

**BEFORE THE EXPERT CONSENTING PANEL
CONCERNING THE QUEENSTOWN TOWN CENTRE ARTERIAL**

IN THE MATTER

of the of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 (the Act) and the deliberations and final decision of the Expert Consenting Panel appointed under Clauses 2, 3, and 4 of Schedule 5 of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 to consider applications for a Notice of Requirement and consents for the Queenstown Arterials by Queenstown Lakes District Council

| | |
|---|---|
| Expert Consenting Panel: | Heather Ash (Chair) Hoani Langsbury (Member) Jayne Macdonald (Member) |
| Expert Planning Advisor: | Rob van Voorthuysen |
| Legal Representation: | Janette Campbell/Jeremy Wilson for Applicant |
| Comments received under Clause 17(4) and 17(5) of Schedule 6 to the Act: | 26 February 2021 |
| Details of any hearing if held under Clause 21 of Schedule 6 of the Act | No hearing was held |
| Date of Hearing if held: | Nil |
| Date of Decision: | 16 April 2021 |
| Date of Issue: | 16 April 2021 |

**RECORD OF DECISION OF THE EXPERT CONSENTING PANEL
UNDER CLAUSE 37 SCHEDULE 6 OF THE ACT**

CONTENTS

| | |
|--|----|
| Part A: Executive Summary Decisions Made by the Panel | 5 |
| A.1 Decisions by the Panel | 5 |
| Part B: Brief Introduction to the Project | 6 |
| B.1 Brief Description of the Project | 6 |
| Part C: Lodgement with the Expert Consent Panel and Procedures Adopted by the Panel | 6 |
| C.1 Lodging of the Applications (Section 15(a), 2(a), (3) and Clause 2 Schedule 6 of the Act) | 6 |
| C.2 EPA Determination (Clause 3 of Schedule 6 of the Act) | 6 |
| C.3 Expert Consenting Panel Provisions and Procedures | 6 |
| C.4 Outline of Panel Meetings..... | 7 |
| C.5 Requests for Information made to Applicant and Regional and District Councils Pursuant to Clause 25(1)(a) of Schedule 6 | 7 |
| C.6 Invitations to Comment on Listed Project (Clauses 17-19 of Schedule 6 of the Act)..... | 8 |
| C.7 Reports to Panel..... | 8 |
| C.8 Conditions Applying to Resource Consents/Draft Conditions..... | 8 |
| C.9 Outline of the Project | 9 |
| C.10 The Existing Environment | 9 |
| C.11 Statutory Applications and Approval Needed | 9 |
| C.12 Project Application Documentation..... | 10 |
| C.13 Legal Framework for Deliberations..... | 10 |
| C.14 Planning Framework | 10 |
| C.15 Relationship between this Act and Resource Management Act 1991 | 11 |
| C.16 Key Topics for Applications and a Panel's Consideration of Them | 11 |
| Part D: Any Actual and Potential Effects on the Environment of Allowing the Activity (Clause 29(1) and Clause 33(2) of Schedule 6) | 11 |
| D.1 Māori Cultural Values and Interests | 12 |
| D.1.1 Potential effects | 12 |
| D.1.2 Comments Received | 13 |
| D.1.3 Conditions Imposed..... | 13 |
| D.2 Traffic, Traffic Safety and Public Transport | 14 |
| D.2.1 Potential Effects..... | 14 |
| D.2.2 Comments Received | 15 |
| D.2.3 Conditions Imposed..... | 17 |
| D.3 Construction Traffic | 17 |
| D.3.1 Potential Effects..... | 17 |
| D.3.2 Comments Received | 18 |
| D.3.3 Conditions Imposed..... | 19 |
| D.4 Urban Landscape and Visual Impacts | 19 |
| D.4.1 Potential Effects..... | 19 |
| D.4.2 Comments Received | 20 |
| D.4.3 Conditions Imposed..... | 20 |
| D.5 Heritage Values..... | 21 |
| D.5.1 Potential Effects..... | 21 |
| D.5.2 Comments Received | 22 |
| D.5.3 Conditions Imposed..... | 22 |
| D.6 Stormwater and Erosion and Sediment Control | 23 |
| D.6.1 Potential Effects..... | 23 |
| D.6.2 Comments Received | 23 |
| D.6.3 Conditions Imposed..... | 24 |
| D.7 Aquatic Ecology..... | 24 |
| D.7.1 Potential Effects..... | 24 |
| D.7.2 Comments Received | 25 |

| | | |
|---------|--|----|
| D.7.3 | Conditions Imposed..... | 25 |
| D.8 | Terrestrial Ecology..... | 26 |
| D.8.1 | Potential Effects..... | 26 |
| D.8.2 | Comments Received | 26 |
| D.8.3 | Conditions Imposed..... | 26 |
| D.9 | Contaminated Soil | 27 |
| D.9.1 | Potential Effects..... | 27 |
| D.9.2 | Comments Received | 27 |
| D.9.3 | Conditions Imposed..... | 28 |
| D.10 | Noise and Vibration..... | 28 |
| D.10.1 | Potential Effects..... | 28 |
| D.10.2 | Comments Received | 29 |
| D.10.3 | Conditions Imposed..... | 30 |
| D.11 | Natural Hazards and Horne Creek Flooding..... | 30 |
| D.11.1 | Potential Effects..... | 30 |
| D.11.2 | Comments Received | 31 |
| D.11.3 | Conditions Imposed..... | 32 |
| D.12 | Queenstown Memorial Centre..... | 32 |
| D.12.1 | Potential Effects..... | 32 |
| D.12.2 | Comments Received | 33 |
| D.12.3 | Conditions Imposed..... | 33 |
| D.13 | Management Plans | 34 |
| D.13.1 | Potential Effects..... | 34 |
| D.13.2 | Comments Received | 36 |
| D.13.3 | Conditions Imposed..... | 37 |
| D.14 | Kaitiaki Liaison Group | 37 |
| D.14.1 | Potential Effects..... | 37 |
| D.14.2 | Comments Received | 37 |
| D.14.3 | Conditions Imposed..... | 37 |
| D.15 | Community Liaison Group..... | 37 |
| D.15.1 | Potential Effects..... | 37 |
| D.15.2 | Comments Received | 38 |
| D.15.3 | Conditions Imposed..... | 38 |
| D.16 | Positive Effects | 38 |
| D.17 | Matters That Are Beyond Our Scope..... | 39 |
| Part E: | Other Statutory Requirements..... | 39 |
| E.1 | Any Relevant Provisions of Certain Statutory Documents (Clauses 29(1)(c) and (2) and 33(2)(a) and (3)) | 39 |
| E.1.1 | National Policy Statement Urban Development | 40 |
| E.1.2 | National Policy Statement Freshwater Management | 41 |
| E.1.3 | National Environmental Standard Freshwater..... | 41 |
| E.1.4 | National Environmental Standard Contaminated Soil | 41 |
| E.1.5 | Regional Policy Statement for Otago | 42 |
| E.1.6 | Regional Plans | 42 |
| E.1.7 | Queenstown Lakes District Plan | 42 |
| E.2 | Any Matters Impacted by Section 6(a) of this Act (Treaty of Waitangi)..... | 43 |
| E.3 | Treaty Settlement Obligations on Local Authorities or Decision Makers (Section 6(b) of the Act and Clauses 29(4) and 33(8) Schedule 6) | 43 |
| E.4 | Disregarding Certain Effects under Clause 29(1)(a) Concerning Certain Permitted Activities (Clause 30(2))..... | 44 |
| E.5 | Planning Documents Prepared by Customary Marine Title Group under s85 Marine and Coastal Area (Takutai Moana) Act 2011 (Clause 30(3))..... | 44 |
| E.6 | Having No Regard to Matters of Trade Competition or Effects of Trade Competition (Clause 30(4) and 33(1))..... | 44 |
| E.7 | Rules for Consideration of Consent Applications for Activities with Various | |

Status, Including Limitations on Refusal and on Imposition of Conditions of Consent (Clause 30(5), (6), (7) and (8a)).....44

E.8 Limited Grounds for Refusal of Consent Application for Listed Project (Clause 34)44

E.9 Consideration of Notices of Requirement for Listed Projects (Clause 33)45

E.10 Conditions Applying to Resource Consents (Clause 35(2)) under this Act and Notices of Requirement (Clause 33(5)(c))45

E.11 Comments on Draft Conditions (Clause 36)46

E.12 Part 2 Resource Management Act 1991.....48

Part F: Final Decision of Panel (Clause 37 and 38).....50

F.1 The Consents and NOR Granted and Conditions Imposed.....50

Appendix 1: NOR Confirmed and Consents Granted and Conditions Imposed

Appendix 2: Schedule 6 Clause 17 Parties Who Provided Comments

Part A: Executive Summary Decisions Made by the Panel

- [1] This Expert Consenting Panel (Panel) was appointed on 27 January 2021 to consider an application by Queenstown Lakes District Council (Applicant or Requiring Authority) to designate the corridor of the proposed Queenstown Town Centre Arterial road and to construct, maintain and operate this Arterial road (Project).
- [2] The Project is a listed project in Schedule 2 of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 (Act).
- [3] The Applicant has applied for:
 - a) A notice of requirement for a designation to construct, maintain and operate a new Queenstown Town Centre urban Arterial road (including associated infrastructure, structures, walkways, shared path and landscaping).
 - b) Various applications for regional consents under the Otago Regional Council's Regional Plan: Water for Otago 2004 (RPW:O), the Regional Plan: Air for Otago 2003 (Air Plan) and the Regional Plan: Waste for Otago 1997 (Waste Plan) and applications under the Resource Management Act (National Environmental Standards for Assessing and Managing Contaminants to Protect Human Health) Regulations 2011 (NESCS) (together the Applications).
- [4] The Applicant provided:
 - a) A comprehensive assessment of environmental effects (AEE);
 - b) A full set of technical reports;
 - c) Proposed conditions; and
 - d) Associated plans and drawings(Application Documents)

A.1 Decisions by the Panel

- [5] The Panel confirms the notice of requirement described in the Application Documents and in Appendix 1 to this Decision, subject to the conditions also set out in Appendix 1.
- [6] The Panel confirms that the requirement for an outline plan is waived, other than for the proposed pedestrian overbridge that will traverse the Arterial route and link Henry and Melbourne Streets.
- [7] The Panel grants the applications for resource consent described in Appendix 1 to this Decision, subject to the consent durations and consent conditions also set out in Appendix 1.

Part B: Brief Introduction to the Project

B.1 Brief Description of the Project

- [8] The Project is described in section 2.0 of the AEE. By way of brief overview, it involves the creation of a new 2.7km Arterial road that commences at the Frankton Road SH6A/Melbourne Street intersection, then circuits the town centre along Melbourne Street, Henry Street, Gorge Road, Memorial Street, Man Street, Thompson Street, and down to a new One Mile roundabout at the Fernhill Road/Lake Esplanade/Glenorchy Road intersection. When the Project is complete, the New Zealand Transport Agency (Waka Kotahi/NZTA) will take the Arterial road over as the new SH6A and then revoke State Highway status over Stanley Street and Shotover Street.
- [9] The Arterial road will relocate the high traffic volumes in the Queenstown Town Centre zone to the outer extent of the zone so as to improve town centre network capacity and enhance overall traffic safety and access. The Project has had a lengthy period of development, as outlined in section 9.0 of the AEE. It will improve all modes of transport, including cycling, pedestrian access and public transport.

Part C: Lodgement with the Expert Consent Panel and Procedures Adopted by the Panel

C.1 Lodging of the Applications (Section 15(a), 2(a), (3) and Clause 2 Schedule 6 of the Act)

- [10] On 17 December 2020 the Applicant lodged with the Environmental Protection Authority (EPA) an application for a notice of requirement and consents for the Project.

C.2 EPA Determination (Clause 3 of Schedule 6 of the Act)

- [11] On 14 January 2021 the EPA issued its decision about compliance with Schedule 6, Clause 3(1) of the Act.

C.3 Expert Consenting Panel Provisions and Procedures

- [12] The role of any expert panel appointed under the Act has been described by the Panel Convener¹ (Convener) in the decision on the Matawii Water Storage Reservoir at Kaikohe dated 27 October 2020, which was also a listed project (Matawii Decision). At paragraph [12] of that decision the Convener stated:

Because this decision is the first to issue under this legislation we will describe in more detail than will be necessary in subsequent decisions, the workings of the Act in processing listed projects.

¹ His Honour Judge Newhook, appointed by the Minister under clause 2 of Schedule 5 to the Act

- [13] The Panel respectfully adopts the description set out (mainly) at paragraphs [12]-[43] of the Matawii Decision.

C.4 Outline of Panel Meetings

- [14] The Panel records the following matters pursuant to Schedule 6. The Panel met:
- a) 28 January 2021 (Zoom Meeting).
 - b) 4 February 2021 (Zoom Meeting).
 - c) 16 February 2021 (Zoom Meeting).
 - d) 24 February 2021 (In Person Meeting).
 - e) 9 March 2021 (Zoom Meeting).
 - f) 16 March 2021 (Zoom Meeting)
 - g) 31 March 2021 (Zoom Meeting)
- [15] The Panel conducted a site visit on 24 February 2021.

C.5 Requests for Information made to Applicant and Regional and District Councils Pursuant to Clause 25(1)(a) of Schedule 6

- [16] The Panel sought the following information from the Applicant as outlined in its Minute dated 12 February 2021:

That the QLDC provides the 2019 Ryder Environmental report on the ecological assessment of Horne Creek, as referenced in Section 4.3 of “Appendix 17 Aquatic Ecology Report” of the application.

- [17] The Panel sought the following information from the relevant local authorities (Queenstown Lakes District Council (QLDC) in its regulatory capacity and Otago Regional Council (ORC)). Specifically:
- a) The identification of any relevant provisions, in the Regional Policy Statement, District Plan and/or Regional Plans, that are not referenced in the AEE that could usefully inform the drafting of conditions of consent or conditions for the notice of requirement;
 - b) Their views on the desirability and appropriateness of duplicating conditions in the consents and the notice of requirement (for example conditions dealing with erosion and sediment control, stormwater and stream works);
- [18] The Panel sought the following information from QLDC as Requiring Authority:
- a) The consent duration that is sought for each individual activity that requires consent under RMA sections 9, 13, 14 or 15.
- [19] The Panel also sought information from the QLDC as Requiring Authority in relation to three comments from parties invited to comment under Schedule 6, Clause 17(2). As discussed in section C.6 below, the Panel exercised its discretion to consider these comments in accordance with Schedule 6, Clause 18(6). The Panel determined that the Applicant should be provided with an opportunity to respond under Schedule 6, Clause 25(1)(a)(i) given that the date for the Applicant to respond to Schedule 6, Clause 17(2) comments had passed.

C.6 Invitations to Comment on Listed Project (Clauses 17-19 of Schedule 6 of the Act)

- [20] Schedule 6, Clause 17(1) directs that the Panel must not give public or limited notification of a consent application. In accordance with Schedule 6, Clause 17(9), Schedule 6, Clause 17(2) directs instead that the Panel must within a certain timeframe invite written comments on the application from the persons and groups listed in subclauses (4) to (8).
- [21] On 5 February 2021 the Panel invited comments on the Project from parties listed in Schedule 6, Clauses 17(4).
- [22] On 5 February 2021 the Panel invited comments on the Project from parties listed in Schedule 6, Clause 17(5).
- [23] The list of persons and bodies to whom invitations were sent – both directed and discretionary – was extensive, particularly given the number of owners and occupiers of land adjacent to the Project.
- [24] In accordance with Schedule 6, Clause 18(1), responses were required by 26 February 2021.
- [25] All comments received were sent to the Applicant in accordance with Schedule 6, Clause 19 and the Panel required the response from the Applicant by 8 March 2021.
- [26] The Panel received three comments from parties invited to comment under Schedule 6, Clause 17(2) after the 26 February date. These comments were from parties who did not receive the notice from the EPA within the appropriate timeframe. The Panel exercised its discretion in accordance with Schedule 6, Clause 18(6), in the interests of natural justice, to enable the parties to provide comments for the Panel to consider. As discussed in section C.5 above, the Applicant was provided with an opportunity to provide a response to these additional comments.
- [27] The comments received from parties listed in Schedule 6, Clause 17 have all been considered by the Panel, along with the response from the Applicant. These parties are listed in Appendix 2 to this Decision.

C.7 Reports to Panel

- [28] Under Schedule 6, Clause 25(1)(b) a Panel may commission a report on a relevant issue. Given the thorough detail provided in the Application Documents the Panel did not require any additional reports.

C.8 Conditions Applying to Resource Consents/Draft Conditions

- [29] Under Schedule 6, Clause 35 a panel may grant a resource consent subject to the conditions it considers appropriate.

- [30] Before granting a resource consent or confirming or modifying a designation, Schedule 6, Clause 36 requires a panel to provide a copy of the draft conditions to:
- a) The consent applicant or requiring authority; and
 - b) Every person or group that provided a response to an invitation given under Schedule 6, Clause 17(2).
- [31] The Panel issued its draft conditions on 18 March 2021, providing 25 March 2021 as the date by which any comments on the draft conditions must be received by the EPA. We received comments on the draft conditions from only twelve parties.
- [32] Schedule 6, Clause 36(5) requires that a panel must have regard to all comments received in relation to the draft conditions. As discussed in Parts D and E of this Decision we have considered all comments received on our draft conditions and where appropriate have amended the conditions accordingly.

C.9 Outline of the Project

- [33] The nature of the Project was described in section 4.0 of the AEE.
- [34] The purpose of the Project is succinctly summarised in the Application Documents² as follows:

QLDC's objective for the Arterials project is to provide an improved urban arterial route that:

- (a) Improves town centre access and reduces congestion; and*
- (b) Supports integrated initiatives around travel demand management, parking management, public realm upgrades, public passenger transport and active transport modes.*

C.10 The Existing Environment

- [35] The existing environment was described in section 2.2 of the AEE. We refer to relevant aspects of that environment in our assessments in Part D of this Decision.

C.11 Statutory Applications and Approval Needed

- [36] As outlined earlier in this Decision, we refer to Appendix 1 to this Decision, describing the application made for the notice of requirement, listing the resource consents required, and setting out the associated conditions. We note that the consents had a variety of activity status from permitted to discretionary (but no prohibited activities) and we have proceeded by holistically considering the Project as requiring a discretionary activity consent.

² Section 17.1 Proposal's Objective, page 99.

C.12 Project Application Documentation

- [37] The application comprised two separate but interwoven applications for a notice of requirement and resource consents, including an AEE supported by appendices.

C.13 Legal Framework for Deliberations

- [38] The statutory framework necessarily starts with the purpose of the Act:

4 Purpose

The purpose of this Act is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources.

- [39] Section 5 provides a useful overview of the main part of the Act, Part 1 (preliminary provisions); Part 2 the substantive elements of the scheme for fast-track consenting; Schedule 1 with its transitional, savings, and related provisions; Schedule 2 describing the listed projects; Schedule 3 setting out requirements for referral orders of referred projects; Schedule 4 providing for location requirements, permitted activities and permitted activity standards for work on infrastructure; Schedule 5 relating to expert consenting panels; and Schedule 6 dealing with applications and decision making in relation to listed and referred projects.
- [40] Section 6 (Treaty of Waitangi) we refer to in more detail elsewhere; simply acknowledging here that it offers more stringent requirements than are found in Section 8 RMA.
- [41] Section 12 is an important provision concerning the relationship between the Act and the RMA.
- [42] Although the Act does not expressly say so, we infer that listed projects are deemed to meet the purpose of the Act in Section 4.
- [43] The ability to refuse consent is limited to the two matters in Schedule 6, Clause 34, specifically inconsistency with a national policy statement or the Treaty of Waitangi.
- [44] Schedule 6, Clause 9(1)(g) nevertheless requires an assessment of the activity against the purpose of the Act, as well as many other matters. Furthermore, Schedule 6, Clause 29(1) requires a consenting panel to have regard to numbers of matters, subject to the purpose of the Act.

C.14 Planning Framework

- [45] The list below outlines the statutory instruments the Panel is obliged to have regard to by Schedule 6, Clause 29 (1) and (2) for the resource consents and Schedule 6, Clause 33 for the notice of requirement. We refer to these documents in Part E of this Decision.
- a) National Environmental Standards
 - b) Regulations made under the Resource Management Act 1991
 - c) National Policy Statements
 - d) New Zealand Coastal Policy Statements
 - e) Regional Policy Statements or Proposed Regional Policy Statements

- f) Plans and Proposed Plans
- g) Planning Documents recognised by a relevant Iwi Authority and lodged with the Local Authority

C.15 Relationship between this Act and Resource Management Act 1991

[46] Section 12 of the Act provides, to the extent relevant to listed projects, as follows:

Relationship between this Act and Resource Management Act 1991

(1) This section applies except as otherwise provided in, or required by the context of, this Act.

Listed projects and referred projects

(2) If an application for resource consent for an activity is made under this Act, —

- (a) the process for obtaining a consent under Schedule 6 applies instead of the process for obtaining a consent under the Resource Management Act 1991; and
- (b) a resource consent granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were granted under the Resource Management Act 1991...

General

(9) Every person who carries out an activity as part of a listed project or a referred project, or in the course of work on infrastructure, is subject to—

- (a) the duty to avoid unreasonable noise under section 16 of the Resource Management Act 1991; and
- (b) the duty to avoid, remedy, or mitigate adverse effects under section 17 of the Resource Management Act 1991.

(10) The provisions of the Resource Management Act 1991 otherwise apply, to the extent that they are relevant and with any necessary modifications, to a listed project or a referred project and to any activity carried out as a permitted activity in the course of work on infrastructure.

C.16 Key Topics for Applications and a Panel's Consideration of Them

[47] The Act outlines the key topics for applications and key matters that the Panel must consider:

- a) Actual and potential effects on the environment of allowing the activity (Schedule 6, Clauses 9(4), 10, 11, 29(1)(a), 30(2) and (4) and 33);
- b) Any measures to ensure positive effects on the environment to offset or compensate for adverse effects (Schedule 6, Clause 29(1)(b) and Clause 33(4);
- c) Other matters considered by the Panel relevant and reasonably necessary to determine the application (Schedule 6, Clause 29(1)(d) and 33(2)(d));
- d) For the notice of requirement, the consideration of alternatives and the necessity of the designation for achieving the objectives of the Requiring Authority (Schedule 6, Clause 33(2)(b) and (c)).

Part D: Any Actual and Potential Effects on the Environment of Allowing the Activity (Clause 29(1) and Clause 33(2) of Schedule 6)

[48] In this Part of our Decision, we address potential adverse effects of the Project based on the Application Documents and the comments received from the parties invited to comment under Schedule 6, Clause 17, together with the Applicant's response to those comments. We then discuss the conditions that we find are

required (to be imposed on either the resource consents or designation) to appropriately manage those effects. In doing so we have had regard to all of the comments received on our 'draft' conditions.

- [49] When discussing the conditions imposed, we highlight any measure proposed or agreed to by the Applicant, to ensure positive effects on the environment to offset or compensate for any adverse effects. We also summarise the positive effects of the Project in section D.16 (Schedule 6, Clause 29(1)(b)).
- [50] In this Part we also discuss some related issues including the use of management plans and the proposed establishment of a Kaitiaki Liaison Group and a Community Liaison Group.

D.1 Māori Cultural Values and Interests

D.1.1 Potential effects

- [51] The issue of the effects on Māori values and interests during Project works was addressed in sections 11, 12.1.1, 12.4.1, 14.3.2, 17.4.1 and 19.1.1 of the AEE and in Appendix 21 titled Cultural Impact Statement Report (CISR). From the CISR we understand that the Wāhi Tūpuna covering Lake Wakatipu in the proposed QLDC District Plan extends over parts of the Lake Esplanade and the Glenorchy-Queenstown Road in the vicinity of the Project and the importance of Lake Wakatipu and the wider area as a place to gather food and other resources is identified in the oral histories of the area.
- [52] The Ngāi Tahu Claims Settlement Act 1988 includes a Statutory Acknowledgment for Whakatipu-wai-Māori and outlines some of the Māori history of the Lake and the wider Wakatipu basin.
- [53] Importantly, none of the Project works impact directly on Lake Wakatipu although there is the potential for indirect effects to arise from stormwater and sediment runoff.
- [54] The CISR identified the partnership approach taken by the Applicant, with Papatipu Rūnanga having been represented at the governance level through partnership arrangements as the Project developed. We note that Te Ao Marama³ (TAMI) who prepared the CISR indicated overall support for the Project subject to the imposition of conditions outlined in the CISR.
- [55] There are a range of conditions proposed to implement the recommendations of TAMI relating to Project design, stormwater management design, sedimentation and contamination of water bodies, management plans and monitoring. A key aspect of working with mana whenua to finalise design details in each stage of the Project is through the Kaitiaki Liaison Group (KLG). The role of the KLG is to facilitate consultation about, and enable Kai Tahu to provide input as kaitiaki, to a wide range of matters including preparation of management plans, particularly the Urban Design and Landscape Plan (UDLP), and monitoring programmes.

³ Te Ao Marama Inc. (TAMI) represents Ngā Rūnanga ki Murihiku for resource management Iwi environmental issues. It is made up of the four Murihiku Rūnanga Papatipu – Awarua, Hokonui, Oraka Aparima and Waihopai.

D.1.2 Comments Received

- [56] We received a number of comments from parties invited to comment under Schedule 6, Clause 17(2). The Ministers for Māori Crown Relations and Treaty of Waitangi Negotiations had no comments to make. Heritage New Zealand Pouhere Taonga (HNZ) supported the participation of Aukaha⁴ and TAMI to ensure Māori heritage is recognised within the UDLP. Te Rūnanga o Ngāi Tahu conferred with staff at both Aukaha Ltd and TAMI and advised that Papatipu Rūnanga are satisfied with the conditions proposed by the Applicant and would like these and the recommendations from the CISR reflected in the final conditions imposed.
- [57] In light of the supportive comments outlined above we did not add to or substantively amend the Applicant's proposed conditions relating to Māori cultural values and interests in our 'draft' conditions.

D.1.3 Conditions Imposed

- [58] The mitigation of potential adverse effects on Māori cultural values and interests will be achieved through the preparation of management plans and compliance with conditions on the consents and the designation.⁵
- [59] We record that we had regard to comments lodged on our 'draft' conditions by both the Applicant and the parties invited to comment on the Project and who provided a response. In light of those comments, we made the following amendments to our 'draft' conditions:
- We amended the advice note under Part C in the consent conditions to omit the reference to ORC certifying the Erosion and Sediment Control Plan (ESCP) and instead referred to that Plan being prepared in consultation with ORC. Similar amendments were made to Designation conditions 47 and an additional advice note was added to that effect;
 - We inserted new condition 31A to the consent conditions requiring the draft Fish Management Plan to be provided to the KLG and for their feedback to be incorporated into the Plan;
 - We inserted new condition 33C to the consent conditions requiring all works undertaken within Horne Creek and One Mile Creek to occur in accordance with the certified Fish Management Plan;
 - We amended condition 41 of the consent conditions to omit the reference to 'proximity of an unprotected stormwater inlet' and instead referred to within 10m of such inlets;
 - We inserted new condition 47A to the consent conditions requiring discharge of stormwater to be undertaken in accordance with the ESCP;
 - Where a management plan is to be provided to the KLG we amended the conditions to provide the KLG with 20 working days to provide feedback to the Requiring Authority (Designation conditions 35A, 39, 45A, 51A;

⁴ Aukaha represents Kai Tahu ki Otago Limited on behalf of Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou.

⁵ Consent condition 7; Designation conditions 21 to 25, 35A, 39, 45A, 53, 58A, 63 and 65-66.

58A); and

- We inserted new condition 52A to the designation conditions requiring that where the mātauranga Māori principles listed in condition 52 were not given effect to, the Requiring Authority needed to prepare a written report and provide it to the QLDC in their regulatory capacity and to the KLG, setting out locations where the principles have not been given effect to and the reasons why.

[60] Regarding other specific matters raised by Te Rūnanga o Ngāi Tahu, we noted their opposition to the omission of the conditions on the consents that were duplicated in the designation conditions. However, given that ORC did not object to the omission of those conditions we have not reinstated them. We also did not provide for the input of the KLG to the Spill Management Plan (SMPs) as we understand such documents to be a routine and noncontroversial requirement for consents involving works in watercourses. SMPs are essentially operational procedures and as such they do not require a specific cultural perspective.

[61] We considered condition 47 of the consents to be clear and certain on its plain reading without the need for a contributing catchment map.

D.2 Traffic, Traffic Safety and Public Transport

D.2.1 Potential Effects

[62] The positive effects of the Project on transport such as improved travel time, easing congestion, traffic safety measures and public transport were addressed in sections 12.1.2, 12.1.5, 12.1.6, 12.1.7 and 12.1.8 of the AEE and in Appendix 10 titled Traffic Impact Assessment.

[63] These documents refer to the high traffic volumes along Stanley Street and Shotover Street and consequential deteriorating levels of service for road users and pedestrians. The Project proposes to relocate the higher traffic volumes, including through traffic, to the outer extent of the Queenstown Town Centre zone so as to reduce the volume of traffic and increase connectivity and pedestrian movement on Stanley and Shotover Streets.

[64] Public transport will be improved by enabling Stanley Street between Shotover and Ballarat Streets to be bus only which will provide a safe and efficient new public transport hub including a significant reduction in travel time to Stanley Street.

[65] The Traffic Impact Assessment considered effects of the Project on the Queenstown transport network including cycling, walking, parking, public transport, safety and individual properties. The Assessment concluded that all modes of transport will be improved in terms of network capacity, resilience, enhanced safety and better access and connections. While there are some effects on property access, these can be mitigated through detailed traffic design and, as referenced in proposed Designation condition 53, preparing the ULDP in consultation with the CLG.

[66] Safety improvements to the network include a 40km/h speed limit and all intersections being pedestrianised with protected right turns. A range of features such as signal phasing, clear signage, improved skid resistance, use of de-icing

agents in winter and providing warnings for steep downgrades will be included to ensure increased and enhanced traffic safety.

D.2.2 Comments Received

- [67] The Panel received a large number of comments from parties invited to comment under Schedule 6, Clause 17(2) in relation to traffic, traffic safety and public transport. Matters raised included:
- Access to individual residential properties and safety associated with that access.
 - Access associated with parent's drop off/pick up at preschool/school.
 - Access for hotels/visitor accommodation for drop off/pick up.
 - Requests for coach parking, coach drop off/pick up in the road reserve.
 - Location of bus stop on Man Street.
 - Loss of carparking across the Project area, particularly on Melbourne Street.
 - Potential for locals to take backstreets rather than use the Arterial with its large number of traffic lights.
 - Increase in traffic speeds.
 - Impact on pedestrians of increased traffic.
 - Removal of central median strip on Melbourne Street.
 - Impact of increased traffic on the Arterial route.
- [68] The Ministers of Land Information and Infrastructure supported the Project because of its positive effects on the town centre/economy. The Minister for Education wished to be included in the CLG in order to provide information to parents at Queenstown Primary School and Queenstown Playcentre.
- [69] The majority of comments from other parties related to increased traffic, traffic safety and loss of carparking. Those parties and a summation of their comments are listed in Appendix 2 to this Decision. All of the comments have been considered by the Panel.
- [70] As provided for in Schedule 6, Clause 18, the Applicant responded in detail to the comments under the headings of "loss of on-street parking", "speed limits", traffic volumes and safety", and "access to and from properties". Additionally, site specific responses were given to issues raised by property owners.
- [71] In relation to loss of on-street parking and parking supply on the Arterial route and around Queenstown's town centre, the Applicant stated that the QLDC's endorsement of the Queenstown Business Case in January 2021 demonstrated that the removal of on-street parking as part of the Project was a deliberate policy decision of the QLDC, which also aligned with the Queenstown Masterplan. Those policy decisions would be implemented by a range of infrastructure projects designed to improve the transport network – including achieving a balance across public, passenger and active modes of transport.

- [72] The Project was said to be consistent with the Queenstown Masterplan as it would increase pedestrian services and provide safer crossing points for pedestrians through signalised intersections along the Arterial route. The 5m wide shared pathway on the north side of Man and Thompson Streets would ensure a safer and more accessible route for pedestrians and cyclists long term. The Applicant advised⁶ they are working with the Catholic Diocese of Dunedin (St Joseph's School and Parish) to address options in terms of access from Melbourne Street and drop off zones on Hallenstein and Beetham Streets.
- [73] In relation to traffic volumes, speed limits and safety, the Applicant referred to Designation condition 103 which requires a 40km/hr speed limit along the Arterial route. This low speed would address safety concerns, as would signal phasing, signage and improved skid resistance in winter.
- [74] In terms of access to and from properties, the Applicant referred to Designation condition 75 which requires Site/Activity Specific Traffic Management Plans (TMPs) to be prepared and certified as part of the construction process. The TMPs would ensure construction traffic would not impede access. In the longer term, detailed design of access for individual properties has been undertaken as set out in Appendix 10 to the AEE.
- [75] The Applicant provided a site specific response regarding the design of the intersection at 15 Man Street, addressing the comments received from MacFarlane Investments Ltd.⁷
- [76] Regarding concerns raised by Mi-pad Queenstown, the Applicant advised that a shared loading zone would be provided as set out in a revised designation plan that would form part of the conditions.⁸
- [77] In relation to matters raised by the Wakatipu Senior Citizens Association, the Applicant referred to section 5 of the Social Impact Assessment at Appendix 12 to the AEE, and confirmed that parking will continue to be available in close proximity to the Senior Citizens Association once the Project is completed.⁹
- [78] We consider that site specific concerns raised by Heather and Stephen Olds Family Trust, Lynne Armitage and Karl Oellerman, Skyview Magic Ltd, Hall Family Trust, Playcentre Aotearoa and Queenstown Playcentre, McGeorge Family Trust, Mark Coulston, Well Smart Investment Holdings (Thom) Pty Ltd were all addressed adequately and in detail in the Applicant's response.¹⁰
- [79] The site specific concerns raised by Kirsten Zaki regarding the Man Street bus stop and Pro-Invest Development NZ Ltd are addressed in detail in the Applicant's response of 23 March 2021, to a request for information issued under Schedule 6, Clause 25(1). The Panel accepts the Applicant's response stating that there are no safety issues relating to the Man Street bus stop. Similarly, the Applicant's comments regarding Camp Street and the functioning of the 5 metre shared

⁶ Appendix 5 to the Applicant's response to comments under Schedule 6, Clause 18 (Applicant's response), containing a further transportation assessment and report.

⁷ Ibid.

⁸ Designation condition 1(a)

⁹ Applicant's response to a request for information issued under Schedule 6, Clause 25(1) dated 23 March 2021.

¹⁰ Applicant's Response.

pathway are appropriately explained to address Pro-Invest's concerns.

D.2.3 Conditions Imposed

[80] In light of the above discussion and in particular the Applicant's considered and detailed response to comments received, we find that the implementation of the detailed design of the Arterial route, the management of construction traffic, traffic safety improvements, the enhancement of public transport and the mitigation of potential adverse effects on property access can be satisfactorily achieved through the preparation of management plans and compliance with designation conditions¹¹.

[81] We record that we had regard to comments lodged on our 'draft' conditions by both the Applicant and the parties who provided comments in response to an invitation to comment under Clause 17(2). We did not make any amendments to our 'draft conditions'. However, we discuss related matters raised by some parties in section E.11 of this Decision.

D.3 Construction Traffic

D.3.1 Potential Effects

[82] The issue of the effects of construction traffic during Project works was addressed in section 12.1.8 of the AEE and in section 9 of Appendix 10 titled Traffic Impact Assessment.

[83] The construction stage of the Project will have some short-term adverse effects including:

- Additional construction traffic, including heavy traffic on the network.
- Temporary removal of on-street car parking to accommodate heavy vehicle tracking.
- Road closures for construction activities.
- Disruption to pedestrian footpaths and access.

[84] The Traffic Impact Assessment concluded that a number of measures to mitigate the potential construction traffic effects would be addressed through the preparation of a Construction Traffic Management Plan (CTMP) by the nominated contractor prior to works commencing on the Project.

[85] The CTMP is to contain measures such as identifying appropriate routes for heavy vehicles to use, managing the impact on pedestrian traffic, minimising the impact on parks, reserves and carparks used as construction yards and minimising disruption on residents and businesses. The objectives of the CTMP are outlined in Designation condition 44, including detailed considerations for each stage of the Arterial road.

[86] On the basis of the range of measures proposed in the CTMP and in conditions the Panel concludes that the effects of construction traffic will be relatively short-term and with appropriate processes in place any adverse potential effects can

¹¹ Including Designation conditions 1, 2, 6, 14, 31, 32-35A Construction Environmental Management plan (CEMP), 43-46 Construction Traffic Management Plan (CTMP), 75-80 Site/Activity Specific Traffic Management Plan (TMP) and 82.

be managed. We note that the CLG and the KLG will be consulted regarding the contents of the CTMP.

D.3.2 Comments Received

- [87] The Panel received a number of comments from the parties invited to comment under Schedule 6, Clause 17(2). Matters raised included:
- Access for residents during the construction phase, including the impacts of potential road closures.
 - Access for businesses, including tenants, during construction and the importance of maintaining access.
 - Impact on schools/kindergarten/playcentre particularly drop-off and pick-up and the importance of informing parents.
 - Property owners want to be kept informed during construction including hours of work, loss of on street parking during construction and provision of a complaints process.
- [88] The Applicant responded to those comments under the heading “Access to and from Properties” as well as in the Site Specific responses including further detail set out in Appendix 5 of the response.
- [89] The Applicant confirmed that during the construction period access will be managed by the CTMP. We note the objectives of the CTMP include minimising the disruption to the surrounding community by minimising delay to road users.
- [90] Designation condition 75 also requires Site/Activity Traffic Management Plans (TMPs) to be prepared and certified. As part of this process the Requiring Authority will consult with directly affected property and business owners and operators and must include any responses and actions taken in the TMP. The Applicant expects that this consultation will mainly occur as part of the CLG engagement process (the CLG is addressed in Section D.15 of this Decision).
- [91] In terms of comments about individual properties, the Applicant responded to site specific concerns as follows:
- St Joseph’s School will be consulted regarding the drop off/pick up spaces on Hallenstein Street and Beetham Street and the on-street parking spaces retained on Melbourne Street.
 - Playcentre Aotearoa and Queenstown Playcentre will be consulted as discussed above in relation to the CTMP.
 - Regarding Well Smart’s concerns about the implications of the construction lay down area and provision for access/coach drop-off/pick-up, a range of measures will ensure access to their Lakeview Precinct/Man and Shotover Street sites.
 - Wakatipu Senior Citizens Association will be involved in the development of the Communication and Consultation Plan (CCP) and the CLG, as well as the CTMP which in particular manages issues relating to construction, as discussed in the Applicant’s response of 23 March 2021, to a request for information issued under Schedule 6, Clause 25(1).

D.3.3 Conditions Imposed

- [92] The mitigation of potential adverse effects of construction traffic will be achieved through the preparation of management plans and compliance with conditions on the designation.¹²
- [93] As discussed in section D.13 of this Decision, the Panel has clarified a number of conditions relating to management plans to provide certainty for the Requiring Authority and QLDC in their regulatory capacity. These will apply to the CTMP.
- [94] We record that we had regard to comments lodged on the Panel's 'draft' conditions by both the Applicant and the parties who provided comments in response to an invitation to comment under Clause 17(2). We did not make any amendments to our 'draft conditions'. However, we discuss related matters raised by some parties in section E.11 of this Decision.

D.4 Urban Landscape and Visual Impacts

D.4.1 Potential Effects

- [95] The effects of the new Arterial route on landscape and visual amenity values and urban design considerations were addressed at section 12.2.1 of the AEE and in Appendices 19 and 20 titled Landscape and Visual Effects Assessment, and Urban Design and Landscape, respectively. The landscape assessment is divided into four zones, recognising both the staged nature of the Project, the different landscape identity areas across the Project and the associated potential effects on each area.
- [96] The assessment concluded that given the presence of the existing road network, the majority of the Project will have negligible adverse landscape effects. In considering effects on the landscape, the assessment focused on the two areas where new lengths of road are required being;
- (a) The proposed link between Melbourne and Henry Street
 - (b) The Thompson Street link to the new One Mile roundabout
- [97] Discussing the Melbourne to Henry Street link, the assessment concluded that the new road offers many opportunities for character enhancement and the overall effect is expected to be positive.
- [98] With respect to the Thompson Street link, the assessment records that the area is perceived as open space, establishing a green edge around central Queenstown, and construction of a road through this area will result in the loss of perceived open space. The assessment finds that once mitigation measures are in place, the adverse effect is expected to be low. Mitigation measures proposed include planting through the entire designation area and keeping the road to a more rural aesthetic in keeping with open space character along this part of the Arterial.
- [99] The assessment concludes that the Project provides a significant opportunity to further enhance Queenstown's unique sense of place. The assessment identifies

¹² Including Designation conditions 1, 21-25, 26-30, 43-46 Construction Traffic Management Plan (CTMP), 75-80 Site/Activity Specific Traffic Management Plan (TMP's).

as positive effects the opportunity to enhance existing landmarks, and highlight existing and proposed natural and physical assets.

- [100] Visual effects of the Project works throughout the designation area are assessed from a number of viewpoints. With respect to the existing sections of road, visual effects are assessed as low to negligible. For new sections of road, visual effects are assessed as low for the Melbourne-Henry Street link, and for Thompson Street, high to very high in the short term construction phase, but low in the medium to long term with successful implementation of mitigation measures. The assessment notes that substantial retaining is required in some areas with effects suitably mitigated by use of colour, texture and foreground planting. Street lighting is highlighted as requiring careful consideration in the mitigation package proposed.
- [101] The landscape and visual effects assessment is complemented by the urban design and landscape assessment prepared by Land Lab, which assesses the actual and potential effects of the Project from an urban design perspective, identifies key design considerations and mitigation methods. The assessment evaluates the Project against the principles of the Waka Kotahi – New Zealand Transport Agency’s Bridging the Gap – NZTA Urban Design Guidelines and the Queenstown Town Centre Master Plan 2017.
- [102] The assessment concludes that the Project will result in positive urban design outcomes for the Queenstown Town Centre and with implementation of the recommended design and mitigation measures will result in positive urban design effects and will improve the liveability and visitor experience along the Project route, and within the Queenstown Town Centre.

D.4.2 Comments Received

- [103] We received few comments from the parties invited to comment. St Joseph’s School and Parish commented on salvage and re-use of wrought iron fencing, surface treatment of retaining walls and handrail options. HNZ discussed the cultural heritage and supported the participation of Aukaha and TAMI to ensure Māori Heritage is recognised within urban design and landscape planning. Katelyn and David Harrison expressed concern about the visual effect of the retaining wall along Melbourne Street. Melissa Smith, a property owner in Thompson Street, raised the issue of loss of visual amenity and views as a result of the Project in this location.
- [104] In its response, the Applicant pointed to the requirement to prepare an UDLP. The UDLP is to take into account the different character and amenity of various areas along the Route. The Applicant confirmed St Joseph’s School and Parish will be consulted with respect to the issues it raised.

D.4.3 Conditions Imposed

- [105] The mitigation of potential adverse effects on the urban landscape, and the management of visual impacts, will be achieved through the preparation of management plans and compliance with conditions on the designation.¹³

¹³ Including Designation conditions 53-58A Urban Design and Landscape Plan (UDLP), 59, 60-62 and 83.

- [106] Designation conditions relating to landscape, visual and urban design effects were proposed by the Applicant. Condition 53 required preparation of the UDLP. Conditions 54 - 59 set out the detailed requirements for the UDLP. In our 'draft' conditions we amended condition 53 to require the UDLP to be provided by the Requiring Authority to QLDC in their regulatory capacity for certification prior to the commencement of each stage of the Project, as discussed below in section D.13.
- [107] Condition 58, as drafted by the Applicant, specified mitigation requirements at various locations across the three stages of the Project. The mitigation requirements appear to incorporate some of the detailed mitigation recommended in the Land Lab assessment, but not all. As noted above, implementation of the recommended mitigation measures will result in positive urban design effects and will improve the liveability and visitor experience along the Project route, and within the Queenstown Town Centre. We determined that condition 58 should be amended to encompass to the full range of mitigation considerations set out in the Land Lab assessment.
- [108] The UDLP is to be prepared in consultation with the CLG, whose membership is open to owners and occupiers of land adjacent to the Project for each of its three stages. Given the Applicants response that St Joseph's School and Parish will be consulted, we amended condition 27 to include the Board of Trustees of St Joseph's School and Parish and the owner and proprietor of Joseph's Primary School.
- [109] We circulated our 'draft' conditions accordingly.
- [110] We record that we had regard to the comments lodged on our 'draft' conditions by both the Applicant and the parties invited to comment on the Project. However, we did not make any amendments to our 'draft conditions'.

D.5 Heritage Values

D.5.1 Potential Effects

- [111] The issue of effects on historic heritage features and natural heritage features/protected trees was addressed in Sections 12.4.1 ad 12.4.2 of the AEE and in Appendix 14 titled Town Centre Arterials, Queenstown, Historic Heritage Assessment, November 2020.
- [112] The assessment identified recorded historic heritage items in the vicinity of the Project route as well as areas of interest where there is the potential for the Project to affect unrecorded/unlisted historic heritage items. Seven heritage items are assessed as impacted by the Project works, although none of these are listed as heritage items in the Operative or Proposed District Plans. The heritage values of these affected items were assessed as ranging from low to high and effects ranged from total destruction of features to less than minor impacts.
- [113] The assessment concluded that the Project would have less than minor effects on four of the items¹⁴ and that the impact on the remaining three items¹⁵ is

¹⁴ Horne Creek, Lakeview Gardens, One Mile Tailings, Queenstown Immigration Barracks see Table 3, Historic Heritage Assessment

¹⁵ Melbourne Street Walls, Early-Mid 20th Century House, Queenstown Memorial Centre see Table 3, Historic

acceptable as they have low to moderate heritage values and are not listed in QLDC's district plans.

- [114] The assessment identifies that one tree¹⁶, identified as protected in the Proposed District Plan, will require removal. The assessment of the tree was also addressed in an arborcultural report at Appendix 15 of the AEE. Due to the proximity of the retaining wall works near Henry Street, retaining the tree in its current location is not viable. The overall value of the tree is assessed to be moderate and it is proposed to transplant the tree to another, as yet to be identified, location.

D.5.2 Comments Received

- [115] We received comments from HNZ, the Minister for Arts, Culture & Heritage, DOC and St Joseph's School and Parish with respect to heritage effects. HNZ sought amendments to conditions, and to be consulted on plans¹⁷. The Minister noted the comments made by HNZ and cited insufficient detail of effects of construction and increased traffic on listed heritage buildings. St Joseph's School and Parish raised concerns with respect to vibration effects on heritage buildings¹⁸. The Department of Conservation (DOC) raised the issue of the heritage values of the old gold tailings at the One Mile Reserve.
- [116] The Applicant responded to the comments and suggested new or amended conditions to address the concerns of HNZ and St Joseph's School and Parish. Addressing DOC's comments, the Applicant advised that the tailings are outside the Project area and therefore beyond the scope of the works sought to be authorised.

D.5.3 Conditions Imposed

- [117] The mitigation of potential adverse effects on heritage values will be achieved through compliance with conditions on the designation.¹⁹
- [118] Our 'draft' conditions incorporated the new and amended conditions proffered by the Applicant in response to St Joseph's School and Parish and HNZ²⁰. Condition 67 provides for the relocation of the Heritage Tree.
- [119] We record that we had regard to the comments lodged on our 'draft' conditions by both the Applicant and the parties invited to comment on the Project. In light of those comments, we made the following amendments to our 'draft' conditions:
- We amended Designation condition 39A to include reference to proposed QLDC District Plan Item 87 (Gratuity Cottage, New Zealand Heritage List 2339);
 - We amended Designation conditions 39A(b) and (e) to include reference to Heritage New Zealand Pouhere Taonga; and
 - We amended Designation condition 65 to refer to parts of site E41/228

Heritage Assessment

¹⁶ A Horizontal or Spreading Elm

¹⁷ Refer to discussion above under D.13.2.

¹⁸ St Joseph's Roman Catholic Church and Dominican Convent (Of Our Lady of the Sacred Heart)

¹⁹ Including Designation conditions 63-67 and 84-88.

²⁰ Including Designation conditions 39A, 63-67, 54(d), 57(c)(vii), 72-74 and 86.

that are found to be within the area that will be affected by the Project works.

D.6 Stormwater and Erosion and Sediment Control

D.6.1 Potential Effects

- [120] The effects of the Project on stormwater management such as water flows, treatment, discharge points, downstream flood risk and the proposed stormwater management system are addressed in Sections 12.1, 12.3 and 12.7 of the AEE and in Appendix 16 Stormwater Management Report.
- [121] These documents refer to the importance of careful design of stormwater controls to manage discharges of stormwater during the construction phase to ensure that roads and downstream properties are not subjected to flooding. In particular conveyance and management of flows in pipes and by overland flow to selected discharge points and new or upgraded pipes where there is no existing pipes downstream infrastructure or insufficient capacity will ensure that long term any downstream flooding is minimised.
- [122] The piping of the 100 year flows to Horne Creek will cause a minor increase in flows at the Recreation Grounds, which is used as a flood storage area. The existing 100 year flood level is above the existing road and the proposed Arterial road level and two options for mitigation have been identified with further investigation to be undertaken by the Requiring Authority in order to assess the best option. Waterway crossing works will also be undertaken over One Mile Creek and a new realigned stream channel between the two new One Mile Creek culverts will reduce any potential for flooding.
- [123] The new high use Arterial road will likely generate high levels of stormwater contaminants, however industry-standard stormwater treatment systems (proprietary devices) will provide first flush treatment for all of the Arterial road resulting in less than minor water quality effects as a result of operational discharges.

D.6.2 Comments Received

- [124] The Panel received a number of comments from parties invited to comment under Schedule 6, Clause 17(2). Matters raised included drainage post construction to ensure no impact from flooding and soil erosion, stormwater ponding on Melbourne Street, stormwater runoff and stormwater management and water leakage from the uphill sites when Project construction disturbs the water table.
- [125] The Applicant responded to these comments primarily through a further Stormwater Report (Appendix 4 to their response) and in site specific responses to address comments from parties as follows:
- Stormwater from the section of Arterial road above the YHA hostel will be collected and discharged to One Mile Creek. Flows from land above the Arterial road will be collected in a channel on the uphill side of the road, conveyed under the road and into an existing channel discharging into Lake Wakatipu. Stormwater will therefore be managed so as to mitigate any potential flooding up to the 100 year ARI event. Management of soil erosion during construction is addressed in the Erosion and Sediment Control Plan

(ESCP) and in a range of conditions as discussed in section D.6.3 of this Decision

- The stormwater from properties above Melbourne Street will be collected and conveyed using a channel along the boundary of the road connecting to the stormwater pipe system. The existing outlet from 28 Hallenstein Street will be connected to this, mitigating the existing ponding issue. Details of this will be refined during detailed design.
- With the closure of Malaghan Street stormwater flows will be collected and conveyed to the downstream stormwater system using a high-capacity inlet structure in the cul-de-sac at the downhill end of Malaghan Street. This will mitigate effects on the Mi-Pad Hotel.

[126] We included all of the above matters in our 'draft' conditions. Apart from removing duplication as between conditions on the consents and designation (see E.10 below) the only amendments we made to the Applicant's conditions related to grammatical improvements and ensuring consistency of wording.

[127] Stormwater concerns raised by other parties have been adequately addressed in the AEE in our view and do not warrant further comment here.

D.6.3 Conditions Imposed

[128] The mitigation of potential adverse effects from stormwater and erosion, and the management of sediment runoff, will be achieved through the preparation of management plans and compliance with conditions on the consents and the designation.²¹

[129] We record that we had regard to comments lodged on our 'draft' conditions by both the Applicant and the parties who provided comments in response to an invitation to comment on the Project under Clause 17(2). In light of those comments, we made the amendments to our 'draft' conditions that are listed in section D.1.3 of this Decision. They are recorded there because they primarily respond to comments helpfully provided by Te Rūnanga o Ngāi Tahu.

D.7 Aquatic Ecology

D.7.1 Potential Effects

[130] Potential adverse effects on aquatic ecology during Project works were addressed in sections 12.3.1, 12.4.1, 14.2.4, and 14.3.1 of the AEE and in Appendix 17 titled Aquatic Ecology Report. That Report focused on Horne Creek, One Mile Creek and Lake Wakatipu and determined that potential adverse effects due to dewatering for construction activities, stream diversions, earthworks and stormwater management would be categorised as 'high' in the absence of the mitigation measures proposed by the Applicant.

[131] The mitigation proposed includes minimising the areas of creek bed and riparian disturbance, producing an ESCP, avoiding (where possible) fish migration

²¹ Including Consent conditions 35, 38-44, and 46-47; Designation conditions 32-35A Construction Environmental Management Plan (CEMP), 47-52 Erosion and Sediment Control Plan (ESCP), 89-96, 101 and 102.

seasons, adhering to the New Zealand Fish Passage Guidelines and undertaking a stream simulation approach. Additionally, fish surveys will be carried out before work is undertaken in the creek beds and any affected fish will be relocated.

D.7.2 Comments Received

- [132] We received comments from DOC under Schedule 6, Clause 17(2). DOC considered that the Project works would have short term effects including erosion and sedimentation, potential fish injury and mortality (due to works in the creek beds), disrupted fish passage and habitat damage. DOC considered potential long-term effects included the loss of stream habitat, fish passage and changes in waterway hydrology.
- [133] DOC considered that the Project's effects would be minor as long as the Applicant's proposed mitigation was implemented (subject to final culvert designs and the contents of the relevant management plans). We agree and find that the conditions proposed by the Applicant are appropriate in that regard.
- [134] DOC also suggested that Aquatic Ecology Report (Appendix 17) and the Terrestrial Ecology Report (Appendix 18) be referenced in Designation condition 1.
- [135] In response the Applicant noted that the terrestrial and aquatic ecological reports do not contain additional plans and so it was unnecessary to reference them in conditions. We agree and, on that basis, we made few if any changes to the Applicant's conditions in our 'draft' conditions.

D.7.3 Conditions Imposed

- [136] The mitigation of potential adverse effects on aquatic ecology will be achieved through the preparation of management plans and compliance with conditions on the consents.²²
- [137] We record that we had regard to comments lodged on our 'draft' conditions by both the Applicant and the parties who provided comment in response to an invitation to comment on the Project under Schedule 6, Clause 17(2). In light of those comments, in addition to the amendments listed in section D.1.3 of this Decision, we made the following amendments to our 'draft' conditions:
- We amended condition 37A of the Consent conditions to require the affected creek bed to either be returned to its existing state prior to the commencement of works or to be constructed in accordance with the certified construction design details for any creek bed realignment or installation of culverts and bridges (cross-referring to condition 34); and
 - We amended condition 49(g)(xi) of the Consent conditions to refer to the 'creek' channel and not the 'stream' channel.

²² Including Consent conditions 31-33C Fish Management Plan (FMP), 34-34A, and 35-45.

D.8 Terrestrial Ecology

D.8.1 Potential Effects

- [138] Potential effects on terrestrial ecology from Project works were addressed in sections 12.3.1 and 14.2.4 of the AEE and in Appendix 18 titled Terrestrial Ecology Report. That Report noted that the vegetation and environments within the Project footprint were typically highly modified environments consisting of roads, paths, berms, gardens and amenity plantings. The exception was the One Mile Creek area that contained stands of beech tress and other indigenous flora.
- [139] Within the Project footprint indigenous bird species are endemic to the wider area and the likely presence of lizards is low. None of the fauna likely to be in the Project area have a threatened status under the DOC's threat classification index.

D 8.2 Comments Received

- [140] We received few comments from the parties invited to comment under Schedule 16, Clause 17(2). We addressed matters raised by DOC in relation to AEE Appendices 17 and 18 in section D.7 above. The Royal Forest and Bird Protection Society (RFBPS) expressed concerns regarding the extent of site clearance for staging works and effects on birds (especially the New Zealand Eastern Falcon/ Kārearea), fire risk, restoration planting and maintenance.
- [141] In response the Applicant noted that the Project does not impact the Ben Lomond Commonage Recreation Reserve. They helpfully proposed an additional Designation condition (60A) which required that, except for low level ground cover including ferns, shrubs and grasses, there would be no clearance of existing indigenous vegetation for creation of any staging areas for construction purposes. They also suggested amending Designation condition 61 to require an avifauna inspection to be undertaken prior to any vegetation clearance, regardless of the time of year. A new Designation condition 35(o) was proposed to address fire risks to terrestrial vegetation. We included those additional conditions in our 'draft conditions'.

D.8.3 Conditions Imposed

- [142] The mitigation of potential adverse effects on terrestrial ecology will be achieved through the preparation of management plans and compliance with conditions on the consents and the designation.²³
- [143] We record that we had regard to comments lodged on our 'draft' conditions by both the Applicant and the parties invited to comment on the Project, but we did not make any amendments to those conditions.
- [144] We are grateful for the comments provided by Forest and Bird. However, we concluded there was no need to covenant the land referred to in Designation condition 60 as the land is owned by either the Crown or QLDC and we consider that ownership provides sufficient protection for the 'restoration' vegetation that will be planted on it. We also considered there was no need to require terrestrial pest control along the Arterial road as the occurrence of pests is not an effect that

²³ Including Consent condition 45; Designation conditions 53-59 Urban Design and Landscape Plan (UDLP), 60-62 and 83.

will be exacerbated by the road. Those pests are already there and furthermore we consider that the additional planting that will occur sufficiently offsets the loss of existing vegetation.

D.9 Contaminated Soil

D.9.1 Potential Effects

- [145] The issue of potentially contaminated soil being encountered during Project works was addressed in section 12.5.1 of the AEE and in its Appendix 13 titled Contamination Report. We note this to be a relevant matter under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS).
- [146] The Applicant engaged consultants to prepare a Preliminary Site Investigation (PSI) for the Project in June 2020. The PSI identified several areas along the proposed route where activities or industries listed on the Ministry for the Environment's Hazardous Activities and Industries List (HAIL) have occurred which may have impacted soil quality. Those areas were classified into three categories; Category 1- Non-HAIL, Category 2- Identified HAIL Sites – non asbestos, and Category 3 - Identified HAIL Sites – potential asbestos.
- [147] We observe that the NESCS requires a discretionary activity resource consent where no Detailed Site Investigation (DSI) is prepared, which is the case here. In the absence of a DSI the Applicant proposed that Project works be undertaken in accordance with a Contaminated Site Management Plan (CSMP).²⁴
- [148] We consider that the CSMP should be certified by the QLDC and the CSMP should identify relevant contact information for the personnel who will be managing construction and earthworks activities onsite (and the allocation of responsibilities to those personnel) including who is responsible for implementing and monitoring the controls detailed within the CSMP.

D.9.2 Comments Received

- [149] We received few comments from the parties invited to comment under Schedule 16, Clause 17(2). The ORC advised that resource consent under the Regional Waste Plan should be obtained on a precautionary basis, because if a contaminated site is to be disturbed, then consent is required from ORC prior to the site disturbance occurring. ORC considered that this would relate to the HAIL sites identified in Appendix 13 of the AEE referred to above. On the basis of that advice, in our 'draft' conditions we inserted reference to Regional Waste Plan discretionary activity Rule 5.6.1(1) "Hazardous wastes at contaminated sites" into the table of consents that precedes the Consent conditions. We also inserted the additional contaminated land conditions sought by ORC into the conditions relating to the NESCS land use consent suite of conditions, to the extent that they did not duplicate existing conditions.
- [150] As a consequence, we envisage that it is those conditions that will need to be monitored and enforced jointly by the ORC and the QLDC.
- [151] In response the Applicant agreed with the need for a Regional Waste Plan

²⁴ Initially referred to as a Contaminated Land Management plan.

consent and suggested new Consent conditions requiring that the CSMP be provided to the lead contractor (57A) and the CSMP to be held on site (57B). We consider that additionally all personnel working on the site must be made aware of the requirements of the CSMP.

D.9.3 Conditions Imposed

- [152] The mitigation of potential adverse effects of contaminated soil will be achieved through the preparation of management plans and compliance with conditions on the consents and the designation.²⁵
- [153] We record that we had regard to comments lodged on our 'draft' conditions by both the Applicant and the parties invited to comment on the Project. In light of those comments, we clarified that condition 61 of the Consent conditions refers to a Suitably Qualified and Experienced Practitioner.

D.10 Noise and Vibration

D.10.1 Potential Effects

- [154] The issue of the effects of operational noise, construction noise and vibration are addressed in Section 12.6 of the AEE and in Appendix 22 titled Assessment of Acoustic Effects.
- [155] In terms of operational noise, noise generated by road traffic is a permitted activity in both the Operative District Plan (ODP) and the Proposed District Plan (PDP). The Project includes noise mitigation such as asphaltic low noise surfaces to reduce road noise and a lower speed limit of 40km/hr.
- [156] The Appendix 22 analysis by Marshall Day considers both the new part of the road and the altered road under NZS6806, for which different noise criteria apply. They conclude that there are limited options for noise mitigation and that certain buildings which are impacted internally should be provided with mechanical ventilation when windows and doors are closed to meet the appropriate noise standard.
- [157] In terms of construction noise, the acoustic report relies on the NZS6803:1999 as the basis of its analysis along the Project route. The Marshall Day report acknowledges that many dwellings are in close proximity to the construction works. However, the works will move along the road alignment and therefore will not be close to any one building for a long time. The Marshall Day report concludes that with good site management and communication, the construction noise effects can be managed to be reasonable at neighbouring buildings.
- [158] In terms of construction vibration, this is controlled by the District Plan which requires compliance with the criteria in DIN4150-3:1999 Structural Vibration – Part 3: Effect of Vibration on Structures in order to avoid any damage to buildings, including cosmetic damage. Construction vibration can also create amenity effects for neighbouring building occupiers during the daytime works.
- [159] The Marshall Day report outlines a number of measures to mitigate potential

²⁵ Including Consent conditions 55-58 Contaminated Site Management Plan (CSMP) and 59-65; Designation conditions 32-35A Construction Environmental Management Plan (CEMP).

adverse effects from construction noise and vibration. In particular consultation and communication with any persons affected prior to works starting, placing temporary noise barriers where appropriate and ensuring that construction practices avoid all unnecessary noise. A Construction Noise and Vibration Management Plan (CNVMP) is required to include on-site management, mitigation options, and communications and complaints procedures.

D.10.2 Comments Received

- [160] The Panel received a number of comments from parties invited to comment under Schedule 6, Clause 17(2) related to effects from construction noise, vibration and the completed Arterial road.
- [161] In terms of construction noise levels, concerns were raised about the impact on residential dwellings and businesses, including the procedures for complaints during construction.
- [162] In terms of the vibration effects from construction, parties were particularly concerned about damage to buildings adjacent to the Arterial road during construction. This included ensuring inspections of buildings prior to work beginning and repair of any damage caused by vibration.
- [163] Concerns were also raised relating to increased noise levels for residential dwellings once the Arterial road was completed, requesting noise mitigation measures and sound proofing of adjacent properties as well as traffic calming/noise reducing measures.
- [164] In response the Applicant provided an additional analysis by Marshall Day responding to some site specific comments²⁶. In particular the Applicant referred to Designation condition 36 requiring the CNVMP which identifies how the noise limits in proposed Designation condition 71 will be met and the way all construction noise effects will be managed. The Applicant noted that dwellings, hotels, motels and the YHA are classified as residential receivers in Designation condition 71 and the construction noise standards for residences will apply to them.
- [165] The Applicant also provided additional comment to Kirsten Zaki in a response to an information request issued under Clause 25(1), dated 23 March 2021, outlining that as an altered road any additional noise on Man Street once the Project is completed will be just perceptible with no resultant adverse effects.
- [166] The Applicant referred to the concerns about damage to adjacent properties during construction, stating that the effects of construction including earthworks are addressed through management plans such as the CEMP, ESCP and the CNVMP. Designation condition 35(h) requires the CEMP to include protective barriers to avoid intrusion of construction works beyond the designated land. A new Designation condition 35(e) was proposed to ensure the reinstatement or repair of any damage to adjacent properties caused by construction works. The Applicant also proposed a new Designation condition 39A to manage potential construction vibration effects on the St Joseph's Church and Dominican Convent

²⁶ Appendix 1 of the Applicant's Response

Buildings.

- [167] The Applicant noted that the CLG will be supplied with draft versions of the CEMP, CNVMP and the ESCP so that there is opportunity for feedback as well as ongoing liaison regarding the timing of any construction works and related issues and the construction programme.

D.10.3 Conditions Imposed

- [168] The mitigation of potential adverse effects of noise and vibration will be achieved through the preparation of management plans and compliance with conditions on the designation.²⁷
- [169] In particular Designation conditions 40-42 set out the processes to be implemented to ensure that noise mitigation for specific Protected Premises and Facilities (PPFs) identified in Annexure A to the conditions, is undertaken by the Requiring Authority.
- [170] We record that we had regard to comments lodged on our 'draft' conditions by both the Applicant and the parties who provided comments in response to an invitation to comment under Schedule 6, Clause 17(2). In light of those comments, we made the following amendments to our 'draft' conditions:
- We amended Designation condition 39A(ba) to refer to 'vibration' effects;
 - We amended Designation condition 39A(d) to refer to identifying if physical changes to the properties or their sites has occurred as result of construction activities;
 - We amended Designation condition 71 to be subject to condition 37(c) and designation condition 72 to be subject to condition 73;
 - We amended Designation condition 73 to refer to "vibration inducing" construction works; and
 - We amended Annexure A to refer to 71 Ballarat Street Units F(F1), F(F2) and G(F2) instead of Units 1F and 2F.

D.11 Natural Hazards and Horne Creek Flooding

D.11.1 Potential Effects

- [171] Natural Hazards are addressed in Section 12.7 of the AEE and in Appendix 16 where flooding is discussed. The AEE clearly states that the Project does not pose any risk to the neighbourhood, the wider community or the environment through natural hazards or hazardous installations. Because the Project is located primarily in an existing road corridor and an already urbanised area there is limited opportunity for the Project to be affected by natural hazards.
- [172] The AEE acknowledges the publicly available information from the GNS Active Faults database indicates several fault lines within immediate proximity to the site location – all of which are inactive. The AEE also refers to the GNS Science Consultancy Report of 2018/67 which assesses liquefaction in the area. Areas around Horne Creek and One Mile Creek may be susceptible to liquefaction. The

²⁷ Including Designation conditions 32-35A Construction Environmental Management Plan (CEMP), 36-42 Construction Noise and Vibration Management Plan (CNVMP), and 71-74.

engineering design for infrastructure located in the Horne Creek area will factor in the liquefaction risk and mitigate it accordingly.

- [173] In terms of flooding, both the levels of Lake Wakatipu and flows through Horne Creek will influence any flooding in central Queenstown, particularly when the Lake level reaches 311.3m. New levels for construction relating to the Arterial road will be above this.
- [174] The stormwater report in Appendix 16 of the AEE discusses the issues relating to flooding of Horne Creek and the engineering design methods required to mitigate flooding risk. The preferred approach is to incorporate a low wall along the boundary of the new route with Memorial Park. This will improve the capacity of the flood storage area at the Recreation Grounds. The alternative is to raise the road level however this impacts on access to adjacent properties on the southern side of the road. The Requiring Authority is planning to undertake further investigation of increasing storage in the Matakauri wetland as another option.
- [175] As discussed in section D.6 of this Decision the engineering design of new culverts in Horne Creek will mitigate flooding of the creek. As also discussed in D.6 careful design of stormwater management systems throughout the Project, including One Mile Creek, should ensure that roads and downstream properties are not subjected to flooding and that any potential slips and streamside erosion are minimised.

D.11.2 Comments Received

- [176] The comments received by the Panel in relation to natural hazards related primarily to two key matters raised by the ORC relating to the likely effects of the proposed works on Horne Creek and associated flood mitigation work. Concern focused on a minor increase in flows into Horne Creek at the Recreation Grounds, and hence a minor negative effect on flooding in that location and downstream, and options to mitigate flooding of the proposed Arterial road in the vicinity of the Recreational Grounds. Regarding the latter issue ORC considered that a detailed assessment of the effects of the selected option on the performance of the existing flood protection work associated with Horne Creek will be required once the preferred option is identified.
- [177] The Applicant responded to these comments with a detailed assessment and further comments from a stormwater expert²⁸. In relation to Horne Creek culverts and the quantitative assessment of effects, the hydraulic modelling required cannot be undertaken until the new stormwater system and design surface for the new road are known. The stormwater expert noted a range of measures in the proposed stormwater/roading design that will ensure the effects are minor.
- [178] In relation to the two options for mitigating flooding of the proposed Arterial road in the vicinity of the Recreation Grounds, the Applicant noted that hydraulic modelling would be carried out as the design progresses. That would be used to demonstrate the Project does not increase flood hazard and this could be required as a condition of the designation. We agree, but find this matter should be specified as a condition on the resource consents given it responds to a concern

²⁸ Appendix 4 to the Applicant's response.

of the ORC and we included that in our 'draft' conditions.

- [179] The site-specific flooding concerns have been outlined along with the Applicant's response in section D.6.2 of this Decision.

D.11.3 Conditions Imposed

- [180] The mitigation of potential adverse effects of natural hazards and Horne Creek flooding will be achieved through the preparation of management plans and compliance with conditions on the consents.²⁹
- [181] As the Project is not subject to significant risks from natural hazards other than from flooding there is a discussion of the conditions imposed on the designation and the consents in section D.6 of this Decision.
- [182] Regarding the Recreation Grounds flooding issues of concern to ORC, in our 'draft' conditions we imposed a new Consent condition 34A requiring a flood assessment to be undertaken prior to works commencing that will affect Horne Creek. We consider this will ensure that the mitigation options for managing potential flooding of Horne Creek and the Recreation Grounds will be thoroughly addressed at the hydraulic modelling and detailed design stage.
- [183] We record that we had regard to comments lodged on our 'draft' conditions by both the Applicant and the parties who provided comments on the Project in response to an invitation to comment under Clause 17(2). However, we did not amend any of those conditions.

D.12 Queenstown Memorial Centre

D.12.1 Potential Effects

- [184] An obvious actual adverse effect of the Project is the proposed removal of the Queenstown Memorial Centre (Centre) which is a well-used community asset.³⁰ The removal of the Centre is discussed in Section 12.1.3 of the AEE and in Appendices 9 (summary of consultation and engagement activity) and 12 (Social Impact Assessment (SIA)). The SIA identifies the Centre, the Wakatipu Rugby Club (WRC) and Wakatipu Squash Club (WSC) as key community facilities in close proximity to the Project, noting the Centre also houses the Returned Services' Association (RSA).
- [185] The SIA identifies that removal of the Centre has the potential to disrupt or displace existing community groups and their use of services and facilities, which in turn impacts on community organisations' ability to connect with the community through events, and potentially the viability of community organisations. This is also identified as a potential social consequence for both the WRC and WSC, who will be required to move premises.
- [186] Mitigation is recommended in the form of an alternative community venue, with the planning and timing for the same addressed in the two conditions discussed in Section D.12.3 below.
- [187] With respect to the WRC the SIA recommends QLDC (we assume in their

²⁹ Including Consent conditions 34 and 34A, 37 and 37A; Designation conditions 32-35A Construction Environmental Management Plan (CEMP).

³⁰ AEE, section 2.2

capacity under the Local Government Act) works with the club to develop a relocation plan and ensure that relocation to new club rooms in a suitable location occurs prior to removal of the current facility. With respect to the WSC, the SIA recommends that the QLDC works with the club to provide as much time as possible for implementation of their relocation plan and where able, QLDC supports processes for the new clubrooms/courts to be available prior to relocation.

D.12.2 Comments Received

- [188] We received comments from the RSA and WRC who were both invited to comment under Schedule 6, Clause 17(2). The RSA asked the Applicant to reconsider demolition of the Centre and that an alternative roading plan be implemented³¹, emphasising the historical significance of the Centre and its place as a war memorial. The WRC likewise identified an alternative roading plan that would, it says, avoid demolition of its clubrooms and the Centre. It raised location and timing of construction for new clubrooms and use of the recreation reserve for a temporary construction area.
- [189] The Applicant responded noting that 21 options for the Project route were considered, including those preferred by the RSA and WRC. It stated that the optimal route to achieve the Project's objectives requires the demolition of the Centre and WRC clubrooms. It responded to concerns about the location of the construction yard noting the feasibility constraints of its relocation to the Boundary Road carpark

D.12.3 Conditions Imposed

- [190] The Applicant offered³² that the CCP will:

Provide for public and stakeholder engagement over the closure of the Memorial Hall and options for the relocation of services and activities from the Hall to alternative facilities.

- [191] We determined that the CCP should contain a further objective to address the potential for the Queenstown Recreation Reserve to be unavailable for events or games as a result of construction activity, and that objective (c) should be amended to include specific reference to the WRC and WSC clubrooms. New objective (d) reads as follows:

(d) Identify groups who use the Queenstown Recreation Reserve for events and sports and engage with them over disruption of use of the reserve during construction and options for alternative venues.

- [192] The Applicant also offered a Designation condition that states:

70. Construction work may not demolish Memorial Hall or associated structures until the requiring authority has:

(a) Consulted users of the Memorial Hall regarding its proposed demolition (such consultation to be additional to consultation that has been undertaken through other processes prior to this notice of

³¹ Described in the response as a 4-arm Shotover/Gorge/Henry intersection option.

³² Designation condition 17(c).

requirement); and

(b) Considered all feedback; and

(c) Confirmed a timeframe, funding and programme for the construction of new facilities to perform the functions currently undertaken at Memorial Hall and associated buildings (including clubrooms for the Wakatipu Rugby Club, squash facilities, community meeting rooms and performing arts facilities), including relocation or replacement of the existing war memorial feature affixed to the wall of the Centre.³³

[193] We considered that the conditions relating to the Centre and the WRC and WSC clubrooms, particularly Designation condition 70 above, would suitably remedy the adverse effects arising from the removal of those buildings. We circulated our 'draft' conditions accordingly.

[194] We record that we had regard to the comments lodged on our 'draft' conditions by both the Applicant and the parties invited to comment on the Project. In light of those comments, we made the following amendments to our 'draft' conditions:

- We corrected the reference to the Memorial Centre in the Index for the Designation conditions; and
- We referred to the Wakatipu Rugby Club clubrooms in Designation condition 17(c).

[195] We were grateful for the comments on our draft conditions provided by the Wakatipu Rugby Club. However, we concluded that the Club was essentially seeking a reconsideration of the Applicant's route selection process. In that regard we record in section E.9 of this Decision that we are satisfied that the Applicant has given adequate consideration to alternative sites, routes and methods of undertaking the work, as set out in Appendix 8 Alternatives Report and Section 9.0 of the AEE. The Club also sought that we should 'withhold consent' for Stage 2. We observe that we cannot 'withhold consent'³⁴ because under the Act there are very limited grounds under which we can cancel the notice of requirement. As we state in section E.8 of this Decision, none of those grounds apply here.

D.13 Management Plans

D.13.1 Potential Effects

[196] The Applicant has proposed a suite of management plans that will manage detailed effects of the Arterial's detailed design and construction. The plans specified in the designation conditions are:³⁵

- a) Construction Environmental Management Plan (CEMP);
- b) Construction Noise and Vibration Management Plan (CNVMP);
- c) Construction Traffic Management Plan (CTMP);

³³ Designation condition 70.

³⁴ Which we interpret as 'decline' consent.

³⁵ Designation General Condition 6.

- d) Urban Design and Landscape Plan (UDLP);
- e) Contaminated Land Management Plan (CLMP); and
- f) Erosion and Sediment Control Plan (ESCP);

[197] Additional management plans are specified in the consent conditions:

- a) Fish Management Plan; and
- b) Spill Management Plan.

[198] We note that the CEMP may incorporate the CNVMP, CTMP, CSMP and ESCP. That is a common approach for large infrastructure projects such as this and in practice it results in all of the primary construction related management plan provisions being usefully contained in a common folder. Designation condition 35 specifies a range of additional construction related matters that the CEMP must address. We find that to be both routine and appropriate.

[199] Each management plan has a separate suite of conditions relating to it. The Applicant proposes that the management plans are generally submitted 20 working days prior to commencement of construction,³⁶ excluding “investigations”³⁷ and “enabling works”³⁸. These two terms are not defined and we consider that for sake of clarity and certainty they should be. In this case we consider one term, namely “enabling works” would suffice.

[200] We note that management plans are commonly used for major construction projects. They are a suitable mechanism for ensuring that “outcome based” conditions are complied with and detailed environmental effects are managed appropriately. Management plans avoid cluttering the conditions with excessive detail, particularly with regard to how certain construction works or mitigation actions will occur. In some cases, those details are not known prior to the awarding of construction contracts. The caveat is that each management plan condition must specify the purpose or objective of the plan; ideally which conditions it is designed to assist with implementing; the minimum contents of the plan; who is to prepare it; and who else should be consulted or involved in that process. If there is conflict between the management plan and the conditions, then the conditions must prevail.

[201] The management plan conditions proposed by the Applicant generally meet the above requirements.

[202] It is routine for a management plan to be submitted to the appropriate council and thereafter ‘certified’, which for all intents and purposes is a delegated approval process. This approach was appropriately proposed here, except for the Urban Design and Landscape Plan and the Contaminated Land Management Plan.³⁹ We cannot discern any ‘effects based’ reason why those two plans should not also be subject to council certification. Amendments were made accordingly.

³⁶ Designation General Condition 8.

³⁷ Enabling works are typically “preliminary works” that are a precursor to the construction of the road itself. In this case they appear to include demolition and critical services protection and relocation (see Appendix 10, Part 2, page 81 of 93)

³⁸ These appear to include surveys and G.I potholing (see Appendix 10, Part 2, page 81 of 93).

³⁹ The proposed Spill Management Plan referred to in the Consent conditions also does not require certification but the content of such plans is very routine.

- [203] Site/Activity Specific Traffic Management Plans⁴⁰ do not require council certification. We find that would be appropriate if those site-specific plans are required to be consistent with the overall Construction Traffic Management Plan⁴¹. An amendment has been made accordingly.
- [204] Ideally, the conditions should set out a process for reviewing or amending a management plan as the Project proceeds. The management plan certification process is set out in Designation conditions 6 to 13 and we find that those conditions are generally appropriate except as set out below.
- [205] There is no process for dealing with the situation where the council does not consider it can certify the submitted management plan. Specifying a process would add clarity and certainty and we considered that provisions that were used for the NZTA designation for the Te Ahu a Turanga - Manawatū Tararua Highway can be adapted for use here.
- [206] The Applicant proposed that amendments to a certified management plan could be undertaken without the need for re-certification unless the amendment would result in a “materially different outcome to that described in the original plan”. The phrase “materially different outcome” is subjective and is not defined. We consider that a more certain and clear process would be to require all amendments to be re-certified, but with shorter timeframes applying. Again, we considered that provisions used for the NZTA designation for the Te Ahu a Turanga - Manawatū Tararua Highway can be adapted for use here. We find that works that are the subject of a management plan should not be allowed to commence prior to the relevant plan being certified.
- [207] We made amendments in our ‘draft’ conditions to address the above matters.

D.13.2 Comments Received

- [208] We received few comments from the parties invited to comment under Schedule 6, Clause 17(2). HNZ wished to be consulted on the management plan for “environmental effects” which we have assumed relates to the CEMP. We did not consider that to be necessary given that HNZ will be consulted regarding the UDLP and it is that plan that addresses cultural and built heritage.
- [209] In response the Applicant reiterated the role of the management plans in addressing potential adverse effects of the Project. Amendments were suggested for several of the management plan conditions including:
- adding to the CEMP requirements for measures to ensure the reinstatement or repair of any damage to adjacent properties that is caused by construction works and procedures for mitigating fire risks; and
 - adding a requirement to the UDLP to minimise effects on historic heritage.
- [210] We included those amendments in our ‘draft’ conditions.

⁴⁰ Designation conditions 75-80.

⁴¹ Designation conditions 43-46.

D.13.3 Conditions Imposed

[211] We record that we had regard to comments lodged on our ‘draft’ conditions by both the Applicant and every person or group that provided comments on the Project in response to an invitation given under Schedule 6, Clause 17(2). In light of those comments, we made the amendments to our ‘draft’ conditions outlined in sections D.1.3 and D.11.3 of this Decision.

D.14 Kaitiaki Liaison Group

D.14.1 Potential Effects

[212] The Applicant intends to establish a Kaitiaki Liaison Group (KLG) which we find is appropriate. However, rather than repeat the designation conditions requiring the establishment of the KLG in the Consent conditions, it would be sufficient to cross-refer to the KLG established under the designation. Amendments were suggested accordingly.

D.14.2 Comments Received

[213] We received few comments on the KLG conditions from the parties invited to comment under Schedule 6, Clause 17(2). The primary matter raised by Te Rūnanga o Ngāi Tahu (TRoNT), incorporating those from both Aukaha Ltd and Te Ao Marama Inc, was that Papatipu Rūnanga are satisfied with the conditions proposed by the Applicant and would like these and the recommendations from the CISR reflected in the decision.

[214] As provided for in Schedule 6, Clause 18 the Applicant responded to those comments. The response specifically noted support for the project from TRoNT and Papatipu Rūnanga.

D.14.3 Conditions Imposed

[215] We record that we had regard to comments lodged on our ‘draft’ KLG conditions by both the Applicant and the parties invited to comment on the Project. In light of those comments, we made the amendments to our ‘draft’ conditions that are listed in section D.1.3 of this Decision.

D.15 Community Liaison Group

D.15.1 Potential Effects

[216] The Applicant proposes the formation of a Community Liaison Group (CLG)⁴² which is a routine and commendable practice for major construction projects. It was proposed that the CLG “*shall be open to the owners and occupiers of land adjacent to the Project for each of the three Project stages*”. While that is admirable, we considered that it could potentially result in a very large and unwieldy group which could be detrimental to the timely delivery of the Project given that the Requiring Authority intends to consult with the CLG regarding the content of most of the management plans.

[217] In order to address this matter, in our ‘draft’ conditions we proposed that the Applicant would instead invite the CLG to nominate representatives from the CLG

⁴² Designation conditions 26-29.

to form one or more sub-groups that are tasked with providing consultation input to the management plans for each Stage of the Project. That will better enable meaningful input to the plans.

D.15.2 Comments Received

- [218] We received few comments on the CLG conditions from the parties invited to comment under Schedule 6, Clause 17(2). The Ministry of Education sought that itself and the Board of Trustees at Queenstown Primary School be included as participants of the CLG which is appropriate. Many property owners and residents expressed a wish to be kept informed about the Project. We note the proposed Communication and Consultation Plan (CCP) and the CLG will assist with that.
- [219] In response the Applicant reinforced the value of the CCP and the CLG in enabling parties to have meaningful input to the Project. To further facilitate that occurring the Applicant helpfully suggested amending Designation condition 17 to include “*stakeholders including central government agencies and ministries*” and condition 27 to include “*Heritage New Zealand Pouhere Taonga, and representatives from the Ministry of Education and Board of Trustees at Queenstown Primary School*”. We included those amendments in our ‘draft’ conditions.

D.15.3 Conditions Imposed

- [220] We record that we had regard to comments lodged on our ‘draft’ conditions by both the Applicant and the parties invited to comment on the Project. In light of those comments we made the following amendments to our ‘draft’ conditions:
- We amended Designation condition 27 to refer to both the Board of Trustees and the owner and proprietor of St Joseph’s Primary School; and
 - As set out in section D.1.3 of this Decision we amended the amount of time (from 10 to 20 days) for the KLG to provide feedback on certain draft management plans. This additional time also applies to the CLG to provide feedback.

D.16 Positive Effects

- [221] Schedule 6, Clause 29 (1)(b) requires us to have regard to any measure proposed, or agreed to, by the Applicant to ensure positive effects on the environment to offset or compensate for any adverse effects that will or may result from allowing the activity. Positive effects of the Project are derived from improving the way people can move about the space and surrounding area both for active (cycling and walking) and motorised modes of transport, which will enhance community connectivity and improvements to way of life. More specifically the positive effects of the Project identified in the AEE include:
- effects on social cohesion will be positive especially by enabling greater capacity and reliability for public transport users. Reduced traffic in the town centre will better provide for this, along with proposed walkways;
 - reducing traffic from Stanley and Shotover Streets will enable the activation of those streets providing improved liveability and visitor experience;

- enabling the realisation of Shotover Street as Queenstown’s busiest high street with less pedestrian-traffic conflicts, promoting a vibrant town centre atmosphere;
- facilitating public transport opportunities that will make it easier for locals and visitors to access the town centre and the amenities it provides; and
- addressing current and future demand for access to economic and social opportunities through integration with other projects in the Queenstown Masterplan;
- the new Arterial has positive effects on all modes of transport with improved network capacity, resilience, enhanced safety and better accesses and connections;
- relocating heavy through traffic away from Stanley Street and the Queenstown Court historic precinct;
- enhancing the existing street environment through sensitive urban design of the Arterial and its supporting structures;
- removing exotic vegetation within the Project footprint and enhancing indigenous vegetation; and
- improving stormwater management along the route.

[222] We have had regard to these effects when considering the conditions that should be imposed on the consents and designation.

D.17 Matters That Are Beyond Our Scope

[223] In response to our request for comment under Schedule 6, Clause 17(2), a number of parties made comments on matters upon which we have no scope to impose conditions. These matters include:

- Compensation under the Public Works Act;
- Land acquisition under the Public Works Act;
- Reserve status of land affected by the Project;
- Construction of footpaths on roads not directly affected by the Project;
- The QLDC’s Shotover Street project;
- Decrease in property values;
- Compensation for loss of property value;
- Potential loss of revenue during construction; and
- Limits on future development of property adjacent to the Project.

[224] We do not comment on the above matters any further in this Decision.

Part E: Other Statutory Requirements

[225] We now consider other statutory requirements specified in the Act.

E.1 Any Relevant Provisions of Certain Statutory Documents (Clauses 29(1)(c) and (2) and 33(2)(a) and (3))

[226] The purpose of this section of our Decision is twofold. Firstly, we must assess

whether or not the Project is inconsistent with any national policy statement. Secondly, we need to examine the statutory instruments to assess whether they contain provisions that could usefully inform the setting of conditions for the consents and the designation.

- [227] With regard to the second matter, we asked ORC and QLDC in their regulatory capacity to identify any provisions in the statutory instruments that were not included in the AEE. ORC identified the need for additional consents. QLDC advised that the AEE had accurately identified the key objectives and policies for the drafting of conditions. However, QLDC identified further objectives and policies in the RPS, Regional Plans and District Plan which they suggested could be of assistance to the Panel. We had regard to the provisions when determining the composition of conditions imposed.

E.1.1 National Policy Statement Urban Development

- [228] The National Policy Statement on Urban Development 2020 (NPSUD) is relevant and this was assessed in sections 14.1.1 and 19.1.1 of the AEE. That assessment identified some provisions⁴³ that apply to a Tier 2 local authority (which is what the QLDC is) and adequately assessed the Project against those provisions. However, we consider several other provisions⁴⁴ in “Part Two: Objectives and Policies” of the NPSUD are also potentially relevant.⁴⁵
- [229] As noted in the AEE, the Project will provide an improved urban Arterial route that improves town centre access, reduces congestion; and supports integrated initiatives around travel demand management, parking management, public realm upgrades, public passenger transport and active transport modes.⁴⁶
- [230] NPSUD Objective 4 is that New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations. We find that the Project is consistent with that objective as it is designed to respond to the changing transport needs of Queenstown’s urban centre (including enhancing pedestrian access and public transport) and is specifically intended to ease traffic congestion that exists therein, particularly on Shotover Street.
- [231] NPSUD Objective 5 is that planning decisions⁴⁷ relating to urban environments take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). This mirrors the requirements of Schedule 6, Clause 34(2) which is discussed in section E.3 below.
- [232] NPSUD Policy 1(c) is that planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport. Adding to the assessment presented in the AEE, we find that the Project will be consistent with that requirement by way of its detailed urban design approach which has had

⁴³ Including Objective 1 and Policies 1, 2, and 19(c).

⁴⁴ Objectives 4 and 5 and Policies 1(c) and 1(e).

⁴⁵ Part One: Preliminary Provisions are not relevant in terms of a consistency assessment and Part Three: Implementation is relevant to the planning and executive functions of the QLDC.

⁴⁶ AEE Page 54.

⁴⁷ Includes decisions on resource consents and NORs.

regard to, and seeks to compliment, the local landscape and urban character.

- [233] NPSUD Policy 1(e) is that planning decisions support reductions in greenhouse gas emissions. By assisting with a modal shift from private motor vehicles to walking, cycling and public transport we find that the Project will be consistent with that requirement.
- [234] Based on the assessment in the AEE, coupled with the above additional assessment, we find that the Project is not inconsistent with the NPSUD.

E.1.2 National Policy Statement Freshwater Management

- [235] The National Policy Statement for Freshwater Management 2020 is relevant. It was assessed in sections 14.1.2 and 19.1.1 of the AEE. That assessment appropriately concluded that the Project achieves Objective 2.1 of the NPSFM (it has only one objective). We find that the management of the proposed stream works (including culverts, daylighting part of One Mile Creek, undertaking riparian planting and producing a Fish Management Plan and ESCP) has clearly prioritised the health and well-being of Horne Creek, One Mile Creek and Lake Wakatipu.
- [236] The NPSFM has 15 policies. The AEE assessed the Project against NPSFM policies 1, 2, 3, 5, 7, 9 and 10 in section 19.1.1 of the AEE. We find that those assessments and conclusions are appropriate. However, we consider that Policies 8 and 15 are also relevant.
- [237] NPSFM Policy 8 is to protect the significant values of outstanding waterbodies. We understand that neither Horne Creek nor One Mile Creek comprise an outstanding waterbody. However, Lake Wakatipu is an outstanding waterbody. We note that the Project works do not encroach on the Lake and the proposed ESCP and associated sediment, erosion and stormwater management consent conditions will protect the values of the Lake and its pristine water quality in particular.
- [238] NPSFM Policy 15 (social, economic and cultural well-being) will be achieved through the delivery of the Project.
- [239] Based on the assessment in the AEE, coupled with the above additional assessment, we find that the Project is not inconsistent with the NPSFM 2020.

E.1.3 National Environmental Standard Freshwater

- [240] The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESF) were assessed in section 14.2.2. of the AEE. The AEE concluded that the Project's culverts were permitted activities under the NESF. We received no contrary view from any party. We note that conditions have been imposed in relation to Post Construction Information on the Culverts (Regulation 63) Consent condition 49, and a Monitoring and Maintenance Plan for the Culverts (Regulation 69), Consent conditions 50-54.

E.1.4 National Environmental Standard Contaminated Soil

- [241] The Applicant cited as relevant the Resource Management (National Environmental Standard for assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS). We addressed this matter in

section D.9 of this Decision.

E.1.5 Regional Policy Statement for Otago

- [242] We understand that the Otago Regional Policy Statement (ORPS) is in a state of flux. There is the Regional Policy Statement for Otago 1998: partially operative as of 14 January 2019 (with revoked provisions) and the Partially Operative Otago Regional Policy Statement 2019.
- [243] We note that in a recent Environment Court decision the Court declined to assess a water take abstraction under the RPS stating “*There seems to be little point to the exercise if the Regional Policy Statement does not give effect to the National Policy Statement for Freshwater Management as amended in 2017 or the new National Policy Statement for Freshwater Management released in 2020. We understand that the Regional Council intends on a complete review of this policy document ...*”.⁴⁸
- [244] The Applicant assessed the ORPS in section 14.3.1 of the AEE. Notwithstanding the Environment Court’s decision referred to above we have had regard to the Applicant’s assessment when considering the appropriate conditions for the designation and consents.
- [245] We note few comments were received from parties regarding the ORPS. We have had regard to the comments received when considering the appropriate conditions for the designation and consents.

E.1.6 Regional Plans

- [246] The relevant operative plan is the Regional Plan Water: Otago (RPW:O). We note that in the recent *Lindis* decision the Environment Court found the RPW:O to be “*out of date*” because it did not give effect to the NPSFM or the RPS.⁴⁹
- [247] The Applicant assessed the ORPS in section 14.3.2 of the AEE. Notwithstanding the Environment Court’s decision referred to above we have had regard to the Applicant’s assessment when considering the appropriate conditions for the NOR and consents.
- [248] We asked the ORC to advise us of any provisions in the RPW:O that were not mentioned in the AEE but which might usefully inform the setting of conditions of consent. We discussed their response in section E.1 of this Decision.
- [249] We note that few comments were received from other parties regarding the RPW:O or other Regional Plans.
- [250] We have had regard to the comments received when considering the appropriate conditions for the designation and consents.

E.1.7 Queenstown Lakes District Plan

- [251] The District Plan (the Operative District Plan and the Proposed District Plan) was comprehensively addressed in sections 14.4.1 to 14.4.3 of the AEE. We note that the designation will effectively replace the provisions of the District Plan for those areas of land covered by the designation. We also note that the District

⁴⁸ *Clutha District Council v Otago Regional Council* ENV-2019-CHC-132 at [25].

⁴⁹ *Lindis Catchment Group Inc v Otago Regional Council* [2019 NZENC166] at [117].

Plan rules are not relevant because the district aspects of the Project are proposed to be authorised by the eventual designations.⁵⁰

- [252] We asked the QLDC in their regulatory capacity to advise us of any provisions in the District Plan that were not mentioned in the AEE, but which might usefully inform the setting of conditions of consent. We discussed their response in section E.1 of this Decision.
- [253] We have had regard to the Applicant's assessment of the District Plan and the comments received when considering the appropriate conditions for the designation and consents.

E.2 Any Matters Impacted by Section 6(a) of this Act (Treaty of Waitangi)

- [254] Schedule 6, Clause 34(1)(b) essentially states that the Panel may decline resource consent or cancel the NOR if approving the Project (with or without conditions) would be inconsistent with section 6 (Treaty of Waitangi) of the Act. Section 6 in turn states:

In achieving the purpose of this Act, all persons performing functions and exercising powers under it must act in a manner that is consistent with—

- (a) the principles of the Treaty of Waitangi; and
- (b) Treaty settlements.

- [255] The AEE included a list of Treaty principles in section 19.1.1 (page 109) which were said to be extracted from decisions of the Waitangi Tribunal. Those principles are not repeated here, but we consider them to be consistent with what we understand to be a generally accepted enunciation of Treaty principles which focus on partnership, acting reasonably and in good faith, active protection of Māori interests and achieving mutual benefit.
- [256] The Applicant engaged with tangata whenua and commissioned a CISR from TAMI. The CISR made recommendations that have been reflected in the Applicant's proposed conditions and we find it determinative that the CISR's conclusion included the following statement:

Ngāi Tahu ki Murihiku have expressed confidence in the partnership with Queenstown Lakes District Council as this project has developed and look forward to a continuing partnership approach to planning, design and implementation.

- [257] Importantly, the Panel sought comments from TRoNT, TAMI, Aukaha and Hokonui Rūnanga. With regard to Treaty of Waitangi issues TRoNT, on behalf of both Aukaha and TAMI representing Papatipu Rūnanga, advised they were satisfied with the conditions proposed by the Applicant.
- [258] On the basis of the above discussion, we find that in approving the Project the Panel will be acting in a manner that is consistent with the principles of the Treaty of Waitangi.

E.3 Treaty Settlement Obligations on Local Authorities or Decision Makers (Section 6(b) of the Act and Clauses 29(4) and 33(8) Schedule 6)

- [259] Section 19 1.1 of the AEE noted that the Ngāi Tahu Claims Settlement Act 1998

⁵⁰ Final Report and Decision of the Board of Inquiry into the Northern Corridor Improvements Proposal, Volume 1 of 2: Final Report and Appendices, November 2017 at [182].

(Ngāi Tahu Act) represented the only settlement of historical Treaty claims relating to the Project footprint and it included a statutory acknowledgement relating to Lake Wakatipu.

- [260] The AEE stated that the Project will not encroach on Lake Wakatipu and comprehensive erosion and sediment controls will ensure that adverse effects on Lake water quality are avoided.
- [261] Importantly, the Panel sought comments from TRoNT, TAMI, Aukaha and Hokonui Rūnanga. With regard to Treaty Settlements issues, both TRoNT and Papatipu Rūnanga sought that the recommendations and conditions identified in the CISR were included to ensure the proposal is consistent with the principles of Te Tiriti o Waitangi/Treaty of Waitangi.
- [262] On the basis of the above discussion, we find that in approving the Project the Panel would be acting in a manner that is consistent with Treaty settlements.

E.4 Disregarding Certain Effects under Clause 29(1)(a) Concerning Certain Permitted Activities (Clause 30(2))

- [263] Section 5.1.2 of the AEE identified a number of activities associated with the Project that were considered to qualify as permitted activities under the Regional Plans. In accordance with the provisions of the Act we did not seek to impose conditions of consent in relation to those activities. However, ORC identified that additional consents may be required under the RPW:O if permitted activity rules relating to temporary diversions (12.3.2.3), temporary dams (12.3.2.1) and dewatering (12.1.and 12.2) could not be met. As a cautionary response we have included reference to those consents in Appendix 1, but that did not give rise to additional conditions of consent as none were recommended by ORC.

E.5 Planning Documents Prepared by Customary Marine Title Group under s85 Marine and Coastal Area (Takutai Moana) Act 2011 (Clause 30(3))

- [264] This is not applicable in this case.

E.6 Having No Regard to Matters of Trade Competition or Effects of Trade Competition (Clause 30(4) and 33(1))

- [265] These matters have not arisen in this case.

E.7 Rules for Consideration of Consent Applications for Activities with Various Status, Including Limitations on Refusal and on Imposition of Conditions of Consent (Clause 30(5), (6), (7) and (8a))

- [266] We considered the above matters when setting conditions of consent. In particular we note the conditions imposed in relation to the discharge of contaminants to water fall within the matters of discretion of RPW:O restricted discretionary Rule 12.C.2.2: "Discharge of contaminants to water (Schedule 6, Clause 30(5)).

E.8 Limited Grounds for Refusal of Consent Application for Listed Project (Clause 34)

- [267] Schedule 6, Clause 34 sets out the grounds by which the Panel may decline the consents or cancel the NOR. Clause 34(1)(a) refers to national policy statements. The NZCPS is not relevant and we discussed the NPSUD in section E.1.1 of this

Decision and the NPSFM in section E.1.2 of this Decision.

- [268] As we noted earlier Schedule 6, Clause 34(1)(b) refers to section 6 (Treaty of Waitangi) of the Act. We discussed that matter in section E.2 of this Decision. We discussed Treaty Settlements matters in section E.3.
- [269] Referring to those earlier discussions, we find that there are no grounds for declining the consents or cancelling the NOR.

E.9 Consideration of Notices of Requirement for Listed Projects (Clause 33)

- [270] We consider that the Applicant has identified all relevant documents listed in Schedule 6, Clause 33(3) and has adequately assessed the proposed activity against the relevant provisions of those documents.
- [271] Having reviewed the Application Documents we find that the Applicant has given adequate consideration to alternative sites, routes and methods of undertaking the work, as set out in Appendix 8 Alternatives Report and Section 9.0 of the AEE. This includes doing nothing and undertaking non-physical responses relating to operational road management techniques (such as congestion charging).
- [272] The Objective of the Requiring Authority is set out in section 17.1 of the AEE:

To provide an improved urban arterial route that:

(A) Improves town centre access and reduces congestion; and

(B) Supports integrated initiatives around travel demand management, parking management, public realm upgrades, public passenger transport and active transport modes.

- [273] The proposed works are clearly necessary to achieve that Objective and the inclusion of a designation in the QLDC District Plan (a designation overrides the rules that would normally apply to an activity) is an efficient means of authorising an improved urban Arterial route. We observe that designations are routinely used to authorise linear public good network infrastructure including roads.
- [274] The Applicant has proposed waiving the general requirement for an Outline Plan(s) of Work, other than for the proposed pedestrian overbridge that will traverse the Arterial route and link Henry and Melbourne Streets. We find that a waiver is appropriate given the significant amount of detailed information provided in the AEE (including plans) and its appendices, together with the proposed suite of management plans and conditions.
- [275] As required by Schedule 6, Clause 33(10) we considered the above matters when assessing the proposed conditions.

E.10 Conditions Applying to Resource Consents (Clause 35(2)) under this Act and Notices of Requirement (Clause 33(5)(c))

- [276] Schedule 6, Clause 35(2) states a panel may grant a resource consent subject to the conditions it considers appropriate. Schedule 6, Clause 33(5)(2) states a panel may confirm a requirement, but modify it and impose conditions on it as the panel sees fit.
- [277] We noted that the Applicant's recommended conditions in Appendices 23 and 24 duplicated a number of conditions between the consents and the designation. We queried ORC and QLDC regarding the appropriateness of that, particularly with

regard to erosion and sediment control. QLDC noted that duplication reflected the jurisdictional crossover between ORC's function of managing the effects of the Project on the watercourses, and the QLDC's responsibility for managing erosion and sediment across the wider project area. QLDC noted that a designation provides ongoing authorisation for the operation, maintenance, upgrades and changes associated with the purpose of a designation. Accordingly, they requested that consideration be given to imposing the conditions in a way that provides for all conditions relating to the primary construction of the Arterial to fall away at the completion of construction, leaving only conditions relating to the ongoing operation of the Arterial.

- [278] Accordingly, in our 'draft' conditions we generally avoided the duplication of conditions by including all the conditions in full in the designation and cross-referring to them as appropriate in the consents. The exception to that general approach related to potentially contaminated soil, where we considered it more appropriate to include the relevant conditions in the NESCS land use consent. That included the additional conditions sought by ORC as discussed in section D.9 above.
- [279] In their response to the Schedule 6, Clause 17(2) comments received the Applicant helpfully suggested a range of amendments to the conditions contained in Appendices 23 and 24 of the AEE. We incorporated all of those amendments into our 'draft' conditions, subject to some minor wording improvements.

E.11 Comments on Draft Conditions (Clause 36)

- [280] As required by Schedule 6, Clause 36, we issued our 'draft' conditions for the consents and the designation on Thursday 18 March 2021 to the Applicant and those parties who had earlier provided comments on the Project in response to our Schedule 6, Clause 17(2) invitations. As set out in Part D of this Decision we considered the comments received when setting conditions for the consents and the designation.
- [281] A few parties provided comments that related to matters beyond the wording of conditions, for example rebutting the Applicant's response on traffic related matters. Some also related to matters going to the substance of whether to confirm the notice of requirement or grant the consents for Stages 2 and 3, proposing to delete those Stages in their entirety.
- [282] As stated in section C.15 of this Decision, under section 12 of the Act the process for obtaining a consent under Schedule 6 applies instead of the process for obtaining a consent under the Resource Management Act 1991. Schedule 6, Clause 36(1) requires a panel to provide a copy of its draft conditions to specific parties inviting comments on the draft conditions. The Panel considers that Schedule 6, Clause 36(1) requires that any comments received by the Panel must relate only to the draft conditions issued by the Panel on 18 March 2021.
- [283] The Panel is required to make a decision on the application which is before it. This Application relates to the Project in its entirety and includes Stages 1, 2 and 3. The Panel considers that certain matters raised relating to its confirmation of the notice of requirement are therefore outside the scope of comments on its draft conditions. The Panel has no jurisdiction to make a decision on matters that are outside the scope of comments on its draft conditions.

- [284] Where comments relate to the Panel's draft conditions, we make the following findings on the matters raised:
- [285] With regard to the comments lodged by the Bishop's Office of the Catholic Pastoral Centre in relation to St Joseph's School and Parish, we find it would be unreasonable to restrict construction activities during school hours as that would unduly delay the Project and Designation condition 71 already imposes appropriate construction noise standards that are derived from NZS6803:1999 Acoustics – Construction Noise.
- [286] We consider there is no need for a post-construction safety audit because although on-street parking will be removed from Melbourne Street and Henry Street, six spaces will be provided for the School and Church on the northern side of the Arterial, in the section between the Church driveway and Sydney Street.⁵¹ In addition, the Arterial road includes a number of safety improvements including pedestrian midblock crossing points and a 40 km/hour speed limit.
- [287] Regarding the comments made by MacFarlane Investments Limited and John Thompson (MIL) we consider it would be disproportionately onerous (and would unduly delay the Project) to amend Designation condition 70 to require the replacement facility for the Memorial Centre to be in place before the existing QLDC owned facility is demolished or Stage 2 of the Arterial road commences. We note the Memorial Centre is a QLDC owned facility and it is not our role to dictate when and where the community services currently provided by the Centre are eventually replicated by the QLDC, as that would entail imposing conditions that seek to direct the executive functions of the Council.
- [288] It would be inappropriate to delete Designation conditions 9, 9B, and 11 that seek to deem a management plan as certified if no response is received from the Council within the specified timeframe. Importantly, we note these conditions were not opposed by QLDC as the regulatory authority responsible for certifying the management plans.
- [289] With regard to the waiver for an Outline Plan(s) of Work for Stage 2, other than for the proposed pedestrian overbridge that will traverse the Arterial road in Stage 1 and link Henry and Melbourne Streets, as we note in section E.9 of this Decision, we find that to be appropriate given the significant amount of detailed information provided in the AEE (including plans) and its appendices, together with the comprehensive suite of management plans and the detailed conditions relating to them.
- [290] MIL sought unspecified changes to the designation noise and vibration conditions. In section D.10 of this Decision, we discussed noise and vibration matters and found the conditions proffered by the Applicant to be appropriate subject to some relatively minor amendments that we have made.
- [291] We consider that there is no need to require QLDC to develop a new set of conditions for part 2 of Stage 1 or all of Stage 2 at some future point in time and on the evidence before us we find there are no effects-based reasons for doing so. The Panel considers that the detailed design in the Application documents

⁵¹ Applicant's Response, page 18.

and the range of conditions to be attached to the consents and designation are both robust and certain.

- [292] Well Smart sought additional conditions relating to public transactional spaces, maintaining legal access to Well Smart land, and providing access to underground services within the road reserve. In so far as those matters were raised in the comments made by Well Smart under Schedule 6, Clause 17(2) we are satisfied with the response of the Applicant.
- [293] In summary that response stated that based on transportation technical advice the Arterial road will not restrict access to Well Smart's site at Man St and Shotover St. The Applicant considered that access to the site would be supported with the proposed installation of traffic signals at the intersection of Man Street and Hay Street. With regard to Well Smart's Thompson St site, the Applicant stated the proposed Arterial design included a flush median that would facilitate access to the site. Finally, the Applicant noted that on-site coach pick-up/drop-off parking is a resource consent matter associated with any hotel development and is not part of the Arterial Project.
- [294] Accordingly, we do not recommend any further amendments to the conditions in response to the matters raised by the Bishop's Office of the Catholic Pastoral Centre, MIL or Well Smart.
- [295] The Panel considers that the Application documents, along with the conditions set by the Panel and set out in Appendix 1 to this Decision, provide sufficient certainty to enable the Panel to grant the Application.

E.12 Part 2 Resource Management Act 1991

- [296] Section 12(10) of the Act provides:
- (10) The provisions of the Resource Management Act 1991 otherwise apply, to the extent that they are relevant and with any necessary modifications, to a listed project...
- [297] Also of relevance are Schedule 6, Clauses 29(1) and 33(2) which both provide:
- (1) When considering a consent application in relation to the conditions to be imposed on a listed project, and any comments received in response to an invitation given under clause 17(2), a panel must, subject to Part 2 of the Resource Management Act 1991 and the purpose of this Act, have regard to... [emphasis supplied]
- [298] For completeness we note that Schedule 6, Clause 9(1)(g)(i) provides that every application for a listed project must include an assessment of the activity against Part 2 of the RMA.
- [299] The Applicant discussed Part 2 RMA in their Application Documents. They referred to sections 5, 6, 7 and 8, and offered commentary and assessment of the application against them. We note the decision of the Court of Appeal in *R J Davidson Family Trust v Marlborough District Council*⁵² in which it was held that when a plan has been prepared having regard to Part 2 RMA, with a coherent set of policies designed to achieve clear environmental outcomes, then resort to Part 2 would not likely add any value to matters considered under s104(1)(b) RMA.
- [300] However, for the sake of completeness we have undertaken our own assessment

⁵² [2018] NZCA 316.

of relevant⁵³ Part 2 matters insofar as those matters might lead to additional or improved conditions for the consents or designation.

- [301] Having reviewed the AEE and its Appendices and the Schedule 6, Clause 17(2) comments received, we consider that the Project will better enable the people and communities of Queenstown to provide for their social and economic wellbeing and for their health and safety (s5(2)). It will also better sustain the potential of the Queenstown CBD (a physical resource) to meet the reasonably foreseeable needs of future generations (s5(2)(a)). Conditions on the consents and designation will safeguard the life-supporting capacity (s5(2)(b)) and intrinsic values (s7(d)) of air; the water in Horne Creek, One Mile Creek and Lake Wakatipu; the soil and aquatic and terrestrial ecosystems within the Project footprint, while avoiding, remedying, or mitigating adverse effects on the environment (s5(2)(c) and 7(h)).
- [302] The natural character of Horne Creek and Lake Wakatipu will be preserved and the natural character of One Mile Creek will arguably be enhanced (s6(a)). There are no areas of significant indigenous vegetation or significant habitats of indigenous fauna within the Project footprint (s6(c)). Public access to and along Horne Creek will be at least maintained, while public access to and along One Mile Creek and Lake Wakatipu will be enhanced by the proposed new shared pathways(s6(d)). The involvement of TAMI in preparing a CISR and the intended involvement of the KLG in the Project's implementation has recognised and provided for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga (s6(e)). Historic heritage sites will be protected (s6(f)). Natural hazards, including flooding, will be appropriately managed (s6(h)).
- [303] The Applicant's involvement of TAMI to date has had particular regard to kaitiakitanga (s7(a)) and the ethic of stewardship (s7(aa)). The Project will better enable the efficient use and development of the Queenstown CBD (s7(b)) and post-construction it will enhance the amenity value (s7(c)) and quality of that environment (s7(f)) through the intended sensitive urban design, as reinforced by the ULDP (s7(c)).
- [304] In conclusion, noting the overall consistency of the Project with RMA Part 2, our assessment of RMA Part 2 matters has not led us to further amend any of the conditions for the consents or the designation.

⁵³ Matters we consider that are not relevant here include ss6(b), 6(g), 7(ba), 7(g), 7(i) and 7(j). We note s8 Treaty of Waitangi is superseded by section 6 of the Covid-19 Recovery (Fast-track Consent) Act 2020.

Part F: Final Decision of Panel (Clause 37 and 38)

F.1 The Consents and NOR Granted and Conditions Imposed.

- [305] The complete record of the Notice of Requirement and consents and conditions is set out in Appendix 1 to this Decision.
- [306] As required by Schedule 6, Clause 38 to the Act, we refer to Schedule 6, Clause 45 which provides a 15 working day period for appeal after the persons entitled to appeal (listed in Clause 44) are notified of this Decision.



Heather Ash (Chair)



Hoani Langsbury (Member)



Jayne Macdonald (Member)

Appendix 1: NOR Confirmed and Consents Granted and Conditions Imposed

Appendix 2: Schedule 6 Clause 17 Parties Who Provided Comments