold whereby the character of the residential neighbourhood will be unacceptably altered. Therefore, I consider any cumulative effects on the environment arising from one additional residential unit being utilised for visitor accommodation (6 persons) will be no more than minor.

Given the limited scale of the activity, the number of vehicle trips to and from the site is likely to be consistent with movements from a typical residential household and will not fundamentally alter traffic generation, parking or vehicle access requirements beyond that anticipated from a typical residential use. As such, I consider any traffic related effects on the wider environment will be less than minor and acceptable.

6.2 RELEVANT DISTRICT PLAN PROVISIONS (s104(1)(b)(vi))

As outlined in detail in Section 7.3.1 of the S42A report, the proposal is not contrary to the relevant policies and objectives of the Operative and Proposed District Plan as the proposal is not considered to undermine the purpose of the Low Density Residential Zone or detract from the residential amenity of the environment to a noticeable extent.

As outlined in Section 7.4 of the S42A report, the proposal is considered to generally accord with the Regional Policy Statement.

6.4 PART 2 OF THE RMA

In terms of Part 2 of the RMA, the zone provides for visitor accommodation subject to the nature and scale being compatible with the anticipated residential character of the zone. Having regard to the conclusions reached with regard to actual and potential effects on the environment, it is considered the proposal is aligned with the Purpose and Principles set out in Part 2 of the RMA. Overall, the proposal is considered to be in accordance with the purpose of the Resource Management Act 1991 as outlined in further detail in Section 8 of the S42A report.

7. DECISION ON LAND USE CONSENT PURSUANT TO SECTION 104 OF THE RMA

Pursuant to section 104 of the RMA this consent is **granted** subject to the conditions stated in *A 1* of this decision imposed pursuant to Section 108 of the RMA.

8. OTHER MATTERS

Local Government Act 2002: Development Contributions

Payment will be due prior to commencement of the consent, except where a Building Consent is required when payment shall be due prior to the issue of the code of compliance certificate.

Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

You are responsible for ensuring compliance with the conditions of this resource consent found in Annexure 1. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

This resource consent is not a consent to build under the Building Act 2004. A consent under this Act must be obtained before construction can begin.

Please contact the Council when the conditions have been met or if you have any queries with regard to the monitoring of your consent.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of Section 125 of the RMA.

If you have any enquiries please contact Niamh Sheehy on phone (03) 441 0499 or email niamh.sheehy@qldc.govt.nz.

Report prepared by

Manh Suchy

Decision made by

Atlenh

Niamh Sheehy **PLANNER**

Alicia Hunter **SENIOR PLANNER**

ANNEXURE 1 - Consent Conditions

ANNEXURE 2 - s42A Report

ANNEXURE 1 – CONSENT CONDITIONS

ANNEXURE 1 – CONSENT CONDITIONS

General Conditions

- 1. That the development must be undertaken/carried out in accordance with the Council Approved plans ref:
 - Site plan, Floor plans and elevation drawings, prepared by Design and draughting service,
 D.G Hopgood (Job no. 1429);
 - Section drawings prepared by Design and draughting service, D.G Hopgood;
 - Privacy screen detail (upper level deck on eastern boundary), prepared by the applicant, submitted via email dated 24 October 2018.

stamped as approved on 20 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.

Operational Conditions

4. The consent holder shall ensure the visitor accommodation activity is undertaken in accordance with the approved Visitor Accommodation Management Plan (attached as Appendix 3), and the following conditions (5 – 13).

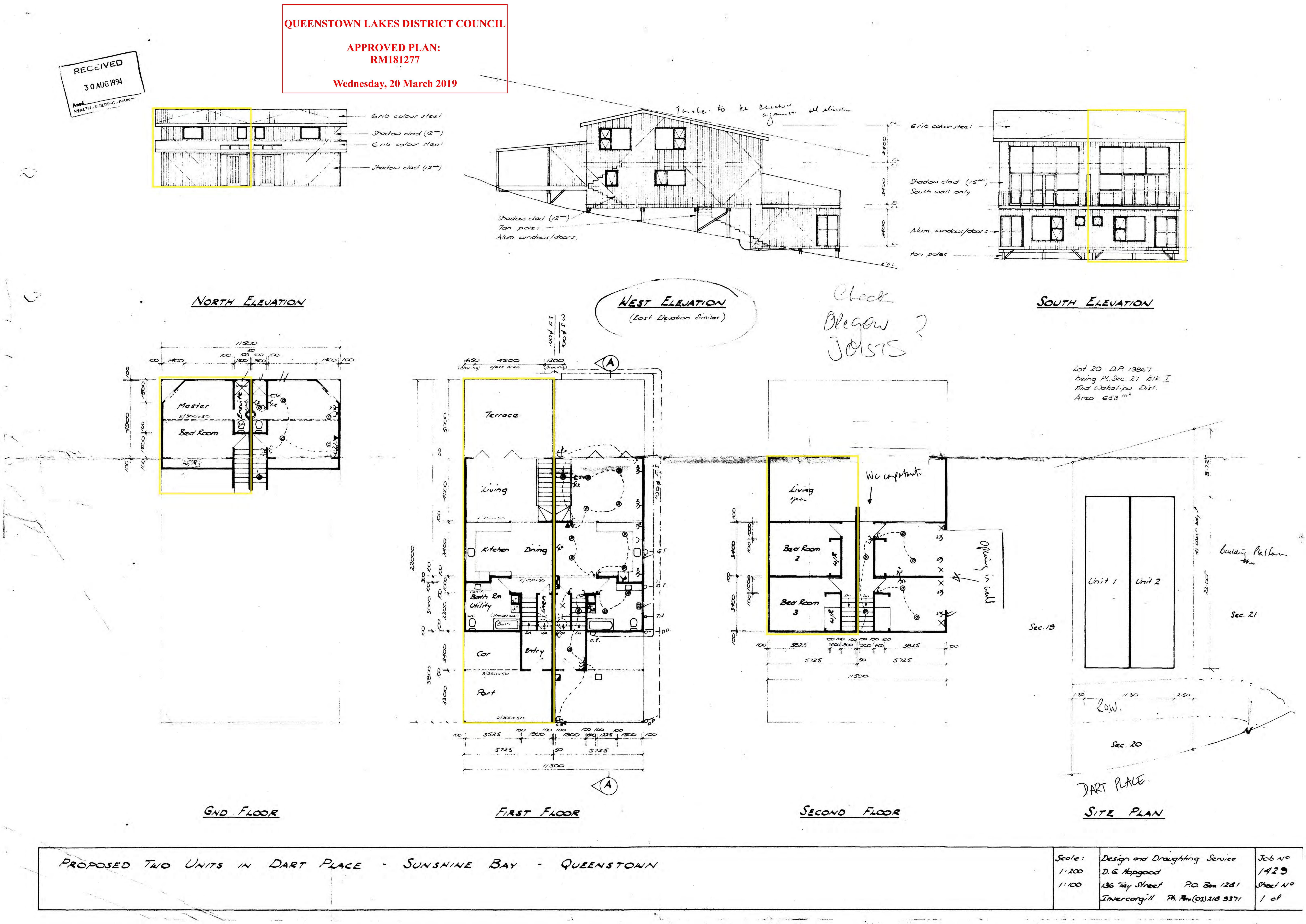
Advice Note: The management plan may be updated from time to time, this shall be certified by Council's Planning and Development department prior to implementation and shall demonstrate the management techniques that will be used to ensure conditions (5-13) are met, and shall include the contact details of the property manager available for any complaints.


- 5. The property may be let for Visitor Accommodation up to 365 nights per calendar year.
- 6. The property shall be rented to a maximum of one (1) group at any one time.
- 7. The maximum number of persons on site in association with the visitor accommodation use shall be restricted to six (6) persons at any one time.
- 8. Regarding the use of outdoor space:
 - a) The use of outdoor areas is prohibited between the hours of 10.00pm to 7.00am.
 - b) Three (3) signs (minimum A4 size) shall be erected on site to remind guests that they are in a residential area, and that the use of outdoor areas is prohibited between the hours of 9.00pm to 7.00am. One sign shall be installed in the kitchen of the unit and a weatherproof sign (e.g. laminated) shall be installed within the outdoor area.
 - c) Upon installation, and prior to the use of the property for visitor accommodation, the consent holder shall submit photographs of these signs to the Council Monitoring Department for monitoring purposes. The signs shall be retained on site as long as the visitor accommodation activity is undertaken.

- 9. Contact details of the "property manager" as noted in the management plan must be provided to the adjoining neighbours prior to visitor accommodation operation commencing. If the manager is to change, the changed details are to be provided to the Council Monitoring team prior to the change occurring.
- 10. The consent holder shall maintain a record of all tenancies in the form of a register containing the number of occupants and the number of days/nights of occupancy. Details of all tenancies for at least the preceding 5 years shall be continually maintained. This register shall be made available for inspection by the Council at all times.
 - Note: While the consent holder is responsible for there being an up to date register, the register may be completed by a letting agent / property manager.
- 11. The register specified in Condition (10) shall be made available for inspection by the Council at all times.
- 12. The consent holder shall ensure that all vehicles associated with the short term visitor accommodation use of the unit, including those belonging to people visiting guests, shall be parked within the site. The consent holder must advise all guests of this condition.
- 13. The consent holder shall be responsible for ensuring that all rubbish and recycling shall be disposed of appropriately. Where there is kerbside collection used, rubbish and recycling shall only be placed on the street the day of or the day prior to collection.

Review

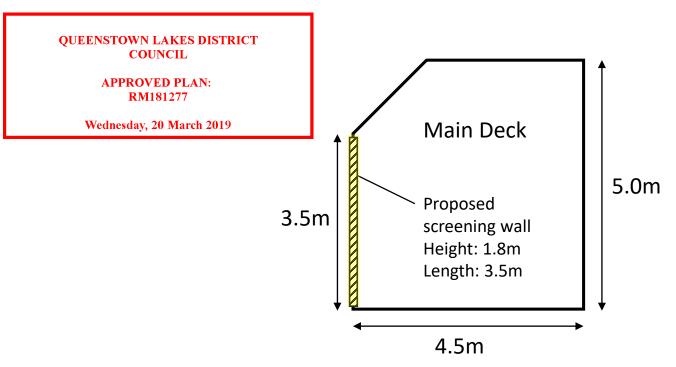
- 14. Within six months of the date of this decision; and/or upon the receipt of information identifying non-compliance with the conditions of this consent, and/or within ten working days of each anniversary of the date of this decision, in accordance with Sections 128 and 129 of the Resource Management 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 and which it is appropriate to deal with at a later stage.
 - b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
 - c) To avoid, remedy and mitigate any adverse effects on the environment which may arise 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.
 - d) The purpose of this review is in relation to effects on any person in relation to nuisance (including but not limited to noise and rubbish/recycling).
- 15. As part of the review clause stated in Condition 14 of this consent, the Council may have the visitor management plan audited at the consent holder's expense.





Proposed privacy screen on main deck

It is proposed that a new privacy screen is to be built on the west side of the main deck at 28B Dart Place. The screen is to be built with similar material as the existing wall.





ANNEXURE 2 – SECTION 42A REPORT



FILE REF: RM181277

TO Alicia Hunter, Senior Planner

FROM Niamh Sheehy, Planner

SUBJECT Report on a limited notified consent application.

SUMMARY

Applicant: Ray Jiang – Luxe Stay Limited

Location: 28B Dart Place, Fernhill, Queenstown

Proposal: Application under Section 88 of the Resource Management Act 1991

(RMA) for land use consent to undertake visitor accommodation from an existing residential unit, for up to 365 nights per calendar year for

up to six (6) guests.

Legal Description: Unit 2 and Accessory Unit 2A, 2B and 2C, Deposited Plan 24529

held in Record of Title OT16C/127 (and Lot 20 Deposited Plan 19867

held in Record of Title OT16C/128).

Operative Zoning: Low Density Residential Zone (Medium Density Residential Sub-

Zone)

Proposed District Plan (Stage 1 – Decisions

Version 2018) Zoning: Lower Density Suburban Residential

Proposed District Plan

(Stage 2) Zoning: NA

Limited Notification Date: 20 November 2018

Closing Date for Submissions: 18 December 2018

Submissions: 1

• 1 submission has been received in opposition to the application:

*As of the 11th March 2019, ownership of the submitter's property (28A Dart Place) has changed and the new owner has given their written approval to the proposal. This submission has subsequently been withdraw following notice being served on persons at 28A Dart Place.

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RECOMMENDATION

The application be GRANTED SUBJECT TO CONDITIONS pursuant to Section 104 of the Resource Management Act 1991 (the RMA) for the following reasons:

- It is considered that the adverse effects of the activity will be no more than minor for the following reasons:
 - The proposal will not significantly degrade the residential character or amenity of the site or surrounding environment, beyond the small scale internal effects of the undertaking visitor accommodation activity within the existing residential building.
 - The proposal will not generate significant vehicle movements beyond those anticipated in a residential environment or result in traffic related effects that are more than minor.
 - The mitigation measures proposed in the management plan will appropriately aid in minimising and mitigating amenity effects on persons.
 - The proposed activity will not result in adverse environmental impacts that are more than minor.
- 2. The proposal is not contrary to the relevant objectives and policies of the District Plan for the following reasons:
 - The proposal is generally consistent with the objectives and policies of the Operative District Plan.
 - The proposal is not contrary with the objectives and policies of the Proposed District Plan.
- 3. The proposal does promote the overall purpose of the RMA.

1. INTRODUCTION

My name is Niamh Sheehy. I am a resource consents planner with Queenstown Lakes District Council. I have been employed in this role for 6 months. I hold the qualifications of a Bachelor of Arts (Geography and Psychology) from the University College Cork, Ireland and a Postgraduate Degree in Urban and Regional Planning from Heriot Watt University, Edinburgh. I am an associate member of the New Zealand Planning Institute and a licentiate member of the Royal Town Planning Institute which brings with it obligations with regard to continuing professional development.

I was previously employed by the Christchurch City Council as a Town Planner for 3.5 years and prior to this held a position as a graduate planning consultant with Harrison Grierson Consultants Limited for 1 year.

I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note 2014 and agree to comply with it. In that regard I confirm that this evidence is written within my area of expertise, except where otherwise stated, and that I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. PROPOSAL AND SITE DESCRIPTION

The applicant has provided a detailed description of the proposal and the site and locality in Section(s) 2 and 3 of the applicant's AEE. This description is considered accurate and is adopted for the purpose of this report with the following additions:

Two parking spaces are contained on the site which meet the required dimensions for Class 2
Users (although one space overhangs outside of the carport it is still technically on the
application site as shown on the Record of Title). The applicant confirmed the dimensions as
part of the s92 response (held on Council file) dated 29 October 2018.

- The duplex building contains two units 28A within the western side, and 28B on the eastern side. 28B Dart Place is a 3-bedroom 2-bathroom townhouse spanning three levels with two south-facing decks.
- The unit will be rented as a whole to a single group with a maximum of 6 persons.
- RM181957 was issued on the 8 February 2019 to undertake visitor accommodation use at 28A Dart Place. The applicant (Harry Xiaotian Li) obtained written approval from the listed owners at the time consent was issued. Since then, the applicant has become the registered owner of 28A Dart Place. A copy of the updated Record of Title is attached at Appendix 3.

With regard to the s95 Decision Report, I note the following:

- Whilst I was not the author of the s95 Decision Report, I concur with the recommendation reached by the processing planner for the purpose of making a S104 recommendation.
- I note, the s95 Decision refers to the proposal being for 8 guests. For clarification, this is an error and the application is seeking visitor accommodation for up to 6 guests maximum.
- Prior to the S95 Decision being made, the applicant proposed to increase the height of the screening wall on the eastern side of the upper level deck to 1.8m for a length of 3.5m, as per the email dated 24th of October 2018. A detailed drawing was submitted which forms part of the application plans in Condition 1.



Figure 1: Site location (wider site outlined in blue and Unit 28B marked by a red outline)

Subject Site and Surrounding Environment

The application site is located to the south of Dart Place accessed via a private right of way in an established residential area of Fernhill. The surrounding environment is characterised by low density residential development and mature landscaping (Figure 1). The application site is an elevated section orientated towards Lake Wakatipu similar to the majority of residential buildings in the surrounds.

3. SUBMISSIONS

3.1 SUBMISSIONS

A submission was received on 17 December 2018 within the 20 working day submission period for limited notification from the owners of 28A Dart Place - Ryan and Gudrun de Lange. The submitter's property changed ownership on the 11 March 2019, during this period the application was placed on hold at the applicants request pursuant to S91A(2). The current owner (as of the 11 March 2019) has given their written approval to the proposal and the submitters (previous owners) are no longer deemed an interested party when considering effects on persons at 28A Dart Place for the purpose of section 95. This submission has therefore been disregarded in the assessment of actual and potential effects on the environment addressed in Section 7.2.2 of the S42A report below. For completeness, a copy of the withdrawn submission is attached at **Appendix 5**.

4. CONSULTATION AND WRITTEN APPROVALS

Written approval has been obtained from the current owner of 28A Dart Place - Harry Xiaotian Li.

Person (owner)	Address (location in respect of subject site)
Harry Xiaotian Li.	28A Dart Place



Figure 2 – Application site (red) and APA from neighbouring property (blue)

5. PLANNING FRAMEWORK

5.1 THE DISTRICT PLAN

The subject site is zoned Low Density Residential.

As per the District Plan, the purpose of the Low Density Residential Zone is to provide for low density permanent living accommodation, maintaining a dominance of open space and low building coverage.

The zone seeks to maintain and enhance the low density residential areas with ample open space, low rise development and minimal adverse effects experienced by residents. Other activities are permitted in the zone provided they meet environmental standards which keep the activities compatible with residential activity and amenity. A number of established activities, mainly visitor accommodation facilities, have been scheduled to ensure full protection of these activities acknowledging their contribution to the local economy. The relevant provisions of the Plan that require consideration can be found in Part 7.

In respect of this activity, resource consent is required for the following reasons:

- A **restricted discretionary** activity resource consent pursuant to Rule 7.5.3.4 (i) for Visitor Accommodation use in the Low-Density Residential Zone. Councils discretion is in respect of:
 - (a) The location, external appearance and design of buildings;
 - (b) The location, nature and scale of activities on site;
 - (c) The location of parking and buses and access;
 - (d) Noise; and
 - (e) Hours of operation
- A restricted discretionary activity pursuant to Rule 7.5.3.4 (vi) as the proposal breaches site standard 7.5.6.2 (iii) (f) in regard to part of a building being used for Visitor Accommodation located within 4m of an internal boundary, where the adjoining site is zoned residential. In this instance, it is proposed to locate the visitor accommodation activity within the existing building that is within 4.0m of internal residential boundaries, in particular the building is approximately 1.5m from the eastern boundary and 3.5m from the southern boundary. Council's discretion is restricted to this matter.

Note: It is noted that, in relation to the setback from Unit 28A, there is some conflict between the setback requirements of Rule 7.5.6.2iii(f), as set out above, and the provision in Rule 7.5.6.2iii(c), which states that in the Low Residential Zone no setback is required from an internal boundary where buildings share a common wall on that internal boundary. For the purposes of this decision, it is considered that Rule 7.5.6.2iii(c) requiring no setback prevails over Rule 7.5.6.2iii(f).

PROPOSED DISTRICT PLAN - STAGE 1 DECISIONS

Council notified its decisions on Stage 1 of the Proposed District Plan (**Stage 1 Decisions Version 2018**) on 5 May 2018. The subject site is zoned Lower Density Suburban Residential by the Stage 1 Appeals Version 2018, however there are no rules with immediate legal effect, for which this proposal requires consent.

PROPOSED DISTRICT PLAN - STAGE 2 NOTIFIED VERSION

Council notified Stage 2 of the Proposed District Plan (Stage 2 Notified Version 2017) on 23 November 2017. The visitor accommodation provisions are subject to Stage 2 of the PDP but the Council decisions are pending. While the objectives and policies of the PDP have immediate legal effect pursuant to s86A(2) of the Act, there are no rules with legal effect that have relevance to this application.

5.2 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

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Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011(NES) in sub clause 6 states the NES applies to an activity that changes the use of the piece of land, to a use that, because the land is as described in sub clause (7), is reasonably likely to harm human health.

Sub clause 7 of the NES states that a piece of land is not considered to be a HAIL site if it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it. The piece of land in this instance is currently being used for residential purposes and therefore it is considered that the piece of land to which this application relates is not a HAIL site, and therefore the NES does not apply.

Overall, the application is considered to be a (restricted) discretionary activity under the ODP.

6. STATUTORY CONSIDERATIONS

This application must be considered in terms of Section 104 of the RMA.

Subject to Part 2 of the RMA, Section 104 sets out those matters to be considered by the consent authority when considering a resource consent application. Considerations of relevance to this application are:

- (a) any actual and potential effects on the environment of allowing the activity; and
- (b) any relevant provisions of:
 - (i) A national environmental standards;
 - (ii) Other regulations;
 - (iii) a national policy statement
 - (iv) a New Zealand coastal policy statement
 - (v) a regional policy statement or proposed regional policy statement
 - (vi) a plan or proposed plan; and
- (c) any other matters the consent authority considers relevant and reasonably necessary to determine the application.

Following assessment under Section 104, the application must be considered under Section 104C of the RMA.

Under Section 104C of the RMA, only those matters specified in the plan or proposed plan to which it has restricted the exercise of its discretion can be considered when deciding to grant or refuse the application. If an application is granted, conditions may be imposed under Section 108 only in relation to those matters specified in the plan or proposed plan over which discretion is restricted.

The application must also be assessed with respect to the purpose of the RMA which is to promote the sustainable management of natural and physical resources. Section 8 of this report outlines Part 2 of the RMA in more detail.

Section 108 empowers the Council to impose conditions on a resource consent.

7. ASSESSMENT

It is considered that the proposal requires assessment in terms of the following:

- (i) Effects on the Environment guided by Assessment Criteria
- (ii) Objectives and Policies Assessment
- (iii) Other Matters (other statutory documents)

7.2 EFFECTS ON THE ENVIRONMENT

7.2.1 The Permitted Baseline

The consent authority **may** disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. In this case, the permitted baseline includes the residential occupation of the residential unit, and associated effects such as, car parking demand, traffic generation, nature and scale, and noise impacts on privacy.

The definition of a residential activity excludes the use of land or buildings for visitor accommodation. Notwithstanding this, there are a number of visitor accommodation type scenarios that could feasibly take place as a permitted activity. These are:

- A single annual let for one or two nights.
- Homestay accommodation for up to 6 guests (two per bedroom) in a Registered Homestay for up to 90 days per year.

Whilst the effects generated from the residential occupation of the residential unit are similar, they are not in all instances the same as the commercial letting of the residential unit for visitor accommodation for 365 days annually, with no restriction on the minimum night's stay. Therefore, the permitted baseline is of limited relevance. That said, a comparison of the effects of the activity is of relevance due to its nature and scale of the proposal when compared to the permitted baseline and will be addressed where appropriate in the assessment to follow.

7.2.2 Actual and Potential Effects on the Environment

This assessment of actual and potential effects on the environment are restricted by assessment matters found in Section 7.7.2 (vii) (a-e) *Discretionary Activity – Visitor Accommodation* and 7.7.2 xviii(2) (a-j) *Setback from Internal Boundaries/Neighbours in the Low Density Residential Zone*. The assessment below has been structured around the key assessment matters in which Council's discretion is restricted particularly in relation to visitor accommodation activities as follows:

- (a) The location, external appearance and design of buildings;
- (b) The location, nature and scale of activities on site;
- (c) The location of parking and buses and access;
- (d) Noise; and
- (e) Hours of operation

Taking these into account, I consider the proposal raises the following actual and potential effects on the environment.

- Residential character and amenity
 - Noise/nuisance effects
 - Overlooking and reduction in privacy
- Cumulative effects
- Traffic related effects

The effects of undertaking visitor accommodation activities within the existing residential unit have been assessed in the Section 95 Report (**Appendix 2**).

Residential character and amenity

16

Having regard to assessment matters a, b, d & e above, I make the following assessment:

The residential unit forms part of a duplex, in which written approval has been obtained from the immediately adjoining owner (Unit 1) following the close of submissions (refer to Section 3). No physical changes are sought to the external appearance or building design and the visitor accommodation activity will predominantly occur internally, therefore in my view, will not be readily perceived from outside the application site. Overall, I consider the residential built form within an established residential area will be in keeping with the surrounding environment and the scale of the activity being limited to six persons will operate akin to a permitted residential use of the building. In my opinion the change of use will not significantly alter the residential character, streetscape or surrounding environment to a visible extent.

In regards to amenity, I consider the non-residential use of the building by unfamiliar guests for 365 days per year with no minimum night's stay has the potential to result in a loss of social cohesion and amenity for surrounding residents. This is generally due to the lack of routine and consistency arising

from the frequent turnover of guests and the differing behaviours of unfamiliar guests when compared to longer-term residents. However, I am satisfied that the scale and nature of this visitor accommodation use in this location, when operating in accordance with the management plan submitted with the application, can be appropriately managed so that resultant effects on the wider environment will be insignificant. In regards to amenity effects on adjoining persons, I consider that while they are likely to be aware of the change of use and heightened sense of activity by unfamiliar guest, the key effects likely to arise relate to noise, nuisance effects and reduced privacy which is discussed further below.

Noise and nuisance effects

Nuisance effects such as noise are a potential effect with respect to non-residential activities in residential areas. Occupants of the site will be required to meet the relevant noise standards within the District Plan for non-residential activities. I consider the effects of the visitor accommodation activity with respect to noise and nuisance can be minimised or appropriately mitigated to an acceptable level taking the following into account:

- The use of the property is limited to six persons;
- The implementation of the Visitor Management Plan (VMP) and management of the property by a property manager to ensure that all guests are made aware of the house rules/restrictions including no parties or noisy activities after 8pm;
- Restriction on use of the outdoor areas between 9am-7am and signage displayed to remind guests of these time restrictions;
- Ensuring all guests and visitors park on-site in the allocated spaces;
- Rubbish and recycling will be carefully and promptly disposed of after guest's level.

To add a layer of certainty, a number of consent conditions in line with the management measures in the VMP have been volunteered by the applicant to manage the scale of activity and use of outdoor area. On that basis, provided that the activity is undertaken in accordance with the noise standards and the use of outdoor areas was restricted as per the Management Plan, I consider noise and nuisance effects can be appropriately managed or mitigated so that any adverse effects on the environment are no more than minor and acceptable.

Overlooking/reduced privacy effects

In the s95 report, the key concern was with regard to the loss of privacy for persons at 28A Dart Place. The authors concern was overlooking to the private open spaces when the outdoor areas are in use for the purpose of visitor accommodation as the duplex units share an adjoining wall/deck as described in figure 3). I agree with the author in that this has the potential to impact on the neighbour's enjoyment of their main outdoor area when in use.

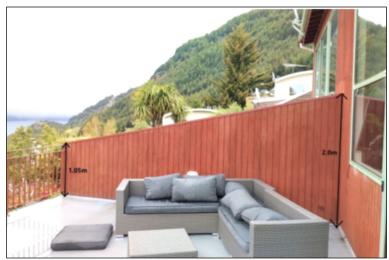


Figure 3: Photo showing the outdoor living space for Units 28A and 28B and existing screening (taking from 28B Dart Place)

As indicated above, there is a privacy screen ranging in height from 1.05m-2m separating the outdoor decks which partially limits overlooking when seated but the close proximity of the outdoor arrangement through the buildings design affords a limited degree of privacy as an existing situation and is an anticipated feature of these duplex units.

Following notification of the application, Resource Consent RM181957 granted the use of the neighbouring duplex (28A) for visitor accommodation use which has a non-residential component where guests reside on a short-term basis and in my view are less sensitive to amenity effects than long-term residents. Further to this as noted in section 3 above, the new owner has given their written approval to the application.

Notwithstanding the above, it is necessary to consider whether the effects on persons are acceptable. Whilst I acknowledge there is potential for overlooking, this outdoor arrangement is existing and effects on persons in this instance would be similar to if used as a permitted residential activity with longer term residents. As a duplex unit, a lesser degree of privacy is expected than if the units were standalone as they share an internal wall. However, I consider the heightened use of these areas by unfamiliar guests is likely to result in more noticeable effects on persons and restricting the number of persons and use of the outdoor areas is necessary (as discussed above) to manage activity in these areas during the more sensitive hours for surrounding residents. For these reasons, I consider the effects on persons at 28A Dart Place to be no more than minor and acceptable. If RM181277 is given effect to, then I consider effects on persons (unfamiliar guests) would be less than minor.

Having regard to the proposed management measures listed above in combination with the separation distances of the remaining adjoining properties as discussed in detail in the s95 recommendation report, I consider effects on all other persons will be adequately mitigated as they will be sufficiently separated from the activity.

Conclusion - residential character and amenity

Having regard to the assessment above, I consider the proposal will not result in adverse effects on the established residential character that are more than minor and would undermine the intent of the low density zone. Subject to conditions of consent and the activity operating in accordance with the VMP, the amenity of surrounding residents will be maintained and any adverse effects can be appropriately avoided, remedied or mitigated.

Cumulative effects

I have undertaken a search of Council records and five Resource Consents have been granted for visitor accommodation activities on Dart Place and the adjoining Wye Place (one being for 28A Dart Place). Given the location, nature and scale of the proposed and existing visitor accommodation activities I consider that this proposal will not represent the crossing of a threshold whereby the character of the neighbourhood will be unacceptably altered. Therefore, I consider any cumulative effects on the environment arising from one additional residential unit being utilised for visitor accommodation (6 persons) will be no more than minor and acceptable.

Traffic related effects

I consider that sufficient on-site parking can be provided in accordance with the District Plan standards to meet the demand for visitor accommodation use for up to six persons. Access to the site is provided off Dart Place onto a private shared right of way where reverse manoeuvring is common and is an anticipated traffic movement for all units sharing and using this access. Given the limited number of guests proposed, traffic generated by the proposed activity is unlikely to significantly alter the existing traffic environment and character of the area when compared to a typical residential household. I acknowledge there will be times when the frequent movement of guests will result in additional traffic on the shared private right of way off Dart Place, however the applicant has volunteered a condition which limits guests to six persons and that all vehicles associated with the activity (guests and their visitors) must park on-site. I consider that subject to conditions, any traffic related effects will be no more than minor and acceptable on the environment. For certainty, I consider a review condition is appropriate and has been included below. Should the activity operate outside of these parameters Council have the ability to review the consent if additional environmental effects arise that were not considered as part of the consent process.

Conclusion

Based on the conclusions reached in the assessment above, I consider the proposed visitor accommodation use will result in effects on the environment that are deemed to be no more than minor and acceptable and will not noticeably alter the character of low density residential environment. Further to this, effects on residential amenity can be adequately mitigated through the management measures proposed and conditions volunteered by the applicant.

7.3 THE DISTRICT PLAN – ASSESSMENT MATTERS AND OBJECTIVES AND POLICIES

7.3.1 Objectives and Policies – Operative District Plan

The relevant operative objectives and policies are contained within Part 7 (residential) of the ODP. An assessment of the application against the relevant objectives and policies of the ODP is found in section 7.0 of the applicant's AEE. This assessment is partially accepted but further consideration of those objectives and policies most relevant is discussed below:

Objective 1 - Availability of land and its associated policies seek to provide sufficient land for a diverse range of residential opportunities.

- Policy 1.1 To zone sufficient land to satisfy both anticipated residential and visitor accommodation demand.
- Policy 1.2 To enable new residential and visitor accommodation areas in the District.
- Policy 1.3 To promote compact residential and visitor accommodation development.
- Policy 1.6 To promote, where reasonable, a separation of visitor accommodation development from areas better suited for the preservation, expansion or creation of residential neighbourhoods.

Objective 1 contemplates the use of residential zoned land for visitor accommodation use where appropriate. I have assessed the potential adverse effects on the use of residential zoned land for visitor accommodation use as being no more than minor. I note, this proposal seeks to undertake the activity within an existing residential building which relates to the use of residential land in the residential zone in an efficient and effective manner.

For these reasons I consider proposal to not be contrary with the intent of this objective and associated policies.

Objective 3 – Residential Amenity and its associated policies seek to provide for pleasant living environments while also providing for community needs.

- Policy 3.1 To protect and enhance the cohesion of residential activity and the sense of community and wellbeing obtained from residential neighbours.
- Policy 3.2 To provide for and generally maintain the dominant low density development within the existing Queenstown.
- Policy 3.5 To ensure hours of operation of non-residential activity do not compromise residential amenity values, social wellbeing, residential cohesion and privacy.
- Policy 3.8 To ensure noise emissions associated with non-residential activities are within limits adequate to maintain amenity values.
- Policy 3.9 To encourage on-site parking in association with development and to allow shared off-site parking in close proximity to development in residential areas to ensure the amenity of neighbours and the functioning of streets is maintained.

Having regard to the conclusions reached in the assessment of effects above, the proposal is not considered to detract from the pleasantness of the surrounding residential environment to a noticeable extent. The limited scale of the activity and the proposed management measures will ensure effects on residential amenity pertaining to noise, privacy and overlooking and traffic can be suitably managed and mitigated. I acknowledge that there are tensions with these provisions in terms of the displacement of residential activity and effects this may have on residential cohesion but given the scale of the activity being limited as per the management plan, this application in itself, in my view is not considered to alter the low density residential character and social cohesion of the area to an unacceptable level.

10

I consider the proposal is not contrary with the above policy and the overarching objective.

Objective 4 – Non-residential activities and associated policies seek to provide for non-residential activities which meet community needs and do not undermine residential amenity located within residential areas.

I do not consider the proposal to specifically meet community needs but providing for visitor accommodation use in appropriate areas is acknowledged as a matter of importance for this District. The proposal would retain the low density residential character of the area due to the restricted scale and consent conditions imposed and is therefore not considered to undermine residential amenity to a noticeable extent having regard to the conclusions reached in my assessment above. For these reasons, I consider the proposal will not be contrary to the intent of this objective.

7.3.2 Objectives and Policies – Proposed District Plan

Council notified the Proposed District Plan on 26th August 2015 but Visitor Accommodation provisions were subsequently withdrawn. Council notified the second stage of the District Plan on 23 November 2017 which contained new proposed Visitor Accommodation provisions. The objectives and policies contained within *Chapter 7 – Lower Density Suburban Residential* of the Proposed District Plan must therefore be taken into consideration with this application.

- 7.2.8 Objective The location, scale and intensity of visitor accommodation, residential visitor accommodation and homestays is managed to maintain the residential character of the zone.
- 7.2.8.1 Provide for accommodation options for visitors in the Low Density Residential Visitor Accommodation Sub-Zones that is appropriate for the low density residential environment.
- 7.2.8.2 Restrict the establishment of visitor accommodation in locations outside the Low Density Residential Visitor Accommodation Sub-Zones to ensure that the zone maintains a residential character and the supply of residential housing is achieved.
- 7.2.9 Objective Manage the establishment of residential visitor accommodation and homestays to ensure that residential units and residential flats are predominantly used for residential activities, and the residential character of the zone is maintained.
- 7.2.9.1 Ensure that residential visitor accommodation and homestays are of a scale and character that is compatible with the surrounding residential context, and maintains residential activities as the predominant use of the site.
- 7.2.9.2 Provide opportunities for low intensity residential visitor accommodation and homestays as a contributor to the diversity of accommodation options available to visitors and to provide for social and economic wellbeing, while maintaining residential activities as the predominant use of the site.
- 7.2.9.3 Restrict the establishment of residential visitor accommodation and homestays that would result in a loss of housing supply and residential character of the zone.

The PDP policy wording is directive and visitor accommodation is generally restricted in the Low Density Suburban Residential (LDSR) zone, except within the LDSR visitor accommodation subzone to ensure the residential character is maintained. Notably, this site is not shown within the sub-zone on the PDP Stage 2 notified version of the planning maps. I consider this proposal will remove the property from the residential housing supply impacting on residential coherence and fellowship between neighbours. Therefore, the proposal is not considered to align with the objectives and policies in the PDP Stage 2 as notified which seeks to ensure the predominance of residential activities as the principal use of the site. This proposal also does not seek to retain a residential use of the site (although it is noted that it could revert to residential use) and is considered to be in conflict with policies 7.2.8.1, 7.2.9.2 and 7.2.9.3 specifically relating to visitor accommodation activity within the Lower Density Suburban Residential Zone, as outlined above.

In the aforementioned assessment of effects, the scale, location and intensity of the activity has been assessed as being compatible with the surrounding residential zone. I consider the activity to be relatively small scale visitor accommodation use where amenity effects can be appropriately managed so that the residential character of the surrounding environment is maintained. This achieves the intent of the abovementioned objectives in terms of maintaining the character of the zone. On balance, while

there are tensions with the relevant provisions, the proposal is considered to be inconsistent with but not contrary to the PDP framework.

Weighting between Operative District Plan and Proposed District Plan (Stage 1 Decisions Version 2018 and Stage 2 Notified Version)

The Proposed District Plan Stage 2 provisions are less permissive of the type of visitor accommodation activity proposed by the applicant than the provisions of the Operative District Plan and the Proposed District Plan Stage One. However, given the minimal extent to which the Stage 2 provisions have been exposed to testing and independent decision-making, minimal weight can be given to them at this time. As such, weight is predominantly given to the provisions of the Operative District Plan and the legally effective provisions of the Proposed District Plan Stage One, with which the proposal is generally aligned.

7.3.3 Conclusion on objectives and policies assessment

The proposal is considered to generally align with the objective and policy framework of the ODP but is inconsistent with the provisions in the PDP which have limited weight at the time of writing this report.

7.4 OTHER MATTERS UNDER SECTION 104(1)(b))

Regional Policy Statement (RPS)

The Otago Regional Council (ORC) RPS 1998 is currently under review. The Otago Regional Council (ORC) released its decisions on 1 October 2016. Most appeals on the document have now been resolved, though some provisions are still subject to legal processes. Accordingly, the ORC resolved to make the document partially operative from 14 January 2019 (known as the Partially Operative Otago Regional Policy Statement 2019). This decision also revokes parts of the Regional Policy Statement for Otago 1998.

The relevant objectives and policies in the Operative Regional Policy Statement are contained within Part 5 (Land), and for the Proposed Regional Policy Statements within Part B Chapter 1 (Resource management in Otago is integrated), Chapter 4 (Communities in Otago are resilient, safe and healthy) and Chapter 5 (People are able to use and enjoy Otago's natural and built environment). The policies of the Operative Regional Policy Statement have been given effect to through the Operative District Plan. In summary, the following are most relevant to this proposal:

Part B Chapter 1 Resource management in Otago is integrated:

Objective 1.1 and Policies 1.1.1 and 1.1.2 seek that Otago's resources are used sustainably to promote the economic, social, and cultural wellbeing for its people and communities.

Objective 1.2 and Policy 1.2.1 that seek to recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago.

Objective 4.5 and Policies 4.5.1 – 4.5.4 that seek that urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments.

Part B Chapter 5 People are able to use and enjoy Otago's natural and built environment:

Objective 5.3 and Policy 5.3.2 that seek that sufficient land is managed and protected for economic production.

Overall, the proposal is considered to generally accord with the abovementioned objectives and policies of the RPS.

8. PART 2 OF THE RESOURCE MANAGEMENT ACT 1991

Part 2 of the RMA details the purpose of the RMA in promoting the sustainable management of the natural and physical resources. Sustainable management is defined as:

managing the use, development and protection of natural and physical resources in a way or at a rate which enables people and communities to provide for their social, economic and cultural well being and for their health and safety while:

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations: and
- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems: and
- (c) Avoiding, remedying, or mitigating any adverse effect of activities on the environment.

The zone provides for visitor accommodation subject to the nature and scale being compatible with the anticipated residential character of the zone. Having regard to the conclusions reached, it is considered the proposal is aligned with the Purpose and Principles set out in Part 2 of the RMA. The development will result in sustainable management of natural and physical resources, whilst also not affecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Under Part 2 of the RMA, regard must be had to the relevant matters of Section 7 – Other Matters, including.

- (a) kaitiakitanga:
- (aa) the ethic of stewardship
- (b) the efficient use and development of natural and physical resources:
- (ba) the efficiency of the end use of energy:
- (c) the maintenance and enhancement of amenity values:
- (d) intrinsic values of ecosystems:
- (f) the maintenance and enhancement of the quality of the environment:
- (g) any finite characteristics of natural and physical resources:
- (h) the protection of the habitat of trout and salmon
- (i) the effects of climate change
- (i) the benefits to be derived from the use and development of renewable energy

In this instance, c) and f) above are relevant to the proposal and based on the assessment made above, the proposal accords with Section 7.

Overall, I consider the proposal does promote sustainable management.

9. RECCOMMENDATION

9.1 EFFECTS ON THE ENVIRONMENT

As discussed in Section 7 above, I consider the proposed use of the duplex unit at 28B Dart Place in terms of scale, location and intensity is appropriate subject to conditions. The nature and scale in combination with the visitor accommodation management measures proposed will be sufficient to minimise adverse effects on residential character and amenity such that effects will not be more than minor.

9.2 OBJECTIVES AND POLICIES

As I have concluded in Section 7.3.3 above, the proposal is not considered to be contrary to the objectives and policies of both the Operative District Plan and Proposed District Plan.

9.3 OVERALL DETERMINATION

• The scale of the visitor accommodation use is not consider considered to significantly alter the residential character of the Low Density Residential zone.

- Subject to appropriate mitigation by way of conditions to restrict the numbers of persons and the
 use of outdoor areas in addition to the operational management measures volunteered by the
 applicant, I consider the proposal will not detract from the residential amenity of the surrounding
 environment to a more than minor extent.
- Considered as a whole, the proposal is not contrary to the relevant objectives and policies of both the Operative District Plan and the Proposed District Plan.

Report prepared by Reviewed by

Manh Suchy

Niamh Sheehy
PLANNER
SENIOR PLANNER

Attachments: Appendix 1 Applicant's AEE

Appendix 2 Section 95 Report

Appendix 3 Updated Record of Title (28A Dart Place)

Appendix 4 VAMP

Appendix 5 Withdrawn submission

Report Dated: 20 March 2019

Atlenh

APPENDIX 1

Assessment of Environmental Effects



ASSESSMENT OF ENVIRONMENTAL EFFECTS

Supporting Resource Consent Application for Visitor Accommodation Use

Ray Jiang 28B Dart Pl, Fernhill, Queenstown 2 Sep 2018

Table of Contents

1.0	The Applicant and Property Summary	3		
2.0	DESCRIPTION OF PROPOSED ACTIVITY	4		
3.0	SITE DESCRIPTION AND CONFIGURATION	5		
4.0	DESCRIPTION OF PERMITTED ACTIVITIES	5		
5.0	QUEENSTOWN LAKE DISTRICT PLAN	5		
6.0	SECTION 104(1)(B) CONSIDERATIONS	6		
7.0	OBJECTIVES AND POLICY ASSESSEMENT	6		
8.0	THE MATTERS IN PART 2 OF RMA 1991	8		
9.0	ASSESSMENT OF ENVIRONMENTAL EFFECTS	8		
9.1	Visitor Accommodation Use	8		
9.2	THE LOCATION, NATURE AND SCALE OF ACTIVITIES	9		
9.3	PARKING & TRAFFIC	LΟ		
9.4	NEIGHBORHOOD & NOISE	LΟ		
9.5	PERSONS AFFECTED BY THE ACTIVITY	۱1		
9.6	SUMMARY	۱1		
Appen	Appendix 1 - HOUSE RULE			
Annen	Annendiy 2 – Aerial Man			

1.0 The Applicant and Property Summary

Applicants Name: Ray Jiang, Luxe Stay Limited

Address: 28B Dart Place, Fernhill, Queenstown

Legal Description: UNIT 2 AU2A-AU2C DP 24529 ON LOT 20 DP 19867

Certificate of Title: OT16C/126, OT16

District Plan Zoning: Low Density Residential

Brief Description: Land use consent to undertake visitor accommodation

from an existing residential unit.

Summary of Reasons for Consent: Discretionary Activity

2.0 DESCRIPTION OF PROPOSED ACTIVITY

To run short term visitor accommodation throughout the year.

Land use consent is sought to allow for the visitor accommodation use of 28B Dart PI, up to 365 days per year. It is proposed to allow for up to a maximum of 6 people to stay at the property at any one time.

Management of the activity and housekeeping details will be included in a management plan, which will be submitted along with this application as a separate document.

A draft house rule has been attached as Appendix 1.



3.0 SITE DESCRIPTION AND CONFIGURATION

28B Dart PI is a 3 bedroom 2 bathroom townhouse in a duplex structure, with the neighboring property 28A being the other half of the duplex. The property spans three levels, with two bedrooms occupying the top floor, the lounge, kitchen and a bathroom occupying the middle floor, and an ensuite bedroom occupying the bottom floor. The unit will be rented as a whole to a single group of holiday makers via Airbnb or similar platforms. Most guests stay for a period of a few days.

Bedroom 3: The 2 guests max

4.0 DESCRIPTION OF PERMITTED ACTIVITIES

The consent authority may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. In this case the permitted baseline includes the established built form including associated access and landscaping, and residential occupation of the residential unit, including associated effects such as car parking demand, traffic generation, noise, and impact on privacy. In addition, it is permitted to use the property as a Holiday Home if the following standards are met:

- Have a minimum stay of three nights;
- Not have more than two people in the same bedroom (eight in total for this property);
- Not be letting the site over 90 days throughout the whole year (multiple visits totalling 90 days).

The proposal differs to the permitted baseline above in respect that letting is proposed to exceed 90 days and there is no proposed minimum stay, and therefore a restricted discretionary consent is needed.

5.0 QUEENSTOWN LAKE DISTRICT PLAN

The site is zoned as Low Density Residential. The Plan states that the purpose of the Low Density Residential Zone is to:

"provide for low density permanent living accommodation, maintaining a dominance of open space and low building coverage. The zone seeks to maintain and enhance the low density residential areas with ample open space, low rise development and minimal adverse effects experienced by residents. Special amenity provisions remain in respect of the form, style and appearance of development on the terrace face along McDonnell Road at Arrowtown, being the Arrowtown Scenic Protection Area identified as part of the Zone."

Under the Queenstown Lakes District Plan the proposed activity requires the following consents:

A discretionary activity pursuant to Rule 7.5.3.4(i) in respect of Visitor Accommodation within the Low Density Residential Zone, in respect of:

- The location, external appearance and design of buildings;
- The location, nature and scale of activities on site;
- The location of parking and buses and access;
- Noise and;
- Hours of operation

Overall consent for a discretionary activity is required.

6.0 SECTION 104(1)(B) CONSIDERATIONS

Section 104 and 104B of the Resource Management Act (RMA) set out the relevant assessment matters for resource consent applications carrying the discretionary activity status.

104 Consideration of applications

- (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—
 - (b) any relevant provisions of—
 - (i) a national environmental standard:
 - (ii) other regulations:
 - (iii) a national policy statement:
 - (iv) a New Zealand coastal policy statement:
 - (v) a regional policy statement or proposed regional policy statement:
 - (vi) a plan or proposed plan; and

The assessment under these documents must include a discussion of any — (a) any relevant objectives, policies, or rules in a document; and (b) any relevant requirements, conditions, or permissions in any rules in a document; and (c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).

104B Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –

- (a) May grant or refuse the application; and
- (b) If it grants the application, may impose conditions under section 108

7.0 OBJECTIVES AND POLICY ASSESSEMENT

The objective and policies relevant to the current application can be found in Part 7 – Residential Areas

of the ODP. Those objectives and policies of direct relevance to the current application are identified and reproduced below;

7.1.2 District Wide Residential Objectives and Policies

Objective 3 – Residential Amenity

Pleasant living environments within which adverse effects are minimized while still providing the opportunity for community needs.

Policies:

- 3.5 To ensure hours of operation of non-residential activity do not compromise residential amenity values, social well-being, residential cohesion and privacy.
- 3.8 To ensure noise emissions associated with non-residential activities are within limits adequate to maintain amenity values.

The proposed visitor accommodation will be of a small scale and will be appropriately managed through conditions of consent and the property manager.

The dwelling is in a duplex structure, it has no direct neighbours except the other half of the duplex - 8A Dart Place. The potential for activity exposure for any neighbouring properties is minimal, and any (if at all) adverse effect will not be dissimilar to if the dwelling were occupied by long term tenants or owner. Restrictions on the use of outdoor living areas by guests will aid in reducing potential noise effects on neighbouring properties, while the small scale of the activity will further reduce associated effects of the activity. As such it is considered that the proposed activity will be consistent with Objective 3 above.

7.2.3 Objectives and Policies - Queenstown Residential and Visitor Accommodation Areas

Objectives -

- 1. Residential and visitor accommodation development of a scale, density and character, within sub zones which are separately identifiable by such characteristics such as location, topography, geology, access, sunlight or views.
- 2. Residential development organised around neighbourhoods separate from areas of predominately visitor accommodation development. Provision for new consolidated residential areas at identified locations.
- 3. Consolidation of high density accommodation development in appropriate areas.
- 4. To recognise and provide for the non-residential character of the Commercial Precinct overlay which is distinct from other parts of the High Density Residential Zone.

Policies:

- 7. To provide for non-residential activities in residential areas providing they meet residential amenity standards and do not disrupt residential cohesion.
- 8. To ensure the scale and extent of any new Visitor Accommodation in residential areas does not compromise residential amenity values by adversely affecting or altering existing neighbourhood character.

As discussed in the AEE above, the proposal will have a less than minor effect on the residential amenity of the receiving environment. The nature and scale of the proposed visitor accommodation will be appropriate within the site context and not adversely impact the existing neighbourhood character of the units. As such it is considered that the proposed activity is not contrary to the objective 7.2.3 above.

8.0 THE MATTERS IN PART 2 OF RMA 1991

In this instance, the purpose of the Act is to ensure that amenity values will not be adversely affected by the visitor accommodation use of the units. The AEE above has identified that the actual and potential effects of the proposal will have on the site as a whole will be in line with the overall character and use of the receiving environment. As such it is considered that the proposal will not be contrary to any of the matters set forth in Part 2.

9.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS

9.1 Visitor Accommodation Use

The following assessment matters are listed under section 7.7.2(vii) of the operative QLDP. The following is an assessment of the current proposal against these matters;

- (a) Compatibility with amenity values of the surrounding environment considering the visual amenity of the street, neighbouring properties or views of the lake; and
 - (i) The character, scale and intensity of the proposed use and its compatibility in relation to surrounding and/or adjoining residential neighbourhoods
 - (ii) The nature of the development in the context of the permitted future uses on nearby sites Loss of privacy
 - (iii) The proximity of outdoor facilities to residential neighbours
 - (iv) Hours of operation
 - (v) The ability to landscape/plant to mitigate visual effects
 - (vi) Whether the external appearance of the buildings complements the surrounding landscape and urban character, including when viewed from the lake

The proposed activity will allow for the conversion of an existing building from residential to visitor accommodation use. No additions to the existing building are proposed. The scale of the activity is appropriate and will allow up to two people to be accommodated within each of the bedrooms. The small size of outdoor area will physically limit the amount of people able to access this space. There will be no change to the external appearance of the unit, when viewed from outside, it will be impossible to visually observe that the unit is being used for Visitor Accommodation.

- (b) Any adverse effects in terms of:
 - (i) The adequacy and location of car parking for the site
 - (ii) Noise, vibration and lighting from vehicles entering and leaving the site or adjoining road, which is incompatible with the levels acceptable in a low-density residential environment.
 - (iii) Loss of privacy.
 - (iv) Levels of traffic congestion or reduction in levels of traffic safety which are inconsistent with the classification of the adjoining road.
 - (v) Pedestrian safety in the vicinity of the activity.
 - (vi) Any cumulative effect of traffic generation from the activity in conjunction with traffic generation from other activities in the vicinity.
 - (vii) Provision for coaches to be parked off-site
 - (viii) The ability to mitigate any adverse effects of the additional traffic generation such as through the location and design of vehicle crossings, parking and loading areas or through the provision

of screening and other factors which may reduce the effect of the additional traffic generation, such as infrequency of the activity, or limited total time over which the traffic movements occur.

The site has adequate parking for the proposed activity as per the requirements of the District Plan. With maximum number of guests matching what the dwellings were designed for, the scale of the activity will not result in potential increase in traffic that would adversely impact the safety and efficiency of Dart Place compared to the permitted residential activity. Overall, it is considered that any potential or actual effect of the proposed activity onto the roading network will be negligible.

- (c) Mitigation of noise emissions beyond the property boundary considering:
 - (i) The adequacy of mitigation measures, including the layout of outdoor activities (for example barbecues, spa pools), and the ability to screen those activities by vegetation, fencing or building.
 - (ii) Measures that can be incorporated into the premises to provide for acoustic insulation and /or attenuation of noise emissions.

The scale of the activity would be similar to that which could be accommodated through the residential use of the site. Standard conditions of consent in combination of with measures outlined within management plan (submitted separated with application) will appropriately mitigate potential noise emissions onto neighbouring sites.

- (d) The ability to supply water, and dispose of sewage, stormwater and other wastes consistent with Regional Council requirements.
- (e) The ability to provide adequate, potable water supply, adequate firefighting provisions, and to dispose of sewage, stormwater and other wastes so as to avoid potential adverse effects.

Development contributions will appropriately deal with any additional demand on Council infrastructure than what is currently in place.

9.2 THE LOCATION, NATURE AND SCALE OF ACTIVITIES

The nature and scale of the proposed visitor accommodation activity is of a scale that is compatible with the character and amenity values of the wider locality. The number of people accommodated is not dissimilar to that anticipated by residential occupation of the unit. No changes to the location, external appearance or design of the dwelling are proposed. The dwelling will continue to complement the surrounding environment. There will be no signage/advertising used for the visitor accommodation ensuring it is in keeping with the residential zone. The majority of the activities associated with the visitor accommodation will be restricted to the indoor use of the existing dwelling, meaning effects will be indiscernible on the surrounding environment. Conditions of consent will be included to mitigate noise levels and the use of outdoor areas is limited in respect to hours of use. The existing unit was established for residential living and will adequately provide for visitor accommodation use. The differences between the use of the property for current residential activities compared to the visitor accommodation proposed would not be overly noticeable from the wider environment. As such, any adverse effects on the environment in respect to character and amenity will be less than minor.

9.3 PARKING & TRAFFIC

The proposal will comply with car parking requirements set forth in the Operative District Plan for visitor accommodation. Any effects on traffic will not be detrimental to the safety or efficiency of the access area. As such it is considered that any effect on traffic, parking or access will be negligible.

The current parking arrangement onsite is 2 allocated parking space under carport. With the proposed activity allowing a single group of maximum of 6 adults, this parking arrangement is considered to be more than sufficient to cater for the demand of the activity. A house rule will be established to ensure vehicles will only be parked within the allocated space, therefore limiting the effects of off-site parking in relation to the surrounding environment.

The proposal will not result in any additional requirements for loading areas, vehicle crossings, or have any effects on pedestrian safety or access. It is not anticipated that visitor accommodation of this nature and scale will require access of parking for buses. The parking arrangements meet the district plan requirements for both residential and visitor accommodation in the Low Density Residential zone and therefore any adverse effects on the environment in respect to parking and access are considered to remain unchanged. Subsequently, adverse parking and access effects on the surrounding environment will be less than minor.

9.4 NEIGHBORHOOD & NOISE

Being in a duplex structure, 28B Dart Place adjoins with 28A Dart Place as a direct neighbor. The 2 properties mirror each other in construction and are separated by a common wall in between.

A house rule will be published with the expectation for guests to control noise, and respect the peace and quietness of the neighborhood (strictly no party, no high volume activity after 8pm, no use of outside decking area after 9pm... etc). The complete house rule can be found in Appendix 1.

To further reduce any potential adverse effect on 28A Dart Place, the consent applicant has volunteered to prohibit smoking not only inside the house but also on the front deck, where smell can potentially travel through to the neighboring property. This condition will be written in the house rule along with other conditions.

Potential guests wanting to book a stay in the house will have to read and agree to the conditions in the house rule before a booking can be confirmed.

Guest check-out is before 10am.

Housekeeping works in the window between 10am and 3pm. Housekeeping work involves ordinary household cleaning, hence does not present a noise issue.

This type of visitor accommodation activity, when well-managed, is similar in nature to a regular household living within a dwelling and does not affect neighbours.

Overall it is assessed and deemed that any potential noise generated from the proposed visitor accommodation will be similar to the noise generated if the property were to be rented on long term basis.

9.5 PERSONS AFFECTED BY THE ACTIVITY

Visitor accommodation of the scale proposed and managed through the conditions of consent volunteered by the applicant, will have similar effects to residential occupancy. Therefore there are no parties considered affected from the activity subject to inclusion of the volunteered conditions of consent.

9.6 SUMMARY

As discussed in the AEE above, any actual or potential effect of the visitor accommodation use of the site will be less than minor. Car parks have also been appropriately provided on the site in accordance with the requirements of the Operative District Plan. The proposed management scheme in combination with standard conditions of consent will ensure that any actual or potential effects of the proposal are less than minor. As such it is considered appropriate to process this application on a non-notified basis.

Appendix 1 - HOUSE RULE

(This house rule will be printed on A4, laminated and be installed on multiple placed within the premises. The house rule will also be presented to any potential guests and will need to be agreed by the guest before a booking can be confirmed)

- The house is situated within a nice and quiet residential areas. Please be respectful of the neighborhood.
- Be courteous of neighbors. After 8 pm any noisy activities should only occur inside with windows and doors closed.
- There shall be no use of the outdoor deck after 9pm every day.
- No pets allowed.
- No smoking anywhere inside or on the deck.
- No Party.
- Please use the allocated parking space within the perimeters of the dwelling, details in welcome letter. 2 cars max.

Appendix 2 – Aerial Map



APPENDIX 2 s95 Decision



<u>DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL</u>

RESOURCE MANAGEMENT ACT 1991

SECTION 95 NOTIFICATION - LIMITED NOTIFICATION

Applicant: Ray Jiang – Luxe Stay Limited

RM reference: RM181277

Application: Application under Section 88 of the Resource Management Act 1991

(RMA) for land use consent to undertake Visitor Accommodation from an existing residential unit, for up to 365 nights per calendar year for

up to six (6) guests.

Location: 28B Dart Place, Fernhill, Queenstown

Legal Description: Unit 2 and Accessory Unit 2A, 2B and 2C, Deposited Plan 24529 held

in Computer Unit Title Register OT16C/127 (and Lot 20 Deposited Plan

19867 held in Computer Unit Title Register OT16C/128).

Operative District Plan

Zoning: Low Density Residential Zone (Medium Density Residential Sub-Zone)

Proposed District Plan

(Stage 1) Zoning: Lower Density Suburban Residential

Proposed District Plan

(Stage 2) Zoning: Lower Density Suburban Residential

Activity Status: Restricted Discretionary

Date 29 October 2018

SUMMARY OF DECISIONS

- 1. Pursuant to sections 95A-95F of the RMA the application will be processed on a **limited notified** basis given the findings of Section 6 of this report. Notice of the application will be served on those parties identified in Section 5.3 of this report in accordance with section 2AA of the RMA.
- 2. This decision is made by Andrew Woodford, Senior Planner, on 29 October 2018 under delegated authority pursuant to Section 34A of the RMA.

1. PROPOSAL & SITE DESCRIPTION

Consent is sought to undertake a Visitor Accommodation activity from an existing residential unit to accommodate a maximum of six persons, for 365 nights per year at 28B Dart Place.

The applicant has provided a detailed description of the proposal, the site and locality and site history in Section 1 of the report entitled 'Assessment of Environmental Effects: Supporting Resource Consent Application for Visitor Accommodation Use', prepared by Ray Jiang and dated the 2nd of September 2018 and submitted as part of the application (hereon referred to as the applicant's AEE and attached as Appendix 2), and in the further information response letter, attachments and emails dated the 15th and 23rd of October 2018. This description is considered accurate and is adopted for the purpose of this report, with the following additional comments:

- Two parking spaces are contained on the site which meet the required dimensions for Class 2
 Users (although one space overhangs outside of the carport it is still technically on the site).
- The duplex building contains two units 28A within the western side, and 28B on the eastern side. 28B Dart Place is a 3-bedroom 2-bathroom townhouse spanning three levels with two south-facing decks.
- The unit will be rented as a whole to a single group.
- The applicant has proposed to increase the height of the screening wall on the eastern side of the upper level deck to 1.8m for a length of 3.5m, as per the email dated 24th of October 2018.

Site History

The site, unit and carparking locations are shown in Figures 1 and 2 below, respectively:



Figure 1: Site location (wider site outlined in blue and Unit 28B marked by a red outline)



Figure 2: Photo showing unit 28B and car parking spaces for the unit (Source: processing planner photo from site visit undertaken on the 26 September 2018)

2. ACTIVITY STATUS

2.1 THE DISTRICT PLAN

The proposal requires consent for the following reasons:

OPERATIVE DISTRICT PLAN (ODP)

The subject site is zoned Low Density Residential in the ODP and the proposed activity requires resource consent for the following reasons:

- A **restricted discretionary** activity resource consent pursuant to Rule 7.5.3.4 (i) for Visitor Accommodation use in the Low-Density Residential Zone. Councils discretion is in respect of:
 - (a) The location, external appearance and design of buildings;
 - (b) The location, nature and scale of activities on site;
 - (c) The location of parking and buses and access;
 - (d) Noise; and
 - (e) Hours of operation
- A restricted discretionary activity pursuant to Rule 7.5.3.4 (vi) as the proposal breaches site standard 7.5.6.2 (iii) (f) in regard to part of a building being used for Visitor Accommodation located within 4m of an internal boundary, where the adjoining site is zoned residential. In this instance, it is proposed to locate the visitor accommodation activity within the existing building that is within 4.0m of internal residential boundaries, in particular the building is approximately 1.5m from the eastern boundary and 3.5m from the southern boundary. Council's discretion is restricted to this matter.

Note: It is noted that, in relation to the setback from Unit 28A, there is some conflict between the setback requirements of Rule 7.5.6.2iii(f), as set out above, and the provision in Rule 7.5.6.2iii(c), which states that in the Low Residential Zone no setback is required from an internal boundary where buildings share a common wall on that internal boundary. For the purposes of this decision, it is considered that Rule 7.5.6.2iii(c) requiring no setback prevails over Rule 7.5.6.2iii(f).

PROPOSED DISTRICT PLAN - STAGE 1 DECISIONS

Council notified its decisions on Stage 1 of the Proposed District Plan (**Stage 1 Decisions Version 2018**) on 5 May 2018. The subject site is zoned Lower Density Suburban Residential by the Stage 1 Appeals Version 2018, however there are no rules with immediate legal effect, for which this proposal requires consent.

PROPOSED DISTRICT PLAN - STAGE 2 NOTIFIED VERSION

Council notified Stage 2 of the Proposed District Plan (Stage 2 Notified Version 2017) on 23 November 2017. The subject site is not subject to Stage 2 of the PDP. While the objectives and policies of the PDP have immediate legal effect pursuant to s86A(2) of the Act, there are no rules with legal effect that have relevance to this application.

OVERALL ACTIVITY STATUS

Overall, the application is considered to be a restricted discretionary activity under the ODP.

3. SECTION 95A NOTIFICATION

3.1 Step 1 – Mandatory public notification

The applicant has not requested public notification of the application (s95A(3)(a)).

Public Notification is not required in terms of refusal to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the Act (s95A(3)(b)).

The application does not include exchange to recreation reserve land under section 15AA of the Reserves Act 1977 (s95A(3)(c)).

3.2 Step 2 – Public notification precluded

Public notification is not precluded by any rule or national environmental standard (s95A(5)(a)).

The proposal is not a controlled activity; or a restricted discretionary or discretionary subdivision or residential activity; or a restricted discretionary, discretionary or non-complying boundary activity as defined by section 87AAB; therefore, public notification is not precluded.

The proposal is not a prescribed activity (95A(5)(b)(i-iv).

Therefore, public notification is not precluded by Step 2.

3.3 Step 3 – If not precluded by Step 2, public notification is required in certain circumstances

Public notification is not specifically required under a rule or national environmental standard (s95A(8)(a).

A consent authority must publicly notify an application if it decides under s95D(8)(b) that the activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(2)(a)).

An assessment in this respect is therefore made in section 4 below:

4. ASSESSMENT OF EFFECTS ON THE ENVIRONMENT (s95D)

4.1 MANDATORY EXCLUSIONS FROM ASSESSMENT (s95D)

- A: Effects on the owners or occupiers of land on which the activity will occur and on adjacent land (s95D(a)).
- B: The activity is a restricted discretionary activity, so that adverse effects which do not relate to a matter of discretion have been disregarded (s95D(c)).
- C: Trade competition and the effects of trade competition (s95D(d)).

4.2 PERMITTED BASELINE (s95D(b))

The consent authority **may** disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. In this case, the permitted baseline includes the residential occupation of the residential unit, and associated effects such as, car parking demand, traffic generation, nature and scale, and noise impacts on privacy.

The definition of a residential activity excludes the use of land or buildings for visitor accommodation. Notwithstanding this, there are a number of visitor accommodation type scenarios that could feasibly take place as a permitted activity. These are:

- A single annual let for one or two nights.
- Homestay accommodation for up to 8 guests (two per bedroom) in a Registered Homestay for up to 90 days per year.

4.3 ASSESSMENT: EFFECTS ON THE ENVIRONMENT

Taking into account sections 4.1 and 4.2 above, the following assessment determines whether the activity will have, or is likely to have, adverse effects on the environment that are more than minor.

The relevant assessment matters are found in Section 7.7.2 (vii) *Discretionary Activity – Visitor Accommodation* of the Operative District Plan and have been considered in the assessment below.

The Assessment of Effects provided at Section 9 of the applicant's AEE, and in the further information responses dated the 15th, 23rd and 24th of October 2018 and is comprehensive and is considered accurate. It is therefore adopted for the purposes of this report, with the following additional comments:

Streetscape Character effects

The proposed visitor accommodation (VA) will be undertaken from an existing residential unit.

No changes are proposed to the external appearance or design of the existing residential unit, with the exception of the increase in the height of the screening wall on the eastern façade of the upper deck.

Amenity & Scale, Views and Outlook effects

The proposed visitor accommodation activity will be undertaken from within an existing residential unit for an additional 275 days beyond the permitted baseline of 90 days per year, which will likely result in a loss of residential amenity and character, a loss of social cohesion and noise effects. This is generally due to the lack of routine and consistency, with the inherent nature of visitor accommodation activities being that the hours of operation can generally extend to 24 hours per day for 365 days each year.

To mitigate amenity and nuisance effects, the applicant has proposed that no more than eight persons as part of one group can use the property as visitor accommodation at any one time (two persons per bedroom). The outlook of the unit will remain to the south towards Lake Wakatipu.

Further, the majority of the activities associated with the visitor accommodation will be restricted to the indoor use of the existing unit, meaning effects will be generally indiscernible on the surrounding environment. It is considered appropriate to restrict the use of outdoor areas for the subject site to ensure the use of the unit for visitor accommodation will not give rise to effects on residential amenity which are minor or more than minor. The Visitor Accommodation Management Plan supplied by the applicant ensures the use of outdoor areas is limited in respect to hours of use between the hours of 9pm and 7am.

Cumulative effects

A review of the Council's records identifies that there are no other units consented for visitor accommodation in the immediate vicinity of the subject site.

Therefore, to operate a visitor accommodation activity from one unit will not be detrimental to the social cohesion of the area.

Overall adverse effects of the nature and scale of the activity on residential amenity, character and cohesion are not likely to be more than minor.

Traffic Generation and Vehicle Movements

On-site / On street parking

The visitor accommodation will occur within an existing residential unit located within the Low Density Residential Zone. The Transport Rules of the Operative District Plan require 1.25 on-site car parks for the visitor accommodation activity, and 0.25 for staff/guests, giving a total requirement of two car parks.

The subject site contains a double carport parking space and therefore, the proposal complies with car parking requirements for Visitor Accommodation in the Low Density Residential Zone. In addition, given the scale of the proposal (maximum of 8 guests), this is not considered to cause adverse effects that are more than minor.

Driver & Pedestrian Safety

As the proposal seeks consent for visitor accommodation and this type of activity is not classified in the District Plan as a residential activity, all visitor accommodation vehicles are classified as 'Class 2 User' in the District Plan. This classification is defined in the District Plan as "short to medium term parking, including visitor parking, parking associated with travellers accommodation and general town centre parking, where goods can be expected to be loaded into vehicles".

Parking which meets the dimensions for Class 2 Visitor Accommodation guest users is provided in the carport with onsite manoeuvring available to ensure guests exit the site in a forward direction.

In addition, the activity is considered to fall within the definition of "Other Activities" when considering minimum sight distances from vehicle access points onto roads. The activity complies with the required 80m minimum sight distance from the existing shared access onto Dart Place.

Traffic Generation / Roading Capacity

No buses or coaches are proposed to access the site.

Vehicle Movements & Noise

Given the foregoing, it is considered that any effects on traffic will not be detrimental to the safety or efficiency of the access area.

It is considered that the proposed use of the existing dwelling as visitor accommodation is unlikely to create any change to demand for parking than would be expected for longer term residential use. This will mean that vehicle movements are kept to a level anticipated for this zone.

7_{V1 8/8/14} RM181277

It is considered that adverse effects on the environment in terms of traffic generation, parking and access are not likely to be more than minor.

Nuisance effects

Noise, Hours of Operation

A Visitor Management Plan has also been provided as part of the application to ensure adverse effects such as rubbish and noise are managed and reduced.

It is considered that adverse effects on the environment in terms of noise and nuisance are not likely to be more than minor.

4.4 <u>DECISION</u>: EFFECTS ON THE ENVIRONMENT (s95A(2)(a))

Overall, the proposed activity is not likely to have adverse effects on the environment that are more than minor.

5. EFFECTS ON PERSONS

Section 95B(1) requires a decision whether there are any affected persons (under s95E) in relation to the activity. Section 95E requires that a person is an affected person if the adverse effects of the activity on the person are minor or more than minor (but not less than minor).

5.1 MANDATORY EXCLUSIONS FROM ASSESSMENT (s95E)

- A: The activity is a restricted discretionary activity, so that adverse effects which do not relate to a matter of discretion have been disregarded (s95E(2)(b)).
- B: The persons outlined in section 4.1 above have provided their written approval and as such these persons are not affected parties (s95E(3)(a)).

5.2 PERMITTED BASELINE (s95E(2)(a))

The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect. In this case the permitted baseline is found within section 4.2 above.

5.3 ASSESSMENT: EFFECTS ON PERSONS

Taking into account sections 5.1 and 5.2 above, the following outlines an assessment as to if the activity will have or is likely to have adverse effects on persons that are minor or more than minor:

Traffic Generation

Noise, vibration and lighting from vehicles entering and leaving the subject site will be compatible with the levels considered acceptable in a low-density residential environment, given that the traffic generated would therefore be of a similar scale to permanent residential occupation of the dwelling. There is sufficient car parking onsite to accommodate anticipated vehicle numbers. In addition, the Visitor Accommodation Management Plan will ensure that all visitors park on the subject site.

As such, there will be less than minor adverse effects on persons in respect to traffic generation and parking.

Character, Dominance and Shading

The change of use proposed has the potential to impact on matters that provide for residential character and amenity, including compatibility with residential activities and neighbourhood cohesion. However, on review of the surrounding environment, it is considered the change in use is compatible with the surrounding environment, given the change is not dissimilar in scale to a residential activity.

As such, the proposal, in and of itself, is not considered significant enough to cause a noticeable change in the character of the area.

There are no external changes occurring to the building apart from the proposed increased screening on the east of the deck which will be a maximum of 1.8m in height and for a length of 3.5m. This will not result in minor or more than minor adverse shading effects on people due to the separation from adjacent properties and residential units/outdoor living spaces.

Density and Amenity

Visitor accommodation can result in potential amenity effects associated with rubbish being left out for collection and there is an extended period of time between the end of a rental and the scheduled rubbish collection day. The applicant, within the Visitor Accommodation Management Plan submitted with the application, records that all rubbish and recycling shall be appropriately disposed of and only placed at the kerbside the day of, or day prior to, collection.

The scale is similar to a residential activity (six persons, two per bedroom), rubbish will be appropriately disposed of in a timely manner, and the decking will be prohibited from use between the hours of 9pm and 7am. Signs are to be displayed to remind guests that they are in a residential area and advising of these time restrictions.

The Visitor Management Plan also prohibits parties and smoking.

Overall, effects on the residential character and amenity of the area are considered to be appropriately avoided or mitigated such that effects on persons are less than minor with the exception of persons located at 28A Dart Place who adjoin the proposed VA activity. Due to the proximity of the outdoor areas between the two properties, there is the potential for reduced residential amenity effects to occur to the owners/occupiers at 28A Dart Place which are at least minor in scale and nature.

Views and Outlook, Privacy

A proposed visitor accommodation use could result in a loss of privacy within a residential area. In this case, the dwelling is located within a residential area on a sloping site.

Two outdoor spaces face south towards Lake Wakatipu. The use of these outdoor areas by short term visitors, as opposed to long term residents, is not considered to create any additional privacy issues which would have an effect on the adjoining neighbours.

The use of the outdoor areas is restricted between 9pm and 7am to mitigate adverse effects on persons.

Persons at 30 Dart Place (to the west)

The outdoor living space of 28B Dart Place has outlook to the south and is well separated from 30 Dart Place. It is considered that there is sufficient screening and separation of the outdoor living areas to ensure any effects on persons in regards to overlooking and privacy will be less than minor.

Persons at 28A Dart Place (to the west)

28A and 28B share adjoining walls. These sites are similarly south-east facing with outdoor areas taking advantage of views to Lake Wakatipu. The outdoor living space of 28B Dart Place has outlook to the south towards Lake Wakatipu and not directly overlooking the private deck of 28A Dart Place. However, this screening reduces to 1.05m where there is potential for overlooking when guests are standing at this point. Although there is screening, it is considered that the height of this and lack of separation results in adverse effects that are at least minor on persons at 28A Dart Place (refer to Figure 3 below). It is noted that no additional screening is proposed to this internal screen partition.



Figure 3: Photo showing the outdoor living space for Units 28A and 28B and existing screening (Source: applicant's photo from application)

Persons at 26 Dart Place (to the east)

The outdoor living space of 28B Dart Place has outlook to the south towards the views, not directly overlooking the private outdoor space at 26 Dart Place.

The screening here is proposed to be increased to 1.8m for a length of 3.5m to mitigate overlooking into the outdoor living space at 26 Dart Place.

It is therefore considered that there is sufficient screening and separation of the outdoor living areas at 28B and 26 Dart Place to ensure any effects on persons in regards to overlooking and privacy will be less than minor (refer to Figures 4 and 5 below).



Figure 4: Photo showing the outdoor living space for 28B Dart Place looking towards 26 Dart Place (Source: applicant's photo from application)



Figure 5: Photo showing the separation between 26 Dart Place and 28B Dart Place looking towards the south (Source: applicant's photo from application)

Persons at 19 Wye Place (to the south)

The outdoor living space of 28B Dart Place has outlook to the south towards the views and 19 Wye Place, however it is considered that there is sufficient separation of the outdoor living areas at 28B Dart Place and 19 Wye Place, as assessed by the applicant to ensure any effects on persons in regards to overlooking and privacy will be less than minor (refer to Figure 6 below).



Figure 6: Photo showing the separation between 28B Dart Place and 19 Wye Place looking towards the south (Source: applicant's photo from application)

Persons at 35 & 37 Dart Place (to the north)

The outdoor living space of 28B Dart Place has outlook to the south towards the views, therefore it is considered that there is sufficient separation of the outdoor living areas at 28B Dart Place and 35 & 37 Dart Place to ensure any effects on persons in regards to overlooking and privacy will be less than minor.

Noise and Nuisance

In order to prevent noise and disturbance to the surrounding properties, the applicant has stated that the proposed Visitor Accommodation will be managed by a property manager.

Guests will also be required to abide by a number of property rules, which includes no parties and outdoor areas not being used between 9pm and 7am.

Signs are to be displayed to remind guests that they are in a residential area and advising of these time restrictions.

Other persons

All other persons are sufficiently separated from the subject site to ensure effects are less than minor.

The persons considered affected pursuant to section 95E of the RMA and therefore to be served notice of the application are illustrated in Figure 7 below (in red outline) and tabled as follows:

Person (owner/occupier)	Address (location in respect of subject site)
Gudren De Lange & Ryan Jonathan De Lange	28A Dart Place



Figure 7: Persons to be served shown by a red outline (28A Dart Place)

5. DECISION: LIMITED NOTIFICATION AND SERVICE

For the reasons set out in the above assessment, this application for resource consent shall be notified on a limited basis to those persons identified in section 5.3 above.

Report prepared by Decision made by

Kirsten Binnie
CONSULTANT PLANNER

Andrew Woodford **SENIOR PLANNER**

APPENDIX 1 – Applicant's AEE **APPENDIX 2** – Application Plans

APPENDIX 3 – Visitor Accommodation Management Plan

13_{V1 8/8/14} RM181277

APPENDIX 1 – APPLICANT'S AEE

14v₁ 8/8/14 RM181277



ASSESSMENT OF ENVIRONMENTAL EFFECTS

Supporting Resource Consent Application for Visitor Accommodation Use

Ray Jiang 28B Dart Pl, Fernhill, Queenstown 2 Sep 2018

Table of Contents

1.0	The Applicant and Property Summary	. 3
2.0	DESCRIPTION OF PROPOSED ACTIVITY	. 4
3.0	SITE DESCRIPTION AND CONFIGURATION	. 5
4.0	DESCRIPTION OF PERMITTED ACTIVITIES	. 5
5.0	QUEENSTOWN LAKE DISTRICT PLAN	. 5
6.0	SECTION 104(1)(B) CONSIDERATIONS	. 6
7.0	OBJECTIVES AND POLICY ASSESSEMENT	. 6
8.0	THE MATTERS IN PART 2 OF RMA 1991	. 8
9.0	ASSESSMENT OF ENVIRONMENTAL EFFECTS	. 8
9.1	Visitor Accommodation Use	. 8
9.2	THE LOCATION, NATURE AND SCALE OF ACTIVITIES	. 9
9.3	PARKING & TRAFFIC	10
9.4	NEIGHBORHOOD & NOISE	10
9.5	PERSONS AFFECTED BY THE ACTIVITY	11
9.6	SUMMARY	11
Appen	dix 1 - HOUSE RULE	12
Appen	dix 2 – Aerial Map	13

1.0 The Applicant and Property Summary

Applicants Name: Ray Jiang, Luxe Stay Limited

Address: 28B Dart Place, Fernhill, Queenstown

Legal Description: UNIT 2 AU2A-AU2C DP 24529 ON LOT 20 DP 19867

Certificate of Title: OT16C/126, OT16

District Plan Zoning: Low Density Residential

Brief Description: Land use consent to undertake visitor accommodation

from an existing residential unit.

Summary of Reasons for Consent: Discretionary Activity

2.0 DESCRIPTION OF PROPOSED ACTIVITY

To run short term visitor accommodation throughout the year.

Land use consent is sought to allow for the visitor accommodation use of 28B Dart PI, up to 365 days per year. It is proposed to allow for up to a maximum of 6 people to stay at the property at any one time.

Management of the activity and housekeeping details will be included in a management plan, which will be submitted along with this application as a separate document.

A draft house rule has been attached as Appendix 1.



3.0 SITE DESCRIPTION AND CONFIGURATION

28B Dart PI is a 3 bedroom 2 bathroom townhouse in a duplex structure, with the neighboring property 28A being the other half of the duplex. The property spans three levels, with two bedrooms occupying the top floor, the lounge, kitchen and a bathroom occupying the middle floor, and an ensuite bedroom occupying the bottom floor. The unit will be rented as a whole to a single group of holiday makers via Airbnb or similar platforms. Most guests stay for a period of a few days.

- Bedroom 1: 2 guests max
- Bedroom 2: 2 guests max

Bedroom 3:

4.0 DESCRIPTION OF PERMITTED ACTIVITIES

2 guests max

The consent authority may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. In this case the permitted baseline includes the established built form including associated access and landscaping, and residential occupation of the residential unit, including associated effects such as car parking demand, traffic generation, noise, and impact on privacy. In addition, it is permitted to use the property as a Holiday Home if the following standards are met:

- Have a minimum stay of three nights;
- Not have more than two people in the same bedroom (eight in total for this property);
- Not be letting the site over 90 days throughout the whole year (multiple visits totalling 90 days).

The proposal differs to the permitted baseline above in respect that letting is proposed to exceed 90 days and there is no proposed minimum stay, and therefore a restricted discretionary consent is needed.

5.0 QUEENSTOWN LAKE DISTRICT PLAN

The site is zoned as Low Density Residential. The Plan states that the purpose of the Low Density Residential Zone is to:

"provide for low density permanent living accommodation, maintaining a dominance of open space and low building coverage. The zone seeks to maintain and enhance the low density residential areas with ample open space, low rise development and minimal adverse effects experienced by residents. Special amenity provisions remain in respect of the form, style and appearance of development on the terrace face along McDonnell Road at Arrowtown, being the Arrowtown Scenic Protection Area identified as part of the Zone."

Under the Queenstown Lakes District Plan the proposed activity requires the following consents:

A discretionary activity pursuant to Rule 7.5.3.4(i) in respect of Visitor Accommodation within the Low Density Residential Zone, in respect of:

- The location, external appearance and design of buildings;
- The location, nature and scale of activities on site;
- The location of parking and buses and access;
- Noise and;
- Hours of operation

Overall consent for a discretionary activity is required.

6.0 SECTION 104(1)(B) CONSIDERATIONS

Section 104 and 104B of the Resource Management Act (RMA) set out the relevant assessment matters for resource consent applications carrying the discretionary activity status.

104 Consideration of applications

- (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—
 - (b) any relevant provisions of—
 - (i) a national environmental standard:
 - (ii) other regulations:
 - (iii) a national policy statement:
 - (iv) a New Zealand coastal policy statement:
 - (v) a regional policy statement or proposed regional policy statement:
 - (vi) a plan or proposed plan; and

The assessment under these documents must include a discussion of any — (a) any relevant objectives, policies, or rules in a document; and (b) any relevant requirements, conditions, or permissions in any rules in a document; and (c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).

104B Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –

- (a) May grant or refuse the application; and
- (b) If it grants the application, may impose conditions under section 108

7.0 OBJECTIVES AND POLICY ASSESSEMENT

The objective and policies relevant to the current application can be found in Part 7 – Residential Areas

of the ODP. Those objectives and policies of direct relevance to the current application are identified and reproduced below;

7.1.2 District Wide Residential Objectives and Policies

Objective 3 – Residential Amenity

Pleasant living environments within which adverse effects are minimized while still providing the opportunity for community needs.

Policies:

- 3.5 To ensure hours of operation of non-residential activity do not compromise residential amenity values, social well-being, residential cohesion and privacy.
- 3.8 To ensure noise emissions associated with non-residential activities are within limits adequate to maintain amenity values.

The proposed visitor accommodation will be of a small scale and will be appropriately managed through conditions of consent and the property manager.

The dwelling is in a duplex structure, it has no direct neighbours except the other half of the duplex - 8A Dart Place. The potential for activity exposure for any neighbouring properties is minimal, and any (if at all) adverse effect will not be dissimilar to if the dwelling were occupied by long term tenants or owner. Restrictions on the use of outdoor living areas by guests will aid in reducing potential noise effects on neighbouring properties, while the small scale of the activity will further reduce associated effects of the activity. As such it is considered that the proposed activity will be consistent with Objective 3 above.

7.2.3 Objectives and Policies – Queenstown Residential and Visitor Accommodation Areas

Objectives -

- 1. Residential and visitor accommodation development of a scale, density and character, within sub zones which are separately identifiable by such characteristics such as location, topography, geology, access, sunlight or views.
- 2. Residential development organised around neighbourhoods separate from areas of predominately visitor accommodation development. Provision for new consolidated residential areas at identified locations.
- 3. Consolidation of high density accommodation development in appropriate areas.
- 4. To recognise and provide for the non-residential character of the Commercial Precinct overlay which is distinct from other parts of the High Density Residential Zone.

Policies:

- 7. To provide for non-residential activities in residential areas providing they meet residential amenity standards and do not disrupt residential cohesion.
- 8. To ensure the scale and extent of any new Visitor Accommodation in residential areas does not compromise residential amenity values by adversely affecting or altering existing neighbourhood character.

As discussed in the AEE above, the proposal will have a less than minor effect on the residential amenity of the receiving environment. The nature and scale of the proposed visitor accommodation will be appropriate within the site context and not adversely impact the existing neighbourhood character of the units. As such it is considered that the proposed activity is not contrary to the objective 7.2.3 above.

8.0 THE MATTERS IN PART 2 OF RMA 1991

In this instance, the purpose of the Act is to ensure that amenity values will not be adversely affected by the visitor accommodation use of the units. The AEE above has identified that the actual and potential effects of the proposal will have on the site as a whole will be in line with the overall character and use of the receiving environment. As such it is considered that the proposal will not be contrary to any of the matters set forth in Part 2.

9.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS

9.1 Visitor Accommodation Use

The following assessment matters are listed under section 7.7.2(vii) of the operative QLDP. The following is an assessment of the current proposal against these matters;

- (a) Compatibility with amenity values of the surrounding environment considering the visual amenity of the street, neighbouring properties or views of the lake; and
 - (i) The character, scale and intensity of the proposed use and its compatibility in relation to surrounding and/or adjoining residential neighbourhoods
 - (ii) The nature of the development in the context of the permitted future uses on nearby sites Loss of privacy
 - (iii) The proximity of outdoor facilities to residential neighbours
 - (iv) Hours of operation
 - (v) The ability to landscape/plant to mitigate visual effects
 - (vi) Whether the external appearance of the buildings complements the surrounding landscape and urban character, including when viewed from the lake

The proposed activity will allow for the conversion of an existing building from residential to visitor accommodation use. No additions to the existing building are proposed. The scale of the activity is appropriate and will allow up to two people to be accommodated within each of the bedrooms. The small size of outdoor area will physically limit the amount of people able to access this space. There will be no change to the external appearance of the unit, when viewed from outside, it will be impossible to visually observe that the unit is being used for Visitor Accommodation.

- (b) Any adverse effects in terms of:
 - (i) The adequacy and location of car parking for the site
 - (ii) Noise, vibration and lighting from vehicles entering and leaving the site or adjoining road, which is incompatible with the levels acceptable in a low-density residential environment.
 - (iii) Loss of privacy.
 - (iv) Levels of traffic congestion or reduction in levels of traffic safety which are inconsistent with the classification of the adjoining road.
 - (v) Pedestrian safety in the vicinity of the activity.
 - (vi) Any cumulative effect of traffic generation from the activity in conjunction with traffic generation from other activities in the vicinity.
 - (vii) Provision for coaches to be parked off-site
 - (viii) The ability to mitigate any adverse effects of the additional traffic generation such as through the location and design of vehicle crossings, parking and loading areas or through the provision

of screening and other factors which may reduce the effect of the additional traffic generation, such as infrequency of the activity, or limited total time over which the traffic movements occur.

The site has adequate parking for the proposed activity as per the requirements of the District Plan. With maximum number of guests matching what the dwellings were designed for, the scale of the activity will not result in potential increase in traffic that would adversely impact the safety and efficiency of Dart Place compared to the permitted residential activity. Overall, it is considered that any potential or actual effect of the proposed activity onto the roading network will be negligible.

- (c) Mitigation of noise emissions beyond the property boundary considering:
 - (i) The adequacy of mitigation measures, including the layout of outdoor activities (for example barbecues, spa pools), and the ability to screen those activities by vegetation, fencing or building.
 - (ii) Measures that can be incorporated into the premises to provide for acoustic insulation and /or attenuation of noise emissions.

The scale of the activity would be similar to that which could be accommodated through the residential use of the site. Standard conditions of consent in combination of with measures outlined within management plan (submitted separated with application) will appropriately mitigate potential noise emissions onto neighbouring sites.

- (d) The ability to supply water, and dispose of sewage, stormwater and other wastes consistent with Regional Council requirements.
- (e) The ability to provide adequate, potable water supply, adequate firefighting provisions, and to dispose of sewage, stormwater and other wastes so as to avoid potential adverse effects.

Development contributions will appropriately deal with any additional demand on Council infrastructure than what is currently in place.

9.2 THE LOCATION, NATURE AND SCALE OF ACTIVITIES

The nature and scale of the proposed visitor accommodation activity is of a scale that is compatible with the character and amenity values of the wider locality. The number of people accommodated is not dissimilar to that anticipated by residential occupation of the unit. No changes to the location, external appearance or design of the dwelling are proposed. The dwelling will continue to complement the surrounding environment. There will be no signage/advertising used for the visitor accommodation ensuring it is in keeping with the residential zone. The majority of the activities associated with the visitor accommodation will be restricted to the indoor use of the existing dwelling, meaning effects will be indiscernible on the surrounding environment. Conditions of consent will be included to mitigate noise levels and the use of outdoor areas is limited in respect to hours of use. The existing unit was established for residential living and will adequately provide for visitor accommodation use. The differences between the use of the property for current residential activities compared to the visitor accommodation proposed would not be overly noticeable from the wider environment. As such, any adverse effects on the environment in respect to character and amenity will be less than minor.

9.3 PARKING & TRAFFIC

The proposal will comply with car parking requirements set forth in the Operative District Plan for visitor accommodation. Any effects on traffic will not be detrimental to the safety or efficiency of the access area. As such it is considered that any effect on traffic, parking or access will be negligible.

The current parking arrangement onsite is 2 allocated parking space under carport. With the proposed activity allowing a single group of maximum of 6 adults, this parking arrangement is considered to be more than sufficient to cater for the demand of the activity. A house rule will be established to ensure vehicles will only be parked within the allocated space, therefore limiting the effects of off-site parking in relation to the surrounding environment.

The proposal will not result in any additional requirements for loading areas, vehicle crossings, or have any effects on pedestrian safety or access. It is not anticipated that visitor accommodation of this nature and scale will require access of parking for buses. The parking arrangements meet the district plan requirements for both residential and visitor accommodation in the Low Density Residential zone and therefore any adverse effects on the environment in respect to parking and access are considered to remain unchanged. Subsequently, adverse parking and access effects on the surrounding environment will be less than minor.

9.4 NEIGHBORHOOD & NOISE

Being in a duplex structure, 28B Dart Place adjoins with 28A Dart Place as a direct neighbor. The 2 properties mirror each other in construction and are separated by a common wall in between.

A house rule will be published with the expectation for guests to control noise, and respect the peace and quietness of the neighborhood (strictly no party, no high volume activity after 8pm, no use of outside decking area after 9pm... etc). The complete house rule can be found in Appendix 1.

To further reduce any potential adverse effect on 28A Dart Place, the consent applicant has volunteered to prohibit smoking not only inside the house but also on the front deck, where smell can potentially travel through to the neighboring property. This condition will be written in the house rule along with other conditions.

Potential guests wanting to book a stay in the house will have to read and agree to the conditions in the house rule before a booking can be confirmed.

Guest check-out is before 10am.

Housekeeping works in the window between 10am and 3pm. Housekeeping work involves ordinary household cleaning, hence does not present a noise issue.

This type of visitor accommodation activity, when well-managed, is similar in nature to a regular household living within a dwelling and does not affect neighbours.

Overall it is assessed and deemed that any potential noise generated from the proposed visitor accommodation will be similar to the noise generated if the property were to be rented on long term basis.

9.5 PERSONS AFFECTED BY THE ACTIVITY

Visitor accommodation of the scale proposed and managed through the conditions of consent volunteered by the applicant, will have similar effects to residential occupancy. Therefore there are no parties considered affected from the activity subject to inclusion of the volunteered conditions of consent.

9.6 SUMMARY

As discussed in the AEE above, any actual or potential effect of the visitor accommodation use of the site will be less than minor. Car parks have also been appropriately provided on the site in accordance with the requirements of the Operative District Plan. The proposed management scheme in combination with standard conditions of consent will ensure that any actual or potential effects of the proposal are less than minor. As such it is considered appropriate to process this application on a non-notified basis.

Appendix 1 - HOUSE RULE

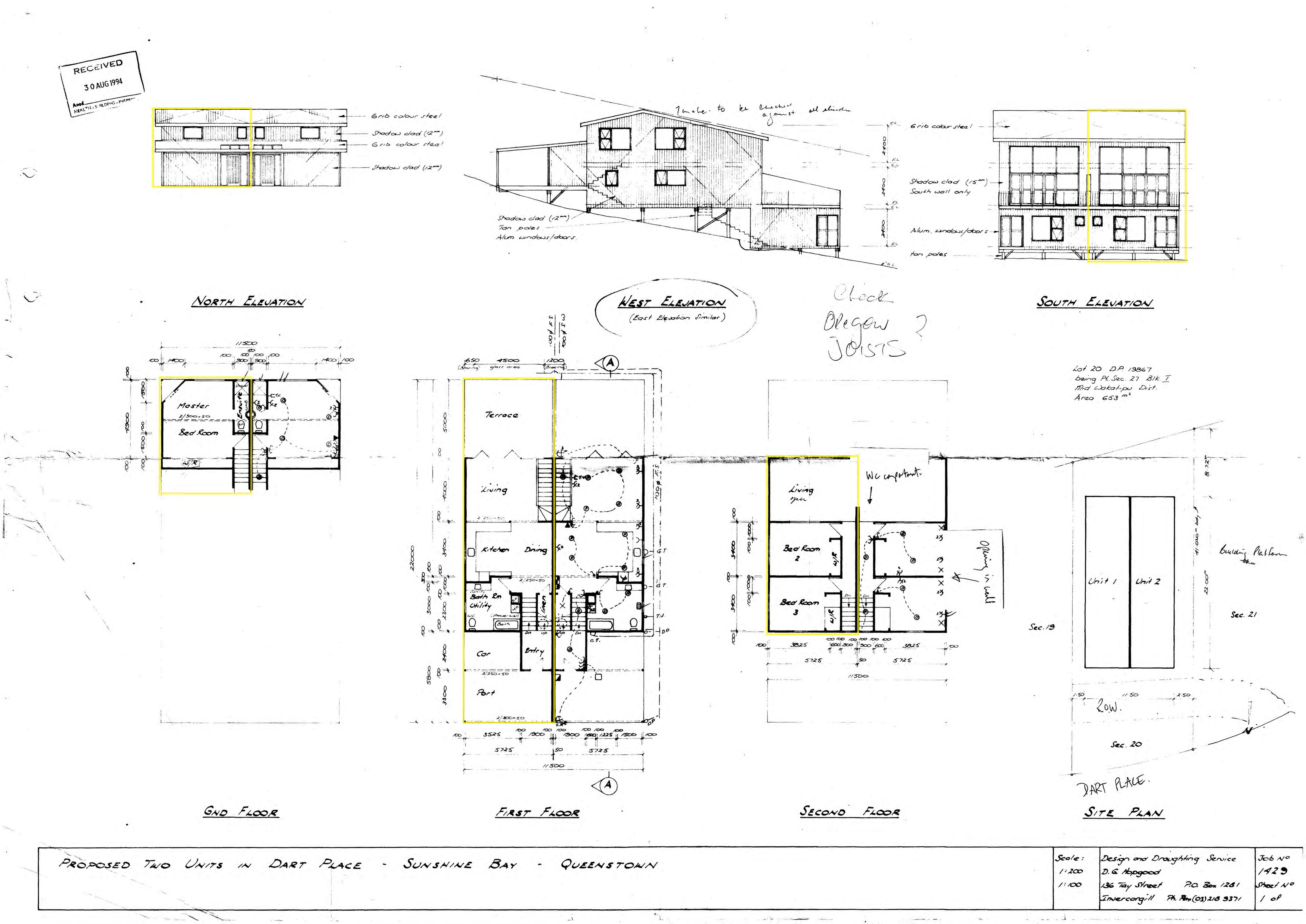
(This house rule will be printed on A4, laminated and be installed on multiple placed within the premises. The house rule will also be presented to any potential guests and will need to be agreed by the guest before a booking can be confirmed)


- The house is situated within a nice and quiet residential areas. Please be respectful of the neighborhood.
- Be courteous of neighbors. After 8 pm any noisy activities should only occur inside with windows and doors closed.
- There shall be no use of the outdoor deck after 9pm every day.
- No pets allowed.
- No smoking anywhere inside or on the deck.
- No Party
- Please use the allocated parking space within the perimeters of the dwelling, details in welcome letter. 2 cars max.

Appendix 2 – Aerial Map



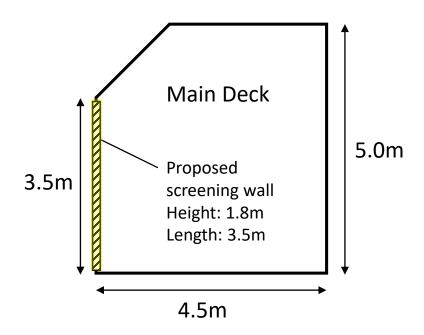
APPENDIX 2 – APPLICATION PLANS





Proposed privacy screen on main deck

It is proposed that a new privacy screen is to be built on the west side of the main deck at 28B Dart Place. The screen is to be built with similar material as the existing wall.





APPENDIX 3 – VISITOR ACCOMMODATION MANAGEMENT PLAN

16v1 8/8/14 RM181277



VISITOR ACCOMMODATION MANAGEMENT PLAN

This Management plan applies to the use of:

28B Dart Place, Fernhill, Queenstown, (UNIT 2 AU2A-AU2C DP 24529 ON LOT 20 DP 19867)

as a visitor accommodation in accordance with resource consent RM181277.

Section 1: Property Manager Details

Name Ray Jiang

Address Unit 202, 327 Frankton Road, Queenstown

Email <u>luxestay@outlook.co.nz</u>

Phone 0064 211263900 (can be reached 24 hours)

Section 2: Property Manger Responsibilities

- Ensure the guests have a copy of the house rules prior to their arrival. The same house rules are also physically posted within the unit.
- Ensure the number of guests does not exceed the number specified in resource consent.
- Ensure all rubbishes generated from guests are promptly and hygienically disposed of.
- Attend to guests' needs should they arise.

SECTION 3: HOUSE RULES

- The house is situated within a nice and quiet residential areas. Please be respectful of the neighborhood.
- Be courteous of neighbors. After 8 pm any noisy activities should only occur inside with windows and doors closed.
- The use of the outdoor deck area is prohibited between 9pm and 7am daily.
- No pets allowed.
- No smoking anywhere inside or on the deck.
- No Party
- Please use the allocated parking space within the perimeters of the dwelling, details in welcome letter. 2 cars max.

Note: House rule will be printed in multiple copies and physically posted within the apartment.

APPENDIX 3

Updated Record of Title 28A Dart Place



RECORD OF TITLE UNDER LAND TRANSFER ACT 2017 UNIT TITLE

Search Copy



Identifier OT16C/126
Land Registration District Otago
Date Issued 24 May 1995

Prior References Supplementary Record Sheet

OT11A/197 OT16C/128

Estate Stratum in Freehold

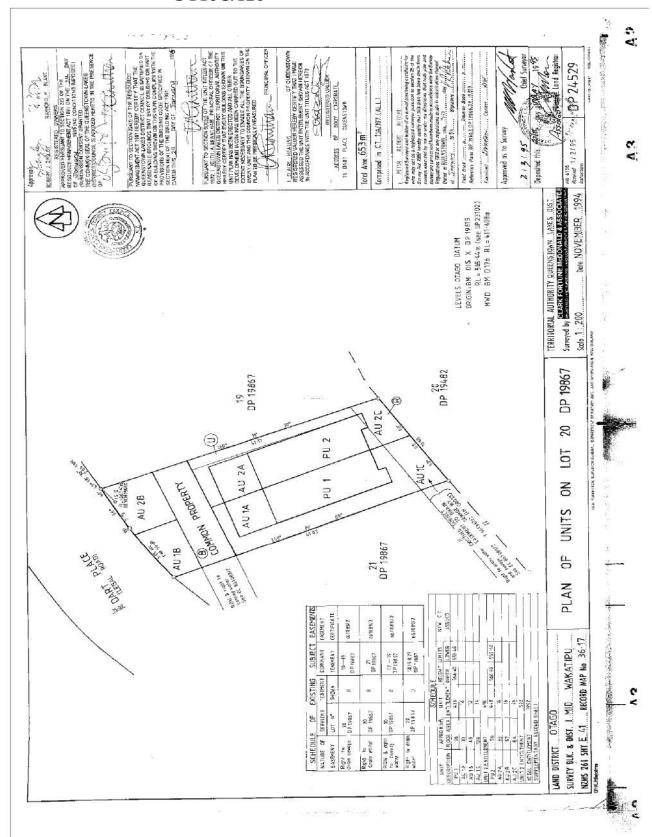
Legal Description Unit 1 and Accessory Unit 1A, 1B and 1C

Deposited Plan 24529

Registered Owners Harry Xiaotian Li

The above estates are subject to the reservations, restrictions, encumbrances, liens and interests noted below and on the relevant unit plan and supplementary record sheet

11367742.3 Mortgage to ANZ Bank New Zealand Limited - 11.3.2019 at 11:58 am



Identifier

OT16C/126



SUPPLEMENTARY RECORD SHEET UNDER UNIT TITLES ACT 1972

Search Copy

Identifier OT16C/128

Land Registration DistrictOtagoDate Issued24 May 1995Plan NumberDP 24529

Subdivision of

Lot 20 Deposited Plan 19867

Prior References OT11A/197

Unit Titles Issued

OT16C/126 OT16C/127

Interests

OWNERSHIP OF COMMON PROPERTY

Pursuant to Section 47 Unit Titles Act 2010 -

- (a) the body corporate owns the common property and
- (b) the owners of all the units are beneficially entitled to the common property as tenants in common in shares proportional to the ownership interest (or proposed ownership interest) in respect of their respective units.

The above memorial has been added to Supplementary Record Sheets issued under the Unit Titles Act 1972 to give effect to Section 47 of the Unit Titles Act 2010.

Subject to the following rights over part herein in terms of DP 19867: (a) Right of way and right to convey water over part marked 'B' appurtenant to Lots 17-19 (CsT OT11A/194, OT12A/1190, OT11A/196) (b) Rights to drain water over (i) part marked 'B' appurtenant to Lot 21 (CT OT12A/1178) (ii) part marked 'U' appurtenant to Lots 18, 19, 21 (CsT OT12A/1190, OT11A/196 and OT12A/1178) (c) Rights to drain water and sewage over part marked 'R' appurtenant to Lots 10-19 (CsT OT11A/187, OT15B/830, OT11A/189-194, OT12A/1190, OT11A/196) and Lot 9 DP 19866 (CT OT15A/528) specified Easement Certificate 661089.2 - 11.8.1986 at 10.29 am (Subject to Section 309 (1) (a) Local Government Act 1974) Appurtenant hereto are the following in terms of DP 19867: (a) Right of way and right to convey water over part Lot 21 (CT OT12A/1178) marked 'A' (b) Rights to drain water and sewage over: (i) part Lot 21 (CT OT12A/1178) marked 'S' (ii) part Lot 22 (CT OT11A/199) marked 'T' specified Easement Certificate 661089.2 - 11.8.1986 at 10.29 am (Subject to Section 309 (1) (a) Local Government Act 1974)

Land Covenant in Deed 661360 - 14.8.1986 at 10.00 am

Subject to a right (in gross) to drain sewage over part herein marked 'R' on DP 19867 in favour of The Lake County Council created by Transfer 661361.2 - 14.8.1986 at 10.01 am (Subject to Section 309 (1) (a) Local Government Act 1974)

APPENDIX 4 VA Management Plan



VISITOR ACCOMMODATION MANAGEMENT PLAN

This Management plan applies to the use of:

28B Dart Place, Fernhill, Queenstown, (UNIT 2 AU2A-AU2C DP 24529 ON LOT 20 DP 19867)

as a visitor accommodation in accordance with resource consent RM181277.

Section 1: Property Manager Details

Name Ray Jiang

Address Unit 202, 327 Frankton Road, Queenstown

Email <u>luxestay@outlook.co.nz</u>

Phone 0064 211263900 (can be reached 24 hours)

Section 2: Property Manger Responsibilities

- Ensure the guests have a copy of the house rules prior to their arrival. The same house rules are also physically posted within the unit.
- Ensure the number of guests does not exceed the number specified in resource consent.
- Ensure all rubbishes generated from guests are promptly and hygienically disposed of.
- Attend to guests' needs should they arise.

SECTION 3: HOUSE RULES

- The house is situated within a nice and quiet residential areas. Please be respectful of the neighborhood.
- Be courteous of neighbors. After 8 pm any noisy activities should only occur inside with windows and doors closed.
- The use of the outdoor deck area is prohibited between 9pm and 7am daily.
- No pets allowed.
- No smoking anywhere inside or on the deck.
- No Party
- Please use the allocated parking space within the perimeters of the dwelling, details in welcome letter. 2 cars max.

Note: House rule will be printed in multiple copies and physically posted within the apartment.

APPENDIX 5 Withdrawn Submission

Sub #	Date Received	Name	Email Add	Support or Oppose	Wishes to speak @ Hearing	Late Submission
1	17/12/2018	Ryan and Gudrun de Lange	rjdelange@hotmail.co.uk;	Oppose	Yes	

POSITION:						
Oppose	1					
Support						
Seeks Changes						
Not Indicated						
	1					
Late Submissions						
WISHES TO SPEAK AT HEARING:						
Yes	1					
No						
Not indicated						
	1					

From: Gudrun < kiwi.ge@hotmail.com> **Sent:** Monday, 17 December 2018 9:31 PM

To: Niamh Sheehy

Subject: Submission on a Resource Consent Application

To Queenstown Lakes District Council

Submission on a Resource Consent Application

Our Details:

Names: Ryan and Gudrun de Lange

Mobile Numbers: 0210757707 and 02102556347

Email Address: rjdelange@hotmail.co.uk

Postal Address: 28A Dart Place, Fernhill, Queenstown

Applicant Details:

Ray Jiang and Luxe Stay Limited

Application Reference Number: RM181277

Details of Application: Land use consent to undertake Visitor Accommodation from an exisiting residential

unit (28B Dart Place), for up to 365 nights per calendar year for up to (6) guests.

Location of Application: The subject is situated at 28B Dart Place, Fernhill, Queenstown

Submission:

We oppose the application

We do wish to be heard in support of my submission

Signature:

Ryan de Lange and Gudrun de Lange

Date: 17/12/2018

My submission is:

We do not support this application because;

We bought 28A Dart Place in October 2012 and have lived in it since. We have always had great relations with the then owners and still keep in contact and also any long term tenants. During this time period we communicated openly, helped each other with remedial work on the properties and respected each others homes and families. It was lovely living here with our growing families.

In early 2017 Ray Jiang bought 28B Dart Place. And shortly afterwards started his short term accommodation business, (without council knowledge or approval). With the constantly changing guests we were being constantly disturbed or having our sleep disrupted. During this time we had a 5 month old child who could not form any sort of sleep pattern, this in turn took effect on my wife who was never getting enough sleep. Is this neighbourly or fair?

We tried for the first year to keep communication open with Ray. This normally ended in frustration and failure and nowhere nearer to solving any issues. The outcome is that Ray Jiang is a business man who has no respect for his neighbours. He does not show any form of empathy or sympathy even when the facts are laid out in front of him. My wife broke down in tears trying to make him understand the impacts that his business has on the wellbeing of our family. Rays responds was to walk away from the conversation. Therefore I had to start informing the council about the affects that 28B Dart Place was having on my family.

Another fundamental flaw with having short term accommodation is that there is no responsible person to make sure that the guests respect the property and abide by the house rules. Ray Jiang lives in Auckland and is not affected in any way by noisy, drunk, abusive, rude, guests. My family has to suffer a disrupted home life so that Ray's business can prosper. Is this neighbourly or fair?

There is a couple who live in the downstairs unit and are listed as hosts or host help. They are there as a cover. The couple has absolutley no contact with the guests. Again the council rules are being twisted in Ray's favour.

We have notified the council on numerous occasions. Please talk to Isabelle Logez and she can show you the email trail. We have also written to Jim Boult explaining our situation. There will also be reports of noise complaints.

In August 2017 Ray asked us for consent to have short term accommodation 365 days a year. We replied on the 30.08.2017 and gave reasons and explanations for not giving consent. Ray did not make any attempt to discuss any of the items listed.

The list of reasons below are there because they are excessive, disrespectful, disruptive and constant. These listed items would not be tolerated by any other neighbour.

For each of the listed items below we have to act and try to resolve the problem. e.g. going across at midnight to ask intoxicated guests to be quiet. Is this fair?

The Reasons for my submission are:

The owner has no control over what happens in or at his property.

The owner shows no empathy or sympathy towards our families health and wellbeing. The hosts are fake.

The number of guests per night has exceeded the permitted amount on numerous occassions.

We are regularly disrupted by excessive noise from;

late arrivals of guests.
guests departing early in the morning.
guests partying/loud music late at night.
intoxicated guests coming home late.
abusive guests
use of noisy appliances late at night.
slamming doors.
people running and jumping through the house.

We are being asked by guests how to enter the house.

We've had to supply consumables out of sympathy for the guests.

Submission #1

High number of guests smoke even though it states that the house is a non smoking property. Cigarette ends left on our property, smoke blows through our lounge doors.

Rubbish is not disposed of correctly - overflowing bins, which attract animals to the carports. Letter box is full of post which overflows and litters the street.

General upkeep of the lawns is non exsistant. Grass has been trimmed once in the last year and in a bad manner.

My Submission would be met by the Queenstown Lakes District Council making the following decision: Decline the application for resouce consent to undertake Visitor Accommodation for up to 365 nights per calendar year at 28B Dart Place