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Decision No: C180/99

IN THE MATTER of the Resource Management Act  
1991

AND

IN THE MATTER of references under clause 14 of the  
First Schedule to the Act

BETWEEN WAKATIPU ENVIRONMENTAL  
SOCIETY INC

RMA 1043/98, 1394A/98, 1165/98

AND

TELECOM NEW ZEALAND  
LIMITED

RMA 1030/98

AND

CENTRAL ELECTRIC LTD (now  
DELTA ELECTRIC LTD)

RMA 1290/98

AND

CLARK FORTUNE McDONALD

RMA 1405/98

AND

TRANSPower NEW ZEALAND  
LIMITED

RMA 1260/98

AND

CONTACT ENERGY LIMITED

RMA 1401/98

AND

MINISTER FOR THE  
ENVIRONMENT

RMA 1194/98

Referrers

AND

THE QUEENSTOWN-LAKES  
DISTRICT COUNCIL



BEFORE THE ENVIRONMENT COURT

Environment Judge J R Jackson  
 Environment Commissioner R Grigg  
 Environment Commissioner R S Tasker

HEARING at QUEENSTOWN on 20-23 and 26-29 July and 6-7 September  
 1999

(Final submissions received 23 September 1999)

APPEARANCES

Mr B Lawrence for the Wakatipu Environmental Society Inc  
 Mr J Haworth for the Upper Clutha Environment Society Inc in respect of  
 RMA 1394/98  
 Mr P J Page and Mr G M Todd for Telecom NZ Ltd and Mr and Mrs R S  
 Mills  
 Mr W J Fletcher for Central Electric Ltd (now Delta Electric Ltd)  
 Mr M Parker for Clark Fortune McDonald and J F Investments Ltd, Mount  
 Field Ltd, Quail Point Ltd  
 Mr K G Smith for Contact Energy Ltd  
 Mr A F J Gallen and Ms S Ongley for the Minister for the Environment in  
 relation to RMA 1043/98 (WESI) and RMA 1194/98  
 Mr N S Marquet for the Queenstown-Lakes District Council  
 Mr W J Goldsmith and Mr A More for Terrace Towers (NZ) Pty Ltd  
 Mr G M Todd for the persons listed in Appendix 1  
 Mr J K Guthrie, Mr W J Goldsmith and Mrs J Simpson for Crosshill Farm  
 Ltd, Pisidia Holdings Ltd, Queenstown Safari Co Ltd, Carolina  
 Developments Ltd, Mr D and Mrs J Jardine and Mr A S Farry  
 Mr D Masterton for Lake Hayes Holdings Ltd  
 Mr M V Smith for Federated Farmers NZ Inc  
 Mr M M Hasselman on behalf of the Community Association, Glenorchy,  
 (on Thursday 29 July 1999)  
 Mr A More for Terrace Towers Proprietary Ltd (in relation to RMA 1043/98  
 and 1194/98)  
 Mr J Reid for Gibbston Valley Estate Ltd



- (2) In section 6(e) the word ‘ancestral’ qualifies each of ‘lands, water, sites, waahi tapu, and other taonga’: *Haddon v Auckland Regional Council*<sup>78</sup>.
- (3) In section 6(c) where the phrase ‘significant indigenous vegetation’ occurs, Parliament has made it clear that ‘indigenous’ does not qualify the following ‘habitat’ whereas ‘significant’ does, by repeating the word ‘significant’. So 6(c) refers to:

(c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.*

### *The meaning of ‘outstanding’*

82. The word ‘outstanding’ means:

- “conspicuous, eminent, especially because of excellence”
- “remarkable in”<sup>79</sup>.

As Mr Marquet pointed out, the Remarkables (mountains) are, by definition, outstanding. The Court observed in *Munro v Waitaki District Council*<sup>80</sup> that a landscape may be magnificent without being outstanding. New Zealand is full of beautiful or picturesque landscapes which are not necessarily outstanding natural landscapes.

83. A subsidiary issue is whether an outstanding natural landscape has to be assessed on a district, regional or national basis. Mr Goldsmith referred



<sup>78</sup>

[1994] 2 NZRMA 49.

<sup>79</sup>

*Concise Oxford Dictionary* (1990) p.485.

<sup>80</sup>

C98/97.

to a number of inquiries the Court has held into various Draft National Water Conservation Orders. These inquiries related to section 199(1) of the Act which involves the word “outstanding”. In *Re an inquiry into the draft National Water Conservation (Buller River) Order*<sup>81</sup> the Court accepted that the test as to what is outstanding is a reasonably rigorous one. The Court also referred to the Mohaka River case<sup>82</sup> in which a differently composed Tribunal agreed that the test is reasonably rigorous and went on to accept the submission that before a characteristic or feature could qualify as outstanding it would need to be quite out of the ordinary on a national basis. This test was upheld by the Planning Tribunal in the *Inquiry into the Water Conservation Order for the Kawarau River*<sup>83</sup>.

84. However, as we understand Mr Goldsmith’s argument, the use of the word ‘outstanding’ in section 6(b) depends on what authority is considering it. Thus if section 6(b) is being considered by a regional council then that authority has to consider section 6(b) on a regional basis. Similarly a district council must consider what is outstanding within its district. By contrast a water conservation order is made under Part IX of the Act which is really a self-contained code within the RMA: it contains its own purpose and procedures including public notification on a national basis.
85. We agree: what is outstanding can in our view only be assessed – in relation to a district plan – on a district-wide basis because the sum of the district’s landscapes are the only immediate comparison that the territorial authority has. In the end of course, this is an ill-defined



81  
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C32/96.  
*Re Draft Water Conservation (Mohaka River) Order* W20/92.  
C33/96.

restriction, since our 'mental' view of landscapes is conditioned by our memories of other real and imaginary landscapes in the district and elsewhere, and by pictures and photographs and verbal descriptions of them and other landscapes.

86. The local approach is consistent with an identification of particular places: the unique landscapes of the given district. There are districts without the vertical dimensions of the Queenstown-Lakes district, but that does not lead to the result they do not have outstanding (natural) landscapes. Flatter landscapes may qualify, even though the test is still a rigorous one. A district may have no outstanding natural landscapes or features.

*The meaning of 'natural'*

87. To qualify under section 6(b) a landscape must not only be outstanding, it must also be 'natural'. The dictionary definition of 'natural' is:
- (a) *existing in or caused by nature; not artificial (natural landscape)*
  - (b) *uncultivated; wild (existing in its natural state)<sup>84</sup>*

That definition is a little simplistic in our view: much more landscape has been affected by human activity than is commonly understood. The revised plan itself recognises that:

*...[T]he downland lake basins have undergone more extensive modification. Maori settlement did occur around the inland lake*



<sup>84</sup> Concise Oxford Dictionary (1990) p. 906

(normally) require experts<sup>92</sup>. Usually an outstanding natural landscape should be so obvious (in general terms) that there is no need for expert analysis. The question of what is appropriate development is another issue, and one which might require an expert's opinion. Just because an area is or contains an outstanding natural landscape does not mean that development is automatically inappropriate<sup>93</sup>.

100. The simplest evidence on this issue came from Mr J H Aspinall who was a witness for Federated Farmers (NZ) Inc. He did not qualify himself as an expert; he is a farmer in the district (at Mt Aspiring station). On the other hand we do not consider that we should be precluded from considering his view since we do not consider that the question of whether there are outstanding natural landscapes in the district should be left solely to experts. In Mr Aspinall's view the district's truly outstanding landscapes are in the Upper Rees, Upper Dart, Upper Matukituki and Wilkin Valleys and thus are managed under the National Parks Act 1980.

101. In coming to our conclusions below, we generally prefer the evidence of Mr Kruger over those of the other landscape witnesses. That is not because we accept all of Mr Kruger's evidence – we do not – but because he at least was prepared to state where, in his opinion, some of the district's landscapes begin and end. His evidence related more to the general Wakatipu area, and the Wakatipu basin in particular. Even there he had some difficulties – he did not know, as Mr Marquet's cross-examination of him revealed, where the southern boundary of the district was.



<sup>92</sup> There may be exceptions where a landscape is flatter or such a large geological unit that an uninformed observer may have difficulty conceiving of it as outstanding, in the first case, or as a single landscape in the second.  
<sup>93</sup> Section 6(b).

B

Decision No. C 169/2000

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a reference pursuant to Clause 14 of the  
First Schedule of the Act

BETWEEN J S WATERSTON

(RMA 160/93 and 1262/98)

Appellant

AND QUEENSTOWN LAKES DISTRICT  
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J R Jackson  
Environment Commissioner R Grigg  
Environment Commissioner R S Tasker

Hearing at Queenstown on 9, 10 and 11 May 2000

Counsel

Mr A More for the referrer

Mr N S Marquet for the Queenstown Lakes District Council

Date of decision: 5 October 2000

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INTERIM DECISION

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the "boundary" between the outstanding natural landscape and the visual amenity landscape on the land was much higher - along the line of the poplar trees we described earlier. We respect Mr Evatt for conscientiously and without fear drawing the line where he has. We also appreciate there is a strong topographical logic to his line. For the referrer, Mr Baxter - who in his written evidence in chief had assumed the boundary was where the Court indicated it was<sup>6</sup> - even in cross-examination did not redraw it where Mr Evatt did. In response to a request by Mr Marquet he identified it as being on the uphill side of the second row of lots (9 to 15) shown on the concept plan. As it happens that is close to where the 400m asl contour runs.

[10] In our view there are four circumstances that suggest that the topographical lines should give way to a recognition of the realities of situation. The first is that there are (due, it appears, to earlier resource consents granted by the Council) two houses up by the line of poplars as we described earlier. Indeed there is a third house site also on the lower slopes of the land although that has not yet been built on. All three houses (if a third is built) would be within the outstanding natural landscape, as Mr Evatt assesses it. Certainly the presence of houses does not automatically disqualify a landscape from being an outstanding natural landscape, but it is a factor to be considered. Secondly the land's naturalness has also been reduced by the fact that it is sown in exotic (green) grasses, and most of the trees on it - most notably the poplars - are exotic and deciduous. The third aspect for us to consider is that immediately to the east of the site is Mr Broomfield's land. That contains some rural residential subdivision already. Indeed it transpired at the hearing that the Council has approved further subdivision of that land although it had omitted to inform Mr Evatt of that when he prepared his evidence. Fourthly if we take all those matters into account, and the need for a practical boundary between the outstanding natural landscape and the visual amenity landscape - not just across the referrer's land but also across adjacent properties on Ferry Hill - we consider the change of slope at the row of poplars is the place to draw the line. Consequently both the site and some land above 400m asl falls into the visual amenity landscape. We now turn to ascertain the relevant objectives and policies of the amended plan as they apply to the land.

P J Baxter written evidence in chief para 8.







**DECISION OF THE QUEENSTOWN-LAKES DISTRICT COUNCIL**

**RESOURCE MANAGEMENT ACT 1991**

<b>Applicant:</b>	Hansen Family Partnership, comprising LG Hansen, WJ Rutherford and WT Cooney
<b>RM reference:</b>	<b>RM151046</b>
<b>Proposal:</b>	Subdivision consent to create six new allotments and to establish 4 residential building platforms, and to undertake associated landscaping and earthworks, including the creation of three access ways.
<b>Location:</b>	Hansen Road, Queenstown
<b>Legal Description:</b>	Lot 1 Deposited Plan ('DP') 24553 held in Computer Freehold Register ('CFR') OT16C/178; Lot 2 DP 24553 held in CFR OT16C/179; Lot 3 DP 24553 held in CFR OT16C/180; Lot 4 DP 24533 held in CFR OT16C/181; Part Lot 2 DP 24234 and Part Section 123 Block I and Part Section 46-47 Block II Shotover Survey District and Section 43-45, 48-51, 60 Block II Shotover Survey District and Part Section 10 Block XXI Shotover Survey District and Section 11, 23 Block XXI Shotover Survey District held in CFR 49185; Part Section 124 Block I Shotover Survey District held in CFR 375700; and Lot 2 DP 383378 held in CFR 332749
<b>Zoning:</b>	Rural General (Operative District Plan)
<b>Designations/Limitations:</b>	Designation #44 – Approach and land use Control (transitional slopes and surfaces) overlays part of the site.
<b>Activity Status:</b>	Discretionary Activity
<b>Notification:</b>	31 August 2016
<b>Closing Date of Submissions:</b>	28 September 2016
<b>Commissioners:</b>	Commissioners A Henderson and D Clarke
<b>Date:</b>	<b>3 March 2017</b>
<b>Decision:</b>	<b>Consent is granted subject to conditions</b>

\* Note: Condition 5 is subject to issue of Environment Court Consent Order.




**UNDER THE RESOURCE MANAGEMENT ACT 1991**



**IN THE MATTER OF** an application by the Hansen Family Partnership to create six new allotments and to establish 4 residential building platforms, and to undertake associated landscaping and earthworks, including the creation of three access ways.

Council File: RM151046

**DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL HEARINGS  
COMMISSIONERS A HENDERSON AND D CLARKE, HEARING COMMISSIONERS APPOINTED  
PURSUANT TO SECTION 34A OF THE ACT**



**The Proposal**

1. We have been given delegated authority to hear and determine the application made by the Hansen Family Partnership by the Queenstown Lakes District Council ("Council") under section 34 of the Resource Management Act 1991 ("the Act") and, if granted, to impose conditions of consent.
  2. The application (RM151046) has been made by the Hansen Family Partnership, which comprises of LG Hansen, WJ Rutherford and WT Cooney to subdivide an existing property into six new allotments, to establish 4 residential building platforms, undertake associated landscaping, and to undertake earthworks including those required to establish three rights of way.
  3. A detailed description of the proposal was provided in Sections 3 and 4 of the Resource Consent Application prepared by Boffa Miskell Ltd. Key elements of the proposal are reproduced below:
    - Subdivide six existing titles comprising nine lots (being Lots 1-4 DP 24553, Pt Lot 2 DP 24234, Lot 2 DP 383378, Pt Sections 123-123 Blk I Shotover SD, and PT Section 47 BLK II Shotover SD) into six new allotments, and to establish 800m<sup>2</sup> residential building platforms on proposed Lots 1-4;
    - Establish associated structural landscaping for each allotment.
    - Building design, including height controls are proposed for future buildings within each platform. These, along with and landscape controls are volunteered as consent notice conditions. It is proposed the platform on each lot will double as the curtilage area – being the area that all residential activities are to be contained within.
    - A consent notice condition is proposed that within Lots 5 and 6 there shall be no further buildings, with structures limited to those for farm purposes e.g. fences and stockyards.
    - Access to the lots, and associated earthworks to establish the access, is proposed via three Right of Ways established from two vehicle crossings direct from Hansen Road.
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## Site Description

4. A detailed description of the site and receiving environment within which the application sits can be found in section 3 of the Applicant's AEE. With the exception of the location of the ONL line, no parties disputed the description of the site or receiving environment, and we are therefore content to rely upon these descriptions, noting that the descriptions accord with our impressions from our visit to the site and surrounding area. We address the matter of the landscape line later in this decision.

## Notification and Submissions

5. Notification of the application on 31 August 2016 drew six submissions to the proposal. Of these, three opposed the proposal, one supported it, and two were neutral. These are summarised in the following table:

Name	Location of Submitters' Property	Summary of Submission	Relief Sought
1. Te Runanga o Ngai Tahu	n/a – Iwi advisory group	Neutral – not stated  Proposed activity is near a NZAA-listed archaeological site of Maori origin	<ul style="list-style-type: none"> <li>- Archaeological and cultural monitoring if an archaeological authority to destroy or modify the site under HNZPT 2014 is required</li> <li>- Accidental Discovery Protocol, and cultural monitoring consent conditions</li> </ul>
2. PR and MM Arnott	111 Frankton-Ladies Mile Highway	Oppose  Application will enable residential building platforms in an Outstanding Natural Landscape; result in adverse environmental effects; cumulative effects; will be contrary to the Operative and Proposed District Plan Provisions; will set an adverse precedence	<ul style="list-style-type: none"> <li>- Application declined</li> </ul>
3. City Impact Church Queenstown	Hansen Road, Queenstown	Support  Generally in support, however; <ul style="list-style-type: none"> <li>- notes concerns with additional traffic and Hansen Road being unsealed and nuisance effects from road dust on the users of the church early childhood centre</li> <li>- Concerned about flooding from uncontrolled stormwater down Hansen Road</li> </ul>	Conditional support: <ul style="list-style-type: none"> <li>- Hansen Road be sealed</li> <li>- Signage to reduce speed and alert drivers of children</li> <li>- Speed hump construction before the church entrance</li> <li>- Engineering assessment of stormwater design to address flooding from Hansen Road on the Church</li> </ul>
4. Arrow Irrigation	N/a – operator of the water race	Support for or against is not stated  - House sites are below the Arrow	<ul style="list-style-type: none"> <li>- That the race be piped to an agreed length and diameter with the</li> </ul>

	that traverses the application site	Irrigation Race - Potential flood hazard - Race should be piped	Arrow Irrigation Company
5. Mike & Tineke Enright, and William & Matilda Grant and NZ Guardian Trust	Hansen Road, Queenstown	Oppose in part  - Adverse effects, including reverse sensitivity on the submitters property and business operations; - Reliance on the Transitional District Plan from the 1990's and a lack of relevance - Does not meet Part 2 of the RMA	- Application declined; <u>or</u> - Be amended to address the submitters concerns
6. Woodlot Properties Limited		Oppose (in part)  - Application does not consider linkage opportunities for greater public access between Quail Rise to the unformed Hansen Road, and around Lake Johnson - No consideration to create an esplanade reserve/strip around Lake Johnson or to fence the unformed Hansen Road from stock.	Approval with the following amendments:  - Walkway easement created between Quail Rise (Trench Hill Lane) to Hansen Road - Unhindered and improved access to and around Lake Johnson including an esplanade reserve / strip - Unformed portions of Hansen Road fenced to exclude stock.

6. At the hearing, we were advised that the submissions of P and M Arnott (submission #2 above) and M&T Enright and W&M Grant (submission #5 above) had been withdrawn.

#### Consultation and Written Approvals

7. The section 42A report identified that the Applicant had undertaken consultation with the Civil Aviation Authority (CAA) with respect to the development entering into airspace designated for airport purposes. The CAA subsequently issued a 'Determination of Hazard in Navigable Airspace' which noted that there is higher terrain within 600m that shields the development and therefore no specific marking or lighting was required.
8. Formal written approval was subsequently provided from Queenstown Airport Corporation Limited ("QAC"), as the requiring authority in respect to Designation 4 'Airport Approach and Land Use Controls'. Accordingly, any effects on QAC have been disregarded pursuant to section 104(3)(a)(ii) of the Act.

#### The Hearing

9. A hearing to consider the application was convened on 30 November 2016 in Queenstown. In attendance were:
- The Applicant, Mrs L Hansen, represented by Mr Warwick Goldsmith (Counsel), Mr John McCartney (Engineer), Mr James Bentley (Landscape Architect) and Mr Chris Ferguson (Planner);
  - Council Officers, being Ms Alana Standish (Planner), Mr Alan Hopkins (Engineer) and Mr Richard Denney (Consultant Landscape Architect); and
  - Submitters, being Arrow Irrigation Company (Mr N MacDonald); Wakatipu Trails Trust (Ms Mandy Kennedy), and Woodlot Properties Ltd (Mr D Broomfield and Mr C Vivian (Planner)).

10. We had the benefit of a section 42A report prepared by Council's planner, Ms Standish. Based upon her assessment of the application, Ms Standish recommended that the application be declined for reasons including:

- *It is considered that the activity will have significant adverse effects in respect to the openness of the landscape, visibility of development, visual coherence and integrity of landscape, and will result in cumulative effects on the landscape, that cannot be appropriately mitigated*
- *The proposal is inconsistent with the relevant objectives and policies of the District Plan as the development does not ensure the values ascribed to Outstanding Natural Landscapes are maintained, and does not suitably address natural hazards*
- *The proposal does not promote the overall purpose of the RMA.*
  - *It does not avoid, remedy or mitigate adverse effects of activities on the environment;*
  - *It does not protect the Outstanding Natural Landscape from inappropriate subdivision, use and development*
  - *The proposal is not an efficient use of natural resources, and does not maintain or enhance the amenity values or quality of the environment*

#### **Summary of Evidence Heard**

11. Evidence for this hearing was pre-circulated, and the applicant's experts all provided a summary of their evidence at the hearing. We have read all of the material, and the following is a brief outline of the submissions and evidence presented. This summary does not detail everything that was advanced at the hearing, but captures the key elements of what we were told. The material generally reinforced the matters included in the application and submissions.

#### **Applicant**

12. **Mr Goldsmith** explained the consenting history of the site. He noted that while there was no right to build on the four existing titles, they had had been created and were fully serviced for residential development. There was an expectation to build which was removed by the Council through the District Plan promulgation process, which was never tested on appeal to the Environment Court. He considered this should be a relevant factor in considering this application.

13. Mr Goldsmith provided detailed submissions on the following matters. While we do not set them out in detail, we address number of these matters in our assessment of the effects of the proposal:

- the requirement for esplanade reserves is not triggered by this application, and the conditions sought by Woodlot Properties were unreasonable;
- the creation of a walking/cycle trail alongside the existing water race was a positive benefit of the Application;
- the recommendation by the Council's engineers to seal Hansen Road is unreasonable given the existing traffic on the road and future growth anticipated by other applications;
- there are no precedent issues raised by the Application;
- hazard issues arising from a potential breach of the Arrow Irrigation race have been addressed by a relocation of one of the platforms and the solutions proposed in Mr McCartney's evidence; and

- there are no concerns raised by any immediate neighbours or the wider public, a rare exception to subdivision proposals in the Wakatipu basin.
14. Mr Goldsmith also addressed us on the matter of the location of the ONL landscape line, noting that it was a question of fact that we must determine in this case. He considered that the evidence of Mr Bentley provided a logical and sensible location for the boundary, being the line of the water race that bisects the site.
15. **Mr Bentley** stated that the extent of an ONL needs to make sense 'on the ground'. His original landscape assessment identified that the upper part of the site was an ONL, but the lower part was within the Frankton Flats 'other rural landscape (ORL). His evidence considered that the water race on the site was a logical boundary between the two landscape areas for reasons including:
- the land below the water race retains a more domestic and compartmentalised appearance, assisted to some degree by the division of the gullies and topographical variation where the landscape is more contained in comparison to the more open character of the land to the north of the water race;
  - the lower toe of the hillside is influenced more by the land use activities on the Frankton Flats (i.e. presence of power lines and buildings) and the water race represents a more definitive line in the ground, as opposed to a contour line;
  - the water race is itself an unnatural element in the landscape and is a useful line in this landscape where no other feature is; and
  - the alignment of the ONL within the Proposed District Plan is at odds with the proposed zoning in this area.
16. Mr Bentley's conclusion overall, was that the proposed subdivision is appropriate when considering the proposal against the relevant landscape provisions of the Operative District Plan.
17. **Mr McCartney's** evidence addressed the potential risks to the building platforms from the Arrow Irrigation Race. He considered that the breaches could be mitigated by the creation of cut off drains to direct any breach flows away from building platforms. He also recommended that the platform on Lot 2 be relocated so as to avoid an ephemeral water course.
18. **Mr Ferguson** spoke to his evidence, and by way of supplementary evidence (circulated prior to the hearing), identified that the application had been amended to incorporate the development of a public trail alongside the water race and the addition of a water supply easement from the water race to the northern boundary of the Arnott's land. He also tabled amended landscape and survey plans setting out changes to the layout of the allotments and building platforms, notably the change to Lot 2 showing it being away from the gully/ephemeral water course.
19. Mr Ferguson also tabled amended conditions of consent, and discussed the potential effects of the proposed trail. Overall, Mr Ferguson's conclusion was that if the site was considered to be in an ONL, it was an appropriate development on the basis that it represents a well resolved response to the management between urban and rural, taking into account the nature and values of the landscape within which the site is based. He considered that the proposal appropriately avoids or mitigates any adverse effects on the environment, and that it was consistent with the relevant statutory documents.

#### **Submitters**

20. **Mr McDonald** spoke to the submission of the Arrow Irrigation Company (AIC), and raised the following matters:

- the deflection bunds proposed by Mr McCartney would divert water but would still put it over open land that has become rural residential in nature with plants and structures. He considered damage to these would likely result in claims against AIC. He would prefer to have the race piped, as any stormwater flow would continue over the pipe and would not concentrate in the race;
- the trail could interfere with AIC's pipeline easements rights;
- there were health and safety concerns which could arise when maintenance works were being undertaken or if children were playing in or adjacent to the race; and
- the consequence of a granting of an easement in gross in favour of the Council would be that Council would incur liability if such health and safety issues arose.

21. **Mr Broomfield** considered that the area around Lake Johnston, the Tucker Beach Reserve, Wildlife refuge reserve and the old Tucker Beach Bridge to be a vital link and recreation area for the large population growth projected in the Frankton Flats area. He noted that he would support the application provided appropriate conditions around fencing, esplanade reserves and water protection were imposed, as addressed in Mr Vivian's evidence.

22. **Mr Vivian** provided planning evidence in support of the Woodlot Properties submission, and reiterated the following points:

- a trail easement should be created in favour of the Council linking Quail Rise (via Trench Hill Lane) to Hansen Road through the site, and that it be formed to the Council's standards;
- an esplanade reserve should be created around Lake Johnston, and that unhindered public access to the lake be made available (including the removal of the currently locked gate); and
- the legal unformed Hansen Road should be fenced on both sites to exclude stock.

23. Mr Vivian considered that the ONL assessment matters enabled consideration of these positive effects.

24. **Ms Kennedy** considered that the 'Hansen Trail' as proposed was a valuable proposal, and understood that the Trail would not proceed should the subdivision not be approved. She noted that the Council undertakes an independent safety audit of all trails. The Trust supported the trail for the following reasons:

- there is an existing walkway that can easily be upgraded to the Council's standards, and will provide spectacular views;
- the potential connectivity with Quail Rise will create an enjoyable 'there and back again' walk or cycle to route;
- the Trail will form part of the wider network of trails in the area;
- a new trail is being planned between Tuckers Beach Road and Shotover River; and
- Hansen Road could provide a valuable link from Quail Rise through to the Events Centre.

#### **Officers**

25. **Mr Wardill** identified that the Council's Code of Practice requires the upgrading or sealing of accesses servicing 1 – 20 units, and that there is no real trigger. There have been similar conditions requiring sealing of accesses and roads in the District.

26. **Mr Denney** considered that while the line of the water race can be seen across the slope, it is not a boundary between two landscapes. There are various lines in ONLs that are cultural lines that do not determine landscape category. Landscape lines normally follow topography. A layperson would not necessarily pick out where a landscape changes. He noted that close up, the site cannot be seen, but further out the landscape becomes apparent, as does the landform. Mr Denney considered that the changes to the landscape plan were more receptive to the landform, but overall remained of the view that the change proposed could not be absorbed into the landscape.
27. **Ms Standish** confirmed that she was satisfied with the solutions to address the hazards on the site. She considered that the trail is a positive element, and noted that the issue is whether it is enough of a positive effect to outweigh the adverse effects on the landscape. She noted that the flats are developed and cluttered, whereas the slopes are a foreground to the roche moutonnees behind. She remained of the view that the development is inappropriate on landscape grounds, and stood by her original recommendation. Ms Standish noted that there was scope for some development, but was not sure how much would be appropriate.

### **Applicant's Right of Reply**

28. **Mr Goldsmith** provided verbal comments, which included the following matters:
- there is no opportunity for the Council to take an esplanade reserve. It is not being offered as part of this application. Public benefit from this subdivision will come in the form of the trail. (We have reviewed the evidence of Mr Vivian and Mr Goldsmith's detailed comments on the esplanade reserve matter, and we accept Mr Goldsmith's legal submissions that there is no ability in this instance to take an esplanade reserve);
  - the existing state of Hansen Road does not warrant sealing. There is an issue of consistency and fairness. Other roads in the district are not sealed, yet provide access to a number of residential dwellings. Dust will not be an issue as there vegetation between the road and the boundary of the lots;
  - the ONL line in the proposed District Plan is in an urban zone, overlain by Medium Density zoning. The urban growth boundary follows the Medium Density boundary. Some weight can be placed on this – only one submission opposes the new boundary. There is no logic in having an ONL line in an urban zone; and
  - he noted that he was having difficulty accepting that the Council incurs liability in relation to the walking/cycle trail. An easement cannot be created without the Council agreeing to accept it, and the consent cannot be exercised unless the easement is granted, which provides fundamental protection. Mr Goldsmith indicated that this issue would be addressed in a written reply.

### **Further Information**

29. Following the adjournment of the hearing, we received correspondence from the Council's Parks and Reserves planner, who noted that

*Caution needs to be exercised before any new trails can be endorsed or accepted by Council, as the costs of maintaining such trails can be significant, and existing maintenance budgets are ascertained on finite and know extent of trails and do not anticipate new trails.*

*Any decision to accept new trails will in all likelihood come from Council itself, and only after a comprehensive analysis of the costs and benefits associated with any new track or trail. This process is typically quite involved and decisions are carefully considered.*



30. We requested further information from the Applicant in relation to this matter, and in relation to whether there were any additional mitigation measures proposed for the lower lots in order to alleviate concerns regarding potential skyline breaches.
31. In reply, the Applicant acknowledged the Council's ultimate discretion on this issue, and considered it unlikely that the Council would not accept and enable the trail for the following reasons:
- the strong support of the Queenstown Trails Trust for the creation of the trail, as set out in the evidence of Ms Kennedy; and
  - the unusual circumstance of the trail being located on an access track beside a water race which is solid and level, and therefore unlikely to result in maintenance costs of any significance.
32. The Applicant also confirmed that Conditions 7(b)(ii) and 14(l) mean that the consent could not be implemented unless the easement is granted and accepted by the Council, and that the trail is constructed to Council standards as approved by Council at the 224c certification stage.
33. We also requested additional information from the Applicant in relation to mitigation measures on the lower lots, including the potential to reduce the roof height or the inclusion of mounding and/or additional planting to ensure that buildings do not breach the line of the ridge.
34. The Applicant noted that given the wide range of potential viewpoints on the Frankton Flats, it is difficult to categorically determine whether a house built to a certain height would or would not breach the skyline from any viewpoints. Such a breach could be so distant as to not be discernible. The Applicant noted that what is now condition 15(e) specifies roof heights being at specified RL levels, based on the assumption that a 5.5m house could be erected on the building platforms. The Applicant confirmed they would be comfortable with the maximum RL on Lots 2 – 4 being reduced by up to 1.5m, but that this would require these lots to be exempted from conditions 15(f) and (g) which specify a maximum ground floor area of 500m<sup>2</sup> and a 15-35° roof pitch respectively. The Applicant also noted that a post-construction mitigation condition could be imposed requiring mounding or structural planting being implemented if any part of a house breached at the skyline when viewed from at least 500 metres from the dwelling.
35. We also received a written closing from Mr Goldsmith, who addressed a number of residual matters from the hearing, as follows:
- an indicative cost of piping the Arrow Irrigation Race (including installation) would be in the order of \$100,000, which would be in addition to the estimated cost of \$60,000 to construct the trail to the Council's standards. The additional \$100,000 would be a significant cost to the subdivision, and we should consider whether the imposition of such a condition is appropriate and justified;
  - there is no basis for the concerns regarding the Arrow Irrigation Race as identified by Mr McDonald. He noted that for the Applicant to be able to provide water to the subdivision, they will need to obtain a water allocation from AIC, and that the Applicant would grant AIC a water supply easement in favour of AIC to enable it to supply water to the land. Either or both of these agreements could include a contractual provision whereby the landowner and beneficiary of the water supply indemnify AIC against any claim for damages arising from any adverse consequences of any breach in the race. The Applicant acknowledged that such contractual arrangements will be required, and AIC could refuse an easement should these provisions not be included. On this basis Mr Goldsmith submitted that we need not be concerned with this matter;

- in order to address any concerns over interference with AICs easement rights, the Applicant proposed to amend Condition 7(b)(ii) to record AICs priority in terms of the easement;
  - the possibility of children playing in the water race is unlikely. The race is shallow and not deep enough to swim in. It can reasonably be expected that any children small enough to be subject to this concern, traversing a trail across open farmland, would be accompanied by an adult responsible for such children. Mr Goldsmith drew an analogy with the trail running around Lake Hayes, which in places adjoins the lake edge and has sections of unfenced boardwalk. This trail has more dangers due to the depth of the water it adjoins;
  - any health and safety liability of the QLDC for the Hansen Trail is an obligation which arises for all local councils in respect of all public trails and roads. The obligations are not particularly onerous, and can be discharged by taking reasonably practicable steps;
  - the Trails Trust is aware of the need for regular upkeep and maintenance of the trail network, and ensuring that new trails are constructed to a particular standard; and
  - QLDC has no obligation to sign or 'accept' the easement in gross. It is up to QLDC's executive arm to take further legal advice if it is concerned with any additional liability that might arise from the Hansen Trail.
36. Mr Goldsmith advised that the gate providing access from Hansen Road to Lake Johnson is locked to reduce the occurrence of drivers driving down and getting stuck in a hollow and requiring rescue.
37. Mr Goldsmith also noted that both Mr Denney and Ms Standish acknowledged that the site can accommodate some extent of development, although they could not state what that might be. On this basis, Mr Goldsmith concluded that

*"... there is now no basis of expert opinion on which the consent could be refused. There is no reasoned basis upon which a conclusion could be reached that any potential adverse effects generated by a lesser number of houses would be of such significance, compared to potential adverse effects generated by the four houses requested, such as to lead to a conclusion that a grant of consent to a lesser number is more appropriate than a grant of consent to the four lots requested".*

## **District Plan Provisions**

### Proposed District Plan

38. Section 86B(1) of the RMA states a rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified. An exemption to this is section 86B(3)(a) in which case a rule has immediate legal effect in certain circumstances including if the rule protects or relates to water, air or soil.
39. The Proposed District Plan ("PDP") was notified on 26 August 2015. Pursuant to Section 86B(3)(a) of the RMA, a number of rules in the proposed District Plan that protect or relate to water have immediate legal effect. None of these rules are relevant to this application, and by extension we therefore conclude that there are no rules in the Proposed District Plan that are relevant to our consideration of this application.

### The Operative District Plan

40. The subject site is zoned **Rural General** under the Queenstown Lakes District Plan (the **District Plan**).

41. The purpose of the Rural General Zone as described on Page 5-9 of the District Plan is as follows:

*The purpose of the Rural General Zone is to manage activities so they can be carried out in a way that:*

- *protects and enhances natural conservation and landscape values;*
- *sustains the life supporting capacity of the soil and vegetation;*
- *maintains acceptable living and working conditions and amenity for residents of and visitors to the Zone; and*
- *ensures a wide range of outdoor recreational opportunities remain viable within the Zone.*

42. The relevant provisions of the District Plan that require consideration can be found in Chapter 4 (District Wide), Chapter 5 (Rural Areas) and Chapter 15 (Subdivision, Development and Financial Contributions).

43. We agree with Ms Standish that the proposal requires the following consents:

- **A discretionary activity** resource consent pursuant to Rule 15.2.3.3(vi) for a subdivision in the Rural General Zone and the identification of residential building platforms.

44. Ms Standish also noted that Page 9 of the AEE states the application is exempt from Rule 15.2.6.3[iii] as proposed Lots 5 and 6 are subject to restrictions against further building. The application is not explicit that a restrictive covenant or consent notice will be entered into, however she accepted that that is the intent of the application.

45. Overall, we agree that the application is required to be assessed as a discretionary activity.

#### **Relevant Statutory Provisions**

46. As a discretionary activity, this application must be considered in terms of Sections 104 and 104B of the RMA.

47. 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.*

48. Following assessment under Section 104, the application must be considered under Section 104B of the RMA. Section 104B states:

*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.*

49. Section 220 empowers us to impose conditions on a subdivision consent.

50. In reaching this decision we note that we have taken into account all of the information provided with the application, the section 42A report and appended assessments, and the evidence presented at and subsequent to the hearing. We undertook a site visit on 30 November 2016 and are satisfied this enabled us to obtain a sufficient understanding of the site and surrounding environment. We have also considered the provisions of the relevant plans, and Part 2 of the Act.

#### **Permitted baseline, existing environment and receiving environment**

51. All subdivision and new buildings require resource consent in the Rural General Zone. As identified in the section 42A report, permitted activities in the Rural General zone are generally restricted to matters such as farming activities. We agree that there is no applicable permitted baseline for this application.

#### **Assessment**

52. Planning evidence was provided by Ms Standish for the Council via the section 42A report, and by Mr Ferguson for the Applicant. No other party provided expert planning evidence. We note Mr Goldsmith's submission that at the end of the hearing, Ms Standish acknowledged that some development on the site was appropriate, and that this left us in a position with no substantive evidence base upon which to decline the consent.

53. Before turning to consider the actual and potential effects of the proposal, we first address the matter of the landscape classification of the site and, more specifically, the location of the ONL line.

#### Location of ONL Line

54. We have considered the evidence of both Mr Denney for the Council and Mr Bentley for the Applicant. We have also taken note of the ONL boundary as included in the proposed District Plan.

55. We note that this proposed ONL line is overlain by the Medium Density Residential Zone. We agree with Mr Goldsmith's submission that this is not a logical place for a landscape line.

56. We have viewed the site from a range of viewpoints and distances, and we have reached the view that we largely prefer the evidence of Mr Denney, for reasons including the following:

- from distant viewpoints, we did not consider there was a significant perceptible difference in landscape character of the land above and below the water race;
- the area below the water race and above the terrace edge is too small to be a landscape unit in its own right; and
- even when viewed from viewpoints closer to the site, we did not consider that the land had a significantly different appearance above or below the race.

57. Overall, we agree with Mr Denney that the water race forms a faint line across the landscape, similar to a farm track or fence line, but does not delineate a distinct change in landform, land use, ecology, vegetation pattern or landscape character.

58. We have also considered where the line should sit. We recognise that the proposed District Plan places the line below the top of the terrace at the lower end of the site. We also note that the proposed Plan includes part of the land through which this line runs in the proposed Medium Density Residential Zone. We do not consider that this is an appropriate location, and consider the line would be better located along the top of the terrace to better reflect the point at which the topography and vegetation cover change. In the least, we consider that the line

would be better placed following the urban growth boundary. We recognise, however, that this line will be the subject of detailed evidence at the District Plan Review Hearings.

59. For the purpose of this decision, however, we consider that the site is entirely within an Outstanding Natural Landscape (ONL), and consider that the line is better placed somewhere between notified in the proposed District Plan and the southern boundary of the site. Accordingly we address the relevant effects below in the order in which they were addressed in the section 42A report within the context of the ONL – WB assessment matters.

#### Visibility of Development

60. Mr Bentley's landscape assessment provided with the application provides a detailed assessment of the visibility of the site and building platforms from the surrounding public places and roads. We agree that the site is generally not visible from State Highway 6, and that the undulating topography assists in mitigating views, as does the vegetation in the gullies on the site. We agree that any views from State Highway 6 will be transitory and from short sections of the road, to the extent that any effects from this road will be minor.
61. Views of the site from Hansen Road are limited largely to the extent of the frontage of the site with Hansen Road, although existing vegetation provides some screening. Lots 3 and 4 are some distance from the road and will be difficult to see. Lots 1 and 2 are separated to a degree from Hansen Road by Lot 5, and while there will be glimpses of these available from the road between trees, we are satisfied that the location of the platforms and the landscaping proposed will be sufficient to absorb these platforms into the landscape.
62. We also considered the visual effects from sites within Frankton Flats and Remarkables Park/Eastern Access Road. On our site visit, we viewed the site from a number of roads in this area and noted that while the site was visible, these views would be lost over time with the establishment of built form within the area and the proposed landscaping.
63. From more distant viewpoints, including from Shotover Country Estate and the Remarkables Ski field road, we consider that the site forms part of a much wider landscape, and that the individual sites will not give rise to significant adverse effects from these viewpoints.
64. In reaching this view, we note that specific design controls have been proposed for the building platforms that are designed to mitigate any adverse effects. Given that visibility of the sites is largely obtained the further one travels from the site, we agree with Mr Goldsmith's submission that a post construction review condition is appropriate to the end that should a dwelling breach a ridgeline when viewed from 500m or more from the site, then additional landscaping or mounding will be required by way of mitigation. Given the nature of the developments occurring within the Frankton Flats area, we consider a distance of 750m is appropriate.

#### Visual Coherence and Integrity of Landscape

65. We agree that buildings on the platforms will generally not break the line of any ridges, hills or prominent slopes, bearing in mind Mr Goldsmith's comment that it cannot be guaranteed from all viewpoints. That notwithstanding, we agree that the specific RL heights go a long way to avoiding any potential breaches, and as noted above, consider that the post-construction condition volunteered by the Applicant is appropriate.
66. The Applicant has amended the location of some of the platforms so as to avoid having to undertake earthworks within gullies, and the planting proposed is intended to bolster the existing vegetation patterns within the gullies. We agree with Mr Bentley's evidence that the proposal will not adversely affect the visual coherence or integrity of the landscape to a significant degree.

### Cumulative Effects of Development on the Landscape

67. We have considered the landscape evidence of both Mr Denney and Mr Bentley, and we note that Mr Denney acknowledged that some development could be absorbed on the site. We agree that the development is not highly visible outside the site, and we are satisfied that the surrounding landscape can absorb the development largely to the open space to be retained on the site, the appropriate location of the building platforms, and the limited degree to which the proposal will be visible from the wider area.

### Natural Hazards

68. The application originally included a building platform that was located in an ephemeral watercourse. This was subsequently amended such that the platform avoided this area. Mr McCartney's evidence identified the Applicant's design solution to mitigate potential effects from a breach or overtopping of the Arrow Irrigation race.
69. The alternative solution to Mr McCartney's design is for the water race to be piped. We were told that the cost of this would be prohibitive, and Mr Goldsmith noted in his closing arguments that the contractual arrangements required to secure water from the race for the development would include a clause whereby the landowner and beneficiary of the water supply would indemnify the Arrow Irrigation Company against any damage that occurred from a breach. On this basis, we agree that piping of the race is not necessary. We note that Ms Standish considered that the hazards issue had been addressed by the changes made by the Applicant. We agree overall that there are no significant adverse effects arising from natural hazards on the site.

### Earthworks

70. The proposed earthworks to establish the internal rights-of-way have been considered by Mr Powell, who has not raised any specific concerns with undertaking the proposed works. He does however note that it is likely the volume of earthworks within 7m of the water course on the site will exceed 20m<sup>3</sup>. Mr Powell is satisfied that suitable mitigation including sediment control can be installed, and accordingly recommended site management conditions. We are satisfied that subject to these site management controls and their certification by the Council prior to the works commencing, will appropriately mitigate any potential effects from these earthworks.
71. The submission from Te Runanga o Ngai Tahu identified that the site is in the vicinity of site F41/442 as registered with the New Zealand Archaeological Association. We understand that this reference refers to a 1989 find of an adze and moa bone fragments on an adjoining site. We accept that this is not on the application site but given this is a neighbouring site, there remains a possibility that further historic finds could be made. We consider that the conditions outlining an accidental discovery protocol and cultural monitoring as requested by the submitter are appropriate to establish the appropriate process should any cultural heritage be discovered or disturbed during the works.

### **Access, Vehicle Crossings and Traffic Generation**

72. Each proposed residential dwellings will generate on average eight traffic movements per day (an additional thirty two traffic movements per day) on Hansen Road and its intersection with SH6. As did the section 42A report, we acknowledge that the proposal will increase traffic pressures on these roads. However, no submission was received from the NZ Transport Agency and we therefore conclude that there are no adverse effects of concern arising on State Highway 6.
73. A submission from the City Impact Church was received regarding adverse nuisance and dust effects from vehicles using Hansen Road, along with stormwater issues flowing from the road, which raised concerns that these would increase with this development. We note in this regard that the proposed dwellings are set back some distance from Hansen Road, as are other

dwellings along Hansen Road. The Council's engineering report considered it appropriate that Hansen Road be sealed; however, we agree with Mr Goldsmith's suggestions that requiring sealing as part of this subdivision would be inappropriate. We do not consider that the effects of the additional 32 vehicle movements on this road would make a requirement to seal it appropriate, noting that there are other roads in the district that accommodate a greater degree of development that have not been required to be sealed.

74. We agree with Mr Powell's assessment that the two existing vehicle crossings to the site are appropriate to provide access to the proposed lots. Lots 1, 3 and 4 will utilise the northern crossing with formed Rights of Way, and Lot 4 will use the southern crossing. These crossings will need upgrading to meet Council standards, and we consider it appropriate to include Mr Powell's recommended conditions in this regard.

#### **Infrastructure Servicing**

75. No concerns were raised by any party in relation to the proposed servicing of the subdivision. We therefore rely on Mr Powell's assessment that:

- the allotments can be serviced by Council's potable water reticulation, supplemented by irrigated water from the Arrow Irrigation Scheme. We accept Mr Powell's advice that connections can be made to each allotment;
- the onsite provisions for on-site wastewater and stormwater disposal are appropriate; and
- power and telecommunication reticulation can be provided to each lot.

76. Overall, we accept Mr Powell's advice that subject to recommended conditions, the allotments can be adequately serviced.

#### **Positive Effects**

77. The application notes that the creation of the subdivision will protect the gully system which contains mature vegetation, and that covenants will be created to ensure that all plantings established through the subdivision are appropriately protected from pests and that any dead, dying or diseased plants are actively replaced. We agree that the protection and enhancement of the vegetation on the site is a positive effect.

78. We consider that the creation of the walking/cycling track alongside the Arrow Irrigation Race is a positive effect, which will bring significant benefits for the community. Mr Ferguson's supplementary evidence identified that the trail will form part of an existing trail network, and will enhance recreational values and connectivity for Quail Rise, Frankton Flats and the surrounding area.

79. Mr Ferguson's view was supported by the evidence of Ms Kennedy, CEO of the Queenstown Trails Trust. Her evidence set out the purpose of the Trust, and confirmed that the Trust considered the Trail to be a valuable proposal, and that it would be a valuable addition to the expanding trail network in the Wakatipu basin, and that the trail would be consistent with the Trust's strategic plan of connecting communities via the off-road trail network.

80. We agree with Mr Ferguson and Ms Kennedy that the trail presents an opportunity for the Council to provide an additional link that will improve the connectivity between Frankton Flats, Quail Rise and the surrounding area. We do not consider it necessary to require the race to be piped for its length through the site, having regard to the potential costs as described by Mr Goldsmith. We do not consider that the concerns raised in relation to the remaining unpiped section and the potential liability issues raised by Mr McDonald to be significant. In any event we accept Mr Goldsmith's submission that the liability issue is a matter of contract to be

addressed by the Applicant when establishing the necessary easements and other agreements with the Arrow Irrigation Company.

81. With respect to the safety issues raised, we note that there are other public tracks, such as that traversing Lake Hayes, that adjoin much deeper water without barriers, and overall we accept Mr Goldsmith's submissions that the concerns are unfounded.
82. We consider that while the trail offers significant public benefits, it is onerous to expect the trail to be in the Applicant's hands as a private trail and for them to maintain it in perpetuity. We consider therefore that the trail must be accepted by the Council as an easement in gross before the consent can be implemented. Matters such as the ongoing maintenance of the trail and who will carry out that maintenance will form part of that decision.
83. The no further development covenant being offered for lots 5 and 6 is a positive as it will ensure open rural land for a large part of the site and will form a buffer between the proposed urban growth boundary, Quail Rise and the proposed development.

### ***Summary of Effects***

84. Overall, having considered the evidence pre-circulated and presented at the hearing, the application and supporting reports, the submissions and the additional evidence provided subsequent to the hearing, we are satisfied that the adverse effects of the proposed activity will not be significant and that they can be appropriately addressed by way of conditions of consent.

### **Objectives and Policies of the Relevant District Plans**

85. We have considered the detailed assessments of the objectives and policies of the relevant Plans as set out in the Application, the section 42A report and the evidence of the planning experts.
86. The section 42A report prepared by Ms Standish originally recommended that consent be refused on the basis that the adverse effects of the proposal could not be appropriately avoided, remedied or mitigated, and that the proposal was inconsistent with the relevant provisions of the Operative and Proposed District Plans. In reaching this conclusion, Ms Standish drew on the conclusions of Mr Denney in his landscape assessment. At the end of the hearing, however, Ms Standish acknowledged that some development could be accommodated on the site, as did Mr Denney, although they could not state what that level of development might be. As Mr Goldsmith observed, this change in view, to which the experts are entitled having considered the evidence presented, has resulted in us having no evidence that supported a refusal of the consent in its entirety.
87. Having considered the evidence and views of the expert planners and landscape architects, we have reached the view above that the adverse effects of the proposal are not significant, and that the development proposed can be absorbed into the landscape. In the following sections, we address the relevant provisions of the statutory documents.
88. Both Mr Ferguson and Ms Standish identified that the relevant provisions of the Operative District Plan are found in sections 4 (District Wide), 5 (Rural Areas), 15 (Subdivision) and 22 (Earthworks).
89. The key Objective in Part 4 of the Plan is Objective 4.2.5, which seeks to avoid, remedy or mitigate adverse effects on visual amenity and landscape values. Although the site is elevated, it is screened from the public roads (particularly State Highway 6) by the existing terrace. Visibility of the site increases with distance, but we also note that the further one travels from the site, the more the site forms part of the wider landscape surrounding the Frankton Flats. From many viewpoints on public roads in the Frankton Flats area, any visibility of the site will be mitigated by intervening buildings. From more distant areas, including Shotover Country Estate and Remarkables Park, we are satisfied that the visual effects on the proposal will not be



significant, by virtue of the topography, design controls and the location of the site within the wider landscape backdrop. We are satisfied, therefore, that the proposal is consistent with Objective 4.2.5 and its associated policies, and that the development will be reasonably difficult to see, particularly when considering the distance from which the site is visible.

90. Objective 4.8.3 and its associated policies address natural hazards. As noted, we agree with Mr McCartney's evidence that removing Lot 2 from the secondary gully, and providing for appropriate earthworks to capture any overflows in the event of a breach of the water race, appropriately address this issue. We consider the proposal to be consistent with these provisions.
91. The provisions of the Rural Chapter largely mirror the District Wide provisions. Overall we are satisfied that the proposal can be appropriately absorbed into the landscape, and that the visual coherence of the landscape will to be adversely affected.
92. Part 15 of the Operative District Plan addresses subdivision, development and financial contributions. Adequate services can be provided to the subdivision, and we have identified that the proposal will not adversely affect the character or visual amenity values of the landscape within which it is located. We consider therefore that the proposal is consistent with the provision of Part 15.
93. Part 22 of the Plan addresses earthworks. The works to be undertaken are minor in scale, and will not result in a significant change to the landscape, as identified by Ms Standish. We therefore consider that the proposal is consistent with the provisions of Part 22.
94. With respect to the Proposed District Plan, Ms Standish noted that it is necessary to recognise the importance of protecting landscape character and visual amenity values, particularly when viewed from public places. As we have identified, the landscape evidence of Mr Bentley has addressed the visual effects of the proposal from the public places around the Frankton Flats area and have identified that there are no significant landscape effects. We agree with Mr Bentley's assessment, and consider that the proposal is consistent with the provisions of the Proposed District Plan.
95. The Operative and Proposed Regional Policy Statement for Otago provide high-level policies relating to the protection of Otago's outstanding natural landscapes and features. We do not consider the proposal to be inconsistent with the relevant provision of these high level documents.
96. The section 42A report also addressed the National Policy Statement for Freshwater Management (2014). Given that the extent of earthworks in the vicinity of the watercourse on site are relatively minor we agree with the report that the proposal will not have an adverse effect on water quality, and is therefore consistent with the provisions of the National Policy Statement.

#### **Other Matters**

##### ***Precedent***

97. We are satisfied that there will not be a precedent arising from this proposal. The proposal is for a discretionary activity, and the subdivision has been designed to be accommodated within the particular topography of the site. We do not consider that this decision raises any precedent issues.

##### ***Queenstown Trails Trust Strategy 2105 - 2025***

98. For completeness, we note that Mr Ferguson's Supplementary Evidence referred us to the Queenstown Trails Trust Strategy 20156 – 2025. He noted that as part of the 10 year Trail Development Action Plan identified in Part 5 of the Strategy, the trust seeks to implement trail

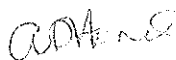
upgrades to the Hansen Road Loop within the next 3 years. We accept that the trail will assist the Trust in implementing the strategic vision to connect communities and business centres, and that the proposed trail will assist the Trust in implementing its goals to enhance connections between communities.

## Part 2 Matters

99. Section 5 states that the purpose of the Resource Management Act is "to promote the sustainable management of natural and physical resources". "Sustainable management" means 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 wellbeing 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 effects of activities on the environment.
100. Section 6(b) considers the protection of outstanding natural landscapes for inappropriate subdivision and development to be a matter of national importance. We have considered the effects of the proposal on the portion of the site that is located within an ONL and are satisfied that the integrity of the ONL will not be adversely affected. We therefore consider that the proposal is consistent with section 6(b).
101. Section 7 requires that we have particular regard to a range of matters, including the efficient use of natural and physical resources (s7(b)), the maintenance of amenity values (s7c), and the maintenance of the quality of the environment (s7(f)). We are satisfied that the evidence presented on behalf of the Applicant has demonstrated that these matters are appropriately addressed.
102. There are no particular Treaty of Waitangi issues (Section 8) that need to be taken into account in relation to this application.
103. For the reasons set out in this decision, we consider the application is consistent with relevant matters in Part 2 of the Act, and overall will achieve the purpose of the Act.

## Determination

104. Consent is sought to create six new allotments and establish 4 residential building platforms, and to undertake associated landscaping and earthworks, including the creation of three access ways.
105. The activity was assessed as a discretionary activity under sections 104 and 104B of the Act.
106. The Act seeks to avoid, remedy and mitigate adverse effects associated with developments. We consider that the adverse effects of this application can be appropriately avoided, remedied or mitigated, and that the proposal is consistent with the relevant objectives and policies of the Operative and Proposed District Plans.
107. Accordingly, we determine that consent be granted pursuant to sections 104 and 104B of the Act subject to the attached conditions which are imposed under sections 108 and 220 of the Act.
108. Dated at Queenstown this 3rd day of March 2017.



Andrew Henderson  
For the Hearings Commission

## RM151046 Hansen Family Partnership - Conditions of Consent

### General

1. That the development must be undertaken/carried out in accordance with the plans:

- 'Lots 1 – 6 being a subdivision of Lots 1 – 4 DP 24553, Lot 2 DP 383378, Pt Sections 123-124 Blk I Shotover SD and Pt Section 47 BLK II Shotover SD', Prepared by Clark Fortune McDonald & Associates, Drawing No. 01\_1, Rev G
- 'Hansen Road Proposed Subdivision Earthworks', Prepared by Clark Fortune McDonald & Associates, Drawing No. 06, Rev B
- Typical Road Cross-Section, Prepared by Hadley Consultants Ltd, Sheet SK-01, Issue A
- Attachment B, Water Race cut-off drain
- Figure 4A: Landscape Plan, Prepared by Boffa Miskell Ltd, Dated November 2016, Revision 2

stamped as approved on 2 March 2017, 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 and shall pay to Council an initial fee of \$240. This initial fee has been set under section 36(1) of the Act.
4. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any resource consent.

*Note: The current standards are available on Council's website via the following link: <http://www.qldc.govt.nz/planning/resource-consents/qldc-land-development-and-subdivision-code-of-practice/>*

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

5. Prior to the commencement of any works on the land being developed the consent holder shall provide to the Queenstown Lakes District Council for review and approval, copies of design certificates in the form of Schedule 1A of QLDC's Land Development and Subdivision Code of Practice, specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (4), to detail the following engineering works required:
  - a) Provision of a minimum supply of 1,050 litres per day of potable water to the building platforms on Lots 1 - 4 from Council's reticulated supply network as well as a separate irrigation from the Arrow Irrigation Scheme providing a minimum 1,050 litres per day to Lots 1 – 4.
  - b) The formation of all access ways to Lots 1 - 4 in accordance with Council's standards.

- c) Works adequate to protect each building platform from a breach of the water race, by piping a portion of the water race from Hansen Road to the point above Lot 3 where water will not naturally drain onto Lot 3.
  - d) Works to construct a trail which:
    - i. runs from Hansen Road to the eastern boundary of the site, generally along the water race route;
    - ii. is generally Grade 2 as per the QLDC Cycle Trail and Track Design Standards and Specifications 2016, subject to any deviations from that standard approved by the Council, and except for the section through the gully where the trail may not achieve Grade 2 standard;
    - iii. includes an appropriate engineering assessment;
    - iv. includes piping the water race where it coincides with the trail route.
  - e) The design plans prepared under (d) above shall accompany the written notice under Condition 7(b)(ii).
6. The consent holder shall install measures to control and/or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with QLDC's Land Development and Subdivision Code of Practice and 'A Guide to Earthworks in the Queenstown Lakes District' brochure, prepared by the Queenstown Lakes District Council. These measures shall be implemented prior to the commencement of any earthworks on site and shall remain in place for the duration of the project, until all exposed areas of earth are permanently stabilised.

***To be completed before Council approval of the Survey Plan***

7. Prior to the Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall complete the following:
- a) All necessary easements shall be shown in the Memorandum of Easements attached to the Survey Plan and shall be duly granted or reserved. This shall include an easement for telecommunications reticulation to each lot irrespective of the reticulation being installed.
  - b) The Memorandum of Easements attached to the Survey Plan shall provide for:
    - (i) Water supply along the eastern boundary of proposed Lots 3 and 4 from the water race to the northern boundary of Section 129, Blk I, Shotover SD, in favour of the owner of Section 129, Blk I, Shotover SD and Lot 1 DP 19932; and
    - (ii) Creation of the pedestrian and cycle access Right of Way as an easement in gross (located alongside the water race as shown on the approved Landscape Plan, and subject to any amendment in route approved by the Queenstown Trails Trust). The consent holder shall give Council at least two (2) months written notice to make the election decision required under this condition and prior to lodging the first stage plan for s223 Approval.

The easement shall include provisions which:

- (aa) Record that the rights created under the easement are subject to the rights in favour of Arrow Irrigation Co Limited contained in the right to convey water held by Arrow Irrigation Co Limited under Transfer 827625;

- (bb) Enable Arrow Irrigation Co Limited to prevent public access to any part of the easement route in order to, and for such period required to, maintain the water race;
- (cc) Ensure that, during any period that any part of the easement route is unavailable for public access under (bb) above, the easement right will be expanded (on a temporary basis) on either side to such width as is necessary for any walker or cyclist to go around any part of the easement route thus blocked to the far side of the blockage.

*Note: Condition 7[b](ii) does not imply that Council has agreed to, or is obliged to accept the pedestrian and cycle access easement.*

***To be monitored throughout earthworks***

- 8. No permanent batter slope within the site shall be formed at a gradient that exceeds 1:1.
- 9. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at his/her expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.
- 10. No earthworks, temporary or permanent, are to breach the boundaries of the site except for the works required for the vehicle crossings and trail.

Accidental Discovery

- 11. Archaeological monitoring to occur in conjunction with cultural monitoring, by a monitor as nominated by the relevant Papatipu Rūnanga or Iwi environmental entity (in the instance that an archaeological authority to destroy or modify the site under HNZPT Act 2014 is required)
- 12. If the consent holder:
  - a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder shall without delay:
    - (i) notify Council, Tangata whenua and Heritage New Zealand Pouhere Taonga and in the case of skeletal remains, the New Zealand Police.
    - (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand Pouhere Taonga and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation. Site work shall recommence following consultation with Council, Heritage New Zealand Pouhere Taonga, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
  - (i) stop work within the immediate vicinity of the discovery or disturbance and;

- (ii) advise Council, Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the Heritage New Zealand Pouhere Taonga Act 2014 and;
  - (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site. Site work may only recommence following consultation with Council
13. Any reports in relation to either the archaeological monitoring or cultural monitoring shall be supplied to the Te Ao Tūroa team at Te Rūnanga o Ngāi Tahu.

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

14. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
- a) The consent holder shall provide "as-built" plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development to the Subdivision Planner at Council. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Roads (including right of ways and access lots), Water, Wastewater and Stormwater reticulation (including private laterals and toby positions).
  - b) A digital plan showing the location of all building platforms as shown on the survey plan / Land Transfer Plan shall be submitted to the Subdivision Planner at Council. This plan shall be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.
  - c) The completion and implementation of all certified works detailed in Condition (5) above.
  - d) Written confirmation shall be provided from the electricity network supplier responsible for the area, that provision of an underground electricity supply has been made available (minimum supply of single phase 15kva capacity) to the building platforms created and that all the network supplier's requirements for making such means of supply available have been met.
  - e) Written confirmation shall be provided from the telecommunications network supplier responsible for the area, that provision of underground telephone services has been made available to the building platforms created and that all the network supplier's requirements for making such means of supply available have been met.
  - f) The provision of an access way to the building platforms within Lots 1 - 4 that complies with the guidelines provided for in QLDC's Land Development and Subdivision Code of Practice. The access shall have a minimum formation standard of 150mm compacted AP40 with a 3.5m minimum carriageway width. Provision shall be made for stormwater disposal from the carriageway.
  - g) The provision of a vehicle crossing to Lots 5 and 6 (for the use of Lots 1 – 4) from Hansen Road to be in terms of Diagram 2, Appendix 7 and Rule 14.2.4.2 of the District Plan. This shall be trafficable in all weathers and be capable of withstanding an axle load of 8.2 tonnes or have a load bearing capacity of no less than the public roadway serving the property, whichever is the lower. Provision shall be made to continue any roadside drainage.
  - h) All earthworked areas shall be top-soiled and grassed/revegetated or otherwise permanently stabilised.
  - i) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

- j) Implementation of the landscaping detailed on the plans entitled, 'Figure 4A: Landscape Plan, dated November 2016, Revision 1' (stamped as approved under Condition 1) within the first available planting season following completion of the earthworks authorised by this consent. The landscaping shall be subsequently irrigated for at least 3 years and maintained in perpetuity. Should any tree or plant die or become diseased it shall be replaced in the next available planting season.
- k) Establishing the water supply easement from the water race to, and in favour of the owners of, Section 129, Blk I, Shotover SD and Lot 1 DP 19932.
- l) Construction of the cycle and pedestrian trail to Council's standards.

**Ongoing Conditions/Consent Notices**

15. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant Titles by way of Consent Notice pursuant to s.221 of the Act.

- a) At the time a dwelling is erected on the lot, the owner for the time being shall engage a suitably experienced person as defined in sections 3.3 & 3.4 of AS/NZS 1547:2012 to design an onsite effluent disposal system in compliance with AS/NZS 1547:2012 and in accordance with the recommendations within the Southern Monitoring Services report submitted with the application dated 22 June 2015. The design shall take into account the site and soils investigation report and recommendations by Southern Monitoring Services Limited, dated 22 June 2015. The proposed wastewater system shall be subject to Council approval prior to implementation and shall be installed prior to occupation of the dwelling.
- b) At the time a dwelling is erected on Lots 1 - 4, domestic water and fire fighting storage is to be provided. A minimum of 20,000 litres shall be maintained at all times as a static fire fighting reserve within a 30,000 litre tank. Alternatively, a 7,000 litre firefighting reserve is to be provided for each dwelling in association with a domestic sprinkler system installed to an approved standard. A fire fighting connection in accordance with Appendix B - SNZ PAS 4509:2008 (or superseding standard) is to be located no further than 90 metres, but no closer than 6 metres, from any proposed building on the site. Where pressure at the connection point/coupling is less than 100kPa (a suction source - see Appendix B, SNZ PAS 4509:2008 section B2), a 100mm Suction Coupling (Female) complying with NZS 4505, is to be provided. Where pressure at the connection point/coupling is greater than 100kPa (a flooded source - see Appendix B, SNZ PAS 4509:2008 section B3), a 70mm Instantaneous Coupling (Female) complying with NZS 4505, is to be provided. Flooded and suction sources must be capable of providing a flow rate of 25 litres/sec at the connection point/coupling. The reserve capacities and flow rates stipulated above are relevant only for single family dwellings. In the event that the proposed dwellings provide for more than single family occupation then the consent holder should consult with the NZFS as larger capacities and flow rates may be required.

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

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

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

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

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

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

- c) Within Lots 5 and 6, further buildings and structures shall be limited to those associated with farming, such as fences, stock yards, gates, etc.
- d) All buildings, ancillary structures, accessory buildings and curtilage activities (i.e. paving, walls, domestic amenity planting/ vegetable gardens, lawns, areas of irrigation, sheds, clothes lines, car parking areas, outdoor storage areas, swimming pools and play equipment and other domestic structures) shall be contained within the area of the building platform.
- e) The maximum height of any building(s) to be constructed within each building platform shall be no higher than the maximum roof level as detailed below:

Lot	Building Platform Ground Level	Height of building above Ground Level	Maximum height (RL)*
1	406.5m	5.5m	412.0m
2	393.5m	5.5m	399.0m
3	405.2m	5.5m	410.7m
4	394.4m	5.5m	399.9m

\* Datum is in terms of Mean Sea Level.

- f) The maximum ground floor area of all buildings within the areas of the building platform shall be 500m<sup>2</sup>.
- g) Dwellings shall have a gable roof, with a 15-35 degree pitch and eaves at least 700mm wide. Flat roofs shall be avoided for the principal dwelling, provided that smaller areas of flat roofs that connect buildings are permitted where they do not exceed 20% of the area of the building.
- h) All building claddings shall be of stacked schist stone, painted or unpainted wooden weatherboards, packed earth or solid plaster. Colours are to be of dark recessive tones only and have a LRV less than 20%. All windows shall be of low reflective glass.
- i) All building roofing shall be of slate, timber shingles, or a light weight metal cladding (including corrugated roofing) or equivalent imitation materials. Colours shall be of dark, recessive tones with a LRV of less than 20%.
- j) All exterior lighting shall be fixed and no higher than 1 metre above finished ground level, filtered and pointed downwards and screened so as to reduce lux spill.



- k) All windows shall be overhung by eaves of at least 700mm.
- l) Accessory buildings shall have a maximum height of 4 metres.
- m) Water tanks shall be buried.
- n) Any earthworks associated with the creation of flat building areas, including any cut or fill batters shall be effectively re-vegetated/grassed.
- o) Fencing along all lot boundaries shall be kept to a consistent design of either post and wire or post and rail.
- p) Vehicle access gates shall be confined to timber or metal agricultural styles supported by wooden, timber or stone faced piers or similar.
- q) There shall be no linear planting of new vegetation along the western boundaries of Lots 1 or 2.
- r) Existing vegetation identified on the landscape plan (Figure 4A: Landscape Plan, Dated November 2016, Revision 1), shall be retained, with any vegetation removal limited to:
  - Trees that die, are damaged or becomes dangerous; and
  - Woody pest plants, including broom, gorse, hawthorn, elderberry and briar.

Any new planting within this area shall be restricted to native plant species.

- s) Following construction of a dwelling on any of the Lots, should the roof of the dwelling breach a ridge or the skyline when viewed from more than 750m from the site, the consent holder shall undertake additional landscaping and/or mounding in order to reduce the visibility of the dwelling from these viewpoints. Any additional planting and/or mounding shall be certified by the Council prior to implementation.

PROPOSED MEMORANDUM OF EASEMENTS		
PURPOSE	SHOWN	SERVIENT TENEMENT
Right of Way, Right to Power, Water and Communications	A, B, C, D, U, E, V, G	Lot 5 Hereon
Right of Way	A, I, K O	Lot 1 Hereon Lot 2 Hereon
Conveyance of Power, Water and Communications.	H A, B, C, D, U, E, V, G M P	Lot 3 Hereon Lot 4 Hereon Lots 1, 2 & 4 Hereon Lots 1 & 4 Hereon Lot 1 Hereon
to convey water	S, F, C, J, K, L Y	Lots 1, 2 & 4 Hereon Sec 129 Blk I Shotover S.D. & Lot 1 D.P. 1993Z

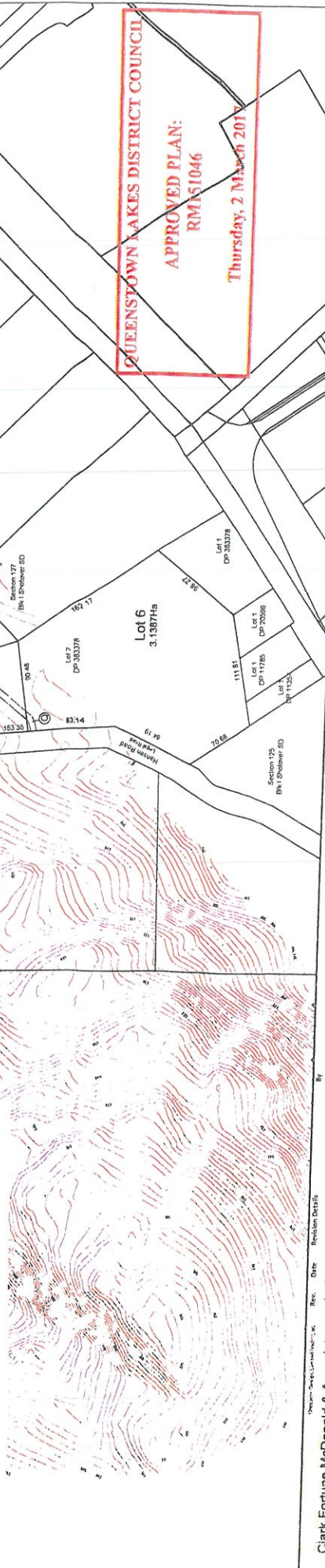
PROPOSED MEMORANDUM OF EASEMENTS IN GROSS		
PURPOSE	SHOWN	SERVIENT TENEMENT
Right of Way section and Cycle (Only)	R, S, T, U, E, V, W X	Lot 5 Hereon Section 60 Blk II Shotover SD
		GRANTEE
		QLDC

EXISTING EASEMENTS IN GROSS		
PURPOSE	SERVIENT TENEMENT	SHOWN
RIGHT TO CONVEY WATER	Lot 5 Hereon	Z, Y, X, W, V, U, T, S
		T. 827625

AREAS AA, BB, CC, AND DD ARE SUBJECT TO LAND COVENANTS (BUILDING PLATFORM)

AMALGAMATION CONDITION - Lots 5 and 6 Hereon are to be held in the same Title.

All easements subject to resource assessment and final land Transfer Survey



**LOTS 1-6 BEING A PROPOSED SUBDIVISION OF LOTS 1-4 DP 24553, LOT 2 DP 383378, PT SECTIONS 123-124 BLK I SHOTOVER SD AND PT SECTION 47 BLK II SHOTOVER SD & EASEMENTS OVER SEC 60 SHOTOVER**

By	Date	Revision Details
CRW	23.4.15	A Amended
CRW	20.5.15	B Amended boundaries, Add drawing
CRW	4.6.15	C Amended boundaries, Add drawing
CRW	6.6.15	D Add approach data
CRW	28.6.15	E Amended boundaries
CRW	18.2.16	F Add structures
CCU	17.11.16	G Amended boundaries & add easements

Clark Fortune McDonald & Associates  
 1st Floor Shotover Road, P.O. Box 553 Queenstown  
 (03) 441-0064, Fax (03) 442-1066, Email admin@cfma.co.nz  
 Shop 2, Oboro House, 475 Mary Place, P.O. Box 5980  
 (03) 470-1585, Fax (03) 470-1585, Email admin@cfma.co.nz

Client: JOHN HANSEN  
 Job No: 11548  
 Date: 01\_1  
 Scale: 1:2000 @ A1  
 1:4000 @ A3  
 Drawn: CRW  
 Checked: CRW  
 Designed: CRW  
 Date: 30.06.14  
 Date: 01\_1  
 Date: 30.06.14  
 Date: 01\_1  
 Date: 30.06.14  
 Date: 01\_1

OTHERS: ME, NZ 2000 & MSL

Attachment B

Lot 5  
14.9909Ha

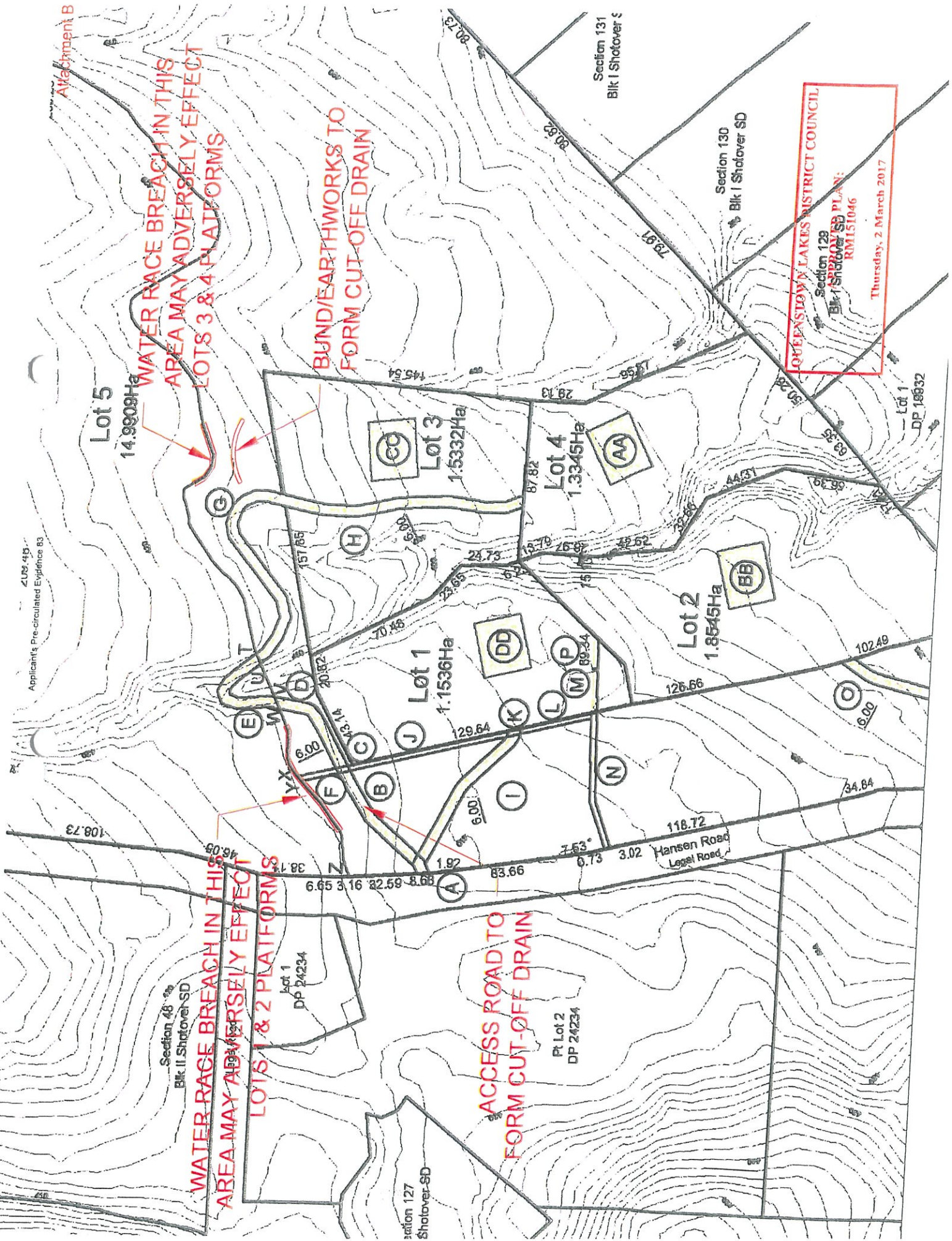
WATER RACE BREACH IN THIS AREA MAY ADVERSELY EFFECT LOTS 3 & 4 PLATFORMS

BUND/EARTHWORKS TO FORM CUT-OFF DRAIN

WATER RACE BREACH IN THIS AREA MAY ADVERSELY EFFECT LOTS 1 & 2 PLATFORMS

ACCESS ROAD TO FORM CUT-OFF DRAIN

QUEENSTOWN LAKES DISTRICT COUNCIL  
Section 129  
Blk I Shotover SD PLAN:  
KIM151046  
Thursday, 2 March 2017



**LEGEND**

- EXISTING**
- POWER LINES
  - ~ WATER RACE
- PROPOSED**
- SITE BOUNDARY
  - LOT BOUNDARIES
  - BUILDING PLATFORMS
  - EASEMENT FOR DRIVEWAY AND UNDERGROUND SERVICES
  - EASEMENT FOR UNDERGROUND WATER
  - TRAIL LINK
- PLANTING**
- EXISTING VEGETATION
  - STRUCTURE PLANTING

Species to be selected from the following:

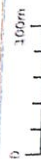
Centres	Botanical name:	Common name:
2.5m	<i>Griselinia littoralis</i>	Broadleaf
5m	<i>Fuscopora solandri</i>	Black Birch
2m	<i>Pseudopanax crassifolius</i>	Lancewood
3m	<i>Pseudopanax ferox</i>	Fierce lancewood
5m	<i>Sapota microphylla</i>	Kowhiri
2m	<i>Cordyline australis</i>	Cabbage tree
1.5m	<i>Corokia cotoneaster</i>	Corokia
1.5m	<i>Aristotelia fruticosa</i>	Mountain wineberry
1.5m	<i>Coprosma crassifolia</i>	
5m	<i>Fuscopora cliffortioides</i>	Mountain Beech
2.5m	<i>Coprosma propinqua</i>	Mingimingi
1m	<i>Discaria toumatou</i>	Matagouri
2m	<i>Parsonsia heterophylla</i>	Kaihua
	<i>Muehlenbeckia complexa</i>	Pohuehue

**BUILDING PLATFORM AREAS**

- Lot 1 750m<sup>2</sup>
- Lot 2 800m<sup>2</sup>
- Lot 3 800m<sup>2</sup>
- Lot 4 800m<sup>2</sup>



**QUEENSTOWN LAKES DISTRICT COUNCIL**  
**APPROVED PLAN:**  
**RM151046**  
**Thursday, 2 March 2017**



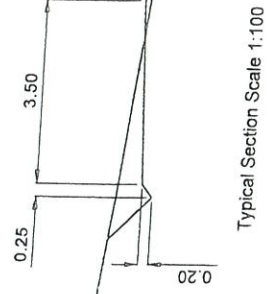
1:4,000 @ A3  
 Date: 14/03/17  
 Author: [Name]  
 Designer: [Name]



Earthworks Quantities	
Lot Access	
Lot 1	
Cut	43m <sup>3</sup>
Fill	72m <sup>3</sup>
Area	483m <sup>2</sup>
Lot 2	
Cut	43m <sup>3</sup>
Fill	21m <sup>3</sup>
Area	749m <sup>2</sup>
Lot 3-4	
Cut	317m <sup>3</sup>
Fill	175m <sup>3</sup>
Area	2512m <sup>2</sup>



**QUEENSTOWN LAKES DISTRICT COUNCIL**  
**APPROVED PLAN:**  
**RM151046**  
**Thursday, 2 March 2017**



**S:**

TYPICAL DESIGN: 150mm COMPACTED DEPTH GAP 40, 200mm  
 UNPAVED DEPTH 110mm. ALL DEPTH MEASUREMENTS TO BE  
 MEASURED WITH THE MAX. B/W AND THE SPECIFICATIONS  
 WORKS TO BE IN ACCORDANCE WITH NZ F1, AND THE  
 SPECIFICATIONS INCLUDING TESTING, HOWEVER CERTIFICATION OF  
 TESTS IS NOT REQUIRED. ALL WORKS TO BE CONFIRMED AS WORK PROCEEDS  
 AND BATTERS TO BE TRIMMED TO A DEPTH OF 200mm - RIP-RAP  
 TO BE CONSTRUCTED TO A DEPTH OF 200mm - RIP-RAP  
 TO BE USED WHERE GRADES EXCEED 10% - RIP-RAP  
 BATTERS HAVE BEEN TRIMMED TO ACHIEVE REQUIRED SIGHT  
 LINES WILL BE INSTALLED EVERY 50m, AS PER NZS-440:2010.

REVIEW 5.06.15

Clark Fortune McDonald & Associates  
 Lower Sheldrake Road, P.O. Box 553 Queenstown  
 41-8044, Fax (03)442-1066, Email admin@cfma.co.nz  
 2, Orago House, 475, Moray Place, P.O. Box 5960  
 70-1582, Fax (03)70-1581, Email admin@cfma.co.nz  
 15304241542\_06\_Subdivision Access.dwg Plotted: 15/03/2015

**Hansen Road**  
**Proposed Subdivision Earthworks**

Drawn	Checked	Drawn	Checked	Date	Date	Job No.	Drawing No.
CRW	CRW	CRW	CRW	10.08.14	11.15.14	11548	06
Designated	Designated	Designated	Designated	Date	Date	Scale	Scale
OTHERS	OTHERS	OTHERS	OTHERS			1:1000 @ A1	1:2000 @ A3
						Datum & Level	Datum & Level
							Mt Nic 2000 & MSL
							B

Client: JOHN HANSEN

Scale: 1:1000 @ A1

Date: 10.08.14

Date: 11.15.14

Job No: 11548

Drawing No: 06

Scale: 1:2000 @ A3

Datum & Level: Mt Nic 2000 & MSL

Client: JOHN HANSEN

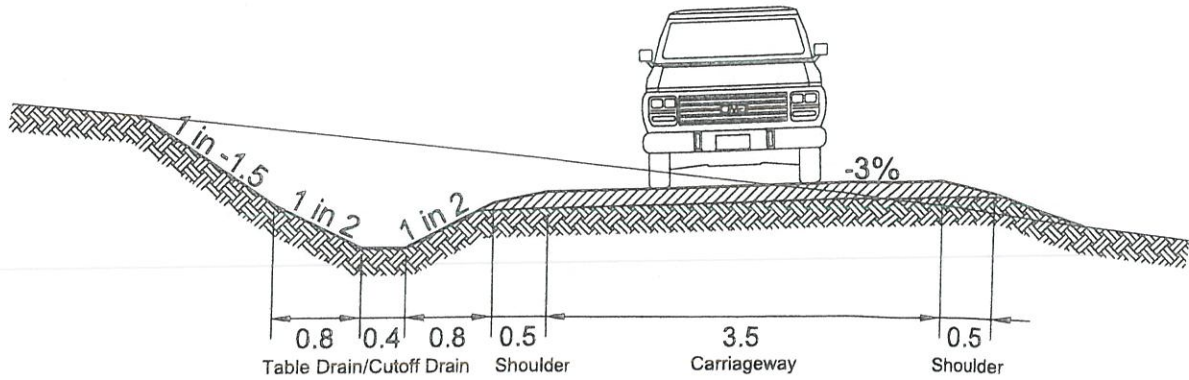
Scale: 1:1000 @ A1

Date: 10.08.14

Date: 11.15.14

Job No: 11548

Drawing No: 06



**LOTS 1, 3 & 4 ACCESS ROAD  
TYPICAL CROSS SECTION**

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**APPROVED PLAN:  
RM151046**

**Thursday, 2 March 2017**

ORIGINAL SIZE A4 DO NOT SCALE REFER ALL DISCREPANCIES TO THE ENGINEER

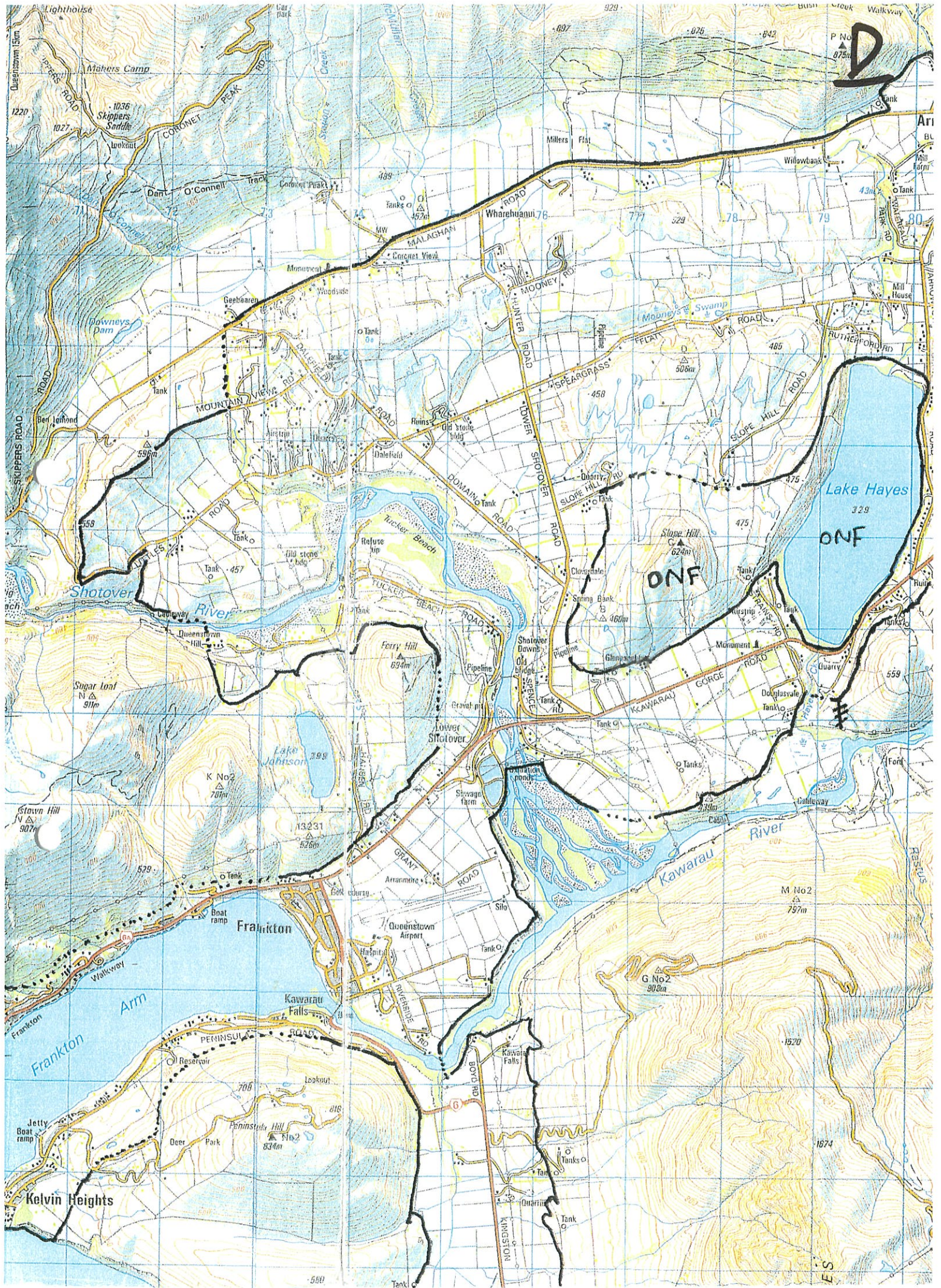
A	INITIAL ISSUE	JFM	JFM	10/11/16
Issue	Description	Chkd.	Appd.	Date

Project: **HANSEN ROAD SUBDIVISION**

Client: **HANSEN FAMILY PARTNERSHIP**

**hadley consultants LTD**  
CONSULTING CIVIL & STRUCTURAL ENGINEERS

This drawing is supplied on the understanding that the information contained hereon will not be passed to any other party without written permission first being obtained from Hadley Consultants Ltd.



D

ONF

ONF

M No 2  
757m

G No 2  
908m

S E

intensification resulting from BMUZ or LSCZ rezonings would likely result in the State Highway operating at capacity during peak periods. She also highlights concerns with the capacity of roads network and also the need to consider future growth of the area (including planned developments in the area).

**4.13** Ms W. Banks notes that there are numerous single accesses along SH6 and these are all designed for low traffic volumes, and many are located close to each other. Additional turning movements in and out of these accesses has the potential to result in traffic safety concerns.

**4.14** With regard to infrastructure and transportation networks, I note that this area was the subject of an application by Council for funding under the Central Governments Housing Infrastructure Fund. A decision on this application is anticipated from Central Government in mid-2017. This application sought funding for transportation and infrastructure upgrades to support a possible 1,150 residential units in this specific area; including a possible internal road alignment and connection to the Eastern Arterial Road (EAR), as identified in the figure below.

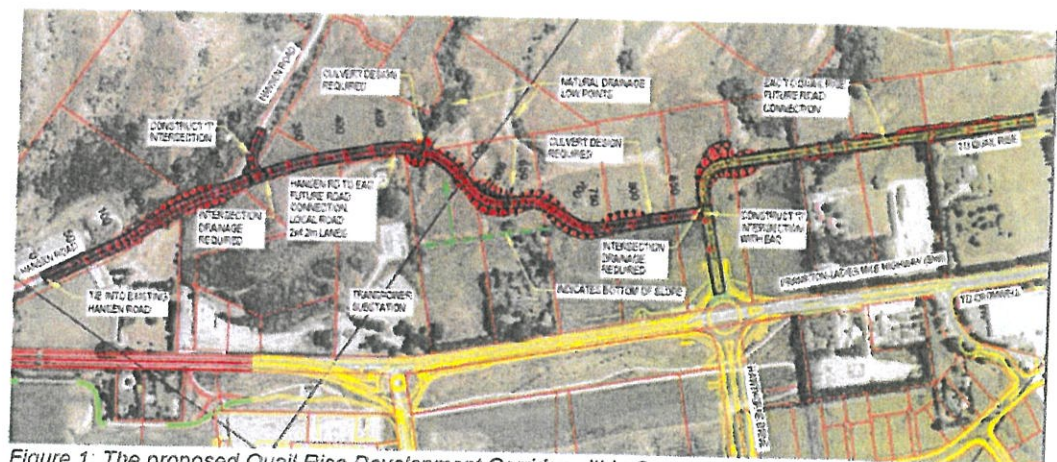


Figure 1: The proposed Quail Rise Development Corridor within Queenstown's Urban Development Area

Figure 2: QLDC Housing Infrastructure Fund Application, 2016

**4.15** Although Ms W. Banks has highlighted some concerns with traffic effects in this location, she is not opposed to other lower intensity residential zones in this area, or a combination of residential and commercial zoning (such as a mix of HDR or MDR and BMU or LSCZ). Ms W. Banks opposes HDRZ across the entire site as the



constrained by topography and the National Grid Corridor. I support and rely on the opinion of Dr Read on this matter.

5.27 As discussed in my s42A evidence, these land parcels are also (potentially) affected by the preliminary internal access route submitted within the Housing Infrastructure Fund (HIF) application, which identified a new road through the centre of these land parcels and connecting to Hansen Road (see **Figure 8**). At this time, this internal road access remains preliminary and the outcomes of the HIF are not known. However I understand a decision is expected at the beginning of July 2017.

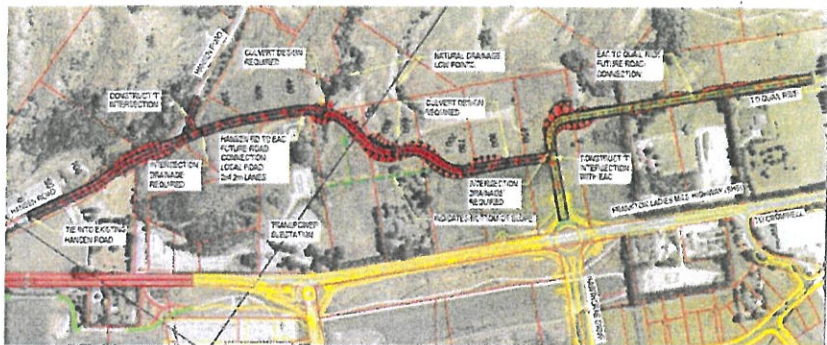


Figure 8: QLDC Housing Infrastructure Fund Application, 2016

5.28 As discussed by Ms Hutton, a resource consent has also been submitted by the Wakatipu Church over a portion of the submitter's land, indicated in the images in **Figure 9** (sourced from the file for resource consent RM170105). It appears from these figures that the Church's proposal has developed a successful site layout which has been able to navigate the constraints of the OCB, highway setbacks and future road corridors. In particular, car parking space and the playing field have been located within the OCB as these are not defined as ASAN.

GG



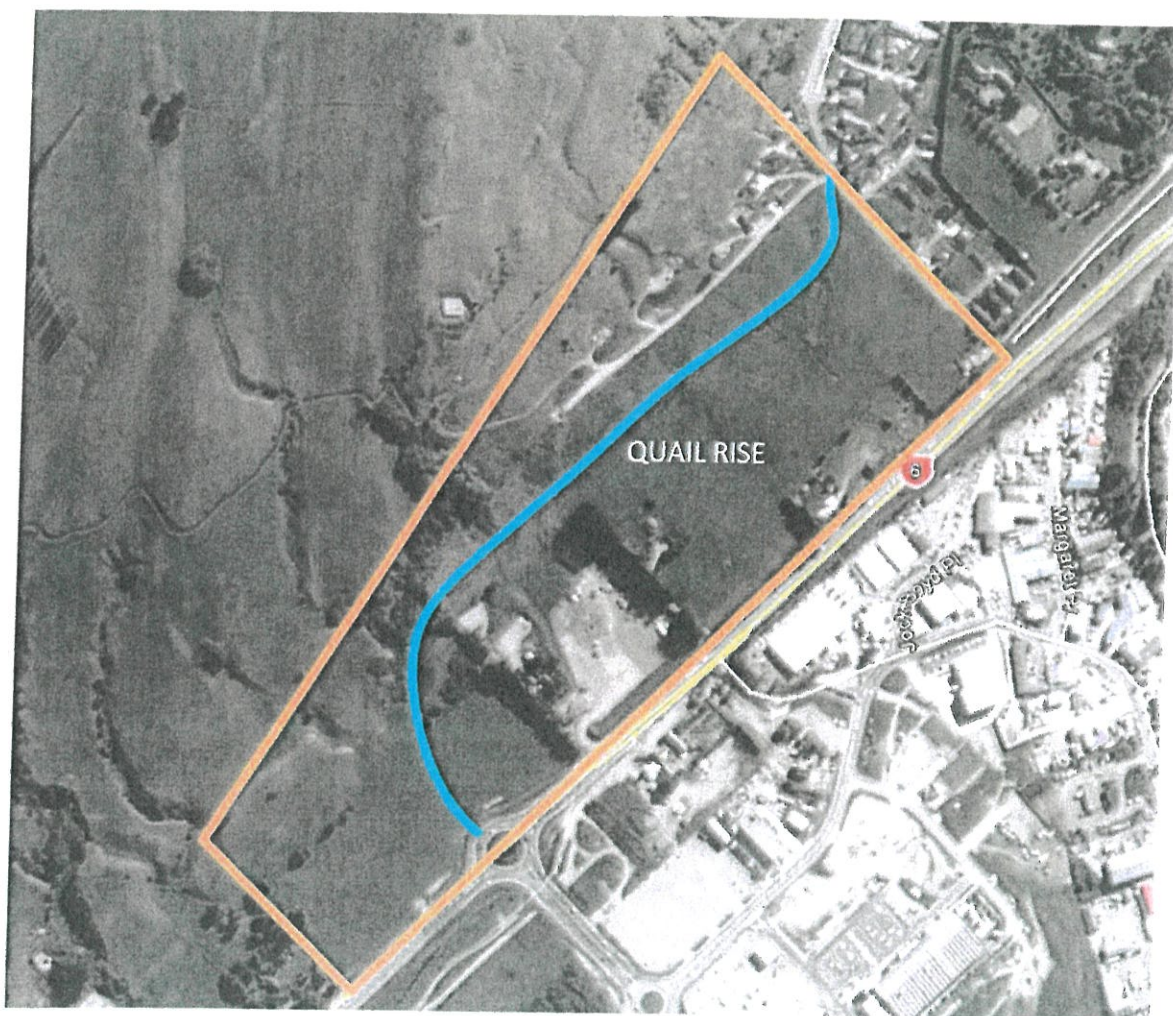
MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT  
HĪKINA WHAKATUTUKI

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# Housing Infrastructure Fund Call for Final Proposals

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## Summary of Proposal for Quail Rise South



### Summary Information

<b>Territorial Authority:</b>	Queenstown Lakes District Council
<b>Proposal Title:</b>	Quail Rise South
<b>Infrastructure Project/s:</b>	Mixed – Transport, Water Supply and Wastewater
<b>Location of Project/s:</b>	The Quail Rise South project borders the existing Quail Rise residential development and SH6. The road will link Ferry Hill Drive to the roundabout at the intersection of SH6 and Hawthorne Drive. Three waters infrastructure will follow the road alignment.
<b>Location of housing being enabled:</b>	<p>The project will enable residential development within the project area itself.</p> <p>The project is also adjacent to the Frankton Flats Special Zone (B) (69Ha, mixed use, Plan Change 19) and the natural public transport corridor.</p>
<b>Is the proposal and/or projects in existing plans</b>	<p>New project – not included in 2015 Long Term Plan. Note that the roundabout it connects to was only recently completed in 2016, prior to this there was no connectivity. Until recently development has been focused on the southern side of the State Highway (Frankton Flats) but with the new access, development of this site has recently become much more feasible. Furthermore, the development of new greenfield sites has predominantly been left for developers to instigate, drive and fund (this strategy resulted from the qualified audit on the 2009 Long-Term Plan).</p>

### Funding Information

<b>Total Funding Requested:</b>	\$10,300,000
<b>Funding by infrastructure project</b>	<p>Transport \$7,600,000</p> <p>Water Supply \$1,100,000</p> <p>Wastewater \$1,600,000</p>
<b>Estimated drawdown of funding</b>	First drawdown 01/2018 / Last drawdown 06/2019
<b>Estimated repayment period</b>	First instalment 01/2028 / Last instalment 06/2029

**Description of the Proposal and Projects:**

Quail Rise South will be a residential development located on the flat land bordering the existing Quail Rise residential area and SH6. The existing Quail Rise residential area is accessed via the SH6 and Tucker Beach Road intersection and is bounded by SH6 to the south and the Shotover River to the north and east.

It is proposed to construct a road linking Ferry Hill Drive to the newly formed roundabout at the junction of SH6 and Hawthorne Drive. The route generally traverses flat land and should be relatively simple to build. The roundabout at the intersection of SH6 and Hawthorn Drive was designed to accommodate a fourth leg, enabling construction of this road.

Three waters infrastructure to enable development of the area surrounding the new road. The three waters infrastructure would follow the road alignment and consist of a water main and sewer.

The land is currently zoned for medium density residential, however given its close proximity to future jobs and public transport corridor (and hub) it is proposed to increase the housing density to allow a much higher density of dwellings.

**Public Statement: (30-50 words)**

The Quail Rise South project will enable the construction of up to 1100 residential dwellings in close proximity to Frankton Flats. The development includes a new road linking Ferry Hill Drive to the roundabout at the junction of SH6 and Hawthorn Drive, and pedestrian/cycleway access beneath SH6.

**Dwellings, Yield and Spend**

	1 July 2017 to 30 June 2022 - 5 years (Short Term)	1 July 2022 to 30 June 2027 - 10 years (Medium Term)	1 July 2027 to 30 June 2032 - 15 years (Long Term)	1 July 2032 to 30 June 2047 - 30 years
No. of dwellings to be constructed (within each period)	550	600	-	-
No. of lower cost dwellings to be constructed (included in the number of dwellings)	220	240	-	-
Cumulative no. of dwellings to be constructed	550	1,150	1,150	1,150
Projected demand (cumulative)	5,900	6,200	6,500	7,200
No. of dwellings/projected demand	9%	19%	18%	16%
Infrastructure cost (total funding sought)	\$10,300,000			
Infrastructure cost per dwelling constructed	\$18,700	\$8,900	\$8,900	\$8,900

**Acceleration of infrastructure**

Project	Plan	Current timing	Timing if b/f with HIF assistance	Change in timing
Road and 3 waters infrastructure	New Project	n/a	2018/19	n/a

**Contribution to Development Capacity**

	2017/18-2019/20 (1-3 years)	2020/21-2027/28 (3-10 years)	2028/29-2047/48 (Up to 30yrs)
<b>Territorial development capacity targets required to meet the NPS-UDC</b>	1,800	3,000	6,000
<b>Contribution to NPS-UDC targets</b>	550 30% of requirement	1,150 38% of requirement	1,150 19% of requirement

## Declaration

Topic	Declaration	Territorial Authority's declaration
<b>Primary Contact</b>	Enter the contact details for your primary point of contact.	<b>Not required</b>
<b>Name:</b>	Peter Hansby	
<b>Telephone:</b>	027 202 9348	
<b>Email:</b>	peter.hansby@qldc.govt.nz	
<b>Secondary Contact</b>	Enter the contact details for your secondary point of contact.	<b>Not required</b>
<b>Name:</b>	Ulrich Glasner	
<b>Telephone:</b>	027 222 4813	
<b>Email:</b>	Ulrich.glasner@qldc.govt.nz	
<b>Public Statement</b>	I/we have provided a public statement in this response form, and understand that MBIE or Ministers may make this statement available to the public, in whole or in part.	<b>Agree</b>
<b>CfFP Process, Terms and Conditions</b>	I/we have read and fully understand this CfFP, including the CfFP Process and Terms and Conditions. I/we confirm that the Territorial Authority agree to be bound by them.	<b>Agree</b>
<b>Requirements</b>	I/we have read and fully understand the nature and extent of MBIE's Requirements as described in the Call for Final Proposals. I/we confirm that the Territorial Authority has the necessary ability to meet or exceed the Requirements of the HIF.	<b>Agree</b>
<b>Ethics</b>	In submitting this Proposal the Territorial Authority warrants that it: <ul style="list-style-type: none"> <li>a. has not directly or indirectly approached any representative of MBIE (other than the Point of Contact), NZTA (other than regional advisors), or Government to lobby or solicit information in relation to the CfFP; and</li> <li>b. has not attempted to influence, or provide any form of personal inducement, reward or benefit to any representative of MBIE, NZTA, or Government.</li> </ul>	<b>Agree</b>
<b>Conflict of Interest declaration</b>	The Territorial Authority warrants that it has no actual, potential or perceived Conflict of Interest in submitting this Proposal. Where a Conflict of Interest arises during the CfFP process the Territorial Authority will report it immediately to MBIE's Point of Contact.	<b>Agree</b>

**Details of conflict of interest:** Not applicable.

### DECLARATION

I/we declare that in submitting the Proposal and this declaration:

- a. the information provided is true, accurate and complete and not misleading in any material respect

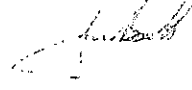
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b. I/we have secured all appropriate authorisations to submit this Proposal, to make the statements and to provide the information in the Proposal and I/we am/are not aware of any impediments to enter into an Agreement to deliver a project.

I/we understand that the falsification of information, supplying misleading information or the suppression of material information in this declaration and the Proposal may result in the Proposal being eliminated from further participation in the CfFP process and may be grounds for termination of any Agreement awarded as a result of the CfFP.

**By signing this declaration the signatory below represents, warrants and agrees that he/she is a duly elected member of the Territorial Authority and authorised to make this declaration on its/their behalf.**

---

Signature: 

Full name: James Boulton

Title / position: Mayor of Queenstown Lakes District

Name of Territorial

Authority: Queenstown Lakes District Council

Date: 28 March 2017

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## Memorandum

**Date** 28 April 2017  
**To** Queenstown Lakes District Council  
**From** Anderson Lloyd (on behalf of the landowners detailed below)  
**Subject** Submission to the Annual Plan 2017 - Link road between SH6 and Quail Rise

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- 1 This is a submission to the Annual Plan 2017 lodged on behalf of three landowners who own land on the Frankton Flats, on the northern side of SH6, adjoining and east of the new roundabout which currently provides road access to Pak N' Save and Mitre 10 and which is intended to connect to the proposed Eastern Arterial Route (**EAR Roundabout**). These landowners are the Hansen Family Partnership, FII Holdings Limited and Universal Developments Limited (**Submitters**). The Submitters own adjoining parcels of land (**Submitters' Land**) which, together, are located between the EAR Roundabout and Ferry Hill Drive in Quail Rise.
- 2 The EAR Roundabout currently has three entry/exit points – west toward Queenstown, south toward Pak N' Save/Mitre 10 and east towards Cromwell. However it has been designed to accommodate a fourth 'leg' to the north. The Submitters understand that NZTA designed the EAR Roundabout with the objective of achieving a fourth leg connecting through to Ferry Hill Drive within Quail Rise on the basis that, once that link is in place, NZTA will then be able to address current safety issues at the Tuckers Beach Road/SH6 intersection.
- 3 The Submitters understand this intention and are willing to accommodate it in terms of future development of their respective lands. However the Council does not appear to be planning for this future roading link. In particular there is no proposed designation for this future road contained within the District Plan Review (**DPR**).
- 4 The publicly notified DPR proposes to rezone the Submitters' Land as Medium Density Residential (**MDR**). The Submitters have lodged submissions to the DPR supporting the rezoning of the Submitters' Land as either MDR or Mixed Business Use (**MBU**) which will allow other uses as well as residential. Whether the outcome is MDR or MBU or a combination, it is highly likely that the Submitters' Land will be rezoned for development.
- 5 The zoning outcome should be known within about twelve months. Some of the Submitters are currently making development plans in anticipation of rezoning. It is likely that resource consent applications will be lodged in relation to the development of all or part of the Submitters' Land within the period of the 2017-2018 Annual Plan. This highlights the importance of addressing the roading link issue sooner rather than later.
- 6 A significant point which Council needs to be aware of is that the Council cannot take land for a public roading link through conditions on a resource consent application. Resource consent conditions must reasonably relate to the development proposed in the consent application, and cannot extend to take land for a wider public benefit which does not relate to the development under consideration.
- 7 The Submitters are happy to accommodate NZTA's objective but they want to know where the road will be located so they can plan accordingly and (some of them) want to lodge application(s) for consent within the next twelve months. That essentially requires the Council to initiate a road designation procedure.
- 8 The Submitters also consider that the Council should amend the Annual Plan and/or the Ten Year Plan to provide for the implementation of this roading link once the designation process



# Memorandum

has been completed. The Submitters are aware that there is considerable pressure on NZTA to address safety issues at the Tuckers Beach Road/SH6 intersection. The Submitters further understand that NZTA sees this proposed roading link as an essential component of a strategy to address the Tuckers Beach Road/SH6 intersection.

- 9 Accordingly the Submitters request that:
- (a) The Council includes in the Annual Plan provision for the initiation and completion of a road designation procedure linking the EAR Roundabout with Ferry Hill Drive in Quail Rise;
  - (b) The Council amend the Annual Plan, and if necessary the Ten Year Plan, to provide for the implementation of this roading link once the designation process has been completed.
- 10 The Submitters request the right to be heard at the hearing of Submissions to the Annual Plan.



Warwick Goldsmith

Counsel for Hansen Family Partnership, FII Holdings Limited and Universal Developments Limited

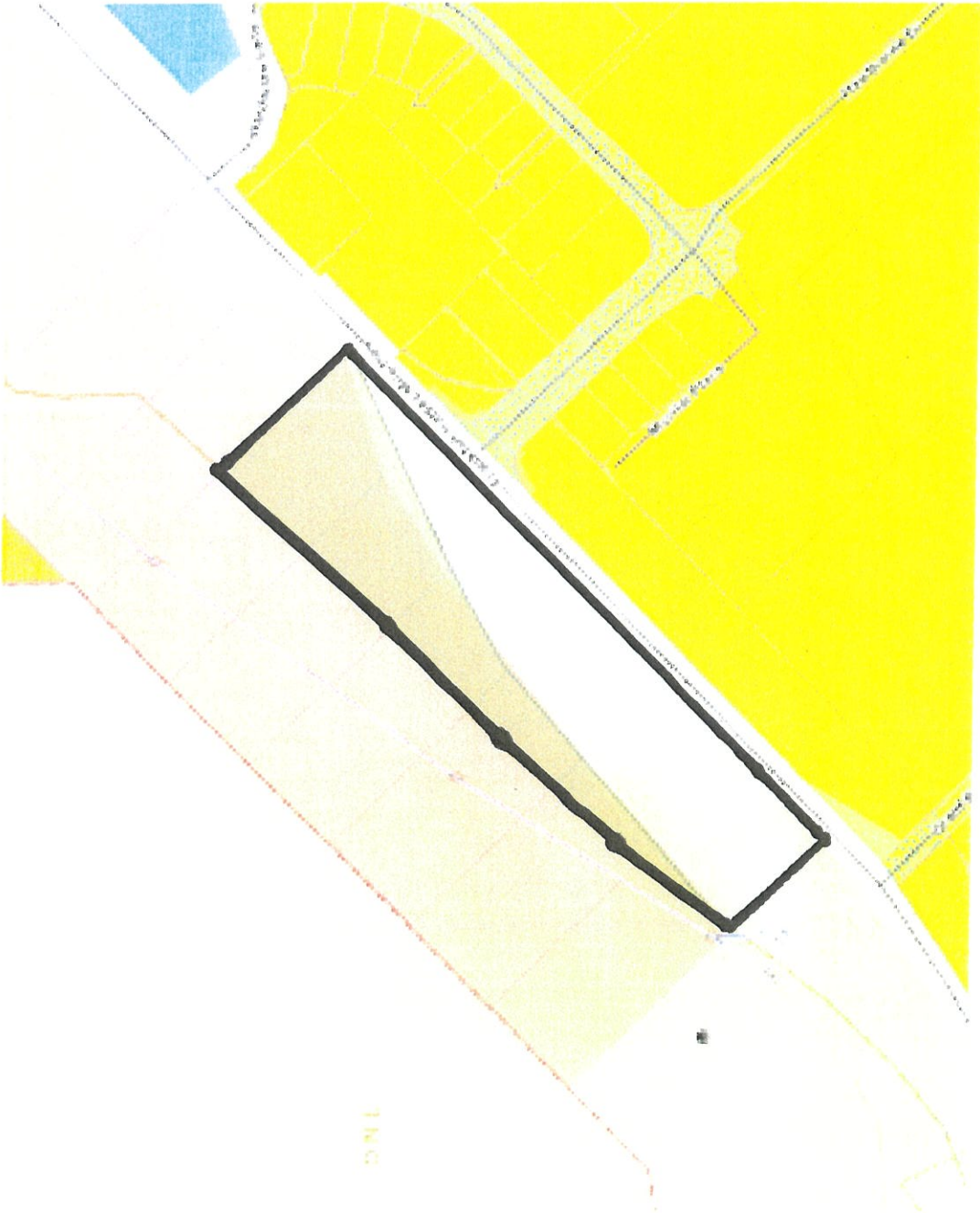
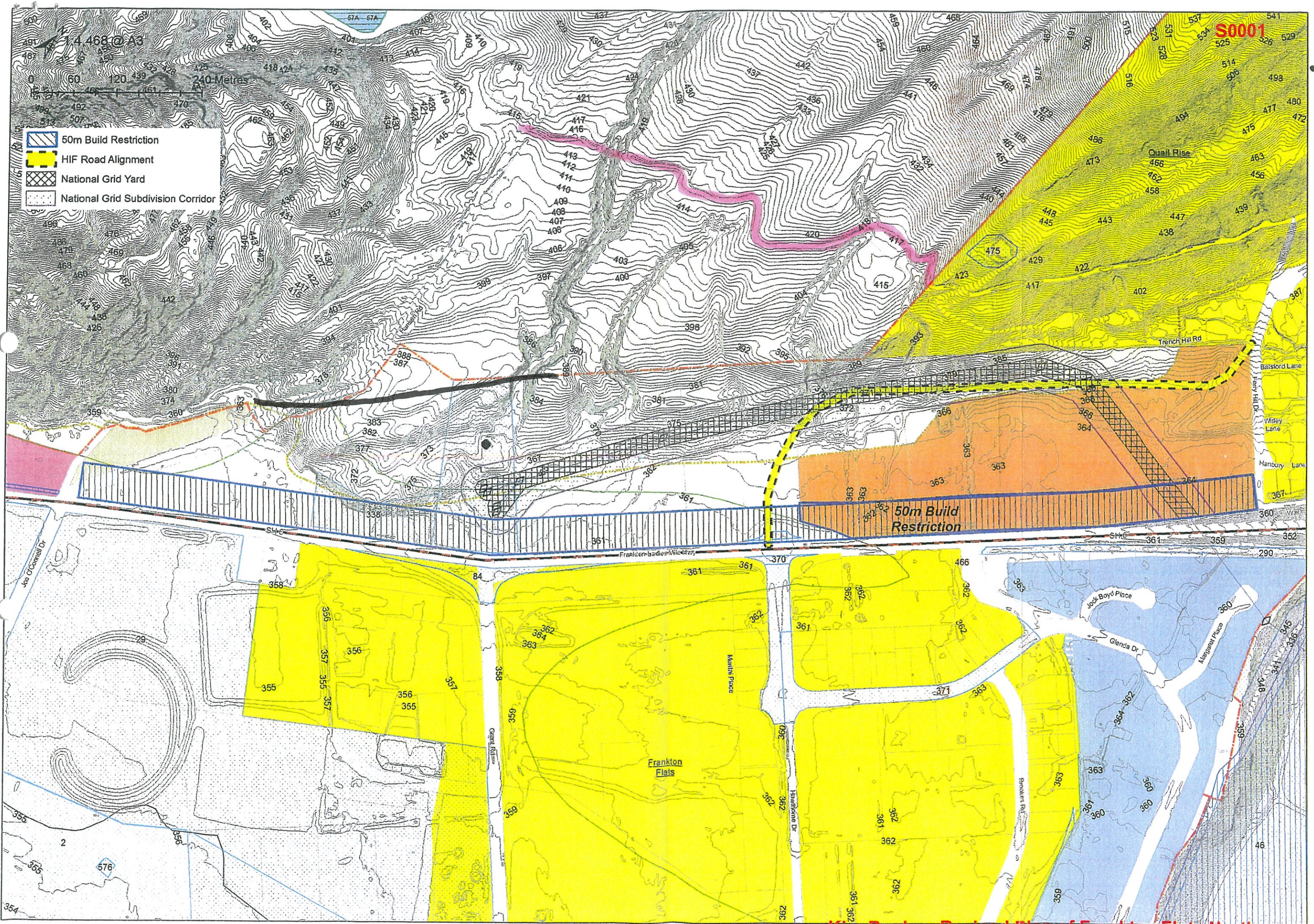
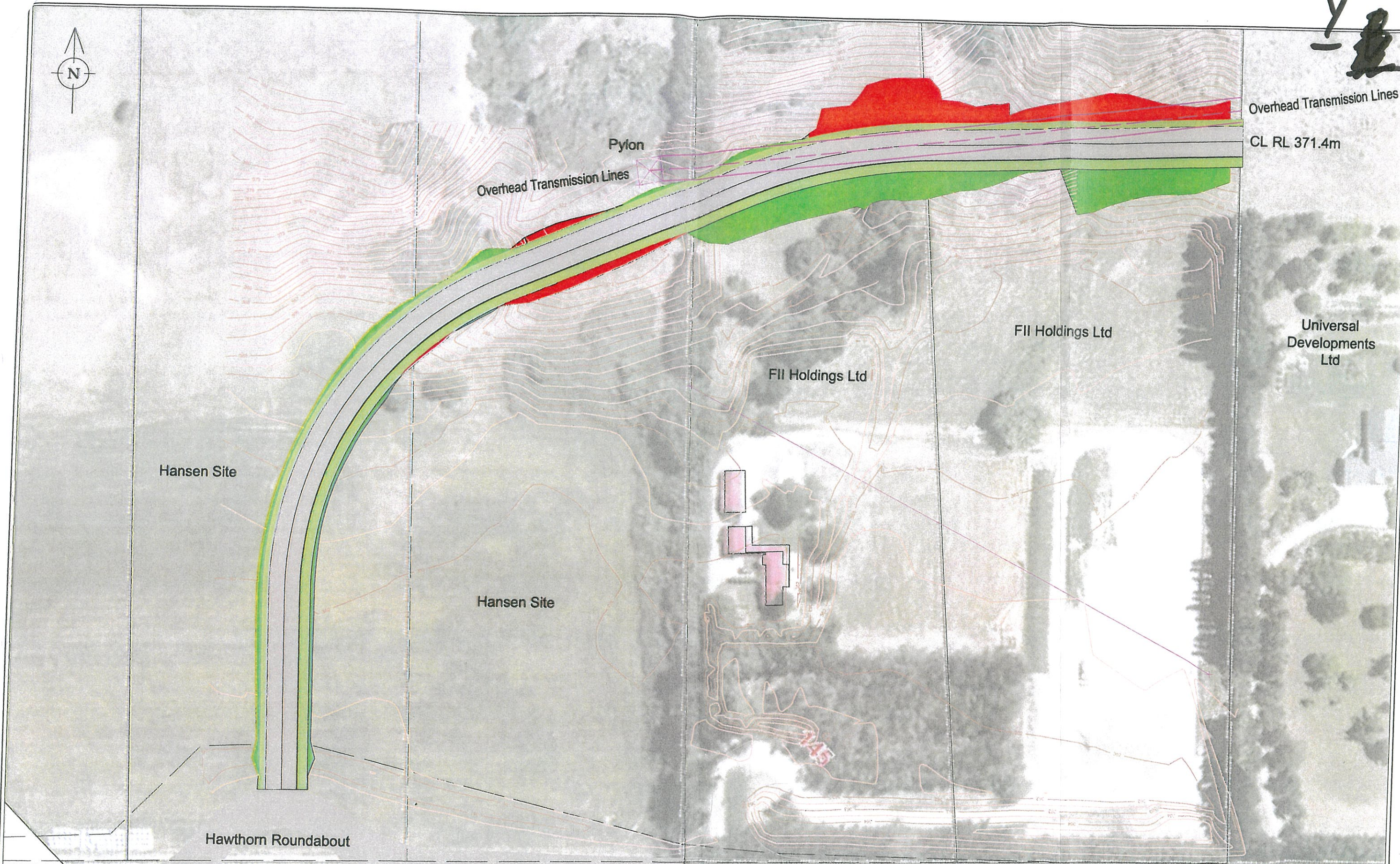


Figure 3: Possible MDRZ land (green) considered impractical to develop



Kim Banks - Revised Plan of Frankton Flats North

Y  
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Overhead Transmission Lines

CL RL 371.4m

FII Holdings Ltd

FII Holdings Ltd

Universal Developments Ltd

Hansen Site

Hansen Site

Hawthorn Roundabout

SH6 FRANKTON - LADIES MILE HIGHWAY

Note: Aerial image from QLDC Mapping Website

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PART PROPOSED ROAD LINK TO QUAIL RISE  
FRANKTON  
QUEENSTOWN

DATE: 27 March 2017  
BY: B McLeod  
Scale 1:1000  
Original Plan A3  
DRAWING & ISSUE No.  
4418-1R-1A



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