



QUEENSTOWN LAKES DISTRICT COUNCIL

PRIVATE BAG 50072 QUEENSTOWN, NEW ZEALAND

File: RM980009 Ref:q98000
Compliance

15 September 1999

WJ & MM Grant
C/- Clark Fortune McDonald & Associates
PO Box 583
QUEENSTOWN

Dear Sir

DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

WJ & MM GRANT – RM980009

I refer to your resource consent application lodged pursuant to Section 88 of the Resource Management Act 1991, for consent to subdivide a 23ha title to create five residential allotments ranging in size from 620m² to 1790m². The Planning, Policy and Consents Committee of the Council considered the application on the 19th of May 1999. The land is legally described as Part Sections 2 and 4 Block XX Shotover Survey District and is located on the northern side of State Highway 6A (Queenstown -Frankton Road) immediately to the east of the Marina Heights subdivision.

The Council, in their assessment of the subdivision, had commissioned a peer review of the geotechnical information submitted with the application (the Bell report). Mr Graham Salt of Tonkin & Taylor Ltd carried out the review. The review agreed with the majority of the Bell report. However the review classified an existing feature as an active slide and considers that clear statement to that effect should have been given in the report.

Mr Salt further submitted that because the active slide is shown in the Bell report to be intruding within the subdivision, he recommended in the review that a building restriction line be imposed to protect Council and subsequent landowners.

Further to this, the review requested further information be submitted to Council with regard to the location of ground cut off drains and the design of the chain link fence intended to mitigate a rock fall hazard.

The applicants, through their surveyor, objected to this request for information. The objection was considered by the Wakatipu resource Consents Hearing Panel on the 4th of June 1998.

The panel dismissed the objection. The further information was received on the 12th of January 1999. The information was passes on to Mr Salt who reported back on the 2nd of March 1999.

The applicants also chose this opportunity to amend the application and have amalgamated Lots 10 and 11 into one allotment, shown as Lot 10 on the plan included in the agenda. This reduces the number of lots from six to five.

Appearances

Mr Neil McDonald (Surveyor) and Mr W Grant (Applicant) were present. Mr McDonald presented a written submission to the Committee in support of the application. Mr J Norton (submitter) appeared in support of the application and gave a verbal presentation to the Committee.

Considerations

The Transitional District Plan

The site is zoned Rural B in the Transitional District Plan. The proposed subdivision is non-complying in terms of this Plan.

The Proposed District Plan

The land is zoned Rural General in the Proposed District Plan. The proposed subdivision does not comply with any of the rules for subdivision in that zone and is a non-complying activity pursuant to rule 15.2.3.4.

Procedure

The application was considered on a publicly notified basis in terms of Section 94 of the Act.

Three submissions were received upon public notification, two in support and one in opposition. No submitters were present at the hearing.

Resource Management Act 1991

As the proposed activity is non-complying it was assessed in terms of Sections 104 and 105 of the Resource Management Act 1991.

Under Section 105(2A) of the Resource Management Act 1991, the Council cannot grant consent for a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor or granting consent will not be contrary to the objectives and policies of the Plan or Proposed Plan.

Decision

It was resolved that subdivision consent to create five residential allotments and a balance allotment of 22.3 hectares be approved in terms of Sections 104 and 105 of the Resource Management Act 1991, subject to the following conditions imposed pursuant to Section 108 and 220 of the Act:

1. That the activity be undertaken in accordance with the amended plans and specifications submitted with the application entitled 'Proposed Subdivision of Pt Section 2, Block XX, Shotover Survey District' and dated the 14th of

January 1999, with the following exception of the following amendments required by the following conditions of consent:

2. That unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's own expense.
3. That the consent holder shall pay to Civic Corporation Limited all required administrative charges fixed by the Council pursuant to Section 36 of the Act in relation to the administration, monitoring and supervision of this consent; and charges authorised by regulations.
4. The title plan of subdivision submitted for Council's endorsement pursuant to Section 223 of the Resource Management Act 1991 is not to contain Lot 11. The land comprised in this allotment is to absorb into Lots 6 and 10. The Council does not accept this land as reserve. However the same area of land comprising the former Lot 11 is to be subject to a building line restriction to be administered by way of a consent notice to be endorsed on the Certificates of Title for Lots 6 and 10. The consent notice is to secure the performance of the following conditions:
 - i) The location of dwellings in the area formerly shown as Lot 11 is prohibited.
 - ii) If any vegetation is removed from the area formerly shown as Lot 11 the owner shall re-landscape the area to the satisfaction of CivicCorp's Landscape Planner.
5. The following amalgamation condition is endorsed on the title plan.

"That Lot 5 hereon be held as to five undivided one-fifth shares by the owners of Lots 6, 7, 8, 9, and 10 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith (see CSN)"
6. The subdividing owner of the land shall provide a letter to the Council advising who their representative for the design and execution of the engineering works required in association with this subdivision and shall confirm that this representative will be responsible for all aspects of the works covered under section 104 of NZS4404:1981 "Code of Practice for Urban Land Subdivision", in relation to this development.
7. The owners representative appointed under Condition 5 above shall provide to the Council a copy of a letter addressed to the subdividing owner of the land that explains the owners responsibilities as set out in Section 105.10 of NZS4404:1981 "Code of Practice for Urban Land Subdivision".
8. Prior to the commencement of any works on the land being subdivided, the applicant shall provide to the Queenstown Lakes District Council for approval, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate to detail the following engineering works required:

- a) The provision of a water supply system, which is adequate to supply each of the new allotments created by the subdivision. The supply shall comply with the requirements of the New Zealand Fire Service Code of Practice 1992 and NZS 4404:1981 for a class E risk classification.
- b) The provision of a separate water supply connection to each of the allotments created by the subdivision. This shall be achieved by constructing a ridermain sized in accordance with NZS 4404:1981 or watermain to the frontage of each allotment and providing a separate connection and stopcock for each allotment.
- c) The provision of a separate sanitary sewer connection to each of the allotments created by the subdivision. This shall be achieved by constructing a reticulation network that connects to the Council's sewer main in the legal road immediately adjacent to the western boundary.
- d) The provision of a separate stormwater connection to each of the allotments created by the subdivision. This shall be achieved by constructing a reticulation network, which connects to the Council's stormwater main in the legal road at the southwestern corner of the subdivision site. Stormwater from the proposed Rights of Way shall be discharged to an approved oil and grit interceptor before being discharged into the stormwater reticulation network.
- e) The provision for an overland flow path for the passage of any stormwater unable for any reason to pass through the stormwater drainage system. The applicant shall ensure that future residential dwellings do not obstruct these paths.
- f) The construction of a rockfall protection fence in accordance with the recommendations contained in the geotechnical Evaluation of the proposed subdivision carried out by David H Bell of Canterprise and submitted with the application.
- g) The construction of the proposed access lot in accordance with NZS4404:1981. The access lot shall be a minimum width of 6.5 metres with a sealed carriageway of 5mteres wide.
- h) The provision of a vehicle crossing to each allotment created by the subdivision. All vehicle crossings shall be constructed in accordance with NZS 4404:1981 or such other standard as approved by the Council.
- i) The consent holder shall specify procedures to be put in place to minimise the spread of dust during earthworks construction.

9. Prior to certification, pursuant to Section 224c of the Resource Management Act 1991, the applicant shall complete the following:

- a) Pay to the Council a headworks fee of \$4,555.00 (GST inclusive) towards the cost of upgrading the public water supply system to ensure

its adequacy to cater for the additional allotment to be created by this development. This figure is based on \$910.00 per allotment.

- b) Pay to the Council a headworks fee of \$9,250.00 (GST inclusive) towards the cost of upgrading the Council's sanitary sewage system to ensure its adequacy to cater for the additional allotment to be created by this development. This figure is based on \$1,850.00 per allotment.
- c) The submission of 'as built' plans and information required to detail all engineering works completed in relation to or in association with this subdivision.
- d) The construction of a vehicle crossing to serve each residential unit in accordance with New Zealand Standard 4404-1981.
- e) Pay to the Queenstown Lakes District Council a reserves contribution of \$17,625.00 (GST inclusive) based on 7.5% of the value of each new allotment. The contribution is calculated as follows:

Lot 6	45,000 x 7.5% =	3,375.00
Lot 7	50,000 x 7.5% =	3,750.00
Lot 8	50,000 x 7.5% =	3,750.00
Lot 9	45,000 x 7.5% =	3,375.00
Lot 10	45,000 x 7.5% =	3,375.00
		<u>\$17,625.00</u>

- f) Construct the engineering works as detailed in the approved plans submitted in accordance with Condition 7 above.
- g) Provide underground power and telephone connections to each of the allotments created by the subdivision.
- h) Submit written confirmation from a suitably qualified Registered Engineer that all fill material has been placed in accordance with NZS 4431:1989 Code of Practice for Earthworks for Residential Development and amendment No. 1.
- i) Submit written confirmation from a Registered Engineer identifying any areas within the subdivision where the design of building foundations may differ from those specified by NZS3604.
- j) The applicant is to submit for Council's endorsement a consent notice that will secure the performance of the following conditions on an on going basis:
 - i) The rockfall protection fence constructed in accordance with Condition 8(f) are to be maintained in a workable condition in perpetuity by the owners of the adjoining allotments.
 - ii) Earthworks for all future dwellings on the allotments created by this subdivision are to be in accordance with the

recommendations contained in the geotechnical report submitted with the application.

The final wording of the consent notice will be subject to the approval of the Principal: Resource Management.

- 10 That all easements required for access, utilities and services be duly granted or reserved.

Reasons for Decision

The committee considered the effects of the activity to be consistent with the surrounding residential character of the area.

The objectives and policies of the Rural B Zone aim to maintain and support the agricultural potential of the land. The use of Rural B land for active farming purposes is encouraged and development, which could result in the loss of land from active production, is discouraged. The Committee acknowledged the applicant's submission that the land is not being intensively farmed and had not been used as a rural allotment for a number of years. The proposed residential activity is significantly at variance to the Rural B Zoning, however the Committee agreed that the non-compliance did not create an adverse effect that was more than minor on the surrounding residential environment.

The relevant objectives and policies are as follows:

3.1.02 Objective

The Committee's objectives in preparing the rural provisions of the Scheme are:

- a) *To maintain land suitable for farming in active production.*
- b) *To ensure that those areas of particular interest to tourists and visitors are protected and safeguard the amenities of the rural parts of the District*
- c) *To encourage the development of non-farming uses appropriate to the amenities of the rural zones in appropriate locations.*

3.1.03 Policies

- a) *Retention of land suitable for farming in rural use.*
- b) *To discourage the use of rural land for urban purposes where it would detract from the landscape value of the basin.*
- c) *The protection of those features in the rural area which are of particular interest to tourists and visitors to the area.*
- d) *To permit the use of rural land for urban purposes provided the sites are not adjacent to established service centres and provided also that the sites do not impinge on the rural characteristics of the location in which they are situated.*

The Committee considered that the proposed activity was anticipated by 3.1.02(c) and 3.1.03(e) above.

The Proposed District Plan contains district wide objectives and policies in relation to avoiding adverse effects of subdivision, use and development on Landscape and Visual Amenity Values.

The rural Section retains objectives and policies in relation to protecting the character and landscape value of the rural area; avoiding remedying or mitigating effects of activities on rural amenity; and safeguarding the life supporting capacity of water.

The relevant objectives and policies are:

Objective 1 – Character and Landscape Value

To protect the character and landscape value of the rural area by promoting sustainable management of natural and physical resources and the control of adverse effects caused through inappropriate activities.

Policies

...

1.3 *Ensure activities not based on the rural resources of the area occur only where the character of the rural area will not be adversely impacted.*

...

1.6 *Avoid or mitigate adverse effects of development on the landscape values of the District.*

Objective 2 – Life Supporting Capacity of Soils

Retention of the life supporting capacity of soils and/or vegetation in the rural area so that they are safeguarded to meet the reasonably foreseeable needs of future generations.

The Subdivision Section contains objectives and policies in relation to the provision of services; reserves contribution and esplanade reserves; natural features, landscape and nature conservation values; and amenity protection.

The objectives and policies of particular relevance are:

Objective 4 – Natural Features, Landscape and Nature Conservation Values

The recognition and protection of outstanding natural features and nature conservation values.

Policies

4.1 *To take the opportunity to protect outstanding natural features, nature conservation values and ecosystems through the subdivision process.*

4.2 *To ensure works associated with land subdivision and development avoid or mitigate the adverse effects on the natural character and qualities of the environment and on areas of significant conservation value.*

4.3 *To avoid any potential adverse effects on the landscape and visual amenity values, as a result of land subdivision and development.*

4.4 *To use opportunities through the subdivision/development process to improve the level of protection for the natural character and nature conservation values of the lakes and rivers with reference to Section 230 of the Resource Management Act 1991.*

Objective 5 – Amenity Protection

The maintenance or enhancement of the built environment through the subdivision and development process.

Policies

- 5.1 *To ensure lot sizes and dimensions to provide for the efficient and pleasant functioning of their anticipated land uses, and reflect the levels of open space and density of built development anticipated in each area.*
- 5.2 *To ensure subdivision patterns and location, size and dimensions of lots in rural areas will not lead to a pattern of land uses, which will directly affect landscape, visual, cultural and other amenity values.*
- 5.3 *To encourage innovative subdivision design, consistent with the maintenance of amenity values, safe, efficient operation of the subdivision and its services.*
- ...
- 5.4 *To minimise the effects of subdivision and development on the safe and efficient functioning of services and roads.*

The proposed subdivision is consistent with the objectives and policies of the Proposed District Plan. This conclusion is based on the following:

- (1) The lot sizes reflect the current settlement and land use patterns in this part of the Rural General Zone as it abuts the Low Density Residential Zone. This is a subdivision assessment matter for lots sizes and dimensions.
- (2) The objectives relating to Character and Landscape Value are not contravened. The policies for this objectives direct Council to allow for a range of activities that do not adversely impact upon the rural character of the area.

The rural amenity values are not adversely affected. Although residential density will increase, this is not, given its location, an adverse effect.

The Committee was satisfied that the geotechnical issues relating to the landslide and potential rockfall hazard had been adequately covered in the reports submitted with the application, further, it was considered that the proposed condition relating to the provision of a rockfall protection for Lots 8 and 9 should be complied with on an ongoing basis by way of a consent notice. The adverse effects of potential rockfall were not considered to be more than minor by the committee and able to be mitigated by conditions.

Similarly, a further condition has been imposed to be complied with on an ongoing basis requiring the earthworks for all future dwellings to be in accordance with the geotechnical report submitted with the application. Even though the report did not contain specific design details, it was considered that such a conditions would alert future owners to the specific engineering requirements of the site.

The Committee considered the applicant's request to provide land in lieu of a cash contribution for the purposes of reserves and open space. It was proposed to vest an area of land, shown as Lot 11 and abutting the State Highway (Frankton Road) as Recreation Reserve. However, the Committee considered that the land had no merit as a Recreation Reserve and would be a maintenance and financial burden on the ratepayer and resolved that the proposed reserve would not be accepted and that a financial contribution would be more appropriate. Accordingly Lot 11 is to be incorporated into the adjoining Lots 6 and 10.

Headworks

The Council has imposed standard headworks fees for contributions towards the future upgrading required to the sewage and water supply systems. The Council has in the past justified its policy decision to impose headworks fees on subdivision and development and is able to quantify in dollar terms the effect additional households create on the existing systems and the concomitant requirement for upgrading. In light of the recent decision of the Environment Court, Woodlot Villas v Queenstown Lakes District Council, the Council has been imposing additional contributions on allotments over 900m². These additional contributions have been imposed as a condition to be complied with on an on-going basis by way of a consent notice alerting future buyers to the fact that a further contribution will be required for Headwork's fees contributions if more than one dwelling unit is established on each lot.

However given that this land is zoned Rural B in the operative plan the construction of two houses on any of the allotments is a non complying activity and accordingly the Council has the ability to levy the additional headworks fees on any future subdivision.

Other Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further money is required or whether a refund is owing to you.

Should you not be satisfied with the decision of the Council an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991, not later than 15 working days from the date this decision is received.

This resource consent must be exercised within two years from the date of this decision subject to the provisions of Section 125 of the Resource Management Act 1991.

If you have any inquires please contact Mike Gillooly on phone (03) 443 8145.

Yours faithfully
CIVICCORP



J Edmonds

PRINCIPAL: RESOURCE MANAGEMENT