

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER OF: Queenstown Lakes Proposed District Plan –
Chapter 8 – Medium Density Residential Zone.

SUBMISSION OF WILLIAM RICHARDS ON BEHALF OF THE FOLLOWING SUBMITTERS:

55 – Willum Richards Consulting Ltd

92 – Deborah Richards

25th October 2016

Good afternoon.

Introduction

My name is William Richards and I am submitter No. 55. I am also talking on behalf of my wife, Deborah Richards who was to follow me in talking today as submitter No. 92. We are both concerned about the same issues.

Firstly, I must apologise to the panel for missing our previous slot to submit on 12th October. No major excuse other than my incompetence in correctly noting the date on the schedule. As it was, we were never going to be able to be in Wanaka on that day and would have had to reschedule.

Our submission relates to the Scurr Heights development in Wanaka (see Appendix A). The Plan proposes to change the zoning of this area from Low to Medium Density.

For clarification purposes, in this submission, I will refer to the area in question as Scurr Heights although the developers have recently christened the development "The Heights".

Summary of submission

My submission is in three parts.

Firstly to argue that, given the sale of the land by QLDC during the District Plan Revision process, the rezoning of the land from low to medium density is no longer appropriate.

Secondly, if the zoning change is to be implemented, then controls need to be put in place to try and mitigate the impact of the development on the amenity provided by the scenic walkway which runs along the ridge to the east of the site, and

Thirdly, to respond to some of the submissions made by Messrs Williams and Goldsmith on behalf of the new owners of the site, Universal Developments (submitter S0177).

Background

By way of background:

Our primary concern is with regard to the preservation of the views from the scenic walkway which borders the eastern edge of Scurr Heights as well as preserving the setting for the lake as provided for in the Scenic Rural Roads Variation to the current District Plan.

Whilst we acknowledge the developers right to make a profit, this should not be at any cost and we believe that the preservation of the visual amenity afforded by the current scenic walkway should be preserved as much as possible.

The site is an undulating area which generally rises to a ridgeline as one moves from West to East across the site. Along the top of the ridgeline the Council has established a “scenic walkway” which takes one from town, along the back of Scurr Heights, across Aubrey Road and behind the new Kirimoko development to the Sticky Forest and beyond.

The walkway is popular with both locals and tourists as a walking and bike route and is used and enjoyed in appreciable numbers. In the Hearing Panels decision with regard to the rezoning of the neighbouring Kirimoko Block (Plan change 13 of 2007) it was described as “an essential component of the urban walkway network within Wanaka”. The view from the end of Mataraki Place is arguably one of the best, easily accessible views in Wanaka with panoramic views of the township, the lake and the mountain backdrop. It is also one of the few public places in Wanaka where one can get spectacular views of both the sunrise and the sunset.

The Council have established seating on the walkway to allow people to enjoy the view.

As part of the consents for the earlier development of Stage 1 of Scurr Heights (to the south of the area in question) and the Kirimoko Block (to the north), special consideration was given to the preservation of the landscape views from the walkway by limiting the height and set backs of the buildings which bordered it. It would therefore be inconsistent if the proposed Plan change effectively blocked the landscape views for the best part of the walkway.

The other aspect of the walkway is the setting which it provides for the lake.

When considering the Plan change which was required for the Kirimoko Block, Part 4.2 of the QLDC report quoted the Scenic Rural Road Variation to the District Plan as follows:-

Quote

The hill and mountain slopes surrounding the lakes assume greater importance because of their role in providing a setting for the lakes. Likewise the views from any roads and public places within the District assume increasing importance as they give visual access to the mountains, lakes and

landscapes that, in turn, are integral to the economic wellbeing of the District, and provide a sense of place to residents and visitors.

Unquote

The report went on to say:-

Quote

The ridge line around the Kirimoko Block is an example of a rural landscape providing a setting for the lake. It is important that this is not compromised further by additional development. It is acknowledged that there are already houses at the top of this prominent ridgeline on land adjacent to the subject site.... However, it is considered that the existence of the existing houses does not detract from the need to protect the ridgeline within the Kirimoko Block from any further development.

Unquote

The Commission accepted the QLDC evidence on this point.

Given that the ridgeline behind the Kirimoko Block is the same one that runs behind Scurr Heights, the same issues apply. We would therefore submit that the same consideration should be given to the preservation of the framing which the ridgeline gives to the lake and the sense of 'place' which it provides to residents and visitors.

In a similar manner, the restriction of the height and set back of the eastern blocks of Scurr Heights would provide a "hard edge" to the interface between the existing low density developments at the top of the ridge and the proposed medium density development of the site. This would assist with the visual cohesion of the site when viewed from the lake and elsewhere in Wanaka. These points were considered relevant and important in the Kirimoko decision and we would submit that similar consideration needs to be given here.

1. Should the land be rezoned at all?

At the time that the Proposed District Plan was put forward and we and others made our original submissions, this land was owned by the Council. As such, implementing any planning and development controls thought appropriate to mitigate the impact of the development and the rezoning from low to medium density would have been relatively straight forward. The stated aim of the rezoning - to provide low to medium cost housing – could have been achieved whilst ensuring that the development's impact on the views to and from the scenic walkway were preserved or mitigated.

In discussion with Council planners at the time, there was informal discussion about the potential for a 10m boundary "park / playground" adjacent to the walkway.

However, earlier this year the Council sold the land to Universal Developments Ltd and they, in turn are developing the site and already have plots for sale under the Development title of "The Heights". Thus, whilst plots are being sold under the current Low Density rules, if the Proposed District Plan is implemented, they may be developed under the Medium Density rules. This has significantly complicated the issue.

Whilst we initially supported the change from Low to Medium density zoning so long as certain restrictions and controls were established, given the sale and the submissions from Universal, we now believe that it is more appropriate that the site should remain low density with some potential latitude given in those zoning rules.

As Universal have pointed out, with their purchase and on-selling of properties before any new district plan becomes operative, the consenting environment for the area is confused. They already have three 800 sqm plots neighbouring the walkway for sale. Anyone purchasing those blocks will expect to be able to build a single, two story building as per the LDR rules and the covenants in place. The result will be large and expensive dwellings commanding great views of the lake and mountains and not the type of development hoped for by the Council. The medium density rules, as currently drafted, would demand that the owners build two or three dwellings on those plots. This is blatantly unjust and I therefore find myself agreeing with Universal Developments, that the imposition of these restrictions at this stage looks unfair.

If this is correct then the premature sale of the land by the Council has prevented (or severely limited) the Plan's ability to put in place the controls which would have mitigated the development of the site and preserved the views from the walkway. Through Mr Goldsmith's legal submission on their behalf, Universal Developments have questioned whether the Plan can now legally impose rules that are more restrictive than the current low density rules.

To an extent "we are where we are".

When it was originally proposed to change the zoning to Medium Density, it was anticipated that the public would have the chance to make submissions as to the impact of the change. Indeed this was done and successful to the extent that the QLDC Planner's S42a report included some significant restrictions on set-backs and building height to allow for the continued amenity provided by the walkway. If the opportunity for significant mitigation has been lost, then, I am of the opinion that the most effective way of mitigating the confused situation which the Council have created is to abandon the rezoning of the land to Medium Density (or at least leave the plots neighbouring the walkway as Low Density). In this, I regretfully acknowledge that, under the current low density rules, much of view from the walkway may be lost, but unless the District Plan can enforce significant development restrictions, this is the "least, worst" option. To continue with the zoning change without restrictions will result in larger and wider buildings along the walkway than allowed for under the Low density rules with small gaps between them to and unduly compromise the enjoyment of the view by the public.

Universal Developments should not be concerned by not changing the zoning given that this is the zoning under which they purchased the land and that under which they are currently marketing it.

2. If the zoning change is to take place.....

If the re-zoning is to proceed, then it is important that the Council can mitigate the impact on the views to and from the walkway as much as possible by exercising a robust measure of control.

The Council, in their report at paragraphs 10.118 and 10.119, have proposed a single story height limit and increased, 6m setback from the walkway for the relevant plots. Universal Developments, in their submissions, have proposed accepting a 4.5m set back.

We would support the Council's proposals for the single story height limit but believe that the 6m setback proposed by the Council should be increased to 10m. This would be consistent with the set back and "no build" zone approved during the Plan change for the neighbouring Kirimoko block and

provide for a visual continuity not only from which to enjoy the views of the lake and mountains but also to provide a frame for the town along the continuous ridgeline when viewed from the lake and elsewhere in Wanaka.

Given the undulating nature of the sight, we would further propose that further height restrictions should be put in place where, due to the topography of the land, the 7m height limit allowed for Medium Density zones under the proposed plan would unduly impact the uninterrupted view of the lake from the walkway.

3. Universal's evidence

Turning now to the evidence provided by Mr. Goldsmith and Mr. Williams on behalf the current developers of the site, Universal Developments Limited.

They are concerned with three main areas of the QLDC Planners report.

- a. The proposed minimum setback of 6m on the eastern boundary of Scurr Heights.
- b. The proposed maximum building height of 5.5m for buildings with a boundary with the walkway.
- c. The proposed 400 sqm minimum site density when combined with the 400sqm maximum lot area.

As mentioned, Mr. Goldsmith challenges the Council's ability to implement planning restrictions having sold the land to Universal free of any site specific restrictions. He also pointed out some potential anomalies where people have purchased and developed building plans prior to any zoning change becoming operative. Given the current Low Density Zoning of the area and prior to any rezoning to Medium Density, he advises that Universal will be seeking consent for some smaller plot sizes in the meantime.

Mr. Williams argues that neither the one story height restriction nor the additional set back to protect the views from and to the scenic walkway proposed by QLDC are justified.

He firstly states that the primary purpose of the walkway appears to be to provide (and I quote) "pedestrian connectivity". I would suggest that either Mr. Williams is being disingenuous or he has little familiarity with the walkway and the reserve on which it sits. The place is described as a "scenic walkway" for a reason and if the QLDC only wanted to provide a pedestrian connectivity between one side of the town and the other, there would have been other, less expensive, ways of doing it not least of which is the pavement that runs down Anderson Road parallel to the walkway.

Mr. Williams then argues that under the current, Low Density rules, there is little difference between the bulk and location controls which his client could use to put up structures and those available under the Medium Density proposals.

He states that the key differences are a slight increase in permitted building coverage from 40% to 45% and a slight reduction in the building setbacks from 2m to 1.5m.

He therefore concludes (in paragraph 20) that the built form controls will not result in a form of development enabled by the MDR provisions that is visually more imposing on the walkway.

Lastly, he complains that he is having difficulty in designing an efficient block layout in the steeper parts of the site (being those close to the walkway) when restricted by the 400m² maximum lot size. Whilst he acknowledges that this could be got around applying for a non-complying activity resource consent, he appears to be suggesting he be given a virtual “carte blanche” to design the plot sizes as he sees fit.

I have a number of issues with these opinions.

1. Universal Developments purchased the land in June 2016 and clearly were conscious of the proposed change in the zoning of the area.

At the time of their purchase, they would have had access to the submissions which had been made with regard to the area and, specifically, those which sought to encourage the Council to implement planning controls in terms of setbacks and building height restrictions to preserve the views from the scenic walkway. During their due diligence, they should, therefore, have appreciated that there was a development risk that the Council would act on these submissions. It is not, therefore, appropriate for them to now call “foul” and question the Council’s legal right to implement appropriate controls.

2. Whilst Mr. Williams is correct that the QLDC’s recommendations would impose restrictions in excess of those which are currently in place under the current operative zoning, he ignores the fact that the zoning does not necessarily have to change. If it proceeds, his client is getting the benefit of a plan change free of charge. With the consideration of the change from Low to Medium density occurring as part of the District Plan Review, it is largely going “below the radar” of most of the residents of the area and Wanaka in general. Most people did not wade through the complete District Plan proposals to find this out. In the last few weeks we have heard a number of people express their dismay at the development and the impact it will have. I think it fair to say, that if this plan change was being proposed as a private plan change by the developer, it would have attracted far more attention and scrutiny not only from the

surrounding residents but from the Council. This is based on the large volume of information, submissions and reports which were involved in the Plan change which brought about the neighbouring Kirimoko development.

If the plan change proceeds, whilst the restrictions which we propose may appear to be harsh we would also point out that it is always open to the developer or the future owners of the property to apply for a Resource Consent in order to breach some of the rules. Indeed, Universal have indicated a willingness to do so. These can relate to building height, set back or any other aspect of the rules. The impact of a breach can be considered on a case-by-case basis and, if the impact is less than minor, the consent granted. One has to start from a more restrictive position to have this control. It should be noted that, with the walkway being the eastern boundary of the site, any resource consent to exceed whatever rules are in place would not need to be notified to any property owners from across the walkway thus depriving the public and residents of Mataraki Place the opportunity to comment on any loss of amenity.

The RMA is predicated on the need to mitigate the effects of excess development and this habitually leads to a number of compromises. This is one such compromise. It is therefore totally appropriate, if the plan change proceeds, that the QLDC seek to impose these restrictions whilst freeing up the remainder of the land for more intense development than is currently permitted.

3. Mr Williams argues that the 25% reduction in the building set-backs from 2m to 1.5m is not significant. I believe this to be flawed. As can be seen from Appendix B Photo 1 on small (in this case 500 sqm) plots (such as proposed under the MDR) people will build out to the edges of what is permissible. On LDR plots, whilst people may have the right to build out to the limits, they rarely do and development as per Photo 2 is more common (these plots are around 800 sqm). The result is a significant reduction in the gaps through which to view the scenery from the walkway.
4. Similarly, the impact of the increase in building coverage from 40 to 45% should not be understated. The increased density of housing when combined with the reduced setbacks and smaller plot sizes provides for less gaps and creates a more imposing built environment which would obstruct the views.
5. The practical result of the Council's 400m² maximum lot size and 400 sqm minimum site density is that the owner of an 800 sqm lot (such as those currently being marketed by Universal Developments along the walkway) will have to develop two residential units on his

land. This will likely be by means of a duplex house across the whole width of the site. Without the single story limit these will form a formidable barrier.

However, if the Council were to concede this point to Universal, the only practical implication is that the buildings on the plots would be larger (45% coverage) and closer together than their low density equivalents. They would, however, be just as expensive (if not more so) than their low density zone equivalents. The stated aim of medium density housing to provide a supply of low cost housing would be lost. This further supports the argument that, given where we are, the plan change should be abandoned.

In conclusion:

1. The proposed zoning change from low to medium density should be abandoned. The unrestricted sale of the land half way through the process has so perverted this submission and consideration process as to create anomalies which simply cannot be resolved if the zoning change proceeds. The premature sale has also severely compromised the original rationale of the rezoning to provide low to medium cost housing. Instead the development will now inevitably be more high cost dwellings and holiday homes. Universal Developments have already indicated a willingness to seek specific consents when in breach of the current Low Density rules. Where such consents are sought, they can be considered against guidelines and will, on a case-by-case basis be the subject to the appropriate level of notification, attention and scrutiny. The developer cannot complain as they have bought the land under the low density regime and it is submitted that it should remain that way. It may be that minor amendments to the Low Density rules could be made to encourage more intense development in the area. This would allow the Council to exercise a greater level of control whilst partially achieving the desired outcomes.

The retention of the low density zoning is the “least, worst” option but it will provide the only level of protection for the views from and to the walkway which are now, practically, achievable and which the QLDC Planner, in her S42a report acknowledged were important.

2. If the zoning change proceeds then, whilst I support the QLDC's recommendation for an increased set back and height restriction on the lots closest to the scenic walkway, I feel that a 10m set back would be better. This would provide consistency with the no build zone which is provided in the neighbouring Kirimoko block.

3. I would go further and submit that the panel should consider further height restrictions for properties within the development which, due to the undulating topography of the site would significantly impinge upon the landscape and particularly lake views from the walkway.

As an indication of the impact of a 7m building on the views, I have attached a panoramic photo taken from across the walkway. The poles are 7m long and situated 2m from the boundary but give an indication of the imposing impact of a 7m building on the view.

William Richards (and on behalf of Deborah Richards)

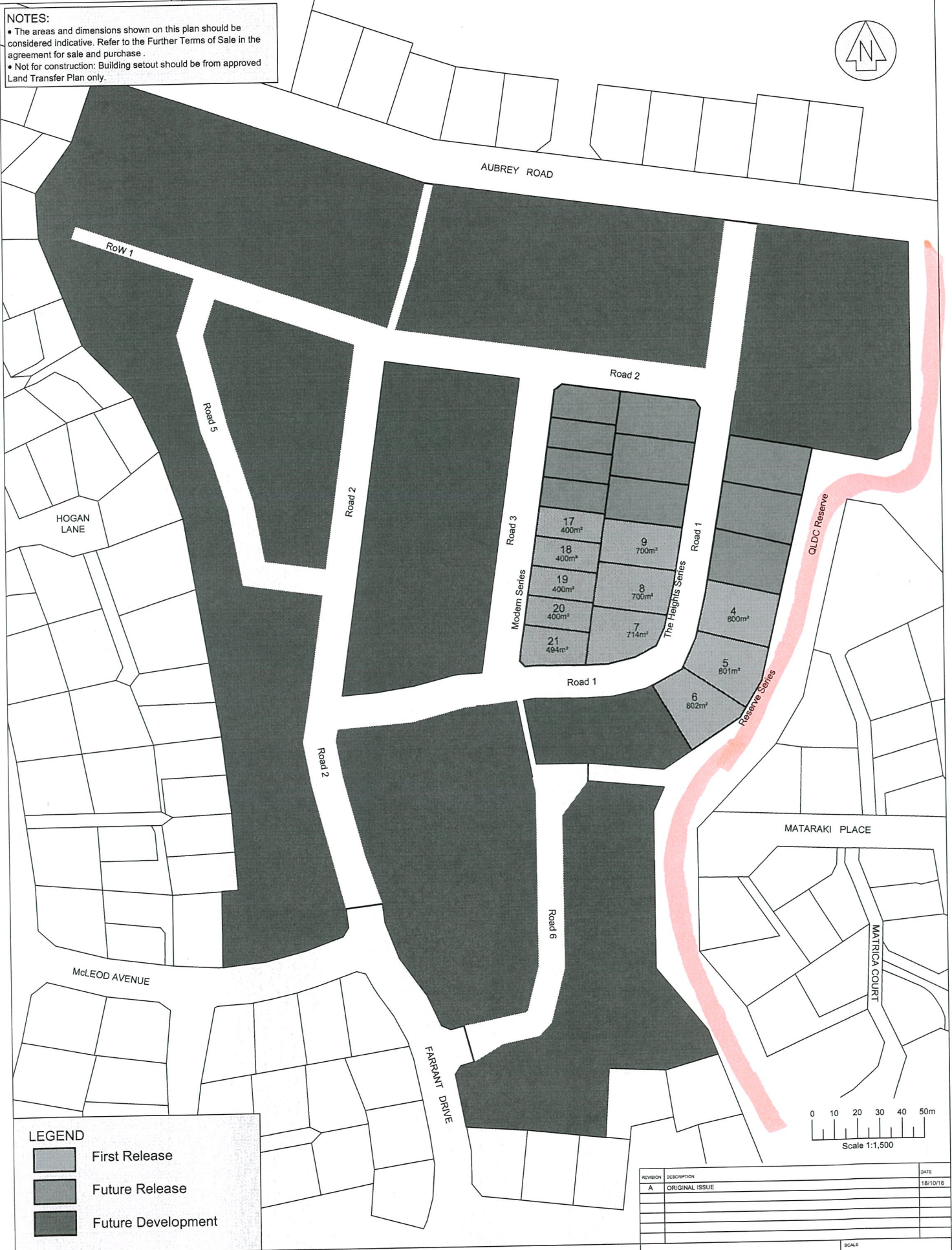
Wanaka

021 132 1863

Appendix A

NOTES:

- The areas and dimensions shown on this plan should be considered indicative. Refer to the Further Terms of Sale in the agreement for sale and purchase.
- Not for construction: Building setout should be from approved Land Transfer Plan only.



HOGAN LANE

AUBREY ROAD

RoW 1

Road 5

Road 2

Road 2

Road 3
Modern Series

Road 1
The Heights Series

QLDC Reserve

Road 1
Reserve Series

Road 1

Road 2

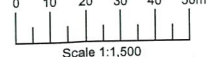
Road 6

FARRANT DRIVE

MATARAKI PLACE

MATRICA COURT

McLEOD AVENUE



LEGEND

	First Release
	Future Release
	Future Development

REVISION	DESCRIPTION	DATE
A	ORIGINAL ISSUE	18/10/16

SOUTHERN LAND
SURVEYING | PLANNING | LAND DEVELOPMENT

THE HEIGHTS
WANAKA

The Heights - First Release

A Project By:
UNIVERSAL DEVELOPMENTS

SCALE
1:750 @ A3

DATUM & LEVEL
Lindis Peak 2000
LEVEL IN TERMS OF MSL
ORIGIN DAT 1 DP 447880 RL = 210.10

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SURVEYED	DATE	CHECKED	DATE
X.X.	XX/XX/XX	LW	18/10/16
DRAWN	DATE	APPROVED	DATE
AF	18/10/16	LW	18/10/16

DRAWING REFERENCE	REVISION
S4240_M4	A

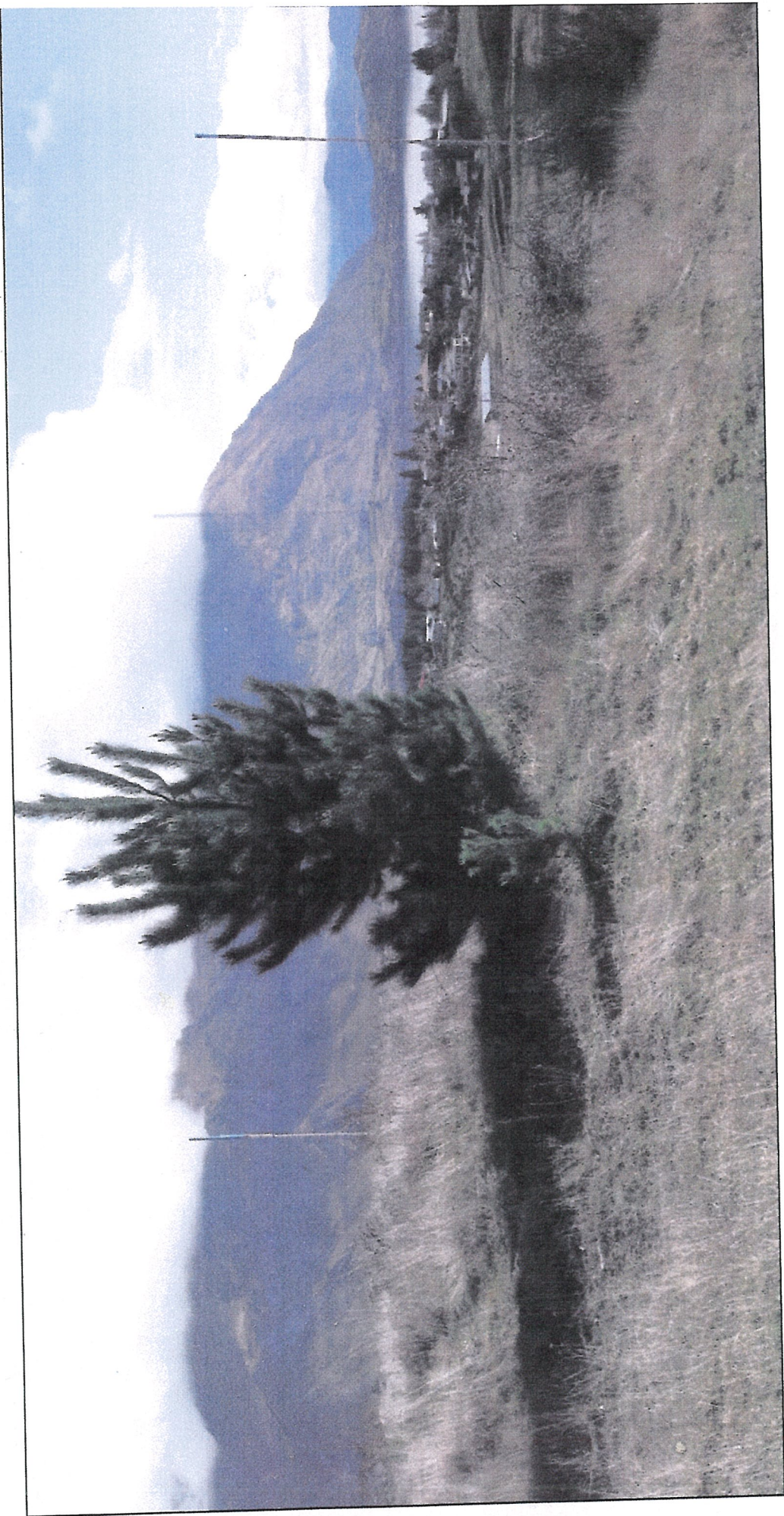
Appendix B

Photo 1



Photo 2







10

10