

ORIGINAL

Decision No. C 174 /2005

IN THE MATTER of the Resource Management Act 1991

AND

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

BETWEEN GARDEZ LIMITED (formerly TERRACE  
TOWERS (NZ) PTY LTD)

(RMA 1028/98)

Appellant

AND QUEENSTOWN LAKES DISTRICT  
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J R Jackson (Sitting alone pursuant to section 279 of the Act)

In Chambers at Christchurch

### FINAL DECISION

#### *Background*

[1] On 19 June 2000 the Court issued decision C111/2000 which allowed this reference<sup>1</sup> subject to certain directions. These were recorded at paragraph [59] and included that:

- (1) the zone objectives policies and rules attached to Mr Garland's evidence are to be included in the plan as a sub-zone for the site;
- (2) a rule giving effect to our conclusion in the previous paragraph is to be inserted in the sub-zone rules;
- (3) leave is reserved for any party to apply:



<sup>1</sup> As appeals on proposed plans were known prior to 1 August 2003 when the Resource Management Amendment Act 2003 changed the title to appeal.

- (a) to make any further changes to Mr Garland's proposed rules in order to correct mistakes and/or make them internally consistent and consistent with the spirit of this decision
- (b) under section 293 of the Act (we hope for formal orders) to make objective 4.9 of the revised plan consistent with the *Queenstown Landscape* decision<sup>2</sup>. (italics in original decision)

[2] Direction (2) refers to the previous paragraph [58] which states:

[58] Therefore we hold that the zoning proposed by Terrace Tower will meet the objective and policies in Part 4 of the revised plan *if* rules are added to the effect that landscaped earth mounding is to ensure that all parts of the proposed development (including initial construction) below 9.1 metres (above ground level) cannot be seen from SH6 (especially looking down Grant Road frontage from the intersection with SH6) by anyone sitting with their eyes at a height of 3 metres above road level (and that the number and size of pinnacles above 9 metres be limited). We regard rules giving effect to that approach as *essential and non-severable* (and it may be that consequential elaborating rules are also necessary to achieve other aspects of good landscaping practice) to mitigate the effects of the Qwintergarden Centre on this important visual amenity landscape. Rules may also need to be provided with respect to the provision of legal pathways etc, but some co-operation from the Council as neighbouring landowners may be necessary to make such rules effective.

[3] Following the decision, the zoning in this area was not finalised and has followed a complex course to the present day. This course has included an unsuccessful appeal to the High Court, the transfer of the relevant land to Gardez Limited ("Gardez"), a proposed plan variation (Variation 13) that was subsequently withdrawn, and a section 293 application to extend the final outcome in this matter beyond the scope of the original reference. The section 293 application was declined in decision C95/2005, as it exceeded the subject matter of the originating reference and was beyond jurisdiction.

[4] Decision C95/2005 has been appealed by an adjacent landowner<sup>3</sup> who would have been included in the final outcome had the section 293 application been acceptable. I note that at this stage the only question in relation to the section 293 application relates to jurisdiction, the merits of the application have not yet been considered.



<sup>2</sup>

[2000] NZRMA 59 at para [162]; this related to the openness of the approach to Queenstown over the Frankton Flats.

<sup>3</sup>

Remarkables Park Limited.

[5] I also note that there is also an existing application to the High Court for judicial review of a procedural decision of the Environment Court (C111/2004) that, by consent, held that the section 293 application could be notified. It appears that the application for judicial review is being held in abeyance, to be resurrected if the appeal against decision C95/2005 is successful.

[6] Then, on 25 November 2005, a memorandum (“the rules memorandum”) was received by the Registrar that is signed by the parties to the original reference but not by all the parties who have made submissions on, or otherwise have an interest in, the section 293 application. The rules memorandum outlines the current state of play and indicates that Gardez, the Queenstown Lakes District Council (“the Council”), Queenstown Airport Corporation (“QAC”) and the Wakatipu Environmental Society Incorporated (“WEST”) – the original parties – have agreed to a set of rules that will finally determine RMA 1028/98. However, the agreed outcome deviates from decision C111/2000 in that the landscaping ‘mounding’ has been omitted in favour of other landscaping techniques that the parties contend will achieve similar mitigation of adverse visual effects.

***The rules memorandum***

[7] Counsel write that<sup>4</sup>:

The main reason why the parties have not sought to finalise the Environment Court’s decision up until now was the requirement for mounding to effectively hide any development on the site. This method of allowing development was based on the evidence put forward in the Environment Court at that time. The planning regime has evolved since evidence was prepared on this reference and now planners, architects and landscape architects place greater emphasis on promoting good design which is in keeping with the natural environment, not hiding bad development.

... [The] referring landowner has invested considerable resources into planning a good quality urban environment[;] those aspirations will not be lost through allowing the resolution of the reference, they will be realised. The proposed development is also in keeping with the anticipated land uses proposed in the now obsolete section 293 application. The proposed land



<sup>4</sup> Memorandum dated 22 November 2005 paras 32 and 33.

uses will merge seamlessly with proposed development to the east – to be accommodated through a variation/plan change.

[8] The last point is important because it suggests that if the appeal to the High Court about section 293 is successful, then the landowners who were the joint applicants for that order (with the Council and Gardez) would not have their proposal stymied by what I am now asked to approve.

[9] The rules memorandum continues<sup>5</sup>:

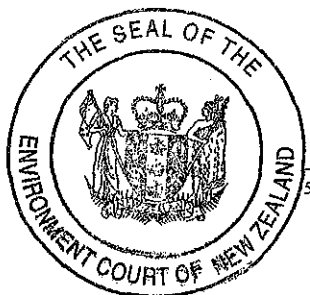
None of the parties feel that mounding is a suitable tool to use today to allow development to occur. However, for the mounding to be modified the community must be assured that the development beyond is of sufficient design that it can be celebrated rather than hidden.

Therefore the most significant change to the rules accepted by the Court in 2000 is the modification and reduction of the requirement for mounding. In its place the parties propose a more restricted regime for the built form or development within the Zone – restricted discretionary rather than controlled activity status, with a number of additional assessment matters to provide assistance to the planners processing any consent. The relevant rule is provided:

**Limited Discretionary Activities**

**i Building, Activities, Site Developments, Street Layout and Open Space Network in respect of:**

- Site layout, including street layout, building location and orientation;
- The layout of the open space network;
- The external design, colour and materials of buildings;
- Relationship and connectivity to adjoining site developments;
- Effect on landscape and visual amenity values and view corridors;
- Associated earthworks and landscaping including the species proposed and long term management;
- Hours of operation;
- Location and design of vehicle access;
- Provision for pedestrian access and cycle linkages through the site;
- The access to and location, layout and landscaping of off-street car parking and loading areas;
- The location and access to surface parking;



- The location, design and access to underground carparking;
- The need for the protection of any educational, residential and visitor accommodation from the effects of air noise.

The rule allows the Council to assess all parts of the development as well as the built form, the Council wants to ensure that the Frankton Flats can be assessed comprehensively, and once the land to the east (up to the existing Glenda Drive development) is re-zoned through a variation or plan change, then seamless travel within the zone may occur; pedestrian, cycle and via vehicle.

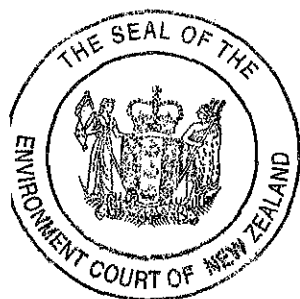
[10] The proposed zoning rules have been changed, by consent, in a number of other ways too. There is now:

- a requirement for a structure plan to provide for a proposed landscape plan within 50 metres of the State Highway;
- provision for underground parking;
- subdivision of the Gardez site is now controlled.

[11] The rules memorandum concludes<sup>6</sup>:

The Council has afforded a high priority status to the Frankton Flats zoning, both for confirming the provisions of the small block and initiating a variation/plan change for the remainder of the land between the Airport, the Events Centre and the existing industrial area. Consultation is taking place between all affected parties. The Council and Transit New Zealand are investing considerable resources into a joint study to plan the roading framework for the Frankton area into the future. This is happening in tandem with the drafting of a Variation/Plan Change and Section 32 analysis for the remainder of Frankton Flats area. This is notified for submission in 2006.

All original parties to this C111/2000 decision are united in presenting to the Environment Court an amended framework of rules for Block A. This will resolve a long standing reference to the Queenstown Lakes District Plan and will enable the Plan to be a step closer to fully operative status. The decision to allow the development of this block of land was made in 2000 on the evidence presented to the Environment Court. The planning framework has changed significantly since then and the parties believe that the amended rules attached support the intention of the original decision while allowing a higher quality of development to be celebrated, rather than hidden, on an important entrance into Queenstown.



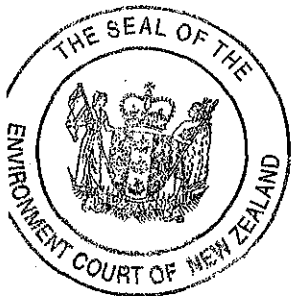
*Should final orders be made while the High Court appeal about the section 293 application is outstanding?*

[12] I am advised by counsel that the parties to the section 293 appeal do not know of the rules memorandum. I am concerned that any final decision might render nugatory the appeal to the High Court about decision C95/2005. However I must bear in mind that the adjacent landowners have only derived an interest in this proceeding (the reference) by virtue of the section 293 application. In so far as the outcome relates only to the Gardez land (or part of it: Block A), those landowners were not parties to the reference.

[13] I am aware of two recent cases where matters have been advanced while Court action was pending and where the superior Courts have commented on such developments. In *Taylor & Ors v Hahei Developments and Thames-Coromandel District Council*<sup>7</sup> the Court of Appeal announced its displeasure at being advised that the situation on the ground had altered prior to it hearing the appeal from a High Court decision (that it overturned). In *Wilson v Rickerby and Selwyn District Council and Canterbury Regional Council*<sup>8</sup> Fogarty J required the Wilsons to decide which of two alternative courses it wished to take. He held that they could not proceed in both an appeal at the Court of Appeal (challenging the High Court's decision) while attempting to finalise their resource consent in the Environment Court (relying on that High Court decision).

[14] The situation is different here. Provided the file is not closed, I can make the orders sought as to the zoning of Block A of the Gardez land without harming the interests of the other section 293 applicants or parties. That is because, if the High Court decides the Environment Court does have jurisdiction to make orders under section 293 in respect of land that is not the subject of an original submission and subsequent appeal (reference), then:

- (1) the procedural door is still open in that the Court's file RMA 1028/99 can remain open; and



<sup>7</sup> CA 262/04, CA 263/04.

<sup>8</sup> CIV 2004-485-000720.

- (2) substantively, comprehensive development of the northern Frankton Flats as sought by the section 293 parties is still possible for the reasons outlined in the rules memorandum (whether it should occur is not for the Court to determine at this point).

**Consideration**

[15] The rules memorandum usefully attaches a brief report from Mr R F W Kruger, a well known landscape architect respected by me for his understanding and independence in expressing firm views. He seems to consider that the proposed rules will ensure that the important views from SH6 across the Frankton Flats to the Remarkables will be sufficiently protected despite what appears (to me) to be rather bland language in the proposed rules.

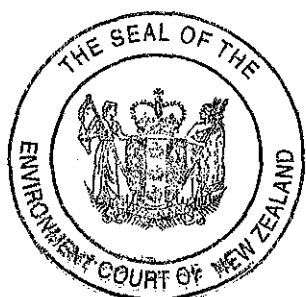
[16] Another important point is that 'essential and non-severable' aspect of decision C111/2000 is being left open for the Council (or on appeal this Court) to resolve when an application for limited discretionary activity is made.

[17] Since the interests of the other section 293 parties can be protected in the ways I have described, it appears that I should make the orders sought to finalise (nearly) this outstanding reference.

**Outcome**

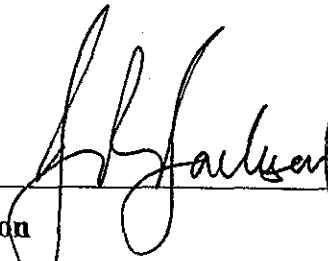
[18] Accordingly under section 290 of the Act the Court orders:

- (1) That the rules attached and identified as "New Rules and Structure Plan" and dated 10 November 2005 be substituted in the partly operative District Plan as the "Frankton Flats Special Zone Rules" applicable to the land being part Lot 2 DP 25073 on the western side of Grant Road;
- (2) Costs are reserved;
- (3) This decision is:
  - (a) subject to (b), final in all respects in respect of part Lot 2 DP 25073; but
  - (b) the Court file is to remain open so that, if the High Court determines that the Environment Court has jurisdiction in this proceeding to



amend the objectives, policies and methods in respect of adjacent land under section 293 of the Act, then the Court can continue to a substantive hearing under that section in respect of the other land on the northern Frankton Flats.

DATED at CHRISTCHURCH 9 December 2005

  
\_\_\_\_\_  
J R Jackson  
Environment Judge



Issued<sup>9</sup>: - 9 DEC 2005



# Provisions to be applied to Gardez Investments Ltd Land (Five Mile)

Part Lot 2 DP25073 (West side of Grant Road) subject to reference to the Environment Court

## 0.0 Frankton Flats Special Zone Rules

### 0.0.1 Zone Purpose

The purpose of the zone is to enable development of a new shopping centre incorporating opportunity for retailing, office, educational, visitor and residential accommodation and leisure activities, in a high amenity urban environment **while maintaining and enhancing the natural values of the environment particularly as viewed from State Highway 6 as it enters the Frankton and Queenstown urban environment.**

The development of the zone will be promoted in such a way as to encourage the design of the built form to have due regard to the surrounding outstanding natural landscape and views of it.

The zone seeks to achieve maximum flexibility within the limitations of those constraints necessary in setting the appropriate environmental standards.

### 0.0.2 District Rules

Attention is drawn to the following District Wide Rules which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

i	Heritage Protection	-	Refer Part 13
ii	Transport	-	Refer Part 14
iii	Subdivision development and financial contributions	-	Refer Part 15
iv	Hazardous Substances	-	Refer Part 16
v	Utilities	-	Refer Part 17
vi	Signs	-	Refer Part 18
vii	Relocated Buildings and Temporary Activities	-	Refer Part 19



## **0.0.3 Activities**

### **0.0.3.1 Permitted Activities**

There are no Permitted Activities within this Zone.

### **0.0.3.2 Controlled Activities**

The following shall be **Controlled Activities** provided that they are not listed as a **Prohibited, Non-Complying or Discretionary Activity** and they comply with all the relevant site and **Zone Standards**. The matters over which the Council has reserved control are listed with each **Controlled Activity**.

#### **i Landscaping within 50 m of State Highway 6 in respect of:**

- Species proposed and the maturity at the time of planting;
- The maintenance of view shafts towards the Remarkables, Walter and Cecil Peaks and Peninsula Hill;
- Long term management and maintenance;
- Integration with adjoining landuses;
- Provision of public access including walkways and cycleways;
- The protection of the State Highway from shading or glare;
- The protection of vehicle sight lines and any roading authority signs in relation to the State Highway.
- The height of trees in relation to the protection of viewshafts.
- Any effects such landscaping may have on the approach and take-off paths for the Queenstown Airport crosswind runway.

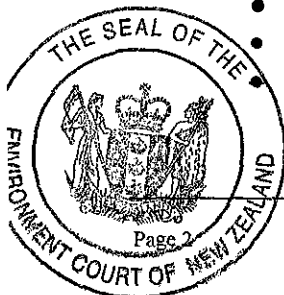
### **0.0.3.3 Discretionary Activities**

Any activity which is not listed as a Controlled, Prohibited Activity or Non-Complying Activity and does not comply with one or more of the site standards.

#### **Limited Discretionary Activities**

#### **i Building, Activities, Site Developments, Street Layout and Open Space Network in respect of:**

- Site layout, including street layout, building location and orientation;
- The layout of the open space network;
- The external design, colour and materials of buildings;
- Relationship and connectivity to adjoining site developments;
- Effect on landscape and visual amenity values and view corridors;
- Associated earthworks and landscaping including the species proposed and long term management;



- Hours of operation;
- Location and design of vehicle access;
- Provision for pedestrian access and cycle linkages through the site;
- The access to and location, layout and landscaping of off-street car parking and loading areas;
- The location and access to surface parking
- The location, design and access to underground carparking
- The need for the protection of any educational, residential and visitor accommodation from the effects of airnoise.

#### **0.0.3.4 Non-complying Activities**

The following Activities shall be **Non-complying Activities** provided that they are not listed as a **Prohibited Activity**.

- i Residential and education activities within the Airnoise Boundary.
- ii Factory Farming
- iii Forestry Activities
- iv Mining Activities
- v Airports other than the use of land for emergency landings, rescues and fire fighting
- vi Any building or development not in accordance with the Structure Plan as attached to this Special Zone as Figure 1.
- vii Residential Activities apart from those required for managerial accommodation.
- viii Any other activity not listed as Controlled, Restricted Discretionary, Discretionary or Prohibited, or does not comply with one of more of the Zone Standards.

#### **0.0.3.5 Prohibited Activities**

The following shall be **Prohibited Activities**:

- i Any building above ground level within the area of Airport Approach and Protection Measures (Figure 1 District Planning Maps)
- ii Panelbeating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motorbody building or fish



or meat processing or any activity requiring an Offensive Trade Licence under the Health Act 1956.

- iii Any application for development within the zone prior to an approval by the Council of an overall landscape plan for the area within 50 m of State Highway 6 pursuant to 0.0.3.2 ii.
- iv Buildings within 50 m of State Highway 6.

#### **0.0.4 Non-Notification of Applications**

An application for resource consent for the following matters may be considered without the need to obtain the written approval of affected persons and need not notified in accordance with Section 93 of the Resource Management Act 1991 unless the Council considers special circumstances exist in relation to such application.

- i All applications for **Controlled Activities**.
- ii Application for the exercise of the Council's discretion in respect of the following rules:
  - (a) Buildings and Site Developments
  - (b) Landscaping.

#### **0.0.4.1 Standards**

##### **0.0.4.1.1 Site Standards**

- i **Building Coverage**  
Building coverage of sites within the zone shall be managed so that the maximum building coverage does not exceed 30% of the zone area.
- ii **Building Setback**
  - (a) Setback from internal boundary of the zone shall be 10m.
  - (b) Setback from State Highway 6 shall be 50m.
  - (c) Setback from Grant Road shall be 4m.
- iii **Landscaping**
  - (a) Setback areas from **all** roads shall be landscaped in accordance with a landscape and planting plan to be approved by the Council prior to development occurring.
  - (b) At least 10% of the remainder of the zone shall be landscaped in accordance with the plan approved by the Council.  
Setback areas from State Highway 6 shall be landscaped in accordance with an overall landscape and planting plan for the frontage of this zone approved by the Council with approval given prior to



development occurring, and the works carried out in conjunction with the development of the zone pursuant to rule 0.0.3.3.i.

iv Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision or development that has both resource consent and engineering approval.

1. Earthworks

- (a) The total volume of earthworks does not exceed  $100\text{m}^3$  per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.
- (b) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed  $200\text{m}^2$  in area within that site (within a 12 month period).
- (c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed  $20\text{m}^3$  (notwithstanding provision 17.2.2).
- (d) No earthworks shall:
  - (i) expose any groundwater aquifer;
  - (ii) cause artificial drainage of any groundwater aquifer;
  - (iii) cause temporary ponding of any surface water.

2. Height of cut and fill and slope

- (a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.
- (b) The maximum height of any cut shall not exceed 2.4 metres.
- (c) The maximum height of any fill shall not exceed 2 metres.

3. Environmental Protection Measures

- (a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.

Any person carrying out earthworks shall:



- (i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.
- (ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.
- (c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.

4. Protection of Archaeological sites and sites of cultural heritage

- (a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.
- (b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.

**0.0.4.1.2 Zone Standards**

**i Structure Plan**

All activities and developments must be carried out in conformity with the Structure Plan Figure 1 attached as Figure 1 to this rule.

**ii Noise**

Activities shall be so conducted that the following noise limits are not exceeded at any point within the boundary of any other site within the zone:

- Daytime (0800-2200 hours) 60dBA L<sub>10</sub>
- Night time (2200-0800 hours) 50 dBA L<sub>10</sub> and 70 dBA L<sub>max</sub>

Construction noise shall comply with and be measured and assessed in accordance with the relevant New Zealand Standard.

- Noise from aircraft operations at Queenstown Airport is exempt from the above standards.
- Noise levels shall be measured and assessed in accordance with NZS 6801:1991 and NZS 6802:1991.

**Air Noise - Queenstown Airport**



- (a) On any site located within the Outer Control Boundary as indicated on the District Plan Maps, any building or part of a building to be used for any activity specified below shall be insulated from aircraft noise so as to meet the indoor design noise levels specified for the particular activity:

<u>Activities</u>	<u>Design Noise Levels</u>	
	<u>Lmax dBA</u>	<u>Ldn dBA</u>
Visitors Accommodation	55	40
Community Activity (indoors)	55	40
Offices	65	50
Commercial Activities (indoors) excluding offices	75	60
Service Activities	75	60
Recreational Activities	75	60
Educational Activities	55	40
Residential	55	40

- (b) This control shall be met in either of the following two ways:

**EITHER:**

- (i) By providing a certificate from a recognised acoustic engineer stating that the proposed construction will achieve the internal design noise level.  
**OR:**  
 (i) The building shall be constructed and finished in accordance with the provisions of Table 2 appended to this rule.

**Table 2 – Acoustic Insulation of Buildings Containing Noise Sensitive Uses (except non-critical listening areas)**

<b>Building Element</b>	<b>Required Construction</b>
External Walls	Exterior: 20 mm timber or 6mm fibre cement Frame: 100mm gap containing 100mm acoustic blanket (R2.2 Batts or similar) Two layers of 12.5mm gypsum plasterboard* (Or an equivalent combination of exterior and interior wall mass)
Windows	Up to 40% of wall area: Minimum thickness 6mm glazing** Up to 60% of wall area: Minimum thickness 8mm glazing** Up to 80% of wall area: Minimum thickness 8mm laminated glass or minimum 10mm double glazing** Aluminium framing with compression seals (or equivalent)
Pitched Roof	Cladding: 0.5mm profiled steel or tiles or 6mm corrugated fibre cement Frame: Timber truss with 100mm acoustic blanket (R 2.2 Batts or similar) Ceiling: 12.5mm gypsum plaster board*
Flat Roof	Cladding: 0.5mm profiled steel or 6mm fibre cement Sarking : 20mm particle board or plywood Frame: 100mm gap containing 100mm acoustic blanket (R2.2 Batts or similar) Ceiling: 2 layers of 9.5mm gypsum plasterboard*



External Door	Solid core door (min. 24kg/m <sup>2</sup> ) with weather seals
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- \* Where exterior walls are of brick veneer or stucco plaster the internal linings need be no thicker than 9.5mm gypsum plasterboard.
- \*\* Typical acoustic glazing usually involves thick single panes or laminated glass. Where two or more layers of glass are employed with an air gap between, total thickness of window glass may be calculated as the total of all glass layers (excluding air gap) provided that at least one glass layer shall be of a different thickness to the other layer(s).

#### iv Glare and artificial Illumination

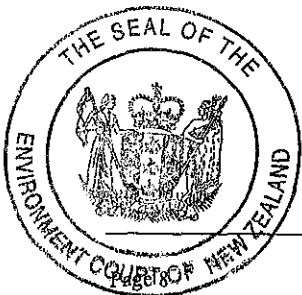
- All exterior lighting installed on sites or buildings within the zone shall be directed away from adjacent sites, roads and public places, except footpath or pedestrian link amenity lighting.
- No activity in this zone shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any property adjoining the zone, measured at any point inside the boundary of any adjoining property.
- No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining property where the primary use is a residential activity measured at any point more than 2m inside the boundary of the adjoining property.
- All roofs of buildings shall be finished or treated so they do not give rise to glare when viewed from any public place or neighbouring property.

#### v Height

The maximum building height shall be 9m provided that up to 5% of the area of the site permitted to be covered by buildings may be constructed to a maximum height of 12m where these elements are located more than 100m from the State Highway.

### 0.0.5 Resource Consents - Assessment Matters

The Assessment Matters which apply to the consideration of resource consents in the Frankton Shopping Centre Zone are specified in Rule 0.2.





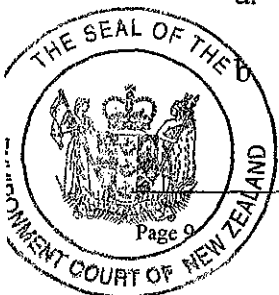
## 0.2 Resource Consents - Assessment Matters: Frankton Flats Special Zone (West side of Grant Road)

### 0.2.1 General

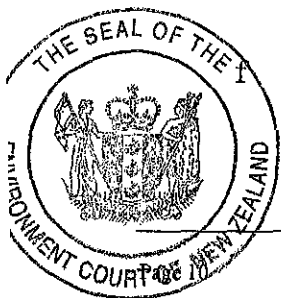
- i The Assessment Matters are other methods or matters included in the District Plan, in order to enable the Council to implement the Plan's policies and fulfil its functions and duties under the Act.
- ii In considering resource consents for land use activities, in addition to the applicable provisions of the Act, the Council shall apply the relevant *Assessment Matters* set out in Clause 0.2.2 below.
- iii In the case of *Controlled and Discretionary Activities*, where the exercise of the Council's discretion is restricted to the matter(s) specified in a particular standard(s) only, the assessment matters taken into account shall only be those relevant to that/these standard(s).
- iv In the case of *Controlled Activities*, the assessment matters shall apply only in respect of *conditions* that may be imposed on a consent.
- v Where an activity is a *Discretionary Activity* because it does not comply with one or more relevant Site Standards, but is also specified as a *Controlled Activity* in respect of other matter(s), the Council shall also apply the relevant assessment matters for the Controlled Activity when considering the imposition of conditions on any consent to the discretionary activity.

### 0.2.2 Resource Consents Assessment Matters

- i For all Controlled Activities in the Frankton Flats Special Zone the assessment matters shall apply only in respect of conditions that may be imposed on a consent.
- ii Controlled Activity – Landscaping within 50m of SH6  
The setback area from SH6 shall be comprehensively landscaped. The applicant shall obtain approval from the Council prior to development occurring within the zone. The approved plan shall be implemented prior to development of the zone. The comprehensive landscape plan will be assessed against the following criteria:
  - a. Whether the landscape treatment complements and enhances the natural values of the surrounding environment;  
Whether the landscape treatment contributes to a sense of arrival and departure on State Highway 6;



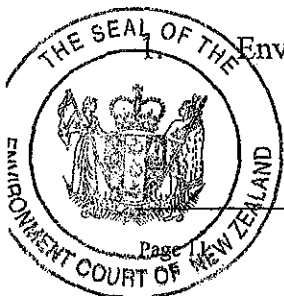
- c Whether views to the Remarkables, Cecil Peak, Walter Peak and Peninsula Hill are retained/promoted from State Highway 6;
  - d Whether the proposed landscape treatment complements the local landscape character;
  - e Whether alterations to the landform are necessary or appropriate to achieve adequate screening of activities from State Highway 6;
  - f Whether the landscape treatment is consistent with any plans developed by the Council for landscape treatment of the entrance to Frankton and Queenstown.
  - g Whether the proposed planting is of an appropriate scale and density at planting to allow rapid establishment to visually integrate future buildings into the surrounding environment.
- iii For all Discretionary Activities in the Frankton Flats Special Zone, in considering whether or not to grant consent or impose conditions, the Council shall have regard to, but not be limited to, the following assessment matters in relation to Rule 0.0.3.3:
- a Whether the location and design of buildings, their external materials, colours, and methods of construction contribute to the local amenity and character, particularly in terms of:
    - adjoining or surrounding buildings, if applicable;
    - public open spaces (including streets), pedestrian and cycleway linkages and view corridors;
    - the wider surrounding landscape.
  - b The relationship of buildings to their neighbours, if any, in terms of orientation, alignment and built form, and to other built elements in the Zone, including public open spaces, if any, and the overall staging of development in the zone.
  - c The general location of the buildings on the site with regard to public use and convenience, and the interface created with streets and open spaces.
  - d The location and safety of parking, access and manoeuvring areas in respect of access point options for joint use of vehicles and pedestrians and streetscape amenity.
  - e The extent and quality of any landscaping proposed and the effectiveness of proposed planting and trees in enhancing the general character of the area, screening car-parking and service areas, and the impact on residential uses if any.
- Visual attractiveness and appearance of the development, particularly as it relates to the surrounding natural landscape, pedestrian environments, and as it enhances pedestrian linkages.



- g Whether ground floor facades of any building maintains a sense of variety and/or coherence and create a positive interface with adjoining streets or other open spaces.
  - h Whether any building which has a continuous building length along a road boundary of greater than 16m provides architectural diversity and definition to create a varied and interesting frontage.
  - i The extent to which the roof colours and materials are such that they do not result in an obtrusive impact when viewed from above.
  - j The extent to which the architectural style is evocative of a mountain region and whether building forms are sympathetic to the mountain setting and local context.
  - k The extent to which building materials are appropriate to the area and contribute to the local alpine character.
- iv Building Coverage
- a The effect of any increase or decrease of building coverage in terms of the amenity of the adjoining area, including surrounding buildings and open spaces;
  - b The scale of any existing buildings in the area and the cumulative effects of further increases in coverage;
  - c Potential adverse effects arising from any likely requirements for additional parking.
- vi Loading and Outdoor Storage
- a The effect of any off street loading or outdoor storage area on the visual amenity of the adjacent area;
  - b The effect of any off street loading or outdoor storage area on the visual coherence and character of the adjacent area;
  - c The form, nature, type and servicing of any loading area and the effects of these on the surrounding locality.

vii Earthworks

Environmental Protection Measures:



- (a) Whether and to what extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on-site.
- (b) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.
- (c) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.
- (d) Where earthworks are proposed on a site with a gradient >18.5 degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks.
- (e) Whether appropriate measures to control dust emissions are proposed.
- (f) Whether any groundwater is likely to be affected, and any mitigation measures are proposed to deal with any effects. NB: Any activity affecting groundwater may require resource consent from the Otago Regional Council.

2. Effects on landscape and visual amenity values:

- (a) Whether the scale and location of any cut and fill will adversely affect:
  - the visual quality and amenity values of the landscape;
  - the natural landform of any ridgeline or visually prominent areas;
  - the visual amenity values of surrounding sites
- (b) Whether the earthworks will take into account the sensitivity of the landscape.
- (c) The potential for cumulative effects on the natural form of existing landscapes.
- (d) The proposed rehabilitation of the site.

3. Effects on adjacent sites:

- (a) Whether the earthworks will adversely affect the stability of neighbouring sites.
- (b) Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.

(c) Whether cut, fill and retaining are done in accordance with engineering standards.



4. General amenity values:

- (a) Whether the removal of soil to or from the site will affect the surrounding roads, and neighbourhood through the deposition of sediment, particularly where access to the site is gained through residential areas.
- (b) Whether the activity will generate noise, vibration and dust effects, which could detract from the amenity values of the surrounding area.
- (c) Whether natural ground levels will be altered.

5. Impacts on sites of cultural heritage value:

- (a) Whether the subject land contains Waahi Tapu or Waahi Taoka, or is adjacent to a Statutory Acknowledgement Area, and whether tangata whenua have been notified.
- (b) Whether the subject land contains a recorded archaeological site, and whether the NZ Historic Places Trust has been notified

**SUBDIVISION**

Provision for subdivision as for the former Frankton Town Centre Zone.

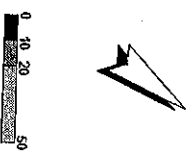
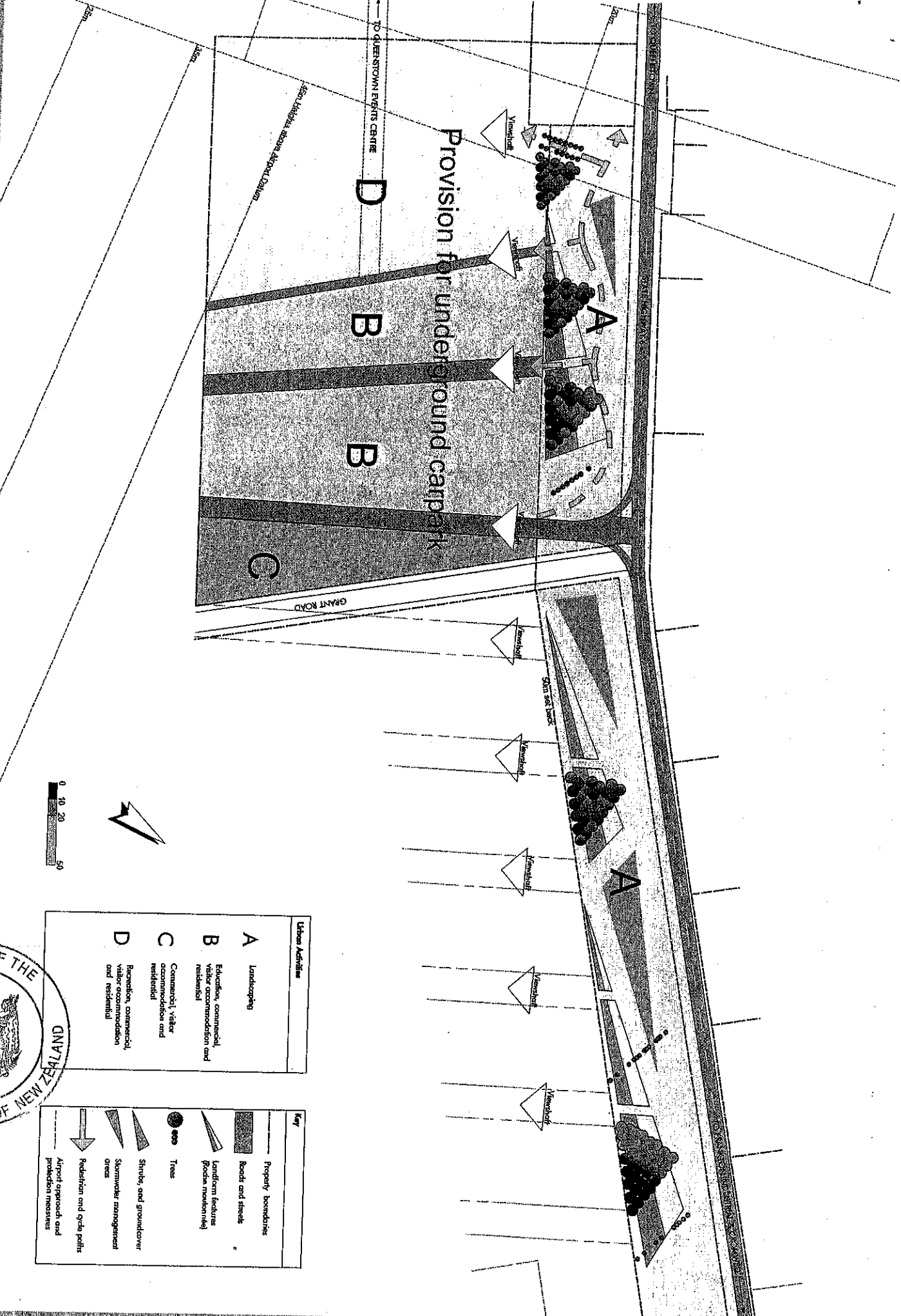
This would require the inclusion of Rule 15.2.6.3 Zone Subdivision Standards – Lot Sizes and Dimensions

- i (a) the following:

<b>Zone</b>	<b>Minimum Lot Area</b>
Frankton Flats Special Zone	No minimum – Controlled Activity



Figure 1 - Structure Plan - 5-Mile Village



Urban Activities	
A	Landscaping
B	Education, commercial visitor accommodation and residential
C	Commercial, visitor accommodation and residential
D	Recreation, commercial, visitor accommodation and residential

Key	
	Property boundaries
	Roads and streets
	Landform features (Rock outcrops)
	Trees
	Shrubs, and groundcover
	Stormwater management
	Pedestrian and cycle paths
	Airport approach and protection measures

