

**BEFORE THE QUEENSTOWN LAKES  
DISTRICT COUNCIL**

**UNDER**

the Reserves Act 1977

**IN THE MATTER**

of submissions on the notice of intention to grant a right of way easement over an area of the Greater Widgeon Place Recreation Reserve, for the benefit of farm access and gardening lots associated with the Bridesdale Development

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**STATEMENT OF EVIDENCE OF LAUREN HILARY CHRISTIE ON BEHALF OF  
BRIDESDALE FARM DEVELOPMENTS LIMITED  
26 APRIL 2022**

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## 1. INTRODUCTION

- 1.1 My full name is Lauren Hilary Christie. I am the General Manager of the Queenstown office of Winton Land Limited ("**Winton**"), which is the ultimate parent company of Bridesdale Farm Developments Limited ("**BFDL**"). Winton is a publicly listed developer with several developments currently in progress across New Zealand and in Australia. BFDL was incorporated to undertake the Bridesdale Farm development (discussed further below).
- 1.2 I have a Building Science degree and PhD from Victoria University of Wellington. I have also studied at Stanford University Graduate School of Business, specifically the Summer Institute for Entrepreneurship. I have extensive experience as a project and development manager over a range of construction and land development projects.
- 1.3 I have been in my current role as General Manager for over five years. During this time, I have been integrally involved in many of Winton's developments, including the latter stages of the Bridesdale Farm development.
- 1.4 I am familiar with the matters addressed in this brief of evidence, either from my own personal knowledge or from my review of BFDL's records. I am authorised to give this evidence on behalf of BFDL.

## 2. BRIDESDALE FARM DEVELOPMENT

- 2.1 In early 2017, BFDL completed the development of a 138-lot Special Housing Area subdivision ("**Bridesdale Farm**") at the eastern end of the Lake Hayes Estate residential development between Queenstown and Arrowtown. The development was the first affordable housing development to be granted consent as a fast-tracked Special Housing Area in the Central Otago region and involved the subdivision of four original land parcels into 138 residential allotments and associated amenities.
- 2.2 The provision of "garden allotments" is a unique component of Bridesdale Farm. Each of the 138 principal allotments within the development has an accompanying (but geographically separate) garden allotment included within its title (see a sample title at **Appendix A**). These approximately 50m<sup>2</sup> garden allotments are located on the lower portion of the Bridesdale Farm land. Each of the garden allotment lots adjoins Lot 405 DP 505513 ("**Lot 405**") comprised in identifier 763196 (see **Appendix B**). Lot 405 is owned by BFDL.
- 2.3 The completion of the Bridesdale Farm development also generated a balance lot, Lot 404 DP 505513 (identifier 763196) ("**Lot 404**") (see **Appendix B**). Lot 404 sits at the south-eastern corner of the development, running down towards the Kawarau River. Lot 404 is also owned by BFDL. It is currently used for light farming.
- 2.4 Several parcels of land were also vested in the Queenstown Lakes District Council ("**QLDC**") as part of the implementation of the Bridesdale Farm development. As is usual when land is vested in the Council as part of a residential development, this was done pursuant to conditions agreed with QLDC and at no cost to QLDC (i.e. no consideration was payable or paid by QLDC for this land). The parcels that vested in QLDC included:
- (a) Lot 308 DP 505513 ("**Lot 308**"), comprised in identifier 763195 (see **Appendix C**), which sits broadly between Lot 404 and the residential

allotments within Bridesdale Farm separated by Hayes Creek Road, and was vested in QLDC as recreation reserve; and

- (b) Lot 205 DP 505513 ("**Lot 205**"), comprised in identifier 763189 (see **Appendix D**), which runs along the top of Lot 405 (between it and Lot 308) and down the western edge of Lot 404. Lot 205 contains the unpaved roadway that is used by the public to access the Queenstown Trail and Kawarau River from Hayes Creek Road, and was also vested in QLDC as recreation reserve (discussed further below).
- 2.5 Parcels that now comprise the public roading network within the Bridesdale Farm development were also vested in QLDC.
  - 2.6 Currently, Bridesdale Farm residents access their respective garden allotments via Hayes Creek Road (which is part of the public roading network), and then via the formed gravel road within Lots 205, 308 and 405, constructed and paid for by BFDL.
  - 2.7 I have caused to be prepared, and produce at **Appendix E**, a survey plan showing:
    - (a) Lots 205, 308, 404 and 405 (including the location of the formed gravel road within Lots 205 and 308);
    - (b) the garden allotments that adjoin Lot 405;
    - (c) part of the Kawarau River, as it runs parallel with Lot 404; and
    - (d) the proposed location of the easement notified on 13 January 2022 by way of the QLDC's notice of intention to grant a right of way easement over an area of the Greater Widgeon Place Recreation Reserve ("**Notice**").

### 3. THE CURRENT ISSUE – LACK OF LEGAL ACCESS

- 3.1 The need for the easement the subject of this hearing has arisen because – for reasons explained further below – Lot 404 and Lot 405 (as well as the garden allotments adjoining Lot 405) do not have legal access over Lots 205 and 308 to the surrounding public roading network.
- 3.2 As I have discussed above, there is currently an unpaved roadway that traverses the length of Lot 205 (and part of Lot 308) and is used both by the public accessing the Queenstown Trail and Kawarau River (and the carpark constructed at the end of Lot 205) and is also used to access Lots 404, 405 and the garden allotments. However, there is no formal easement in place over Lots 205 and 308 that provides legal access to Lots 404 or 405 or the garden allotments.
- 3.3 It is for this reason that BFDL has applied for a right of way easement to provide legal access over Lots 205 and 308 to Lots 404 and 405 (and, consequently, the garden allotments), being the easement set out in the Notice. As discussed in further detail below, BFDL supports the granting of the easement but seeks amendments to certain of the conditions proposed in the Notice.

### How the issue arose

- 3.4 As I have outlined above, the Bridesdale Farm development was undertaken by BFDL. BFDL was the legal owner of all relevant parcels of land prior to the completion of the subdivision.
- 3.5 Originally, BFDL's intention was that Lot 205 would provide the necessary legal access to Lots 404 and 405, as well as the garden allotments adjoining Lot 405.
- 3.6 The consent documents initially lodged with QLDC (relevant extracts at **Appendix F**) proposed that what is now Lot 205 (then part of a larger Lot 204) would be vested in QLDC as road reserve. This contemplated that:
- (a) like other aspects of the public roading network within the development, the road proposed within (now) Lot 205 would become part of the public roading network for the benefit of the public and the proprietors of the Lots adjoining it; and
  - (b) the road would be both owned and maintained by QLDC, at QLDC's cost.
- 3.7 I understand, however, that at some point in the consenting process QLDC advised that it required that part of Lot 204 which is now Lot 205 to be vested as recreation reserve under the Reserves Act 1977. Lot 205 was then consented as a recreation reserve that contained the accessway to the Kawarau River and Queenstown Trail and car parking areas. BFDL has been unable to locate in its records any stated reason for the required change but has been informed by QLDC more recently that QLDC did not want to accept the maintenance burden of a legal road situated on a flood plain.
- 3.8 As part of implementing the consent, BFDL constructed, at its cost, the current accessway that runs down the length of Lot 205, from Hayes Creek Road to the north to the Kawarau River to the south, as well as the public carpark adjacent to the Kawarau River. BFDL's intention was that this road would not only be used by the public to access the Kawarau River and Queenstown Trail, but would also constitute the necessary legal access to Lots 404 and 405, as well as the garden allotments adjoining Lot 405.
- 3.9 In the usual course, the change to Lot 205 vesting as recreation reserve rather than road reserve would (and should) have resulted in Lot 205 being added to the final list of easements required to effect the subdivision submitted with the application; that is, an easement should have been registered over Lot 205 at the time of the subdivision providing for access (and the transmission of services) across Lot 205 for the benefit of Lots 404, 405 and the garden allotments. For whatever reason (and, evidently, in error) Lot 205 was omitted from that final list of required easements, with the effect that Lots 404 and 405 and the garden allotments were left without legal access when the subdivision was completed in April 2017. This error was not identified at the time by BFDL nor by QLDC (which, as I note above, I understand had required the change to recreation reserve).
- 3.10 The section 224C certificate for the Bridesdale Farm development was granted on 5 April 2017 and the plan was deposited on 12 April 2017.

### Subsequent engagement with QLDC

- 3.11 The lack of legal access to Lots 404 and 405 was first drawn to my attention in late 2018 in the context of BFDL's (then) exploration of opportunities to develop Lot 404 for use as a Tennis Academy (this is no longer pursued by BFDL). In discussions with QLDC, we were told that the informal "road" on Lot 205 could not be used to access the proposed Tennis Academy as it was only to be used for public recreation uses and not to service a private recreation activity.
- 3.12 Putting aside the question whether BFDL agreed with this assessment, QLDC's position highlighted that neither Lot 404 nor Lot 405 had formal legal access from the existing public roading network.
- 3.13 To resolve the issue, BFDL made an application for a right of way easement over the full length of Lot 205 on 20 March 2019 (note that this was resubmitted on 23 April 2019 to use a different form in accordance with instructions from QLDC) (**Appendix G**). This application also sought the granting of services easements, including to secure rights to convey wastewater and water, telecommunications and electricity. On 22 October 2019, BFDL amended the application at QLDC's request so that it related solely to the right of way (i.e. the easement sought for services was removed).
- 3.14 QLDC advised us, however, on 5 May 2020 that it was not comfortable proceeding even just with the right of way easement sought. Its stated reason was that it wished to preserve future reserve plans, and did not want to commit to an enduring legal right of way over the full length of Lot 205.
- 3.15 Following this advice, we continued our discussions with QLDC to seek to find a suitable and mutually acceptable way of securing legal access for Lots 404 and 405. Ultimately, in an effort to progress discussions after more than a year of being unable to reach a solution, BFDL proposed an alternative access route over Lot 205 and Lot 308, i.e. to the north of the garden allotments ("**Alternative Route**"). The Alternative Route is not BFDL's preferred access route (and does not reflect either the original intent behind the subdivision nor the established position on the ground), but means a much lesser imposition on QLDC's recreation reserve land by adopting the shortest (and least intrusive) possible route between Hayes Creek Road and Lots 404 and 405.
- 3.16 The Alternative Route was originally proposed by BFDL on 18 June 2020. Despite BFDL following up with QLDC's property advisors on several occasions, this option was not materially progressed by QLDC. QLDC's property advisors instead informed BFDL on 27 July 2020 that QLDC would be open to providing access via licence to occupy. QLDC confirmed on 1 October 2020 that its preference was to provide access over the reserve directly to the gardens via a licence and not an easement. A licence provides insufficient certainty of access and was not acceptable to BFDL.
- 3.17 At that point in time BFDL was actively in mediation with QLDC with respect to a proposed rezoning of Lot 404. The easement application was paused as other processes were being undertaken. BFDL then sought to recommence discussions around the easement application in 2021. BFDL became concerned at the lack of progress and accordingly requested that our solicitors, Russell McVeagh, send a formal letter to QLDC on 10 September 2021 to try to get some traction on resolving this situation. Finally, in response to this letter, QLDC proposed a right of way easement over the Alternative Route, subject to certain conditions.

- 3.18 There was a period of correspondence between QLDC and BFDL thereafter regarding the proposed easement conditions (see **Appendix H**). Through this correspondence, the amendments to the easement conditions now sought by BFDL were all raised with QLDC prior to the public notification of the proposed easement pursuant to the Notice. However, it was not possible to resolve all of these matters prior to notification and BFDL therefore sought to be heard on these matters following notification.

#### **4. BFDL SUPPORTS THE EASEMENT APPLICATION**

- 4.1 In general terms, and subject to the matters outlined in section 5 below, BFDL supports the granting of the proposed easement notified in the Notice. In particular, I can confirm that BFDL agrees it is appropriate that the easement is granted and that the easement contain the proposed conditions set out below:

- (a) Condition (b) - Final alignment of the easement to be agreed with Council.
- (b) Condition (c) - QLDC Parks and Reserves and Infrastructure departments to be consulted prior to any works commencing.
- (c) Condition (d) - Final conditions of the easement to be agreed between Council and Bridesdale Farm Developments Limited that must include:
  - (i) Condition (d)(i) - A mechanism to ensure ongoing legal access for the garden allotment owners.
  - (ii) Condition (d)(ii) - Safe and unimpeded public access to the remainder of the reserve.
  - (iii) Condition (d)(iv) - Prevent Bridesdale Farm Developments Limited from objecting to future uses of the reserve land for other purposes that do not prevent Bridesdale Farm Developments from accessing their farm lots.
- (d) Condition (e) - Ability to register the easement limited to a period of three (3) years from the date of full Council approval.
- (e) Condition (f) - Bridesdale Farm Developments Limited will meet all of Council's reasonable costs associated with the easement.

#### **5. BFDL'S REQUESTED CHANGES TO CONDITIONS**

- 5.1 BFDL considers that amendments are required to proposed easement conditions (a), (d)(iii) and (d)(v) to ensure that the right of way easement fulfils its purpose and is granted on a fair and equitable basis.
- 5.2 I discuss below the factual matters relevant to BFDL's reasons for seeking these amendments.

### Limitations on future use

- 5.3 Proposed easement condition (a) restricts the use of the easement "to light vehicle and pedestrian access for the current farming use and to enable access to the garden allotments".
- 5.4 BFDL has been in mediation with QLDC regarding a possible rezoning of Lot 404 to some form of recreation zoning. It is possible that that rezoning could be made operative or, at some other point in the future, BFDL may wish to seek further use of Lot 404 or sell the land to a purchaser who wishes to further realise the potential of that land. (A change of use to Lot 405 is currently unlikely as it simply facilitates access to the garden allotments.)
- 5.5 As I have outlined above, the process with QLDC just to get to this point has taken many years and, unfortunately, required the prospect of legal proceedings, before we could get any traction with QLDC. While I am very pleased that we are now at the point of discussing the conditions on which an easement will be granted, I am concerned about the possibility of a similarly protracted and costly process in order to secure any amendment to proposed easement condition (a).
- 5.6 I believe that any potential purchaser of Lot 404 would have the same reservations.

### Potential relocation of easement through Widgeon Place

- 5.7 BFDL has already incurred the costs of:
- (a) establishing the current formed gravel access road along the length of Lot 205 from Hayes Creek Road to the carpark adjoining the Queenstown Trail and Kawarau River; and
  - (b) establishing the current formed gravel access road between Hayes Creek Road, over Lots 205 and 308, to Lot 405 and the garden allotments.
- 5.8 Proposed easement condition (d)(iii) enables QLDC to relocate the access in the event that it develops an alternative access to the reserve land through Widgeon Place *at BFDL's cost*. QLDC has not provided any indication of when or why it might seek to effect such relocation.
- 5.9 BFDL is not necessarily opposed in principle to a condition enabling QLDC to alter the access route to Lots 404 or 405, although I note – with reference to a further survey plan I have caused to be prepared and produce at **Appendix I** – that such alternative access would:
- (a) lengthen the route over recreation reserve from the currently proposed 187m to at least 252m (assuming the most direct route between Widgeon Place and Lot 404);
  - (b) require residents of the Bridesdale Farm development to take a much lengthier and more circuitous route (e.g. some 1.66km vs the current approximately 253m) between their dwelling and their garden allotment, reducing the convenience and practicality and therefore potentially the amenity of the garden allotments; and
  - (c) seem somewhat illogical and inefficient when the garden allotments will still require access (which would still need to be from Lots 205

and 308 to access the 'fingers' and existing easements over Lot 405) and so such relocation would only preserve the approximately 10m of reserve land at the top of Lot 205 adjacent to Hayes Creek Road.

- 5.10 In any event BFDL objects to the proposal that it (or any future registered proprietor of Lots 404 and / or 405) would be required to pay the costs of establishing this alternative access, particularly as BFDL has already paid for the current access in place and it is hard to imagine why the existing route via the formed legal Hayes Creek Road would be discontinued or made redundant.
- 5.11 I have sought from Paterson Pitts Group a high-level estimate for the cost of constructing alternative road access between Widgeon Place and Lots 404 and 405 (**Appendix J**). This estimates the cost, at current rates and on the assumptions detailed in the estimate, could be in the order of some \$0.5 million plus GST (depending on the extent of carriageway formed). Of course, these costs would be expected to continue to increase over time as construction costs generally continue to increase.
- 5.12 In my experience, any potential purchaser of a parcel of land would consider the (negative and positive) impacts of any easements or other notations on the title. I believe that an easement condition placing the cost burden of any future relocation on the registered proprietor of Lot 404 would negatively impact the saleability and value of that land. This would be particularly so for a purchaser looking to acquire Lot 404 for its current farming purpose (i.e. not a developer that would expect to incur additional costs associated with its acquisition and development of the land).

#### **Cost of maintenance**

- 5.13 Proposed easement condition (d)(v) would require BFDL to be solely responsible for the costs of the ongoing maintenance of the easement.
- 5.14 In my experience, it is the norm that when road reserve land is vested in Council as part of a subdivision for the benefit of the public and the purchasers of the developed lots, it is the Council that has the responsibility (and cost burden) of maintaining that road. As the registered owner of Lots 205 and 308, QLDC also bears the responsibility for maintenance (and 100% of the associated cost) of those parts of the access currently practically situated on those parcels of land. Proposed easement condition (d)(v) would depart from the usual practice and the current practical situation, apparently solely due to the late change in the plans at resource consent stage to have the access route vest in QLDC as recreation reserve rather than road reserve. This burden could have a negative impact on the saleability and / or value of Lot 404.
- 5.15 BFDL therefore considers it is fairer, and more appropriate, for the costs of maintenance to be split equally between the parties to the easement. As Lots 404 and 405 are held within the same record of title, the repair and maintenance costs would be split evenly between BFDL as the grantee and QLDC as the grantor.

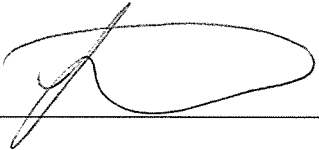
## **6. CONCLUSION**

- 6.1 BFDL is pleased to support the granting of the easement notified in the Notice.
- 6.2 For all of the reasons set out in my brief of evidence and in BFDL's accompanying submissions, BFDL seeks three (in my view, reasonable)



amendments to the proposed easement conditions to ensure that the easement fulfils its intended purpose and is granted on fair and equitable terms that do not unduly burden BFDL, the owners of the garden allotment lots, or future owners of Lots 404 and / or 405.

**SIGNED 26 April 2022**

A handwritten signature in black ink, consisting of a large, stylized 'L' followed by a series of loops and a final flourish. The signature is written over a horizontal line.

Lauren Hilary Christie