

Appendix C - A copy of the Appellant's submission

Submission with regard to QLDC Proposed District Plan 2015

To: **Queenstown Lakes District Council**
 Name of submitter: **Streat Developments Ltd**

This is a submission with regard to the Proposed District Plan 2015,

This submission relates to -

- *The extent and provisions of the Township Zone (Section 9 of DP) at Lake Hawea. (PDP Map 17)*
- *The extent and provisions of the Rural Residential & Rural Lifestyle (Section 22 and Map 17 PDP)*
- *Landscape effects and servicing*
- *Subdivision and Development Rules - Section 27*

Note: Although the Review of the Township Zone is to be part of stage 2 of the PDP the crossover with Rural Residential and Subdivision rules and the changes to Map 17 (PDP) makes it relevant to the review of those issues under the Stage 1 PDP.

Our submission:

Township and Rural Residential Zone Boundary

We urge that the extent and provisions of the Township Zone be extended to include the consented 90 lot Lake Hawea Subdivision known as Grandview Stage 3 legally described as Lot 30 and 45 DP325203 approved consent plan attach (Attachment 1)

Rezoning Grandview Stage 3 from Rural Residential to Township Zone will consolidate provisions consented by Environment Court Decision ENV-2008-CHC-063 (Attachment 5) and Commissioners Decision RM050083 (Attachment 3).

This Grandview Stage 3 Rural Residential Land is consented for a 90 lot residential subdivision development that directly reflects the provisions of the Township Zone through a concurrent 20 year landuse consent. Extending this zone will provide for growth in the Hawea Township, provide for efficient landuse which will assist in controlling urban sprawl.

We also urge that the area of Rural Residential land south of Cemetery Road know as Lot 1 DP304937 be rezoned to Township Zone but with a minimum lot size of 1500m². We believe that Rural Residential Development is well catered for in the Hawea Town and Hawea Flat and that an intermediary density of 1500m² would provide for more efficient landuse and meet the changing needs of the community and provide some variety in lot sizes in the range between the residential and township zones and the rural residential and lifestyle zones.

Attachment 2 shows the currently developed, consented and proposed subdivisions at Lake Hawea. (as draw in 2008)

Landscape Effects - All the land we propose for rezoning above is contained within existing Residential growth area of the Hawea Township being currently zoned Rural Residential, and being subject to existing valid subdivision consents. All the land

proposed for rezoning is contained on relatively flat low lying land with very limited visibility. The increase in intensity of development on these lands will have a minor effect on landscape values or openness of the area. The subject land is not visible at all from Lake Hawea lake surface or the Hawea River and the only visibility from public roads is from the roads directly adjacent being Domain Road and Cemetery Roads that service the proposed subdivisions. A condition of consent for Grandview Stage 3 includes the construction of earth mounds and landscaping adjacent to Cemetery Rd.

Servicing - Council has undertaken the upgrade of Water Supply to the Hawea Township through the installation of a new bore at Scotts Beach. The Lake Hawea sewerage scheme is already in place to service all the land proposed for rezoning herein. Aside from an upgrade to the existing pump station on Cemetery Road which is planned for the future when demand requires and incremental upgrade to the sewerage ponds by the addition of additional aerators.

Additional headworks fees and rates will also be obtained as a result of this proposed rezoning that will provide for any additional needs for servicing.

Cemetery Road has recently been upgraded and sealed and is of sufficient capacity. When Grandview Stage 3 is developed the consent holder will be contributing to Cemetery Rd upgrades by way of an existing legal agreement created at the time the QLDC upgraded Cemetery Road.

Subdivision and Development - Section 27 (PDP)

The PDP seeks to make all subdivision (other than limited circumstances) a discretionary activity even where it complies with all relevant Zone Standards and design standards. We strongly oppose this move as it creates unnecessary uncertainty for developers particularly in relation to finance issues.

We seek the following action from the consent authority:

That the Proposed District Plan including the provisions of the Township Zone - Section 9 (DP), Rural Residential Zone - Section 22 (PDP) and PDP Map 17 be amended to allow for adjustment of the Rural Residential & Lifestyle Zone boundary with the Township Zone at Lake Hawea Township as outlined in this submission.

With regards to Section 27 Subdivision and development we ask that Controlled activity status be given to subdivision where it complies with the relevant Zone and design standards.

We wish to be heard in support of our submission and the opportunity to provide further information and assessment if required or valuable. If others make a similar submission or are affected by the proposal we are happy to meet with and consult with any parties.

Attachments

- 1. Grandview Stage 3 Approved Plan
- 2. Grandview Stage III Master Plan 3 Dec 2008
- 3. QLDC Commissioner Decision RM050083 19 Feb 2008
- 4. Willowridge Streat infrastructure agreement 10 Dec 2008
- 5. Env_2008_CHC_063 15 Jan 2009
- 6. RM050083 S125 Decision 19 Sept 2013
- 7. RM060010 Decision 15 Dec 2008
- 8. RM060010 S125 Extension

.....
Signature of submitter
(or person authorised to sign
on behalf of submitter)

.....
Date 23/10/2015

(A signature is not required if you make your submission by electronic means)

Address for service of submitter:
Streat Developments Ltd
c/- Quentin Smith
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Wanaka
Telephone: 0212 703706
Fax/email: qksmith@gmail.com

A



Grandview stage 3
Memorandum of proposed easements
Note: Utility Easements not shown

Purpose	Shown	Serv ten	Dom ten
Right of Way	A	Lot 58	Lot 52
	B	Lot 52	Lot 58
	C	Lot 53	Lot 59
	D	Lot 59	Lot 53

Grandview stage 3
Table of Areas

6 Reserves	7510m ²
7 Roads	28096m ²
90 Residential lots	81312m ²
2 ROWs	413m ²
Total area	117331 m²

No.	Date	Revision Details	By	Ver.	App.
1		Modified boundary of sealing easement			
2		Moved wider spines road 1.5m			
3		Moved undrain areas for above			
4		Novel paved road link to Muir			
5		Novel paved area of road 1.5m			

Drawing prepared by	Street Design Ltd	Project Location	Cemetery Rd Lake Hawea
Client:	Street Developments Ltd	Project:	Grandview stage 3a,3b,3c,3d
Drawing Title:	Proposed 90 lot subdivision	RM 050083	
Scale	1:2000	Territorial Authority	QLDC
Project No.	DP 325203	Grandview stage 3a,3b,3c,3d	
Scale	1:2000	RM 050083	
Drawing No.	DP 325203	Territorial Authority	QLDC
Rev.	Consent Nov 08	Grandview stage 3a,3b,3c,3d	
		RM 050083	
		Territorial Authority	QLDC

Proposed developments

(there may be additional applications we are unaware of)
Refer QLDC District Plan zoning map 17 for Rural Residential zoned area

Tim's Field future stages shown dark green, some of this land zoned Rural Residential

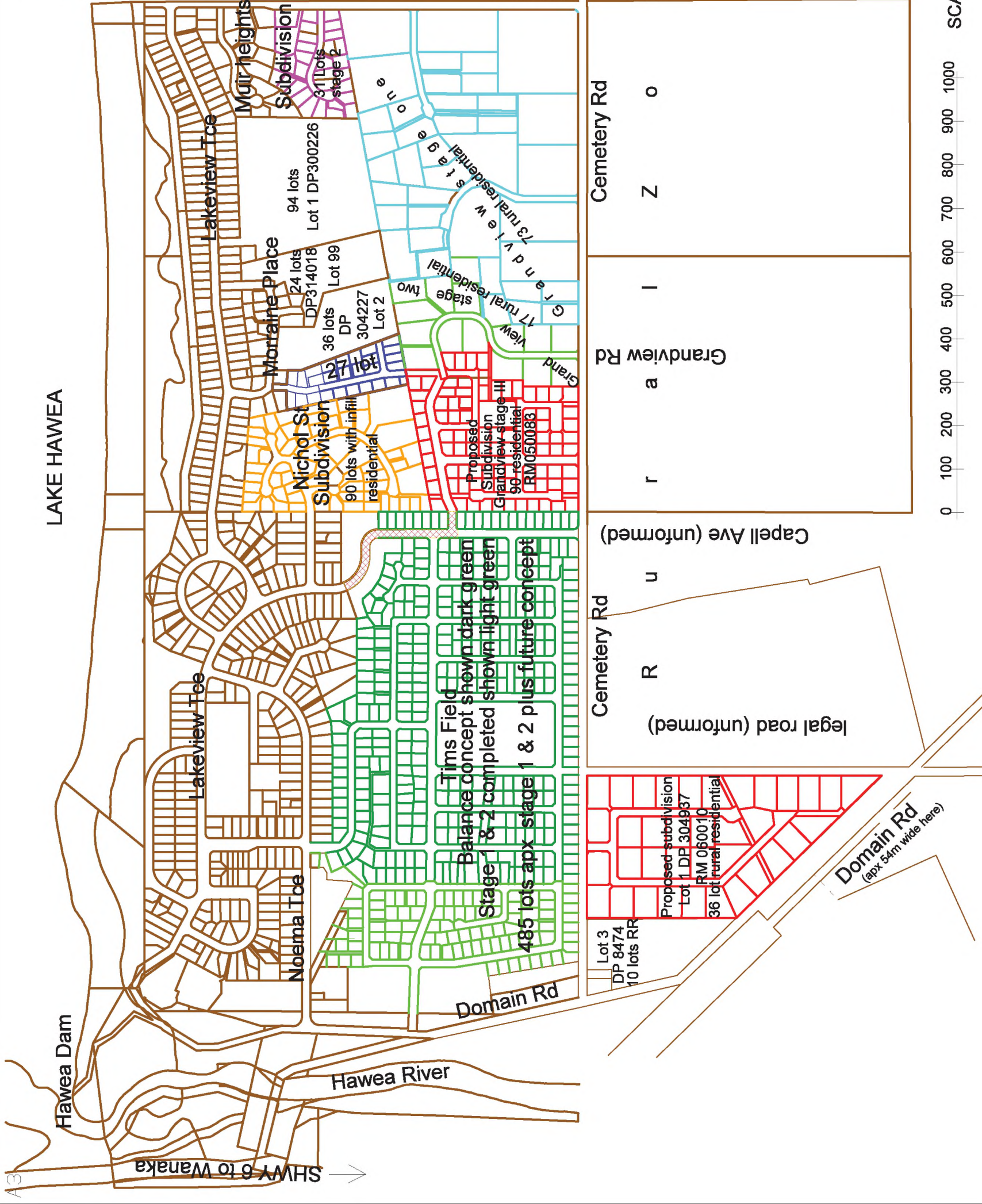
Streat Developments Grandview stage III 90 lot RM050083 zoned Rural Residential shown red

Streat Developments 36 lot RM060010 zoned Rural Residential shown red

Elliott 27 lot subdivision RM 040472 zoned residential

Residential zoned development land with no proposed consents have number future lots capable listed.

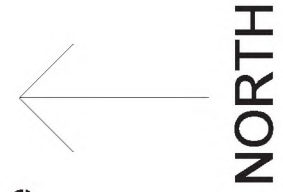
Grandview stage 1 & 2 have number lots capable Rural Residential zone listed



No.	Date	Revision Details	By	Ver.	App.
1	May05	Reserve 341m2 removed		1.1	
2	May05	widen displays road 1 to 7m		1.1	
3	May05	Update areas for above		1.1	
4	Nov08	amend road link to West		2.0	
4	Nov08	lots west of road 1 amend		2.0	

Drawing prepared by Streat Design Ltd 89 Arthurs Point Rd RDI QUEENSTOWN Tel 03 442 6789	Project Location Cemetery Rd Lake Hawea	Client: Streat Developments Ltd	Project: Grandview stage III RM 050083 Territorial Authority QLDC	Drawn C Streat Designed P Baxter & C Streat Areas and dimensions subject to final survey	Date 2Dec08 Date 2005	Drawing Title: Master Plan December 2008	Project No.	Scale 1:10000	Drawing No. Rev.
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SCALE BAR (m)



IN THE MATTER of an application to undertake a 90 residential allotment subdivision and land use consent to construct residential units and accessory buildings thereon by **Streat Developments Limited RM 050083**

DECISION OF MICHAEL PARKER AND LEIGH OVERTON, HEARINGS COMMISSIONERS APPOINTED PURSUANT TO SECTION 34A OF THE RESOURCE MANAGEMENT ACT 1991

- [1] This is an application by Streat Development Limited (“SDL”) for Subdivision consent for an 11.7 hectare property into 90 residential lots ranging in area from 800 m² to 1291 m², and for Land Use consent to construct residential units and accessory buildings on each of those Lots in accordance with specific design restrictions.
- [2] The site is located adjacent to Cemetery Road, Hawea, which is almost immediately south-east of the Hawea Township and is in reasonably close proximity to State Highway 6 running between Albert Town, Hawea and the West Coast.
- [3] The site is legally described as Lots 30 and 45 Deposited Plan 325203 contained within CTs 101457 and 101463 respectively.
- [4] This land is zoned Rural Residential under the Queenstown-Lakes District Partially Operative District Plan (“PODP”), being a zoning to provide for living that *“reflects a desire by some people to live on small holdings in a rural environment while undertaking only limited farming or no farming at all”* (8.1.1 of the PODP at page 8-1). That expression of intent is further reflected in 8.2 (at 8-5 of the PODP) which provides:

The Rural Residential Zone is anticipated to be characterised by low density residential areas with ample open space, landscaping and with

minimal adverse environmental effects experienced by residents. Rural activities are not likely to remain a major use of land in the Rural Residential Zone or a necessary part of the rural residential environment.

- [5] The subdivision consent sought is for a non-complying activity under Rule 15.2.3.4 because the proposed subdivision is for Lots ranging in area from 800m² to 1291m² (an average of 902m²) whereas the Zone Standard (15.2.6.3(i)(a)) for the Rural Residential Zone requires a minimum lot area of 4000m². For the same reason, the Land Use consent for the residential units is non-complying under Rule 8.2.2.4(vii) (as the maximum average density under the Zone of 1 residential unit per 4000m² is not complied with).
- [6] In addition, the further Land Use consents relating to set back from the road, building site coverage, internal set-back and location, external appearance etc require non-complying, discretionary, discretionary and control activity status consent respectively.
- [7] Accordingly, the proposal has to be assessed as a non-complying activity pursuant to Section 104D of the Resource Management Act 1991 ("the Act").
- [8] The application attracted 14 submissions: two supported the application; three conditionally supported the application, seven submissions were opposed to the application, and two were neither in support nor in opposition.
- [9] The submission of Angus Trust Limited in opposition to the Application was withdrawn prior to the hearing; and the submission of J & G Palmer which was neither in support nor in opposition, by the date of the hearing became a submission in support of the application.
- [10] There is a relevant history for the land the subject of this application. On 9 December 2002 resource consent RM 020129 was granted approving a three-stage 42 rural residential allotment subdivision. A total of 18 of the allotments approved under that resource consent have been created to date with the remaining 24 allotments being allocated within what is the subject site under this current application.

- [11] The applicant was represented by Mr Kenneth Palmer of counsel, who presented submissions on behalf of the Applicant, and in addition to the matters we have set out above, explained that the proposal also included a large neighbourhood reserve of 5290m² together with walkway links consisting of four or five reserve lots ranging from 288m² to 769m², thereby providing for pedestrian movement within and through the subdivision. It is proposed that the subdivision benefit from connection to the Hawea Township Water and Sewerage Schemes, subject to upgrades that may be required for that to be achieved.
- [12] The subdivision consent is proposed to develop the site in four stages, namely Stages A to D. A ten-year consent period was sought in relation to the subdivision, and a twenty-year consent period is sought in relation to the land use consent.
- [13] In his submissions Mr Palmer drew attention to the Hawea Community Plan (Hawea 20/20) prepared in June 2003 which envisaged that the subject site will ultimately be re-zoned within a 20 year time frame from the present Rural Residential Zoning to the higher density Township Zone currently in place over the Hawea Township. He referred to the comment, among others, in the report that stated that Cemetery Road "*is considered to be a logical and well-contained boundary to guard against future sprawl*". This proposal is within that boundary.
- [14] The Applicant agreed that the subdivision and land use applications were to be assessed as non-complying activity consents and in the course of referring to the latter referred to the proposal containing an intention to limit the height of the dwellings in the development to 7 metres as opposed to the permitted height of 8 metres under the Rural Residential Zone Rules.
- [15] Importantly, the Applicant through Mr Palmer drew attention to the issue of the permitted baseline and the misapprehension in that regard which appears in the planning report of Lakes Environmental in respect to the receiving environment. We agree with the Applicant's analysis on this point and take it into consideration in reaching our decision on this application.
- [16] Also of assistance and relevance was the evidence from Mrs Shirley Ferguson, resource management planner, on behalf of the Applicant relating to the

projected increase in population of Lake Hawea Township over the next 20 years as disclosed in the QLDC Council Community Plan 2006 – 16 (Volume 4, Growth Forecast). We regard this information as another matter that is relevant and reasonable necessary for us to determine this application.

- [17] In addition, it has been suggested in the evidence of the Applicant that Cemetery Road has become a recognisable southern boundary to the township providing one of the definable edges to the township. A site visit and consideration of other developments in the vicinity confirm that this is a realistic and reasonable assessment. These are relevant matters when considering the purpose of the Act and sustainably managing the natural and physical resources adjacent to Hawea Township to enable the present and future community to provide for their social, economic and cultural wellbeing and for their health and safety.
- [18] We are also mindful of the Applicant's proposed mitigation measures which are listed in 2.3.3 of Mrs Ferguson's evidence and detailed therein and in the evidence of Mr Paddy Baxter who provided detailed landscape architectural evidence (with supporting plans and photographs) in support of the applicant.
- [19] We were provided in the evidence of Mr Baxter with a plan of the proposal (entitled Grand View Stage III Masterplan, Stages I and II having comprised the implemented parts of the abovementioned resource consent RM 020129).
- [20] That Masterplan shows that there are two access points proposed into the development for vehicles from Cemetery Road, one being a direct entry into the proposal site, and the second being an entry onto Grand View Drive (which comprises part of Grand View Stage I). There is also provision for pedestrian access from Cemetery Road, and the Masterplan envisages the possibility of road connections from the proposal site northwards and westwards, the latter having the possibility of linkage to an unformed legal road which would connect with Capell Avenue.
- [21] Mr Baxter's photographs were mostly of Cemetery Road and the environs of the proposal site together with two plans, one being prepared by the applicant and which demonstrates proposed developments in the vicinity of which the applicant is aware, including what is proposed for the land to the west (known as the Tims Field), which will be development the density of which is not

dissimilar to that of this current application, as is the Nichol Street subdivision to the north. The photographs and that plan underline the boundary effect of Cemetery Road, subject to the aberration of a 36 lot Rural Residential subdivision the subject of resource consent RM 060010.

- [22] Within this proposal four stages of development are suggested as set out at page 6 of the Applicant's Assessment of Effects on the Environment, under the heading Subdivision Consent.
- [23] Essentially, this application is for a non-complying resource consent both as to subdivision and land use in order to make the development of this land consistent with the current and proposed density of development of the Hawea Township as well as those adjacent developments which we have referred to above.
- [24] Of the submitters to the application we heard from Mrs Battson who owns a property in Stage I of the Grand View subdivision. She opposed the application as lodged and requested inclusion of a number of controls relating to lot sizes, and to design and location of future dwellings on the lots. It is fair to say that Mrs Battson's submission in the hearing to us was not as focused as her written submission, which was a helpful document, and we note that the applicant itself supports a seven metre height restriction as requested by Mrs Battson. Her most substantial concerns related to ensuring a blending of the three Grand View development stages, expressed concerns about what she described as "community spirit", and was unsupportive of the higher density subdivision proposed as compared to that of her own stage of the Grand View subdivision as that would preclude the blending to which she referred.
- [25] We also heard in opposition a submission and evidence from Willowridge Developments Limited ("Willowridge") through its counsel, Mr Phil Page, and its director Mr Allan Dippie. Willowridge is the owner and developer of the Tims Field land immediately to the west of the subject site.
- [26] Willowridge is of the view that all the Rural Residential land contained within the boundaries of Domain Road, Cemetery Road and Muir Road should be dealt with by way of a comprehensive Plan Change rather than by a series of individual resource consents such as this proposal.

- [27] With the wisdom of hindsight, such a Plan Change as Willowridge envisages might have been one way to comprehensively plan for the environs of Hawea. However, no Variation or Plan Change has occurred although we can see the clearly expressed view in the aforementioned Hawea Community Plan which was published in June 2003.
- [28] However that may be, as conceded by Mr Page in his submissions to us, this applicant has the choice of bringing an application for resource consent such as this and the fact that no Plan Change (or Variation) has been promulgated is *per se* not a basis for refusing this resource consent. However, Mr Page says that a proper planning approach must take a broad view and must consider whether, if we were to grant this application, it makes the Rural Residential Zone meaningless.
- [29] We had the advantage of hearing from Mr Dippie who has a long association with Hawea and development within its environs. He pointed out that Hawea is due to double in size (as we have recorded above) and that this development would need to integrate with two other developments.
- [30] His emphasis that he gives to the expected growth in Hawea seems somewhat at odds with the written submission from Willowridge which asserted that the applicant had not shown that there was a need for additional residential sections in Hawea at this time or even in the medium term. However that may be, while Mr Dippie had a great deal of very useful insight into the development of Hawea to offer, which we recognise could support an argument for a more comprehensive approach to planning of the township and its surroundings, these were not matters which specifically provided any barrier to this application, reminding ourselves as we do of the enabling function of the purpose of the Act, and the effects based assessment that we have to make.
- [31] We agree with the comment in Mr Martin's report that the present 24 allotment consent, if implemented, could impede the successful and integrated redevelopment of the site to township density sometime in the future. Such an outcome would tend to diminish the congruity of the zoning with the purpose of the Act and we are of the view that, given the design of the proposal disclosed by Mr Baxter's Masterplan, together with the landscaping, design controls and

provision for the greater degree of public open space results in the effects of the proposal being minor or less than minor.

- [32] In addition, for the same reasons, we believe that the activity is appropriate in this location and should be allowed; and concomitantly cannot be viewed as being contrary to the Objectives and Policies of the District Plan.
- [33] We do not think that there is a precedent effect arising from this application as it is consistent with community aspirations and development in the vicinity in a way that caters for the future of Hawea. It is unlikely that there could be any similar proposal in the future of this type given that most of the land envisaged for development in the Hawea Community Plan is now earmarked for development that is very similar to that in this proposal. The grant of this application should provide the Council with no difficulty in the future regarding precedent effect.
- [34] Accordingly, we grant the resource consents applied for; those relating to the Subdivision consent shall lapse 5 years from the date of this decision; the Land Use consent shall lapse 20 years from the date of this decision.
- [35] We impose conditions as comprised in attachment to the evidence of Mrs Ferguson which include those recommended by Lakes Environmental Limited's engineering expert, Ms Malika Rose, subject to the change identified in Mr Grant Meldrum's evidence, he being the Applicant's consulting engineer who provided evidence on the infrastructure and roading effects of the subdivision.
- [36] We also impose a condition suggested by Mr Martin regarding planting on Cemetery Road requiring the Applicant to be responsible for the maintenance of that planting over a six year period, with provisions to formally agreed between the applicant and any future lot owner to ensure that that maintenance of the planting to its full extent is implemented (this to be registered on the title by way of Consent Notice), this being an important adjunct to the softer edge provided by the larger lots on the southern and eastern boundaries of this proposal.
- [37] We also note the requirement for planting to the south of Lot 75 which should also be maintained in a similar way to that referred to above on the southern boundary.

[38] We also agree with Ms Keren Neal's (Landscape Architect, Lakes Environmental Limited) concern about the continued survival of the proposed tree planting within the subdivision and require a condition to be imposed which will ensure the ongoing maintenance thereof, with provision for replacement of trees that die or are diseased or fail to progress. We also agree that planting of the trees as foreshadowed by Mr Baxter's Masterplan should occur at the completion of Stage A (20 lots being Lots 54-57, 61-64, 69-72, 77-80 and 83-86). We also agree with Ms Neal's comments regarding condition 11 of the proposed conditions which apparently allows for the removal of trees after the duration of five years. We do not agree with that.

Dated at Queenstown this 19th day of February 2008.

A handwritten signature in black ink, appearing to read 'M E Parker', is written over a horizontal line.

Michael E Parker
Independent Commissioner
On behalf of the Commission of
Commissioner L Overton and M E Parker

CONDITIONS OF CONSENT – RM050083

Subdivision

- 1 That the development be carried out in accordance with the application and plans stamped as “Approved Plans” and attached to this decision, with the exception of any amendments required by the following conditions of consent.
2. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council’s policies and standards, being New Zealand Standard 4404:2004 with the amendments to that standard adopted on 5 October 2005, except where specified otherwise.
3. The subdividing owner of the land shall provide a letter to the Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this subdivision and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.4 & 1.5 of NZS4404:2004 “Land Development and Subdivision Engineering”, in relation to this development.
4. Prior to the commencement of any works on the land being subdivided and prior to the Council signing the Title Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall provide to the Queenstown Lakes District Council for review, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (2), to detail the following engineering works required:
 - a) The provision of a water supply to Lots 1 - 90 from Council’s existing reticulation in terms of Council’s standards and connection policy. This shall include an Acuflo GM900 as the toby valve. The costs of the connections shall be borne by the consent holder. Connection to Council’s reticulation shall be permitted for the first 24 lots. Further connection shall not be permitted until such time as the planned upgrade of the Hawea township reservoir trunk main is completed.
 - b) The provision of a foul sewer connection from Lots 1 - 90 to Council’s reticulated sewerage system in accordance with Council’s standards and connection policy. The costs of the connections shall be borne by the consent holder, unless otherwise agreed by Council. The consent holder shall consult with QLDC Engineering regarding connection for the subdivision to either the Domain Road or Cemetery Road pump stations.
 - c) The provision of a system to dispose of stormwater from all roads and footpaths, utilising ‘Aquacell’ infiltration galleries and catch pit screens, in accordance with the application.
 - d) The provision of fire hydrants with adequate pressure and flow to service the development with a Class W3 fire risk in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies 2003. Any lesser risk must be approved in writing by Fire Service NZ, Dunedin Office.
 - e) The construction of the extension to Grandview Road and New Roads 1 – 6 in accordance with Council’s standard and the *Baxter Brown* Typical Road Cross Section Plan Ref: 3214 CP3.HND. On-street parallel parking shall be provided in indented bays along the extension to Grandview Road and New Road 1. Cul de sac heads shall be designed in accordance with Figure 3.4 of NZS4404:2004.
 - f) Construction of the intersection of New Road 1 with Cemetery Road, in accordance with the AUSTROADS Guide to Traffic Engineering Practice – Part 5: Intersections at Grade and as amended by GDM design (plan ref: attachment f). The final design shall be subject to the approval of QLDC Engineering.

- g) The construction and sealing of all right of ways providing access to rear lots, in accordance with Council's standards.
 - h) The provision of a sealed vehicle crossing that shall be constructed to all rear lots and/or other lots with a road frontage of less than 11m, in accordance with Council's standards, including compliance with Rule 14.2.4.2 of the District Plan.
 - i) The sealing of Cemetery Road from the edge of the existing seal adjacent to Grandview Road to the western boundary of the application site.
 - j) The raising of the low section of Cemetery Road to the west of the intersection with New Road 1 to improve sight lines to the west. The final design shall be subject to the approval of Council.
 - k) The provision of a formed footpath along the northern side of Cemetery Road adjacent to the site, the final design of which shall be subject to Council's approval.
 - l) A list of tree species to be planted within road reserves and the 6m wide landscape amenity planting area on the Cemetery Road frontage. The final list shall be subject to the approval of Council.
5. Prior to certification pursuant to Section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
- a) The submission of 'as-built' plans in accordance with Council's 'as-built' standards, and information required to detail all engineering works completed in relation to or in association with this subdivision.
 - b) The completion of all works detailed in Condition (4) above.
 - c) The consent holder shall provide a suitable and usable power supply and telecommunications connection to Lots 1 - 90. These connections shall be underground from any existing reticulation and in accordance with any requirements/standards of Aurora Energy/Delta and Telecom.
 - d) Where this development involves the vesting of assets in the Council, the consent holder shall submit to Council a copy of the Practical Completion Certificate, including the date it was issued and when it lapses. This information will be used to ensure the Council's Engineering consultants are aware of the date where the asset is no longer to be maintained by the consent holder and to assist in budgeting for the Annual Plan.
 - e) All signage, including road names, shall be installed and necessary road markings completed on all Public or Private Roads (if any), created by this subdivision.
 - f) The provision of road lighting in accordance with Council's road lighting policies and standards. Any road lighting installed on private roads/rights of way/ access lots shall be privately maintained and all operating costs be the responsibility of the lots serviced by such access roads. Any lights installed on private roads/rights of way/access lots shall be isolated from the Council lighting network circuits.
6. Prior to certification pursuant to Section 224 of the Act and in accordance with Section 221 of the Resource Management Act 1991, a consent notice shall be registered on the pertinent Certificate of Title for the performance of the following conditions on a continuing basis:
- a) At the time a dwelling is erected on Lots 1 - 90, the owner for the time being shall engage a suitably qualified professional as defined in Section 1.4 of NZS4404:2004 to design a stormwater disposal system, incorporating 'Aquacell' infiltration galleries or similar technology, that is to provide stormwater disposal from all impervious

areas within the site. The proposed stormwater system shall be subject to the review of Council prior to implementation.

- b) At the time a dwelling is erected on any of Lots 1 – 90 which do not have a vehicle crossing formed at the time of subdivision, the owner for the time being shall construct a vehicle crossing to that lot in accordance with Council's standards, including Rule 14.2.4.2 of the District Plan.
- c) Lots 83 – 90 shall not have vehicle access directly from Cemetery Road.
- d) Building and landscaping controls

The purpose of the following building controls is to achieve a high level of residential amenity and consistency with the adjoining Hawea Township zone. The terms used are defined in the Partially Operative District Plan, as at February 2005. Building within each lot shall comply with the following provisions:

1. *Residential density*

The minimum net allotment size for each residential unit shall be 800m².

2. *Building Coverage*

The maximum building coverage shall be 35%.

3. *Setback from Roads*

The minimum setback of any building from road boundaries shall be 4.5m except sites fronting Cemetery Road where the minimum setback of any building therefrom shall be 10m.

4. *Setback from Internal boundaries*

The minimum setback from internal boundaries shall be 2m.

5. *Continuous building length*

Where the aggregate length of buildings measured parallel to any internal boundary exceeds 16m; either

the entire building(s) shall be set back an additional 0.5m for every 6m of additional length or part thereof from the minimum yard setback continuous façade(s) at the same distances from the boundary)

or

that part of the building(s) which exceeds the maximum building length shall be progressively set back 0.5 m for every 6 m of additional length or part thereof from the minimum yard setback (varied façade(s) with stepped setbacks from the boundary).

6. *Outdoor living space*

(i) The minimum provision of outdoor living space for each residential unit, contained within the net area of the site, shall be 100m² contained in one area with a minimum dimension of 5m.

(ii) The outdoor living space shall be readily accessible from a living area.

(iii) No outdoor living space shall be occupied by any building (other than an outdoor swimming pool or accessory building of less than 8m² gross floor area), driveway or parking space.

7. *Height*

The maximum height for buildings shall not exceed 7m above ground level, measured at any point and the highest part of the building immediately above

that point, and in addition no part of any building shall protrude through a recession line inclined towards the site at an angle of 25° and commencing at 2.5m above ground level at any given point on the site boundary. Except:

- (a) gable and hip ends may encroach beyond the recession lines provided they are contained within a calculated area(s) no greater than 6m² with the apex no higher than a point 1 metre below the maximum height for the zone and the base of the area(s) at the level of recession line protrusion.

8. *Roof colours*

The roof colour of any building shall be greys, browns, or greens and shall be in corrugated or tray steel or timber shingles.

9. *Fencing*

Fencing of all boundaries adjoining and within 6m of roads, right of ways, reserves, walkways shall be in post and wire only, not exceeding 1.2m in height.

10. *Landscaping - Sites with frontage to Cemetery Road*

A 6m wide landscape amenity tree planting area shall be created along the Cemetery Road frontage. The consent holder shall plant, irrigate, provide rabbit proof fencing and maintain the trees for a period of six years following establishment, such establishment to occur within 6 months of Section 224 approval by Council of species as required by Condition 4(l) above. The landscaping shall thereafter be retained and maintained by future landowners.

11. *Retention of existing tree planting on northern boundary*

The existing tree planting on the northern boundary of the development site shall be retained for duration of least 6 years and allowed to reach a height of at least 4m.

7. All easements shall be granted or reserved.
8. This subdivision may be staged. For the purpose of issuing approvals under Sections 223 and 224(c) of the Resource Management Act, the conditions of this consent shall be applied only to the extent that they are relevant to each particular stage proposed. This consent may be progressed in the following stages:
 - (i) Stage a – 20 lots being lots 54 - 57, 61 - 64, 69 - 72, 77 - 80 and 83 - 86. This stage will include the formation of the entry off Cemetery Road and the sealing of Cemetery Road between the existing end of seal to the western boundary of the application site (refer subdivision plan).
 - (ii) Stage b – 19 lots being lots 52 – 53, 58 – 60, 64 – 68, 72 – 76, 80 – 82, 86 – 90. Stage b will include the neighbourhood reserve.
 - (iii) Stage c – 25 lots being lots 1 - 5, 12 - 15, 22 - 25, 29 - 32, 39 - 42, and 48 - 51.
 - (iv) Stage d – 26 lots being lots 6 - 11, 16 - 21, 26 - 28, 33 - 38, 43 - 47.
9. The subdivision consent shall lapse 5 years from the date of this decision.

Land Use Consent

1. That the development be carried out in accordance with the application and plans stamped as "Approved Plans" and attached to this decision, with the exception of any amendments required by the following conditions of consent.
2. The consent holder shall pay for the costs associated with the monitoring of this resource consent. In accordance with Section 35 of the Act.

3. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being New Zealand Standard 4404:2004 with the amendments to that standard adopted on 5 October 2005, except where specified otherwise.
4. This land use consent shall provide for the construction of one dwelling per allotment and associated accessory buildings. Building within each lot shall comply with the following provisions:

Building and landscaping controls:

The purpose of the following building controls is to achieve a high level of residential amenity and consistency with the adjoining Hawea Township zone. The terms used are defined in the Partially Operative District Plan, as at February 2005.

1. *Residential density*

The minimum net allotment size for each residential unit shall be 800m².

2. *Building Coverage*

The maximum building coverage shall be 35%.

3. *Setback from Roads*

The minimum setback of any building from road boundaries shall be 4.5m except sites fronting Cemetery Road where the minimum setback of any building there from shall be 10m.

4. *Setback from Internal boundaries*

The minimum setback from internal boundaries shall be 2m.

5. *Continuous building length*

Where the aggregate length of buildings measured parallel to any internal boundary exceeds 16m; either

the entire building(s) shall be set back an additional 0.5m for every 6m of additional length or part thereof from the minimum yard setback continuous façade(s) at the same distances from the boundary)

or

that part of the building(s) which exceeds the maximum building length shall be progressively set back 0.5 m for every 6 m of additional length or part thereof from the minimum yard setback (varied façade(s) with stepped setbacks from the boundary).

6. *Outdoor living space*

- (i) The minimum provision of outdoor living space for each residential unit, contained within the net area of the site, shall be 100m² contained in one area with a minimum dimension of 5m.
- (ii) The outdoor living space shall be readily accessible from a living area.
- (iii) No outdoor living space shall be occupied by any building (other than an outdoor swimming pool or accessory building of less than 8m² gross floor area), driveway or parking space.

7. *Height*

The maximum height for buildings shall not exceed 7m above ground level, measured at any point and the highest part of the building immediately above that point, and in addition no part of any building shall protrude through a recession line inclined towards the site at an angle of 25° and commencing at 2.5m above ground level at any given point on the site boundary. Except:

- (a) gable and hip ends may encroach beyond the recession lines provided they are contained within a calculated area(s) no greater than 6m² with the apex no higher than a point 1 metre below the maximum height for the zone and the base of the area(s) at the level of recession line protrusion.

8. *Roof colours*

The roof colour of any building shall be greys, browns, or greens and shall be in corrugated or tray steel or timber shingles.

9. *Fencing*

Fencing of all boundaries adjoining and within 6m of roads, right of ways, reserves, walkways shall be in post and wire only, not exceeding 1.2m in height.

10. *Landscaping - Sites with frontage to Cemetery Road*

A 6m wide landscape amenity planting area shall be created along the Cemetery Road frontage. The consent holder shall plant, irrigate, provide rabbit proof fencing and maintain the trees for a period of six years following establishment. The landscaping shall thereafter be retained and maintained by future landowners.

11. *Retention of existing tree planting on northern boundary*

The existing tree planting on the northern boundary of the development site shall be retained for duration of least 6 years and allowed to reach a height of at least 4m.

5. Prior to the occupation of the dwelling, the consent holder shall complete the following:

- a) Where engineering works completed in relation to or in association with this development have resulted in changes being made to the existing 'as-built' layout as submitted to Council for the underlying subdivision, the consent holder shall submit new 'as-built' plans and information detailing all changes made to the existing 'as-built' layout in accordance with Council's 'as-built' standards.
- b) Connection of the dwelling to the water supply at the boundary of the site installed at the time of the underlying subdivision. The costs of the connection shall be borne by the consent holder.

- c) Connection of the dwelling to the sewer lateral at the boundary of the site installed at the time of the underlying subdivision. The costs of the connection shall be borne by the consent holder.
 - d) The provision of a stormwater disposal system, designed by a suitably qualified professional as defined in Section 1.4 of NZS4404:2004, to dispose of stormwater from all impervious areas within the site. The system shall incorporate 'Aquacell' infiltration galleries or similar technology.
 - e) Where there is no existing vehicle crossing to the lot, the provision of a sealed vehicle crossing shall be constructed to the development to Council Standards, including compliance with Rule 14.2.4.2. Lots 83 – 90 shall not have vehicle access directly onto Cemetery Road.
 - f) The consent holder shall provide a suitable and usable power supply and telecommunications connection to the dwelling. These connections shall be underground from any existing reticulation and in accordance with any requirements/standards of Aurora Energy/Delta and Telecom.
6. Should there be any accidental discovery of archaeological sites of significance to iwi the protocol outlined in Appendix one of the Te Ao Marama Inc submission shall be followed.
7. The land-use consent shall lapse 20 years from the date of this decision.



In association with:
STREAT DESIGN LTD
Baxter Brown Ltd



Streat Developments Ltd
**GRANDVIEW
STAGE III**
Masterplan

Streat Design Ltd
Project Engineer

Author: _____
Reviewer: _____
Date: _____

No.	Date	Description	BY
1	18th Dec 04	Revised for approval	PG
2		Revised working plan	PG

Drawing Title	Sheet No
Grandview Stage III	1 of 10
Scale	1:1000 @ A1
Date	18th Dec 04
Job/Sheet Number	2214 - CP/1a.dwg
Designer	PG
Drawn	PG
Checked	PG

DO NOT SCALE DRAWING
CONTACT US TO OBTAIN ALL DIMENSIONS
Prior to Construction Works
Please Refer to

A

Willowridge copy.

Attach 4

Between

WILLOWRIDGE DEVELOPMENTS LIMITED

and

STREAT DEVELOPMENTS LIMITED

and

Christopher Garth STREAT and Garth William STREAT

and

Allan Stuart DIPPIE

AGREEMENT IN RESPECT OF PROPOSED ROAD COMPLETION

THIS AGREEMENT is dated the 10th day of December 2008

- BETWEEN** WILLOWRIDGE DEVELOPMENTS LIMITED a duly incorporated company having its registered office in Dunedin ("Willowridge").
- AND** STREAT DEVELOPMENTS LIMITED a duly incorporated company having its registered office in Dunedin ("Streat").
- AND** CHRISTOPHER GARTH STREAT of Queenstown, Company Director and GARTH WILLIAM STREAT of Christchurch, Company Director ("Guarantors" for Streat Developments Limited)
- AND** ALLAN STUART DIPPIE of Dunedin, Company Director ("Guarantor" for Willowridge Developments Limited).

BACKGROUND


- A. Willowridge is the registered proprietor of an estate in fee simple being 47.0885 hectares more or less being Lots 996-999 Deposited Plan 372972 and contained in Certificate of Title 362103 (Otago Registry) (referred to hereinafter as the "Willowridge Land").
- B. Streat is the registered proprietor of estates in fee simple being 6319 metres square more or less and 11.1008 hectares more or less being Lot 30 and Lot 45 respectively Deposited Plan 325203 and contained in Certificates of Title 101457 and 101463 (Otago Registry) (referred to hereinafter as the "Streat Land").
- C. It is the parties' intention to develop the above lands in the near future and wish to record their agreement with regards to the realignment of and works required in order to complete the section of Capell Avenue between the Willowridge Land and the Streat Land. The project shall be hereinafter referred to as the "Capell Avenue Road Link Upgrade".


THE PARTIES AGREE

1. The position of the proposed road link for Capell Avenue between the Willowridge Land and the Streat Land, as outlined on the attached plan and marked in yellow, is approved by both parties.

OK

9

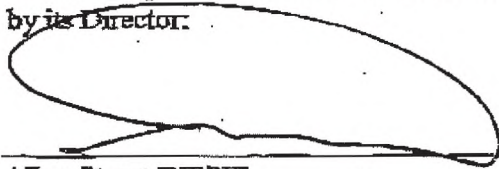
2. Streat is responsible for obtaining resource consent from the appropriate Authority for the new road link position (or if appropriate an amendment to any existing resource consent issued) in respect to development of the Streat Land. All costs in regard to the "repositioning" of the road link shall be the sole responsibility of Streat.
 3. The costs (minus any contribution made by the Queenstown Lakes District Council under the Long Term Council Community Plan Scheme) of the Capell Avenue Road Link Upgrade will be contributed to equally by both parties. For the avoidance of doubt costs include road construction, beams, stormwater, footpath and kerbing but exclude sewage, power, telephone/telecommunications and water services, tree stump removal and slash removal.
 4. All expenditure and design in relation to the Capell Avenue Road Link Upgrade must first be approved in writing by Streat.
 5. The works required to complete the Capell Avenue Road Link Upgrade shall be tendered (to a minimum of three (3) contractors who undertake roading works in the Queenstown Lakes District) to an independent engineer. However, the tender process can be waived should Willowridge provide an estimate of works which meets Streat's approval. Approval of any estimate provided is at Streat's sole discretion and shall be given by Streat in writing.
 6. It is agreed that Willowridge shall not invoice Streat for any costs in relation to the work required to complete the Capell Avenue Road Link Upgrade until the expiration of five (5) years from the date of this Agreement.
 7. Should Willowridge not have given notice to Streat of its intention to commence the Capell Avenue Road Link Upgrade project within ten (10) years from the date of this Agreement, and should works not have been completed within the period of twelve (12) years from the date of this Agreement, it is agreed that all conditions herein will become null and void and that this Agreement will be at an end. It is further agreed that no partial works shall trigger the terms and conditions of this Agreement and payment under Clause 6 shall only occur on completion of the works.
- 

8. Willowridge shall not sell, assign, transfer or otherwise dispose of the Willowridge Land or their interest in this Agreement unless the sale, transfer, assignment or other disposition reserves, for the benefit of Streat, Streat's rights and Willowridge's obligations as set out in this Agreement.
9. Streat shall not sell, assign, transfer or otherwise dispose of the Streat Land or their interest in this Agreement unless the sale, transfer, assignment or other disposition reserves, for the benefit of Willowridge, Willowridge's rights and Streat's obligations as set out in this Agreement.
10. Clauses 8 and 9 of this Agreement apply only to the connecting Lot forming part of the Capell Avenue Road Link Upgrade. Clauses 8 and 9 do not apply to any sale Agreement, transfer, assignment or other disposition relating to other Lots. Clauses 8 and 9 do not confer any right to lodge a Caveat against the Willowridge land (other than the said connecting Lot) or the Streat land.
11. Any dispute arising out of or in connection with this Agreement shall be finally resolved by arbitration under the Arbitration Act 1996 before a sole arbitrator who shall decide the dispute according to the substantive law of New Zealand and if there should be any dispute as to who should be appointed arbitrator, the arbitrator shall be appointed at the request of either party by the President of the New Zealand Law Society.
12. In consideration of the parties entering into this Agreement each party covenants with the other party as follows:
- i) The Guarantors guarantee payment of the amount invoiced pursuant to this Agreement and the performance by each party of the terms and conditions in this Agreement; and
 - ii) Christopher Garth Streat and Garth William Streat indemnify Willowridge Developments Limited against any loss that Willowridge Developments Limited might suffer should Streat Developments Limited
- 

- be lawfully disclaimed or abandoned by any liquidator, receiver or other person.
- iii) Allan Stuart Dippie indemnifies Streat Developments Limited against any loss that Streat Developments Limited might suffer should Willowridge Developments Limited be lawfully disclaimed or abandoned by any liquidator, receiver or other person.
- iv) No release, delay or other indulgence given by either party to the other or to successors or assigns or any other thing whereby the Guarantor would have been released had the Guarantor been merely a surety shall release prejudice or affect the liability of the Guarantor as a guarantor or indemnifier.
- v) As between each Guarantor and the other party to this Agreement, Christopher Garth Streat and Garth William Streat as Guarantors may for all purposes be treated as Streat Developments Limited and Willowridge Developments Limited shall be under no obligation to take proceedings against Streat Developments Limited before taking proceedings against Christopher Garth Streat and Garth William Streat.
- vi) As between each Guarantor and the other party to this Agreement, Allan Stuart Dippie as Guarantor may for all purposes be treated as Willowridge Developments Limited and Streat Developments Limited shall be under no obligation to take proceedings against Willowridge Developments Limited before taking proceedings against Allan Stuart Dippie.
- vi) The guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the benefit of any terms and conditions under this Agreement.
- vii) Should there be more than one Guarantor their liability under this guarantee shall be joint and several.
- BB

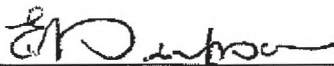
Signed as an agreement.

SIGNED by WILLOWRIDGE DEVELOPMENTS LIMITED
by its Director:



Allan Stuart DIPPIE

Witness: (if other than two directors sign)



Signature of witness

Elizabeth Joy Simpson

Full name of witness

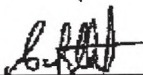
Administration Manager

Occupation of witness

Dunedin

Address of witness

SIGNED by STREAT DEVELOPMENTS LIMITED
by its Directors:



Christopher Garth STREAT


Garth William STREAT

Witness: (if other than two directors sign)



Signature of witness

Gemina Pemberton-Smith

Full name of witness

Tour Planner

Occupation of witness

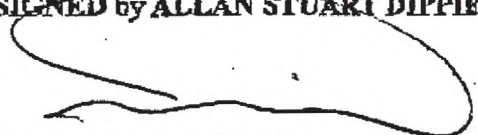
Level 1, 20 Ahoi, The Targe

Address of witness

Dunedin

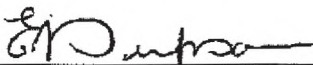


SIGNED by ALLAN STUART DIPPIE as Guarantor.



Allan Stuart DIPPIE

Witness:



Signature of witness

Elizabeth Joy Simpson

Full name of witness

Administration Manager

Occupation of witness

Dunedin

Address of witness

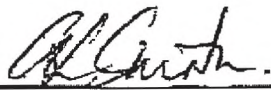
SIGNED by CHRISTOPHER GARTH STREAT and GARTH WILLIAM STREAT as Guarantors



Christopher Garth STREAT

Garth William STREAT

Witness:



Signature of witness

Emma Pemberton-Smith

Full name of witness

Town Planner

Occupation of witness

Level 1, 20 Arnot St, The Forge,

Address of witness

Queenstown.



Easement instrument to grant easement or profit à prendre or create land covenant Sections 90A and 90F, Land Transfer Act 1952

2003/6180EF Approved Registrar-General of Land

Land registration district

OTAGO

BARCODE

Grantor

Surname(s) must be underlined or in CAPITALS.

STREET DEVELOPMENTS LIMITED

Grantee

Surname(s) must be underlined or in CAPITALS.

WILLOWRIDGE DEVELOPMENTS LIMITED

Grant of easement or profit à prendre or creation of covenant

The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, grants to the Grantee (and, if so stated, in gross) the easement(s) or profit(s) à prendre set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

DATED this day of

Attestation

Signed by Street Developments Limited by its Directors

Signed in my presence by the Grantor

Christopher Garth STREET

[Handwritten Signature]

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name: Gemma Reimbertsen-Smith

Occupation: Town Planner

Address: Level 1 The Forge, 20 Mtford St Queenstown

Garth William STREET

[Handwritten Signature]

Signature [Common Seal] of Grantor

Signed by Willowridge Developments Limited by its Director

Signed in my presence by the Grantee

[Handwritten Signature]

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name: Elizabeth Joy Simpson

Occupation: Administration Manager

Address: Dunedin

Alan Stuart DIPPIE

Signature [Common Seal] of Grantee

Certified correct for the purposes of the Land Transfer Act 1952

[Blank box for Solicitor for the Grantee]

[Solicitor for] the Grantee

* If the consent of any person is required for the grant, the specified consent form must be used.

Annexure Schedule 1

2003/6180EF
Approved
Registrar-General of Land

Easement instrument

Dated

Page 2 of

pages

Schedule A

Continue in additional Annexure Schedules if required.

Purpose (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Covenant		CT 101463 and 101457	CT 362103

Easements or profits à prendre rights and powers (including terms, covenants, and conditions)

Delete phrases in [] and insert memorandum number as required.

Continue in additional Annexure Schedule if required.

Unless otherwise provided below, the rights and powers provided in specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the Ninth Schedule of the Property Law Act 1952.

The implied rights and powers are [varied] [negated] [added to] or [substituted] by:

[Memorandum number , registered under section 155A of the Land Transfer Act 1952]

[The provisions set out in Annexure Schedule 2].

Covenant provisions

Delete phrases in [] and insert memorandum number as required.

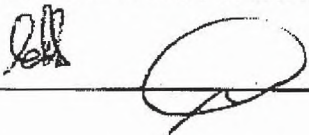
Continue in additional Annexure Schedule if required

The provisions applying to the specified covenants are those set out in:

[Memorandum number , registered under section 155A of the Land Transfer Act 1952]

[The provisions set out in Annexure Schedule 2].

All signing parties and either their witnesses or solicitors must sign or initial in this box.



Annexure Schedule 1

2003/5032EF
Approved
Registrar-General of Land

*Easement Dated 2008 Page of pages

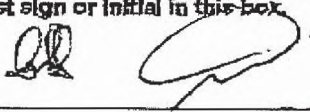
* Insert type of instrument. Continue in additional Annexure Schedule if required.

Not to object to further residential development or zoning of land:

1. The Grantor shall not submit in opposition to any relevant authority or permit any agent employee or other representative to submit in opposition or support any submission in opposition to any future application for any resource consent for any purpose made by the Grantee or supported in part or in full by the Grantee to any relevant authority to:

- a.) Subdivide or develop residentially any land owned by the Grantee or any party nominated by the Grantee which is part or all of the land contained in Certificates of Title 362103.
- b.) Any change or variations to or review of any Council plan (including any re-zoning whether or not initiated by the Council) in respect of the residential development of any land owned by the Grantee or any party nominated by the Grantee which is part or all of the land contained in Certificates of Title 362103.

If this Annexure Schedule is used as an expansion of an Instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.



IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under section 120 of the
Act

BETWEEN WILLOWRIDGE DEVELOPMENTS
LIMITED

(ENV-2008-CHC-063)

Appellant

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

AND STREAT DEVELOPMENTS
LIMITED

Applicant

BEFORE THE ENVIRONMENT COURT

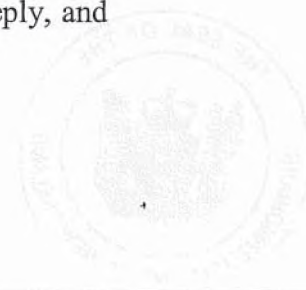
Environment Judge J R Jackson sitting alone under section 279 of the Act

In Chambers at Christchurch

CONSENT ORDER

Introduction

- [1] The Court has read and considered the appeal, the respondent's reply, and the memorandum of the parties received on 5 January 2009.



[2] No person has given notice of an intention to become a party under s274.

[3] The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order;
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

Order

[4] Therefore the Court orders, by consent, that the appeal is allowed to the extent that the decision of the Queenstown Lakes District Council dated 19 February 2008 granting resource consent to Streat Development Limited (RM050083) is confirmed *subject to* the following amendments to the conditions of consent:

(1) Amend Condition 1 of the subdivision consent to read as follows:

"1. That the development be carried out in accordance with the application and plan drawing titled – Proposed 90 lot subdivision Lots 30 & 45 DP 325203, project title - Grandview Stage 3a,3b,3c,3d RM050083, attached hereto and marked "A" with the exception of any amendments required by the following conditions of consent."



(2) Amend Condition 1 of the land-use consent to read as follows:

"1. That the development be carried out in accordance with the application and plan drawing titled - Proposed 90 lot subdivision Lots 30 & 45 DP 325203, project title - Grandview Stage 3a,3b,3c,3d RM050083, attached hereto and marked "A" with the exception of any amendments required by the following conditions of consent."

[5] The appeal is otherwise dismissed.

[6] There is no order for costs.

DATED at CHRISTCHURCH 15 January 2009.

J R Jackson

J R Jackson
Environment Judge

Issued: 15 JAN 2009





Scale bar (meters)



Grandview stage 3 Memorandum of proposed easements Note: Utility Easements not shown

Purpose	Shown	Serv ten	Dom ten
Right of Way	A	Lot 58	Lot 52
	B	Lot 52	Lot 59
	C	Lot 53	Lot 59
	D	Lot 59	Lot 53

Grandview stage 3 Table of Areas

6 Reserves	7510m ²
7 Roads	28096m ²
90 Residential lots	81312m ²
2 ROW's	413m ²
Total area	117331 m²

Cemetery Rd

Gravel sealed

No. Date	Revision Details		By	Ver.	App.
<p>Drawing prepared by Street Design Ltd 89 Ardour Point Rd RD1 OUDENSTOWN Tel 03 442 6789</p>					
<p>Project Location Cemetery Rd Lake Hawea</p>					
<p>Client: Street Developments Ltd</p>					
<p>Project: Grandview stage 3a,3b,3c,3d RM 050083 Territorial Authority QLDC</p>					
<p>Drawing Title: Proposed 90 lot subdivision Lots 30 & 45 DP 325203</p>		<p>Scale 1:2000 Drawing No. Rev. 325203 1:2000 Consent/Nov 08</p>			
<p>Date 30 Nov 08</p>		<p>Project No. 306940</p>			
<p>Drawn C Street</p>		<p>Designated P Baxter & C Street</p>			
<p>Date 2005</p>		<p>Areas and dimensions subject to final survey</p>			



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	Streat Developments Limited
RM reference:	RM050083
Location:	Cemetery Road, Hawea Flat
Proposal:	Application for an extension of time pursuant to s125 of the Resource Management Act 1991, to extend the lapse date of RM050083 (subdivision component) by five years.
Type of Consent:	Extension of Lapse Date
Legal Description:	Lot 30 Deposited Plan 325203 held in Computer Freehold Register 101457; and Lot 45 Deposited Plan 325203 held in Computer Freehold Register 101463
Valuation Number:	2908203905 2908203830
Zoning:	Rural Residential
Activity Status:	N/A
Notification:	N/A
Commissioner:	Commissioner Sinclair
Date Issued:	19 September 2013
Decision:	Time Extension – Granted

This is an application for an extension of time under Section 125 of the Resource Management Act 1991 to extend the lapse date of resource consent RM050083 (subdivision component) by five years. This application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 19 September 2013. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

Resource consent RM050083 (subdivision component) was approved by the Environment Court by Consent Order (ENV-2008-CHC-063) on 19 January 2009 and therefore lapses on 19 January 2014. The application to extend the duration of resource consent RM050083 was lodged on the 13 August 2013 prior to the lapsing date stipulated in Section 125(1A)(b) of the Act, allowing consideration under this section.

The subject site is located at Cemetery Road, Hawea Flat, and is legally described as Lot 30 Deposited Plan 325203 and Lot 45 Deposited Plan 325203.

Decision

Consent to the extension request is approved pursuant to Section 125 of the Act such that RM050083 (subdivision component) shall now lapse on 19 January 2019.

Reasons for the Decision

An extension of five (5) years is sought to allow RM050083 (subdivision component) to lapse on 19 January 2019.

Background

Resource consent RM050083, granted 19 January 2009, approved a subdivision of an 11.7 hectare property into 90 residential allotments, and for land use consent to construct residential units and accessory buildings on each of those lots in accordance with specific design restrictions. The land use consent included a condition that specifies that the land use component shall lapse 20 years from the date of the decision, expiring on 19 January 2029.

Resource consent RM050083 was processed on a publicly notified basis, and the Council granted the consent. The Council decision was appealed, and the Environment Court subsequently issued a consent order allowing the appeal.

Assessment

Section 125(1A)(b) of the Resource Management Act 1991 allows the Council to grant an application for an extension to the duration of a resource consent, provided that such an application is received prior to the date of expiration, and provided the following matters have been taken into account:

- (i) *whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and*
- (ii) *whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and*
- (iii) *the effect of the extension on the policies and objectives of any plan or proposed plan.*

Relevant Matters Under Section 125(1A)(b)

(i) Substantial Progress or Effort

In determining if substantial progress or effort has been, and continues to be, made towards giving effect to the consent, the Act does not require that the work is completed.

Case law has illustrated that the question of whether a consent has been given effect to is one of degree, and will vary from case to case depending on the facts, and the nature of the work authorised by the consent, what has been done, and why it has not been completed¹.

The sealing and upgrade of Cemetery Road has been completed as required by conditions of consent but undertaken by Council by agreement. Aside from this, no physical works have been undertaken on the subject property.

The applicant considers that, since the consent was issued in 2009, the economic environment changed significantly with the onset of the global financial crisis, which made the construction and sale of these sections economically unviable at that time. This is accepted, given the downturn in the economic climate that was evident at that time.

It is accepted that the applicant has demonstrated that some effort has been made towards giving effect to the consent; specifically, forming / upgrading Cemetery Road which was required by condition of consent but undertaken by Council by agreement. However this is not considered substantial progress or effort under Section 125(1A)(b) of the Act.

(ii) Whether written approvals have been obtained

Resource consent RM050083 was processed on a publicly notified basis, and 14 submissions were received within the period for making submissions. Of these, five (5) submissions were received in support of the proposal, and seven (7) submissions were received in opposition. Two (2) of these were neutral submissions.

As noted above, the resource consent decision issued by the Council was appealed to the Environment Court. The appellant was Willowridge Developments Limited, who was a submitter in opposition to the proposal. No persons gave the Court notice of an intention to become a party under section 274 of the Resource Management Act 1991.

The reasons for the appeal were as follows:

- Granting the resource consents prevents integrated development and adequate urban design for the extension of Hawea Township;
- The resource consents have the effect of forcing Willowridge Developments Limited to provide roading access and linkages to the Streat Developments Limited block to achieve adequate urban design;
- The resource consents create potential reverse sensitivity issues between Streat Developments Limited's occupants and the appellant's land because of shading and hazard created by a pine plantation;
- Declining the resource consents would best achieve the sustainable management of the region's natural and physical resources;
- The respondent could not have been satisfied that granting consent would not exhaust the capacity of sewage and water infrastructure to serve undeveloped "Township" zoned land;
- The respondent did not adequately address potential conflict created by the subdivision design with future development of the appellant's land.

The appellant sought that the subdivision and land use consents are not granted; rather a comprehensive plan change be pursued.

¹ *Goldfinch v Auckland C.C & Cooke HC 101/96, 109/96, 1 NZED 532. [1997] NZRMA 117*

The Court allowed the appeal by Willowridge Developments Limited to the extent that the decision of the Council granting resource consent is confirmed subject to amendments to Condition 1 of both the subdivision and land use consents. The appeal was otherwise dismissed.

In light of the above, given the decision of the Court, it is accepted that the subdivision and land use will progress, and that the development provides for future residential development.

Section 125(1A)(b)(ii) is not concerned with the adverse effects of the activity itself; rather, it is concerned with any adverse effects on any persons as a result of the granting of an extension. Such adverse effects may include any uncertainties caused by the delay in construction activities, or any effects related to any changes to the physical environment or to activities in the vicinity of the site since the consent was granted. In this instance, no person is considered to be adversely affected by the extension.

Additionally, as noted above, no works have commenced on the subject site, and subsequently there will be no additional effects from extended building works.

It is considered that, with the land use consent being valid for 20 years, an extension of time on the subdivision component for five (5) years would allow the development as approved to be implemented.

Consequently, the provisions of Section 125(1)(b)(ii) have been satisfied.

(iii) Effect on the Policies and Objectives of the Plan or Proposed Plan

RM050083 was assessed against the provisions of the Partially Operative District Plan with regard to for subdivision in the Rural Residential Zone. Those provisions have not changed since the date of the decision. This suggests that the same application would be assessed similarly today leading to the grant of consent.

A five year extension of time will therefore not have any effects on the objectives and policies of the District Plan.

Conclusion

Section 125(1A)(b) requires consideration of whether substantial progress has been or continues to be made toward giving effect to the proposal, whether any persons would be adversely affected by the extension of duration, and whether the policies and objectives of the plan or proposed plan would be adversely affected. The Act provides no guidance in terms of weighting these three considerations, but leaves the specific context to direct the appropriate overall conclusion.

By taking these contributing factors into account, the consent authority can make an informed decision as to whether this would be considered to be substantial progress. Consideration must be given to whether the site as is would result in additional adverse effects compared to that of the completed development. No physical works have been undertaken (with the exception of the upgrading / formation of Cemetery Road), and as such there are no effects of the approved development, that would otherwise exist if works had commenced. It is considered that any future works will not be undertaken over an extended period of time that was not anticipated by the granting of resource consent RM050083.

In this instance, whilst no substantial progress or efforts have been made towards giving effect to resource consent RM050083, no persons would be affected by the granting of a time extension, and in addition, the extension of time sought under this application will not have any adverse effect on the consented activity meeting the objectives and associated policies of the District Plan.

Given the foregoing, the application to extend the lapse date of resource consent RM050083 for a period of five (5) years is considered to be appropriate

Other Matters

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

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

If you have any enquiries please contact Adonica Giborees on (03) 450 0338 or adonica.giborees@qldc.govt.nz.

Prepared by



Adonica Giborees
SENIOR PLANNER

Reviewed by



Lucy Millton
PLANNER



QUEENSTOWN
LAKES DISTRICT
COUNCIL

File: RM060010
Valuation Number: 2908205901

15 September 2008

Streat Developments Limited
C/- Streat Design Limited
89 Arthurs Point Road
RD 1
QUEENSTOWN 9371

Dear Sir

DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

STREAT DEVELOPMENTS LIMITED – RM060010

This decision was reissued on 12 September 2008 under section 133A of the Resource Management Act to correct minor errors. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council. The decision has been reissued as a condition relating to a roading contribution was excluded from the decision.

We refer to your application for subdivision consent under Section 88 of the Resource Management Act 1991 to subdivide a site into 36 residential allotments. The application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 4 September 2008. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

The subject site is located at Cemetery Road, Hawea and is legally described as Lot 1 Deposited Plan 304937 held in Certificate of Title 19606.

Under the Partially Operative District Plan the site is zoned Rural Residential and the proposed activity requires:

- A **controlled** subdivision activity pursuant to Rule 15.2.3.2 which provides for subdivision as controlled activity provided that all the site and zone standards are met.

Overall, the application is considered to be a **controlled** activity.

The application was considered on a non-notified basis in terms of Section 93(1)(a) of the Act whereby the consent authority can assess the proposal as a controlled activity without the need to obtain the written approval of affected persons, and in terms of Section 93(1)(b) whereby the consent authority were satisfied that the adverse effects of the activity on the environment will be minor.

Decision

Consent is GRANTED pursuant to Section 104 of the Act, subject to the following conditions imposed pursuant to Section 220 of the Act:

General Conditions

- 1 That the development be carried out in accordance with the plans (**Streat Design Ltd "RM060010 Lot 1 DP 304937 Proposed Subdivision 36 lot rural residential – Resource Consent Plan 3 July 2008" – stamped as "Approved Plans" dated 1 September 2008**) and the application as submitted, with the exception of the amendments required by the following conditions of consent.
- 2 That unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's own expense.

Engineering Conditions

- 3 All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being New Zealand Standard 4404:2004 with the amendments to that standard adopted on 5 October 2005, except where specified otherwise.
- 4 The subdividing owner of the land shall provide a letter to the Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this subdivision and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.4 & 1.5 of NZS4404:2004 "Land Development and Subdivision Engineering", in relation to this development.
- 5 Prior to the commencement of any works on the land being subdivided and prior to the Council signing the Title Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall provide to the Queenstown Lakes District Council for review, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (3), to detail the following engineering works required:
 - a) The consent holder shall submit a Site Management Plan for review and approval that outlines the proposed methods for controlling dust nuisance and silt run-off to ensure that there are no significant adverse effects beyond the site boundaries. In terms of dust control, the site management plan shall detail the approximate area that will be exposed at any one time, how the site will be watered – eg water cart, k-lines etc, and the proposed water supply source. The site management plan shall be implemented prior to commencing works at the site.
 - b) The provision of a water supply to Lots 1 – 36 in terms of Council's standards and connection policy. This shall include the construction of a 150mm water main from the existing 200mm main between Cemetery Road and Noema Terrace, and an Acuflo GM900 as the toby valve for each lot. The costs of the connections shall be borne by the consent holder.
 - c) The provision of a foul sewer connection from Lots 1 – 36 to Council's reticulated sewerage system in accordance with Council's standards and connection policy. The costs of the connections shall be borne by the consent holder.
 - d) The provision of a system to dispose of stormwater from all roads and footpaths, utilising 'Aquacell' infiltration galleries and catch pit screens, in accordance with the application.
 - e) The provision of fire hydrants with adequate pressure and flow to service the development with a Class FW2 fire risk in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies 2008, once the Council upgrades to the Hawea

water supply have been completed. Any lesser risk must be approved in writing by Fire Service NZ, Dunedin Office.

- f) The construction of an access to each lot, in accordance with Council's standards. Road carriageway widths shall be as follows:

Road 1: 8m, footpath on one side
Roads 2 and 3: 6m
Access Lot 37: 3.5m

These roads shall be sealed. Cul de sac heads shall be designed in accordance with Figure 3.4 of NZS4404:2004, with a 9.5m minimum radius.

A give way control shall be provided on the Road 1 approach to Road 2.

- g) The provision of road lighting in accordance with Council's road lighting policies and standards, including the *Southern Light* strategy. Any road lighting installed on private roads/rights of way/access lots shall be privately maintained and all operating costs be the responsibility of the lots serviced by such access roads. Any lights installed on private roads/rights of way/access lots shall be isolated from the Council's lighting network circuits.
- h) The provision of a sealed vehicle crossing that shall be constructed to Lots 1, 4, 31 and 36 in accordance with Council's standards.
- i) The provision of suitable secondary flow paths to discharge stormwater flows from the subdivision in a 1 in 100 year rainfall event. Supporting calculations shall be provided with the flow path design.
- j) The construction of the intersection of Road 1 with Cemetery Road, in general accordance with Diagram 3 in Appendix 7 of the District Plan. This shall include the raising of the low section of Cemetery Road to the east of the intersection with Road 1 to improve sight lines to the east. The final design shall be subject to the approval of Council.

Prior to commencing these works, the consent holder shall submit a traffic management plan to Council for approval. The Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor (certification gained by attending the STMS course and getting registration). All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Traffic Management Plan.

- k) The provision for street landscaping on Roads 1 and 2. A plan shall be submitted for Council approval, showing the location, species and density of all plantings.
- 6 Prior to certification pursuant to Section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
- a) The submission of 'as-built' plans in accordance with Council's 'as-built' standards, and information required to detail all engineering works completed in relation to or in association with this subdivision.
- b) The completion of all works detailed in Condition (5) above.
- c) Each lot created, for residential use, by this subdivision shall be provided with a minimum electricity supply of single phase 15kVA capacity. This supply shall be made available to the net area of the Lot. Each supply shall be underground from any existing reticulation.

- d) The consent holder shall provide a suitable and usable telecommunications connection to each lot. These connections shall be underground from any existing reticulation and in accordance with any requirements/standards of Telecom.
 - e) Where this development involves the vesting of assets in the Council, the consent holder shall submit to Council a copy of the Practical Completion Certificate, including the date it was issued and when it lapses. This information will be used to ensure the Council's Engineering consultants are aware of the date where the asset is no longer to be maintained by the consent holder and to assist in budgeting for the Annual Plan.
 - f) All signage, including road names, shall be installed in accordance with Council's signage specifications and all necessary road markings completed on all public or private roads (if any), created by this subdivision.
 - g) The consent holder shall provide evidence, to Council's satisfaction, as to how Access Lot 37 will be maintained on an ongoing basis.
 - h) A suitably qualified engineer experienced in soils investigations shall provide certification, in accordance with NZS 4431, for all areas of fill within the site on which buildings may be founded (if any).
 - i) The consent holder shall submit to Council as built plan of the fill. This plan shall be in terms of the New Zealand Map grid and shall show the contours indicating the depth of fill. Any fill that has not been certified by a suitably qualified and experienced engineer in accordance with NZS 4431 shall be recorded on the as built plan as "uncertified fill".
 - j) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
 - k) All earth-worked areas shall be top-soiled and grassed or otherwise permanently stabilised.
 - l) Payment to the Council of a roading upgrade contribution equivalent to 50% of the cost of sealing the length of road frontage of the subdivision along Cemetery Road, unless an alternative agreement is made with Council. For the purpose of calculating the roading contribution, the construction cost per lineal metre shall be \$375 (excluding GST).
- 7 Prior to certification pursuant to Section 224 of the Act and in accordance with Section 221 of the Resource Management Act 1991, a consent notice shall be registered on the pertinent Certificate of Title for the performance of the following conditions on a continuing basis:
- a) At the time a dwelling is erected on Lots 1 - 36, the owner for the time being shall engage a suitably qualified professional as defined in Section 1.4 of NZS4404:2004 to design a stormwater disposal system, incorporating 'Aquacell' infiltration galleries or similar technology, that is to provide stormwater disposal from all impervious areas within the site. The proposed stormwater system shall be subject to the review of Council prior to implementation.
 - b) The owners of Access Lot 37 shall be aware that they have same the on-going rights and responsibilities for their Access Lots as implied in the Property Law Act with respect to Rights of Ways. The Council is not responsible for any issue in relation to Jointly Owned Access Lots.
 - c) At the time that a dwelling is constructed on any lot that does not have a vehicle crossing, the owner for the time being shall construct a crossing in accordance with the requirements of Council applicable at that time, including compliance with Rule 14.2.4.2 of the District Plan. Access to all lots shall be from the subdivision's internal roading network; there shall be no direct vehicle access to Cemetery Road or Domain Road.

- d) If a dwelling is constructed on any lot prior to any relevant Council upgrades of the Hawea water network being completed, domestic water storage is to be provided at the lot owner's expense, prior to occupation of the dwelling. The tank shall have a minimum volume of 7000 litres to provide for one day of peak usage in accordance with Council's standards. The tank shall fill up slowly (small inlet) or at night (electronically controlled inlet). The tank system and associated booster pump design shall be approved by Council's Water Network Managers. After the required upgrades to the water network are completed, none of the above will be necessary.
- e) Boundary fencing on any of Lots 1-36 shall be post and wire or post and rail only, with a maximum height of 1.2m.
- 8 All easements shall be granted or reserved.
- 9 That Lot 37 hereon (legal access) be held as to four undivided one fourth shares by the owners of Lots 32, 34, 35 and 36 hereon as tenants in common in the said shares and that individual Computer Freehold Registers be issued in accordance therewith.
- 10 This subdivision may be staged. For the purposes of issuing approvals under Sections 223 and 224(c) of the Resource Management Act 1991, the conditions of this consent shall be applied only to the extent that they are relevant to each particular stage proposed. This consent may be progressed in the following stages:
- Stage 1 – Lots 1-8 and lot 103 (road to vest)
 Stage 2 – Lots 11, 12, 15, 16, 19, 20, 23, 24, 28, 29 and reserve lots 101, 102.
 Stage 3 – Lots 9, 10, 13, 14, 17, 18, 21, 22, 25, 26 and reserve lot 100.
 Stage 4 – Lots 27, 30-36, Access Lot 37

Earthworks

- 11 Prior to commencing any work on the site the consent holder shall install a vehicle crossing or crossings, which all construction traffic shall use to enter and exit the site. The minimum standard for such crossings shall be a minimum compacted depth of 150mm AP40 metal. Any such crossing shall be upgraded in accordance with Council's standards, or removed, at the time Road 1 and the intersection with Cemetery Road are constructed.
- 12 The consent holder shall install measures to control and or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with the approved site management plan. These measures shall be implemented prior to the commencement of any earthworks on site and shall remain in place for the duration of the project.
- 13 The consent holder shall provide Council with the name of a suitably qualified professional as defined in Section 1.4 of NZS4404:2004 who is to supervise the earthworks. This engineer shall continually assess the condition of the earthworks and implement any design changes /additions if and when necessary.
- 14 The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at their expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.
- 15 No earthworks, temporary or permanent, are to breach the boundaries of the site.

Advice Note

The Council may elect to exercise its functions and duties through the employment of independent consultants.

Reasons for the Decision

Proposal

Subdivision consent is sought to subdivide a site into 36 residential allotments ranging in size from 4001m² – 4544m².

The subdivision is proposed to be accessed via a single entry on Cemetery Road. All lots are proposed to have frontage to the internal roading network, with the exception of Lots 32 and 34-36 which obtain access from an access lot.

The applicant proposes to connect to the existing reticulated water and wastewater systems. Stormwater is proposed to be disposed of to ground via 'aqua-cell' disposal systems. Letters from Telecom and Delta confirming that power and telecommunications are available to service the subdivision.

The applicant has agreement with the Hawea Irrigation Company to pipe the existing open channel water race underground. This area is to be vested in Council as reserve.

Earthworks are proposed to form new roads and re-contour shallow gullies, with the total volume proposed being approximately 30,000m³.

The applicant originally sought land use consent as part of the same application, to construct a dwelling on each lot. This aspect of the proposal was removed and does not form part of this application.

Site and Locality

The subject site is 16.683 hectares in size and is located on the southern side of Cemetery Road, with frontage to both Cemetery and Domain Roads. The site is located on the flat land to the south of the terminal moraine associated with the Hawea glacier. To the west of the site across Domain Road is the Hawea River, to the north is the Timsfield subdivision, and to the east and south is undeveloped pastoral land.

The site is currently covered in pasture, wilding pines and shelter belts. The Hawea Irrigation Company's open channel water races runs across the site.

Effects on the Environment

Land, Flora and Fauna

Earthworks of approximately 30,000m³ are proposed, to construct new roads, fill two shallow gullies in the north-western corner of the site, fill areas to be disturbed as a result of wilding pine removal, pipe the water race underground and upgrade Cemetery Road. These earthworks are not expected to significantly change the topography of the site and associated landscape character. It is also noted that the site is zoned for Rural Residential development and therefore works of this nature is expected.

The application included a generic site management plan. Further information on site management was requested from the applicant, particularly with respect to dust control measures. The information provided was insufficient and therefore Lakes Environmental's Engineer has recommended a condition of consent requiring a more detailed site management plan be submitted to the Council for approval prior to works commencing. As there are supply issues with the Hawea water supply alternative water supplies for dust control are likely to be required.

Sediment runoff is not expected to be an issue given the flat topography of the site. Specific measures to prevent contamination of the water race will need to be implemented, and details will be requested as part of the site management plan described above.

There is no significant vegetation or known fauna on the site that will be adversely affected by the proposal.

The Hawea Irrigation Company's (HIC) open channel water race runs across the subject site. The applicant has a legal agreement with the HIC to pipe this water race underground. Affected party approval has also been obtained from the HIC. No adverse effects beyond the subject site are anticipated, subject to the conditions of consent relating to site management as discussed above.

It is noted that the application originally stated that excess hardfill would be deposited on a neighbouring property. The applicant has since confirmed that this activity no longer forms part of the application.

Overall, it is considered that adverse effects in terms of land, flora and fauna can be avoided or mitigated by conditions of consent. No specific party is considered to be adversely affected.

Water Supply

An upgrade to the Hawea reservoir trunk main is scheduled to be undertaken in 2008/09. Rationale recommended that connection to the subdivision not be made until this upgrade is undertaken, due to inadequate supply pressures and fire fighting supplies in the existing system.

The applicant has proposed to install storage tanks to achieve adequate water supply pressures, should any dwellings be constructed on the site prior to the trunk main upgrade occurring. MWH, Council's water network manager, has advised that this is acceptable and a consent notice is recommended by Lakes Environmental's Engineer.

It is noted that negotiations are in progress relating to the construction of a new 150mm water main extending from the existing 200mm main between Cemetery Road and Noema Terrace, to the subject site. The applicant has requested that this work be undertaken by Council with costs recovered from development contributions. MWH has advised that there is no funding available for this in the current financial year and therefore the applicant should be responsible for the design, construction and management of the new main and will be reimbursed by Council at a later date. It is not necessary that the outcome of these negotiations is known prior to the granting of this consent, however the new water main is required to be installed prior to certification of the subdivision in accordance with s224(c) of the Act.

With regards to fire fighting supplies, the Council's infrastructure advisors (MWH and Tonkin & Taylor) have advised that alternative fire fighting supplies are not required in the interim period before the Hawea water upgrade is undertaken.

Overall, it is considered that the subdivision can be adequately serviced and no adverse effects in terms of water supply are expected.

Wastewater

Rationale has confirmed on behalf of the Council that there is capacity in the reticulated wastewater system for the proposed subdivision.

Stormwater

A site and soils assessment has been provided in support of the application, concluding that the site is suitable for on-site stormwater disposal. MWH, Rationale and Lakes Environmental's Engineer are satisfied with the proposed stormwater disposal methods subject to standard conditions of consent requiring the detailed design be submitted to the Council for approval.

Power and Telecommunications

Letters from Delta and Telecom have been provided as evidence that power and telecommunication can be supplied to the subdivision.

Overall, with the conditions of consent imposed, it is considered that any effects of establishing the necessary servicing will be minor.

Natural Hazards

The Council's natural hazards register indicates that the Northwest Cardrona Fault passes within 100m of the subject site. Lakes Environmental's Engineer has commented on this as follows:

"Although Council's Hazard Register Maps label the fault as being active, the seismic risk is considered sufficiently low in terms of frequency that the proposed subdivision will not be subject to an unacceptable level of risk from this potential hazard."

Overall, the adverse effects in terms of natural hazards are considered to be de minimus.

People and Built Form

The proposed lots comply with the minimum lot size for the Rural Residential zone, being 4000m². All site and zone standards have been met. The proposal is therefore considered to be consistent with the anticipated development in the Rural Residential zone and accordingly there are no adverse effects in terms of people and built form.

The applicant has proposed to impose a consent notice restricting boundary fencing to post and rail or post and wire construction. This is considered appropriate in order to prevent fencing of an urban nature from degrading the rural environment.

Culture and Heritage

There are no known sites of cultural significance that are of relevance to the proposal.

Construction Traffic

Lakes Environmental's Engineer has recommended standard conditions of consent requiring the construction of a vehicle crossing for construction traffic to minimise the spread of earth onto the surrounding road network. A traffic management plan is also considered appropriate, to ensure the safety of Cemetery Road is maintained during the construction of the new intersection.

Roading

GHD has reviewed the proposed roading network on behalf of the Council. A number of recommendations were made, which have either resulted in amendments to the application or conditions of consent recommended by Lakes Environmental's Engineer.

In summary, the proposed road widths and layout are considered acceptable, with reference to NZS4404:2004. It is recommended that the width of access Lot 37 is widened to be consistent with Council's amendments to the abovementioned engineering standard. It is also considered appropriate to require the applicant to detail how ongoing maintenance of access Lot 37 will be managed, given that the access will not be managed by Council nor will it fall under the provisions of the Property Law Act. These actions have been ensured through conditions of consent.

Initial recommendations from GHD included the creation of a 'spite strip' to prevent lot owners from creating vehicle crossings directly onto Domain Road. However the Council's roading manager has since advised that it is more appropriate to impose consent notices on each lot, requiring access to be obtained from the subdivision's internal roading system only. Future lot owners have the option of applying for a variation to their consent notice should they wish to obtain access directly to Domain Road, and Council can assess the merits of these applications on a case by case basis in the future. This approach is considered to be the most practical and will not create any adverse effects on the proposed subdivision roading network or the existing Council road network.

Vehicle Crossings

The GHD report makes recommendations in respect of vehicle crossing for several specific lots, in order to maximise visibility. However as the rules in the PODP include specific requirements in terms of sight lines consent notices are not considered necessary to enforce the recommendations of GHD. The applicant has proposed to construct vehicle crossings as part of the subdivision for Lots 1, 4, 31 and 36 which is considered appropriate given the short road frontage of these lots.

Traffic Generation

Given that the proposed subdivision is a controlled activity in the Rural Residential Zone, this density of development and the resulting traffic generation is anticipated by Council and accordingly the adverse effects in terms of traffic generation are considered to be minor.

Roading Contribution

It is noted that the issue of roading contributions is under dispute. The applicant would prefer to seal a portion of Cemetery Road instead of paying a roading contribution. Approval needs to be obtained from the Council for this to occur. To allow some flexibility for the applicant, condition 6(l) has been imposed which requires payment of a roading contribution unless an alternative agreement is reached with the Council.

Nuisance

Subject to standard conditions of consent relating to site management, adverse effects arising from the construction of the subdivision are considered to be de minimus at most.

Assessment Matters

The relevant assessment matters are contained within Part 15 (Subdivision, Development and Financial Contributions) of the Partially Operative District Plan, and are discussed below:

15.2.6.4(i) Lot Size and Dimensions

Lot size and dimensions are considered appropriate to service the anticipated land uses and maintain amenity values.

15.2.7.3 Subdivision Design

The subdivision layout is considered to be acceptable.

15.2.8.3 Property Access

The safety and efficiency of the roading network has been assessed by GHD on behalf of the Council, and by Lakes Environmental's Engineer to be appropriate. A roading contribution is payable to offset the increased demand on the Council's wider roading network. The character and amenity of the subdivision will be enhanced by the proposed street plantings.

15.2.11.4 Water Supply

The applicant has demonstrated that adequate potable water will be available to service the subdivision once the planned upgrades to the Hawea Town Supply are undertaken. Until this upgrade occurs, domestic water pressures will be ensured by the provision of domestic water storage tanks, should a dwelling be constructed on any lot prior to the relevant upgrades being undertaken. Development contributions will be levied to offset the increased demand on Council's infrastructure.

15.2.12.1 Stormwater Disposal

The proposed stormwater design is considered acceptable and is consistent with the relevant assessment matters.

15.2.13.2 Sewage Treatment and Disposal

The applicant has demonstrated that the existing Council reticulated sewage system can cater for the proposed subdivision.

15.2.15.1 Energy Supply and Telecommunications

Delta and Telecom have confirmed that energy supply and telecommunications can be made available to the subdivision.

15.2.16.1 Open Space and Recreation

Open Space has been provided for via a pedestrian reserve running across the subdivision, following the course of the existing open channel water race which is to be piped underground. Development contributions for reserve land are also likely to be levied.

Overall, the proposal is considered to meet the intent of all the relevant assessment matters.

Objectives and Policies

The relevant objectives and policies are contained within Part 15 (Subdivision, Development and Financial Contributions) of the Partially Operative District Plan and are discussed below:

Objective 1 - Servicing

The provision of necessary services to the subdivided lots and developments in anticipation of the likely effects of land use activities on those lots and within the developments.

As discussed in the assessment of environmental effects, it is considered that adequate provision has been made for the supply of water, electricity and telecommunications, and the disposal of wastewater and stormwater. Pedestrian linkages have been provided through the subdivision to be vested in Council as reserves.

The proposal is considered to be consistent with the above objective and related policies.

Objective 2 – Costs of Services to be Met by Subdividers

The costs of the provision of services to and within subdivisions and developments, or the upgrading of services made necessary by that subdivision and development, to be met by subdividers.

A development contribution will be levied by the Council to mitigate the increased demand on the Council's reticulated water and wastewater systems. A roading contribution is also payable to offset the increased demand on the Council's roading network.

Objective 5 – Amenity Protection

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

The design of the proposed subdivision is considered appropriate, to provide for efficient and pleasant functioning of the anticipated land uses within the site and by surrounding properties.

Overall, the proposal is considered to be consistent with the relevant objectives and policies.

Other Matters

Local Government Act 2002: Development Contributions

This proposal will generate a demand for network infrastructure and reserves and community facilities.

In granting this resource consent, pursuant to Part 8 Subpart 5 and Schedule 13 of the Local Government Act 2002 and the Council's Policy on Development Contributions contained in Long Term Council Community Plan (adopted by the Council on 25 June 2004) the Council has identified that a Development Contribution is required. A 'Development Contribution Notice' will be forwarded under separate cover which includes details of how the contributions were calculated.

An invoice will be generated by the Queenstown Lakes District Council. Payment will be due prior to application under the Resource Management Act for certification pursuant to Section 224(c). Pursuant to Section 208 of the Local Government Act 2002 the Council may withhold a certificate under Section 224(c) of the Resource Management Act 1991 if the required Development Contribution has not been paid.

Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 no later than 15 working days from the date this decision is received.

You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

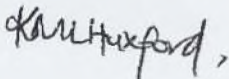
Please contact the Council when the conditions have been met or if you have any queries with regard to the monitoring of your consent.

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

If you have any enquiries please contact Kirsty Huxford on phone (03) 443 0006.

Prepared by
LAKES ENVIRONMENTAL

Reviewed by
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Kirsty Huxford
PLANNER



Melanie Rountree
PLANNER



A C C O U N T

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DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	Streat Developments Limited
RM reference:	RM060010
Location:	Domain Road, Hawea Flat
Proposal:	Application for an extension of time pursuant to s125 of the Resource Management Act 1991, to extend the lapse date of RM060010 by five years.
Type of Consent:	Extension of Lapse Date
Legal Description:	Lot 1 Deposited Plan 304937 held in Computer Freehold Register 19606
Valuation Number:	2908205901
Zoning:	Rural Residential
Activity Status:	N/A
Notification:	N/A
Commissioner:	Commissioner Sinclair
Date Issued:	17 September 2013 19 September 2013 – RE-ISSUE
Decision:	Time Extension – Granted

This is an application for an extension of time under Section 125 of the Resource Management Act 1991 to increase the lapse date of resource consent RM060010 by five years. This application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 17 September 2013. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

This decision is a re-issue of a decision for an extension of time under Section 125 of the Resource Management Act 1991 to increase the lapse date of resource consent RM060010 by a further five years.

Section 133A of the Resource Management Act 1991 allows the consent authority to issue an amended consent to correct minor mistakes, provided this occurs within 15 working days of the grant of consent. The decision was made and the re-issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council, on 18 September 2013. This re-issue is made 2 working days after the granting of the extension of time application.

This consent is being re-issued because the decision cover page contained a typographical error relating to resource consent number. The reference number has been updated on the cover page accordingly.

This is considered to be a minor mistake and therefore the consent can be re-issued pursuant to Section 133A of the Resource Management Act 1991.

Resource consent RM060010 was approved by Independent Commissioner Jane Sinclair on 4 September 2008 (re-issued 15 September 2008) and therefore lapses on 15 September 2013. The application to extend the duration of resource consent RM060010 was lodged on the 13 August 2013 prior to the lapsing date stipulated in Section 125(1A)(b) of the Act, allowing consideration under this section.

The subject site is located at Domain Road, Hawea Flat, and is legally described as Lot 1 Deposited Plan 304937.

Decision

Consent to the extension request is approved pursuant to Section 125 of the Act such that RM060010 shall now lapse on 15 September 2018.

Reasons for the Decision

An extension of five years (5) is sought to allow RM060010 to lapse on 15 September 2018

Resource consent RM060010, granted 4 September 2008 and re-issued on 15 September 2008, approved the subdivision of Lot 1 Deposited Plan 304937 into 36 residential allotments, ranging in size from 4,001m² to 4,544m². Consent was also granted for associated earthworks, access and servicing.

Section 125(1A)(b) of the Resource Management Act 1991 allows the Council to grant an application for an extension to the duration of a resource consent, provided that such an application is received prior to the date of expiration, and provided the following matters have been taken into account:

- (i) *whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and*
- (ii) *whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and*
- (iii) *the effect of the extension on the policies and objectives of any plan or proposed plan.*

Relevant Matters Under Section 125(1A)(b)

(i) Substantial Progress or Effort

In determining if substantial progress or effort has been, and continues to be, made towards giving effect to the consent, the Act does not require that the work is completed.

Case law has illustrated that the question of whether a consent has been given effect to is one of degree, and will vary from case to case depending on the facts, and the nature of the work authorised by the consent, what has been done, and why it has not been completed¹.

With the exception of the formation and upgrade of Cemetery Road which was required by condition of consent but undertaken by Council by agreement, no physical works have been undertaken on the subject property. The applicant's agent advises that the consent holder proceeded with the application for engineering approval which was lodged, thereby making substantial progress and effort towards enacting the consent. However, upon review of Council's records, it appears that an application for engineering approval has been lodged in January 2009, but no engineering approval subsequently issued.

The applicant considers that, since the consent was issued in 2008, the economic environment changed significantly with the onset of the global financial crisis, which made the construction and sale of these sections impossible at that time. This is accepted, given the downturn in the economic climate that was evident at that time.

It is accepted that the applicant has demonstrated that some effort has been made towards giving effect to the consent; specifically, forming / upgrading Cemetery Road which was required by condition of consent but undertaken by Council by agreement. However this is not considered substantial progress or effort under Section 125(1A)(b) of the Act.

(ii) Whether written approvals have been obtained

Section 125(1A)(b)(ii) is not concerned with the adverse effects of the activity itself; rather, it is concerned with any adverse effects on any persons as a result of the granting of an extension. Such adverse effects may include any uncertainties caused by the delay in construction activities, or any effects related to any changes to the physical environment or to activities in the vicinity of the site since the consent was granted.

Resource consent RM060010 was processed on a non-notified basis, and no persons were deemed affected by the proposal.

No works have commenced on the subject site, and subsequently there will be no additional effects from extended building works. As such, no person is considered to be adversely affected by the time extension.

Consequently, the provisions of Section 125(1)(b)(ii) have been satisfied.

(iii) Effect on the Policies and Objectives of the Plan or Proposed Plan

RM060010 was assessed against the provisions of the Partially Operative District Plan with regard to for subdivision in the Rural Residential Zone. Those provisions have not changed since the date of the decision. This suggests that the same application would be assessed similarly today leading to the grant of consent.

A five year extension of time will therefore not have any effects on the objectives and policies of the District Plan.

Conclusion

¹ *Goldfinch v Auckland C.C & Cooke HC 101/96, 109/96, 1 NZED 532. [1997] NZRMA 117*

Section 125(1A)(b) requires consideration of whether substantial progress has been or continues to be made toward giving effect to the proposal, whether any persons would be adversely affected by the extension of duration, and whether the policies and objectives of the plan or proposed plan would be adversely affected. The Act provides no guidance in terms of weighting these three considerations, but leaves the specific context to direct the appropriate overall conclusion.

By taking these contributing factors into account, the consent authority can make an informed decision as to whether this would be considered to be substantial progress. Consideration must be given to whether the site as is would result in additional adverse effects compared to that of the completed development. No physical works have been undertaken (with the exception of the upgrading / formation of Cemetery Road), and as such there are no effects of the approved development, that would otherwise exist if works had commenced. A number of conditions have been imposed on the resource consent which will serve to mitigate the effects of the associated earthworks, and it is considered that any future works will not be undertaken over an extended period of time that was not anticipated by the granting of resource consent RM060010.

In this instance, whilst no substantial progress or efforts have been made towards giving effect to resource consent RM060010, no persons would be affected by the granting of a time extension, and in addition, the extension of time sought under this application will not have any adverse effect on the consented activity meeting the objectives and associated policies of the District Plan.

Given the foregoing, the application to extend the lapse date of resource consent RM060010 for a period of five (5) years is considered to be appropriate

Other Matters

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

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


If you have any enquiries please contact Adonica Giborees on (03) 450 0338 or adonica.giborees@qldc.govt.nz.

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