

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2023] NZEnvC 110

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First
Schedule to the Act

BETWEEN UNIVERSAL DEVELOPMENTS
HAWEA LIMITED

(ENV-2018-CHC-065)

(ENV-2021-CHC-037)

DOMAIN ACRES LIMITED

(ENV-2018-CHC-086)

(ENV-2021-CHC-025)

Appellants

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Environment Judge J J M Hassan – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 29 May 2023

CONSENT ORDER



JDHL AND DAL v QLDC – TOPIC 37 SUBTOPIC 1 – SETTLEMENT ZONE
REZONING

- A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:
- (1) the appeals are allowed subject to the amendments set out in Appendices 1, 2 and 3 to this order; and
 - (2) the appeals are otherwise dismissed.
- B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns appeals by Universal Developments Hawea Limited ('UDHL')² and Domain Acres Limited ('DAL')³ that were allocated to Topic 37, subtopic 1 – Settlement Zone Rezoning.

[2] Through its two appeals, UDHL sought Planning Map 17 (Hawea) to be amended to relocate the Urban Growth Boundary ('UGB') at Lake Hawea South and the UDHL appeal site be rezoned a combination of General Industrial and Service Zone, Local Shopping Centre Zone, Medium Density Residential Zone and Low Density Suburban Residential Zone.

[3] Through its two appeals, DAL sought the appeal land to be rezoned from Rural Residential Zone to Township Zone and that the UGB be relocated to include the DAL appeal land.

[4] I have read and considered the consent memorandum of the parties dated 31 March 2023 which proposes to resolve these appeals.

¹ Resource Management Act 1991.

² ENV-2018-CHC-65 and ENV-2021-CHC-37.

³ ENV-2018-CHC-86 and ENV-2021-CHC-25.

Other relevant matters

[5] Eight parties gave notice of an intention to become a party to these appeals under s274 RMA, several of whom subsequently withdrew that interest. Of the remaining s274 parties whose interest extends to this topic, all have signed the memorandum setting out the relief sought.

[6] No other person has given notice of an intention to become a party under s274 of the Act.

[7] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[8] The court makes this order under s279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. The court understands for present purposes that:

- (a) all relevant parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the relevant requirements and objectives of the RMA including, in particular, pt 2.



J J M Hassan
Environment Judge



Appendix 1

Agreed changes to Chapters 7, 15 and 27 indicated by underline and ~~strike through~~:

Chapter 7 Lower Density Residential Suburban Zone

	Activities located in the Lower Density Suburban Residential Zone	Activity Status
7.4.3	Residential units, where the density of development does not exceed: <u>(i) one residential unit per 450m² net area; or</u> <u>(ii) one residential unit per 800m² net area at Lake Hāwea South within Area B as identified in the Structure Plan in 27.7.X.</u>	P
7.4.8	Residential Units, where the density of development exceeds one residential unit per 450m ² net area but does not exceed one residential unit per 300m ² net area, excluding sites located: (i) within the Air Noise Boundary; or (ii) located between the Air Noise Boundary and Outer Control Boundary of Queenstown Airport; <u>or</u> (iii) <u>at Lake Hāwea South within Area B as identified in the Structure Plan in 27.7.X.</u> Discretion is restricted to: ...	RD

7.5 Rules - Standards

	Standards for activities in the Lower Density Suburban Residential Zone	Non-compliance status
7.5.11	Density The maximum site density shall be: (i) one residential unit or dwelling per 300m ² net site area, <u>or</u> (ii) <u>one residential unit or dwelling per 800m² net site area at Lake Hāwea South within Area B as identified in the Structure Plan in</u>	NC

	<u>27.7.X.</u>	
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Chapter 8 Medium Density Residential Zone

8.1 Zone Purpose

The zone is situated in locations in Queenstown, Frankton, Arrowtown, ~~and~~ Wānaka and Hāwea that are within identified urban growth boundaries, and easily accessible to local shopping zones, town centres or schools by public transport, cycling or walking.

8.4 Rules – Standards

	Standards for activities located in the Medium Density Residential Zone	Non-compliance status
8.5.1	Building Height (for flat and sloping sites) 8.5.1.1 <u>Hāwea</u> , Wānaka and Arrowtown: A maximum of 7 metres. 8.5.1.2 All other locations: A maximum of 8 metres.	NC

Chapter 15 Local Shopping Centre Zone

Policies

- 15.2.1.6 Limit the total gross floor area of retail and office activities within the Local Shopping Centre Zone located on Cardrona Valley Road and Lake Hāwea South to ensure that the commercial function of Wānaka Town Centre and Three Parks is not adversely affected.

15.4 Rules - Activities

	Activities located in the Local Shopping Centre Zone	Activity Status
15.4.3	<p>15.4.3.1 Buildings</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance, including materials glazing treatment vertical and horizontal emphasis and the location of storage; b. signage platforms; c. lighting; d. the impact of the building on the streetscape, compatibility with adjoining buildings and contribution to an integrated built form; e. where residential units are proposed provision of private or communal open space, or a combination thereof; f. where a site is subject to natural hazards and the proposal results in an increase in gross floor area; and g. natural hazards where the proposal results in an increase in gross floor area: <ul style="list-style-type: none"> i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. whether such risk can be avoided or sufficiently reduced. h. <u>At Lake Hāwea South, staging of development.</u> 	RD

15.5 Rules - Standards

	Standards for activities located in the Local Shopping Centre Zone	Non-compliance status
15.5.10	<p>Retail and Office activities</p> <p>a. individual Retail activities shall not exceed 300m² gross floor area.</p> <p>b. individual Office activities shall not exceed 200m² gross floor area.</p> <p>c. In the Local Shopping Centre Zone at Cardrona Valley Road, in addition to Rule 15.5.10.a two individual retail activities may exceed 300m² gross floor area, but shall not exceed 400m² gross floor area.</p> <p><u>d. In the Local Shopping Centre Zone at Lake Hāwea South, in addition to Rule 15.5.10.a one individual retail activity may exceed 300m² gross floor area but shall not exceed 600m² gross floor area.</u></p> <p>Note: All associated office, storage, staffroom and bathroom facilities used by the activity shall be included in the calculation of the gross floor area.</p>	NC

	Standards for activities located in the Local Shopping Centre Zone	Non-compliance status
<u>15.5.A</u>	<p><u>Retail Activities in the Local Shopping Centre Zone at Lake Hāwea South.</u></p> <p><u>The total combined area of retail activities shall occupy no more than 4,000m² gross floor area.</u></p> <p><u>Note: For the purposes of this rule the gross floor area calculation applies to the total combined area of retail activities within the area zoned as Local Shopping Centre Zone, identified within the Lake Hāwea South Structure Plan in Chapter 27.</u></p>	<u>D</u>

Chapter 27 Subdivision and Development

27.3 Location Specific Objectives and Polices

[In addition to the district wide objectives and policies in Part 27.2, the following objectives and policies relate to subdivision in specific locations.]

...

Chapter 27 – Subdivision and Development

27.3 Location-specific objectives and policies

Lake Hāwea South Structure Plan (Schedule 27.13.X)

All references to the Structure Plan are to the Lake Hāwea South Structure Plan

Objective 27.3.X – A high quality urban environment on the land on the southern side of Cemetery Road Hāwea, that is planned around, and integrated with infrastructure, a water race, key road connections, the existing township and a strong and well defined urban edge to the southern extent of Lake Hāwea Township.

Policies

27.3.X.1 Ensure subdivision and development is undertaken in accordance with the Structure Plan to provide integration and coordination of access to the separately owned properties within the Structure Plan area, the existing township and the wider road network.

27.3.X.2 Ensure integrated and safe transport connections by providing for key road connections as shown on the Structure Plan and limiting additional access from Domain Road and Cemetery Road.

27.3.X.3 Ensure subdivision and development provides:

- a. Building Restriction Areas along the boundaries of the Structure Plan area to:
 - i. create and maintain a legible and strong urban edge along the western boundary defined by Domain Road, the southern extent, and the eastern boundary of the Structure Plan and urban environment;
 - ii. visually integrate urban development with the surrounding rural environment located to the west, south and east of the Structure Plan area;
 - iii. provide walking and cycling access;
 - iv. mitigate the effects of urban development on the surrounding

27.3.X.5 Ensure subdivision and development of the Local Shopping Centre Zone is undertaken firstly along Longview Drive, then outwards towards and including the strip along Cemetery Road, to support an initial focus of development around Longview Drive.

27.3.X.6 Recognise the limitations of the existing roading network by restricting all subdivision and development on the southern side of Cemetery Road within the Structure Plan area to 990 residential allotments until the Cemetery Road and Domain Road intersection is upgraded to a roundabout.

Wastewater

27.3.X.7 Ensure all new lots are provided with connections to Council owned and operated reticulated wastewater treatment and disposal systems.

27.6 Rules – Standards for Minimum Lot Areas

27.6.1 No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, an average net site area less than the minimum specified.

(Note: in the Large Lot Residential A zone, the minimum or average lot size shall be determined by total area, not net site area)

Zone		Minimum Lot Area
...		...
Residential	...	
	Lower Density Suburban	450m ² Within the Queenstown Airport Air Noise Boundary and Outer Control Boundary: 600m ² <u>At Lake Hāwea South within Area B as identified in the Structure Plan in 27.7.X: 800m²</u>

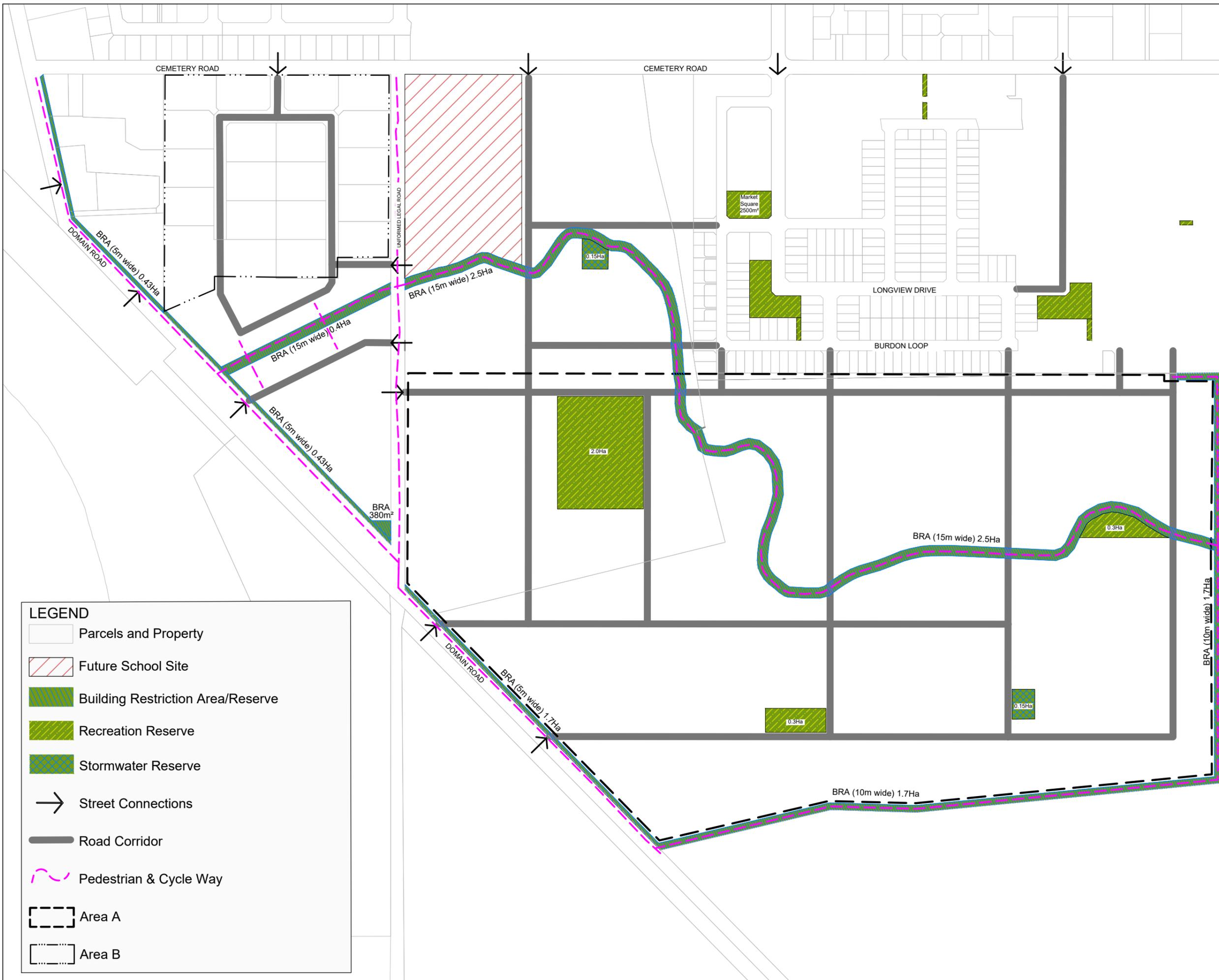
	Zone and Location Specific Rules	Activity Status
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27.7.1	Subdivision consistent with a Structure Plan that is included in the District Plan (except Structure Plans 27.13.7 Criffel Station, 27.13.9 Frankton North, 27.13.13 Connell Terrace, and 27.13.14 Ballantyne Road and 27.13.X Lake Hāwea South).	C
	<p><u>Lake Hāwea South Structure Plan (Schedule 27.13.X)</u></p> <p><u>All references to a structure plan in the following rules are to the Lake Hāwea South Structure Plan</u></p>	
<u>27.7.x</u>	<p><u>27.7.X.1</u> In addition to those matters listed under Rule <u>27.5.7</u>, when assessing any subdivision in accordance with the Lake Hāwea South Structure Plan contained in Schedule 27.13.x, the following shall be additional matters of discretion:</p> <ul style="list-style-type: none"> a. <u>the comprehensive landscape design and planting of the building restriction areas to the extent applicable for each stage and as required by Rule 27.7.x.1 Building Restriction Areas below.</u> b. <u>design parameters are required to be secured through an appropriate legal mechanism for lots that adjoin open space areas including the location and visual permeability/transparency of fencing, materials and landscaping, and restricting fence height to 2.0 metres.</u> c. <u>The extent that any subdivision and development of Area A identified on the Structure Plan ensures a logical progression of subdivision from north to southwards.</u> d. <u>The extent that subdivision and development of the Medium Density Residential Zone ensures a logical progression from the east adjacent to Longview Drive, to a westwards direction.</u> e. <u>Where a reserve as identified on the Structure Plan forms part of an area proposed for subdivision, the final position of the reserve and its dimensions, except the market square which has a fixed location and dimensions.</u> 	RD
	<p><u>27.7.X.2</u> Structure Plan</p> <p><u>Any subdivision that is not in accordance with the Structure Plan contained in Section 27.13.X</u></p>	NC

	<p><u>For the purposes of interpreting this rule, the following shall apply:</u></p> <ul style="list-style-type: none"> a. <u>The Primary Road connections on Domain Road may move, however the same number of connections shall be provided.</u> b. <u>roading connections may move by up to 50m where they do not connect to an existing road.</u> c. <u>the location of the reserves may move and dimension amended provided the area of each reserve and frontage to roads and walkways remain, except the market square which has a fixed location and dimensions.</u> 	
	<p><u>27.7.X.3 Roading Upgrades</u></p> <p><u>The subdivision of land (within the entire Structure Plan area) when taken cumulatively, results in more than 990 lots for residential or commercial activity unless:</u></p> <ul style="list-style-type: none"> (a) <u>The Domain/Cemetery Roundabout has been completed and is available for public use; or</u> (b) <u>Any resource consent which exceeds 990 lots as identified in Rule 27.7.X.3 includes a condition requiring that the Domain/Cemetery Roundabout must be completed prior to the issuing of a s224 certificate.</u> 	NC
	<p><u>27.7.X.4 Future Potential School</u></p> <p><u>The subdivision of the area identified as a Future School Site for residential activity or any other activity other than for education purposes, for a period of 7 years commencing on [the date these provisions are confirmed].</u></p> <p><u>This rule shall not apply if the Ministry of Education has designated land for a new school elsewhere in Lake Hāwea (not including the existing school at Hāwea Flat), or the Ministry of Education confirms in writing to the Chief Executive of the Council that the Future School Site is of no interest as a school to the Ministry of Education.</u></p>	NC

	<p><u>27.7.X.5 All subdivision and development within the Structure Plan area must be connected to Council owned and operated wastewater treatment and disposal systems.</u></p>	<p><u>NC</u></p>
	<p><u>27.7.X.6 Building Restriction Area</u></p> <p>a) <u>The subdivision of any land for residential activity within Area A of the Lower Density Suburban Residential Zone as identified on the Structure Plan, and the Medium Density Residential Zone, shall include the development of the entire water race as it relates to the land on the eastern side of the unformed north to south road.</u></p> <p>b) <u>The subdivision of land for residential activity on the western side of the unformed legal road shall include the development of the entire water race as it relates to the land on the western side of the unformed legal road, except for subdivision within Area B as identified on the Structure Plan.</u></p> <p>c) <u>Any resource consent which exceeds an accumulative total of 500 lots for residential activity within Area A shall include the 2.0 ha reserve and the entire Building Restriction Area within Area A bordering the western, southern and eastern perimeters of the Structure Plan area, and the development of the Building Restriction Area trail and planting must be completed prior to the issuing of a s224 certificate for the relevant subdivision which exceeds 500 lots for residential activity.</u></p> <p><u>Note: In rules (a) to (c) development means the formation of the walkway/trail for use by the public and installation of plantings, and any necessary maintenance measures such as irrigation and pest management measures (as necessary)</u></p>	<p><u>NC</u></p>

Appendix 2 - Lake Hawea South Structure P



LEGEND

- Parcels and Property
- Future School Site
- Building Restriction Area/Reserve
- Recreation Reserve
- Stormwater Reserve
- Street Connections
- Road Corridor
- Pedestrian & Cycle Way
- Area A
- Area B

Structure Plan:
Lake Hawea South

Notes:
Layout of Reserves, Building Restriction Areas, Future School, Roads, Street Connections, Pedestrian & Cycle Paths
Road Corridor Location +/- 50m
Street Connections +/- 50m
Recreation Reserve Locations +/- 100m
Stormwater Reserve Locations - Indicative Only

Appendix 3 - Amendments to Planning Map



CEMETERY ROAD

CEMETERY ROAD

DOMAIN ROAD

UNFORMED LEGAL ROAD

LONGVIEW DRIVE

BURDON LOOP

LEGEND

-  Parcels and Property
-  Lower Density Suburban Residential
-  Medium Density Residential
-  Local Shopping Centre
-  Building Restriction Area
-  Informal Recreation
-  Urban Growth Boundary

Zone Plan:
Lake Hawea South

Notes:
N/A