

[Drafting note: strikethrough (rather than delete) any text that is not applicable]

Bond under section [108/222] of the Resource Management Act 1991

[Insert general description of property/consent]

Dated

20

Parties

Queenstown Lakes District Council of Queenstown (**Council**)

[Consent Holder/Owners] (**Owner**)

Introduction

- A The Owner is the registered proprietor of the land described in the First Schedule (**Land**).
- B The Council has granted to the Owner a resource consent [**insert resource consent number**] relating to [**insert brief description of consent activity**] (**Consent**) under the Resource Management Act 1991 (**RMA**).
- C The Owner is required to carry out certain works under the Consent. The Owner has requested the Council to issue a completion certificate under the RMA in consideration of this Bond prior to completion of the outstanding works as [indicated on the related design plans in the Third Schedule and (if applicable)] more particularly described in the Second Schedule (**Works**).

[Drafting note: to secure completion of outstanding works following issue of completion certificate: s 222]

or

The Owner is required to provide a bond to Council on the terms set out in this Bond to secure performance of the conditions of the Consent as more particularly described in the Second Schedule (**Works**).

[Drafting note: to secure conditions of consent: s 108(2)(b)]

- D The parties record the terms of the bond in this deed under section [108(2)(b) / 222] of the RMA.

Covenants

1 Bonded Sum

- 1.1 The parties acknowledge and agree that the sum of \$[*insert Bonded Sum amount*] (**Bonded Sum**) is payable by the Owner to the Council to secure the performance of the Owner's obligations under this Bond.
- 1.2 The Bonded Sum shall be payable:
- (a) On demand, in cash or direct credit, and otherwise in the manner as directed by Council; or
 - (b) in accordance with the provisions set out in clause 2.

2 Bank Guarantee

- 2.1 If applicable, the Owner shall deliver to the Council on execution of this Bond a bank guarantee provided by a registered trading bank (**Bank**) as surety in favour of the Council, guaranteeing payment of the sum of \$[*insert Bonded Sum amount*] in respect of the obligations set out in this bond (**Bank Guarantee**). The Bank Guarantee shall be in the form set out in the Fourth Schedule.
- 2.2 The Council may call on the Bank Guarantee without reference to the Owner in the event of a default by the Owner in the observance or performance of the Owner's obligations as set out or referred to in this Bond. The Council will release and return the Bank Guarantee to the Owner in accordance with clause 6.

3 Completion of Works

- 3.1 The Owner shall complete the Works to the satisfaction of Council by [*insert date(s) for satisfaction*] (**Expiry Date**).
- 3.2 The Owner shall be responsible for notifying the Council when the Works have been completed. The Owner shall provide the Council such certificates, documents or drawings as required by the Consent in respect of the Works.
- 3.3 The Works shall be deemed to have been completed when an authorised Council officer gives written confirmation to that effect.

4 Default by Owner

- 4.1 If the Owner:
- (a) fails to carry out the Works to the reasonable satisfaction of the Council prior to the Expiry Date; and/or
 - (b) is in breach of any other obligation arising under the Consent to which this Bond relates,
- then the Council may, at its discretion and without prejudice to any of its other rights, pursue any of the options set out in clause 4.2.
- 4.2 Subject to clause 4.1, the Council may, without notice to the Owner, elect to:

- (a) complete the Works under section 109 of the RMA and require the Owner by notice in writing to pay to the Council the greater of:
 - (i) the Bonded Sum; and/or
 - (ii) the actual costs expended by the Council from time to time to complete the Works which remain outstanding at the time of enforcement;and/or
 - (b) take enforcement action under the RMA.
- 4.3 The Owner acknowledges that the Council (including its employees, agents, servants, and contractors) may from time to time enter upon the Land:
- (a) for the purposes of monitoring or inspecting the status of the Works in accordance with section 109(3) of the RMA and section 171 of the Local Government Act 2002; and/or
 - (b) to carry out any of the Works that remain outstanding as at the Expiry Date in accordance with section 109(4) of the RMA.
- 4.4 If the Council elects to complete any part of the Works under clause 4.2(a), the Owner indemnifies the Council against all actions, proceedings, claims, demands, losses, damages (physical and monetary), costs, expenses or liabilities of any kind suffered or incurred by the Council directly or indirectly associated with the completion of the Works by the Council.
- 4.5 The liability of the Owner shall not be released, varied or affected in any way by any delay, extension of time, or other indulgence granted by the Council including, but not limited to:
- (a) A delay, failure or neglect of the Council to enforce any obligation of the Owner the subject of this Bond; or
 - (b) Any delay, failure or neglect of the Council to carry out the Works as contemplated by clause 4.3(b).

5 Registration

- 5.1 The Council may require this Bond to be registered against the title(s) to the Land.
- 5.2 If registration is required under clause 5.1, the Owner shall within **[[20] working days of execution by the parties / a reasonable time]** (at the Council's direction):
- (a) register this Bond against the title(s) to the Land; or
 - (b) execute an authority and instruction form (**A&I Form**) in favour of Council's solicitors to register this Bond.

6 Release of Bond

- 6.1 The Council will, within a reasonable time following completion of the matters provided in clause 3, provide a release of this Bond in writing and:

- (a) If the Bonded Sum was deposited with Council under clause 1.2(a), the Council shall refund to the Owner any remaining credit balance held by the Council;
- (b) If a Bank Guarantee was provided under clause 1.2(b), the Council will return the original Bank Guarantee to the Owner; and
- (c) If this Bond is registered under clause 5, the Council will do all things necessary to procure a discharge this Bond from the title(s) to the Land.

7 Costs

7.1 The Owner shall pay all of the Council’s reasonable costs (including legal costs on a solicitor-client basis) of and relating to the preparation, completion, registration, monitoring, enforcement, release and discharge of this Bond.

8 Notices

8.1 Any notice to be served on the Owner shall be delivered to:

[Drafting note: consider whether any specific notice provisions to be inserted.]

Execution

SIGNED for and on behalf of
QUEENSTOWN LAKES DISTRICT
COUNCIL under delegated authority
 by its Resource Management
 Engineering Manager / Chief
 Executive Officer

[Drafting note: CEO to sign when bond is over \$100k - amend and then delete as appropriate]

David James Wallace / Michael Renier
 Antonius Theelen

(delete as appropriate)

witnessed by: _____

Signature of witness _____

Name of witness _____

Occupation _____

City / Town of residence _____

Signed for and on behalf of [Consent Holder/Owners] by:

Director

If not signed by two directors then witnessed by:

Director/authorised signatory

Signature of witness

Name of witness

Occupation

City/town of residence

First Schedule – Description of Land

[insert legal description and title references]

Second Schedule – Description of Works

[insert or attach description of works and/or reference to applicable consent conditions]

Third Schedule – Related Plans

[separate document to be attached]

Fourth Schedule – Form of Bank Guarantee

[*separate document to be attached*]