Resource Consent Application

Land Use Consent for Dwelling Alterations and Earthworks

334 Malaghans Road, Dalefield, Queenstown

Client	Saben Group Limited
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0	12/12/2025	Alana Standish	Lisa Bos	Final

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1. Application Details

Applicant(s)	Saben Group Limited
Site Address	334 Malaghans Road, Dalefield, Queenstown
Legal Descriptions	Lot 1 DP 339365
Record of Title	161880
Site Area	2.9007 hectares
District Plan	Queenstown Lakes Proposed District Plan (PDP)
Zoning	Wakatipu Basin Rural Amenity Zone (**WBRAZ**)
Overlay	Landscape Character Unit (**LCU**) 1 – Malaghans Valley
Hazards	Mapped young active composite alluvial fan (QLDC)
Resource Consent	Land Use
Activity Status	Non-complying

2. Background

2.1 Site Description

This site is located at 334 Malaghans Road and legally described as Lot 1 DP 339365. A copy of the Record of Title for the site is included in **Appendix A** and title instruments in **Appendix B**.

The property is an angular, corner section measuring 2.9007 ha in area. The site is bound by Dalefield Road to the south, and Malaghans Road to the north with other rural residential lots adjoining the site to the east (***Figure 1***).



Figure 1: *Site location (Source: QLDC GIS Maps)*

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Access to the site is provided via four established vehicle crossings, two originating from Malaghans Road and two from Dalefield Road. One of the Dalefield Road crossings also accommodates a right-of-way serving the adjoining property at 21 Dalefield Road.

The paddock areas are lightly grazed (generally a few sheep at certain times of the year). The landform slopes relatively gently towards Malaghans Road, with the gradient being steepest in the southeast corner of the site adjacent to Dalefield Road. A shallow gully runs from the southeast corner through the centre of the site. A borrow pit, formerly used for sand and gravel extraction, is located on the central northern boundary adjoining Malaghans Road.

The property contains various buildings clustered in the west quadrant including the existing dwelling, the age of which is unclear though was most recently renovated in the mid-1990's, ancillary buildings (sleep outs, sheds, greenhouses etc.), a farm building and stockyard.

The site contains two significant stands of mature Douglas Fir, one being in the south corner adjacent to Dalefield Road (approx. 2,100m^2) and the other in the north corner (approx. 6,140m^2). A large row of Golden Elms bisects the centre of the site, with a variety of other exotic tree species surrounding the existing buildings. Leyland Cypress hedges border Malaghans Road and Lot 2 DP 339365 to the east.

2.2 Relevant consent history

There is no record on the council eDocs file of when the existing dwelling and shed were first constructed, including on any historic property records. The relevant known resource consent history is outlined below.

RM950480 issued 28 August 1995, approved an addition to the existing 3-bedroom dwelling (***Figure 2***). The addition has been constructed and provided for improved bathroom, laundry, kitchen and living space. It is now proposed to further change and extend the dwelling through this application. No landscaping conditions applied, and the extension was between 5.1 – 11.3m from Dalefield Road.

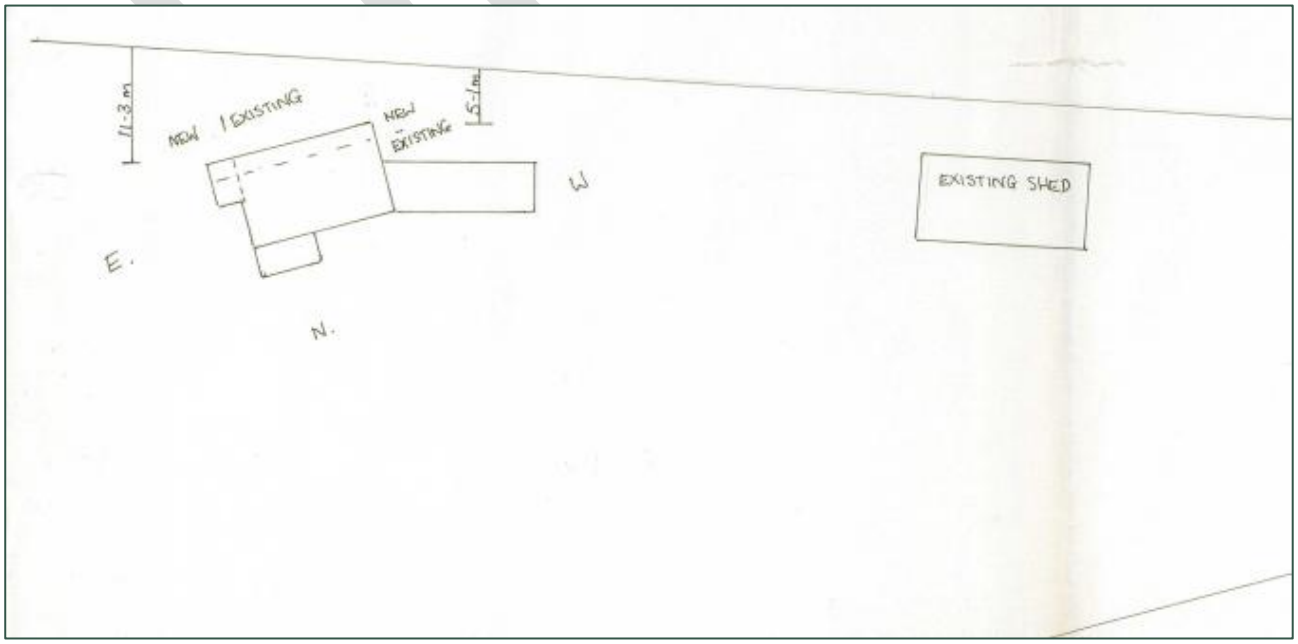


Figure 2: *RM950480 dwelling extension site plan (Source: QLDC eDocs)*

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RM000580 issued 30 August 2000, approved land use consent for the construction of a shed for farming purposes (***Figure 3***). Consent was issued under the then Transitional Plan and rules under the Rural B Zone. This is the farm shed located with the stock yards on the site, north of the dwelling. The consent included condition (6) that required new landscaping, in the form of a hedge north of the shed along the Malaghans Road boundary to be planted and maintained. This hedge is now established, as per the approved landscape plan, noting the hedge is in the legal road.

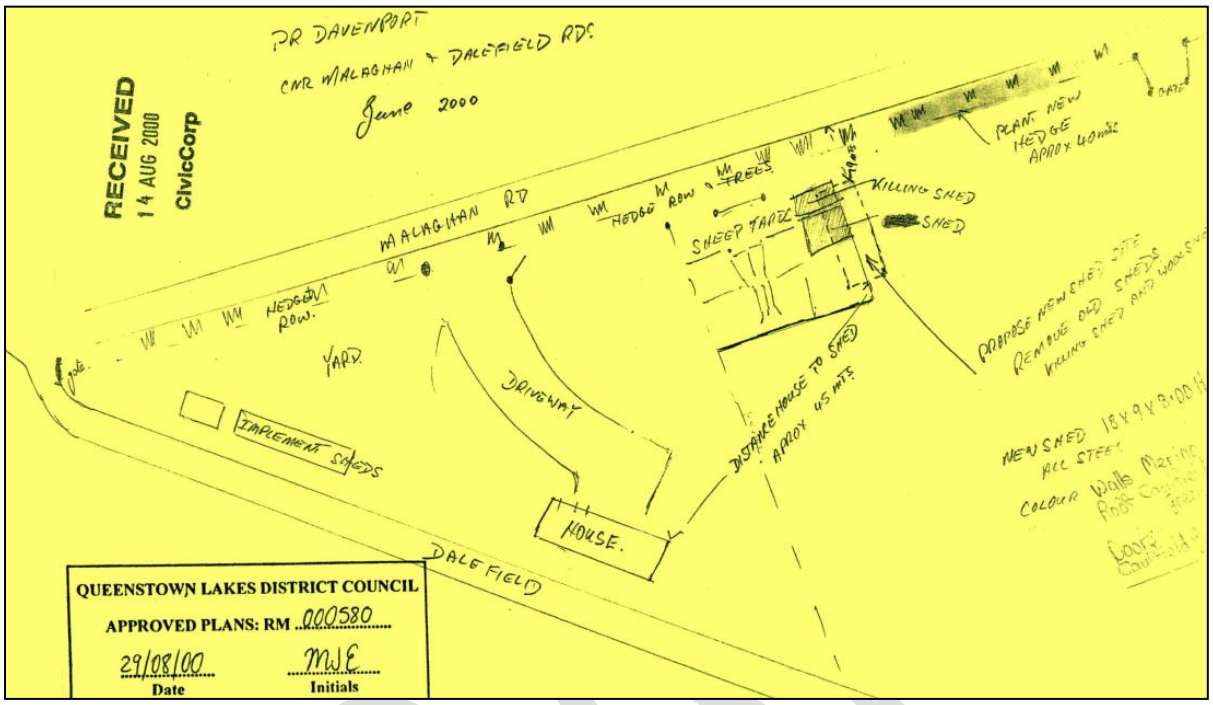


Figure 3: *RM000580 approved shed plan (Source: QLDC eDocs)*

RM030757 (as changed by RM030757.127) approved 4 March 2004 for a 2-lot subdivision that created the 2.9426 ha subject site (Lot 1) that contained an existing residential dwelling, farm buildings, stands of trees, the existing water tank and bore and surrounding paddocks, and Lot 2 which was 6512m^2 with an identified 1000m^2 residential building platform. Lot 1 did not include a platform around the dwelling.

RM250869 (currently lodged and processing) is a separate resource consent application for a three-lot subdivision of the application site. The existing dwelling is located on proposed Lot 1 and the existing farm shed consented under RM000580 is proposed to be removed and consent surrendered as part of the subdivision application. Lots 2 and 3 are proposed for future residential use, platforms are identified and design controls proposed.

3. Description of Proposal

It is proposed to renovate and extend the existing 3-bedroom dwelling to bring it up to modern standard and provide additional space for a growing family. This involves permitted dwelling changes and extending the dwelling to the east to accommodate new spaces and layout, and associated earthworks. The new site layout is shown in (***Figure 4***) and the proposed changes are set out in the development plan in **Appendix C**.



Figure 4: *Extension location plan (Source: Development Plans)*

3.1 Building Alterations

The alteration will result in a changed dwelling with three pavilions, one for bedrooms with improved bathroom spaces and family media room, new kitchen, living and dining in the central pavilion, and recreational space in the third with a new library / gym, patio pool area and exterior stairs to the garage level. New basement garaging is proposed below the central pavilion, while the existing garage is converted to a multi-purpose home office / studio unit space.

The timber weatherboard on the existing dwelling, where retained, will be re-stained dark e.g. Punga, consistent with rule 24.5.4 for grey, green, or brown colours no greater than 30-percent LRV (noting stain does not have an LRV rating). The exteriors walls will otherwise be new vertical shiplap timber weatherboards stained to match the existing dwelling, or a bagged schist veneer, consistent with the district plan.

A new roof across the entire build will be metal tray roofing coloured Windsor Grey (7% LRV) or similar with a LRV under 20-percent with window joinery, gutters, downpipes, and flue to match. Flat roof components would be Slate Grey or similar.

The roofline on the new central pavilion is a 40-degree gable which at the apex, is 8m above ground level with the chimney with metal surround up to 8.48m. The library pavilion gable extends to approximately 7.06m above ground level. The roof pitch and height of the existing dwelling is unchanged, a new chimney will be added with the bulk largely meeting the 6.5m height and the metal surround at the top extending to approximately 7.3m above original ground level.

Like the existing dwelling, the addition is within the 20m road setback from Dalefield Road. The extent of breach continually recedes due to the building orientation, as observed in ***Figure 4***, with the building located between 8-15m from the road boundary.

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The alterations are proposed to occur as follows:

Permitted alterations:
Convert the existing garage to a studio unit / flat (will contain the only kitchen at that time) and reconfigure the Pavilion 1 (existing dwelling) into the bedroom wing with bathrooms and lounge / media room (see building consent application BC251295).

Reason for resource consent
Construct Pavilions 2 and 3 – being the new main house kitchen, living, and library wing.

The extension will increase the dwelling Ground Floor Area to 336m^2. With the existing sheds to be retained the total coverage is 666m^2 or 2.3% of the current net site area (6.94% of the net site area under subdivision RM250869).

Various outbuildings east of the existing dwelling will be removed to make way for the addition including sleep out. The consented farm building and stockyards will be removed as part of subdivision RM250869.

The site is heavily vegetated around its boundaries, including both road boundaries. This landscaping is to be retained and provides significant screening from outside the site. In places, where the foliage has thinned, hedge infilling is proposed with Leyland cypress, notably in the areas marked green below in ***Figure 5***.



Figure 5*: Landscape infill areas*

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3.2 Infrastructure

As a rural site, the existing dwelling is provided drinking water from a well within the site (F41/0003) which currently pumps to a 25,000-litre header tank serving the existing dwelling and neighbouring lots. This supply is safe and secure for this dwelling as outlined in the Infrastructure Report submitted with RM250869. Firefighting water supply will be increased and supplied via the proposed pool.

The existing septic treatment and disposal system will be upgraded when the new kitchen and living is constructed and the necessary resource consent from Otago Regional Council will be obtained.

3.3 Earthworks

Earthworks are proposed under Stage 2 to establish suitable access into the new basement garage and suitable construction platform for the dwelling, and calculated as follows:

Cut volume: 590m^3	Area: 1,300m^2
Fill volume: 320m^3	Max. cut depth: 2.8m
Total volume: 910m^3	Max. fill height: 1.6m

The earthworks are shown in the **Appendix D** earthwork plans and will be completed under a Low-risk Environmental Management Plan (**Appendix E**) given the volume of earthworks proposed, topography and distance from sensitive receivers.

4. Resource Consents Required

The site is zoned Wakatipu Basin Rural Amenity under the Queenstown Lakes Proposed District Plan (PDP). An assessment of the proposal against the relevant district plan standards is attached in **Appendix F.**

4.1 District Plan

Land use consent is required under the Queenstown Lakes Proposed District Plan (PDP) plan for the following:

- A **restricted discretionary** activity under rule 24.5.3 for alterations to a residential building that increases the building by more than 30%. The proposed addition will increase the building size from 163m^2 to 336m^2. Discretion is restricted to:
  a. Effects on landscape character associated with the bulk and external appearance of buildings;
  b. Landform modification, landscaping and planting (existing and proposed);
  c. Infrastructure.

- A **restricted discretionary** activity under rule 24.5.6 for exceeding building coverage across all buildings on site. The total building coverage is 666m^2 or 2.3% of the current net site area with the dwelling alteration and sheds to be retained, greater than the 500m^2 maximum coverage provided for all buildings and well under the 15%. Discretion is restricted to:

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a. Building scale and form;
b. Visual prominence from both public places and private locations.

- A **restricted discretionary** activity under rule 24.5.8.1 for a building above the 6.5m height limit but under the 8m height limit. The proposed roofline extends to 8m in height. Discretion is restricted to:
  a. Visual prominence from both public places and private locations;
  b. External appearance including materials and colours;
  c. Landform modification/planting (existing and proposed).

- A **non-complying** activity under rule 24.5.8.2 for a building above the maximum 8m height limit. The proposed chimney on the central pavilion is 460mm above the 8m height limit and 2.8m wide.

- A **restricted discretionary** activity under rule 2.5.9 for a building in the Rural Amenity Zone that is closer than 20m to the Dalefield Road boundary. The existing building is already within the 20m road setback, the extension will be a minimum 8.952m from the south boundary. Discretion is restricted to:
  a. Building location, character, scale and form;
  b. External appearance including materials and colours;
  c. Landscaping/planting (existing and proposed).

- A **restricted discretionary** activity under rule 25.4.2 for earthworks in the Wakatipu Basin Rural Amenity Zone that exceed the 400m^3 specified in Table 25.2 r.25.5.4. A total of 910m^3 of earthworks is proposed. Discretion is restricted to matter listed in 25.7 (see below).

- A **restricted discretionary** activity under rule 25.5.15 for earthworks that exceed a 2.4m cut depth. A 2.8m cut depth is proposed. Discretion is restricted to matter listed in 25.7 (see below).
  25.7.1.1 Soil erosion, generation and run-off of sediment.
  25.7.1.2 Landscape and visual amenity values.
  25.7.1.3 Effects on infrastructure, adjacent sites and public roads.
  25.7.1.4 Land stability.
  25.7.1.5 Effects on water bodies, ecosystem services and biodiversity.
  25.7.1.6 Cultural, heritage and archaeological sites.
  25.7.1.7 Nuisance effects.
  25.7.1.8 Natural Hazards.
  25.7.1.9 Functional aspects and positive effects.

4.2 Summary of Consents Sought

In accordance with established case law (including Bayley v Manukau City Council and Southpark Corporation Ltd v Auckland City Council), a bundled approach has been adopted. This means that while each activity is assessed against its respective statutory framework, the application is treated as a single activity for the purposes of determining the overall activity status.

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Accordingly, the most restrictive activity status triggered across all components, and the application seeks resource consent under the PDP as a **non-complying** activity due to the chimney height infringement.

Despite the above, the application is for all matters requiring consent for the proposal, regardless of those specified above. It is noted that if Council is of the view that consent is required for alternative or additional matters than those identified in the proposal or AEE section Council has the ability under section 104(5) of the Resource Management Act (RMA) to process the application regardless of the type of activity that the application was expressed to be for.

5. Notification Assessment

The application has been prepared considering the reasons for consent above, and the public and limited notification tests that Council is required to follow under the RMA. Our assessment under the relevant notification tests is set out below.

5.1 Public Notification (s95A)

Section 95A Matter	Response
Step 1: Mandatory Public Notification	
Does the applicant request public notification (s95A(3)(a)	No
Is the application made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977? (s95A(3)(c)	No
Step 2: Is Limited Notification Precluded	
Is each activity to which consent is sought, subject to a rule or national environmental standard that precludes public notification? (s95A(5)(a)	No
The application is for only either a controlled activity, or a boundary activity (be it restricted discretionary, discretionary or non-complying)? (s95A(5)(b)	No
Step 3: Is Public Notification Required in this Circumstance?	
Is consent sought for an activity that is subject to a rule or national environmental standard that requires public notification? (s95A(8)(a)	No
Under section 95D, does the activity have adverse effects that are more than minor? (s95A(8)(b)	No
Step 4: Do any Special Circumstances apply?	
Is there anything exceptional or out of the ordinary in this application that would constitute a special circumstance to warrant public notification.	No

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5.2 Limited Notification (s95B)

Section 95B Matter	Response
Step 1: Certain Affected Groups or Persons to be Notified	
Are there any customary rights groups; or customary marine title groups affected? (s95B(2)	No
Is the proposed activity in on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement; and the person to whom the statutory acknowledgement is made is affected under s95E? (s95B(3)	No
Step 2: Is Limited Notification Precluded	
Is each activity to which consent is sought, subject to a rule or national environmental standard that precludes limited notification? (s95B(6)(a)	No
Is the application for only a controlled activity under a district plan (other than subdivision)? (s95B(6)(b)	No
Step 3: Must certain other affected persons be notified?	
Is the activity a boundary activity, and under s95E the owner of the infringed boundary is an affected person? (s95B(7)	No
Is any other person an affected person under section 95E? (s95B(8)	No
Step 4: Do any Special Circumstances apply to any other person?	
Is there is anything exceptional or out of the ordinary in this application that would constitute a special circumstance to warrant notification to any other person. (s95B(10)	No

6. Effects Assessment

The following effects assessment addresses the relevant matters in **Clauses 6 and 7 of Schedule 4 of the RMA**, with an assessment commensurate to the nature and scale of the application.

As determined below, we consider the application does not and is not likely to result in significant adverse effects. As such the consideration of alternatives is not required.

6.1 Effects Permitted by the Plan

Under sections **95D and 104(2) of the RMA 1991**, the consent authority may disregard adverse effects if a rule or national environmental standard permits an activity with the same or similar effect. In this instance, the permitted baseline includes the following:

- Internal room reconfiguring is permitted including to convert the garage to a residential flat.
- Alterations to lawfully established buildings that increase the building size are permitted where:
  - the size increases no more than 30-percent in any 10-year period, and

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- the total ground floor area of all buildings is no more than 500m^2 (or 15% of net area, whichever is less), and
- non-reflective and recessive colours and materials are used, and
- a 20m road setback is maintained, and
- building height is maintained at 6.5m, noting chimneys can exceed this as per the PDP height definition where their size does not exceed 1.1m in any one direction and the total chimney height is no more than 1.5m above the permitted height (so 8m in this zone).

- Chimneys or finials (not exceeding 1.1m in any direction); provided that the maximum height normally permitted by the rules is not exceeded by more than 1.5m.
- Earthwork volume up to 400m^3 and with a maximum 2.4m cut and 2m of fill.

The above forms a relevant envelope of effects permitted by the plan that can be considered and disregarded in the adverse effects assessment.

6.2 Effects on the Environment

The activity is for a non-complying activity overall, for a discrete breach to the 8m height limit due to the chimney size and finial height. While council can consider any matter under a non-complying activity status, the matter must still be relevant to the effects generated by the non-complying activity.

In this case the matters of discretion for the 6.5m height limit are considered most relevant to considering the 8m height breach and its visual prominence along with potential precedent effects. As such the following assessment considers the restricted discretionary matters of discretion listed in **section 4.1** above, relevant assessment matters listed in PDP 24.7 (WBRAZ) and 25.8 (Earthworks) and any other relevant matter.

6.2.1 Landscape Character and Visual Amenity Effects

Malaghans Valley Landscape Character Unit

Malaghans Valley is a broad, gently rolling pastoral valley framed by the dramatic Coronet Peak range to the north and the hillslopes and escarpments of Fitzpatrick Basin, Dalefield and the Wharehuanui Hills to the south. Its open landform and expansive views create a highly legible and coherent landscape, reinforced by simple pastoral patterns dominated by exotic grasses, scattered shelterbelts, and amenity plantings around rural dwellings. A network of streams and overland flow paths drains from the surrounding mountains and hills, with farm ponds dotted throughout the valley floor. The unit sits immediately beside ONL and ONF landscapes, functioning as an important rural buffer and transition between Queenstown and Arrowtown.

Settlement is sparse, with scattered rural-residential development concentrated on elevated, north-facing slopes and around the Malaghans Road–Dalefield Road intersection, while the larger lot sizes across much of the valley help maintain its openness and spaciousness. The area is visually prominent from Malaghans Road, Coronet Peak Road and elevated walkways to the north, offering dramatic views to the Coronet Peak range and attractive rural views to the southern escarpments. Despite elements of modification, the valley retains a strong sense of naturalness and a predominantly working rural character. Its openness, scenic values and role as a landscape threshold

to the adjoining ONL result in a very low capacity to absorb further development, though opportunities exist for riparian restoration and potential recreational connections if sensitively integrated.

Site Context

In contrast to the predominantly open and pastoral character that defines LCU 1, the application site exhibits a notably different landscape pattern. Mature trees, hedging, and established vegetation create a high level of enclosure that is atypical of the wider valley, interrupting the sense of spaciousness that characterises the unit. These plantings form strong visual barriers that significantly reduce visibility into and across the site, resulting in only intermittent views from both Malaghans Road and Dalefield Road. Along Malaghans Road, rising topography further restricts sightlines, limiting views to brief glimpses through vehicle accessways. Consequently, this rural-residential pocket functions as a more enclosed and visually contained area within LCU 1, diverging from the open pastoral character and expansive vistas that otherwise define the Malaghans Valley landscape.

These atypical levels of enclosure mean that the site does not contribute to the broader openness that underpins the very low capacity of LCU 1 to absorb further development. Instead, the dense vegetation, contained views, and limited visibility from key public roads create a more inward-facing landscape character that reduces potential visual effects beyond the site boundaries. As a result, the site's modified and highly screened condition provides a more accommodating context for additional development than is generally anticipated within LCU 1, as the established vegetation framework already mitigates the landscape and visual sensitivities that otherwise constrain change throughout the wider Malaghans Valley.

Dwelling addition - bulk and location

The dwelling is legally established, with the last alterations occurring in the mid-1990s. After roughly 30 years, the proposed addition functions as a contemporary upgrade rather than an incremental intensification of built form. The extension is confined to the already developed western quadrant of the site and replaces existing structures (sleepouts, greenhouses), ensuring that built form is consolidated rather than dispersed across the 2.9ha parent site (and future Lot 1).

Although the proposal exceeds the 500m^2 permitted threshold and the road setback is infringed, building coverage remains proportionately very low and is confined to an already developed and visually contained part of the site. As a result, the departure from the permitted baseline does not generate effects that are materially different from those anticipated.

Although the new living wing exceeds the 6.5m and 8m height standard due to sloping topography, the resulting height effects are inconsequential. The dwelling sits within a highly contained visual environment, with mature vegetation, established hedging, and the landform along both Malaghans Road and Dalefield Road providing year-round filtering. From public roads, visibility of the extension will be intermittent, filtered, and never dominant over the pastoral foregrounds that define the wider valley, noting that this site is atypically enclosed and not representative of the openness of LCU 1.

The removal of the two stands of Douglas fir under RM250869 will not materially open views to the dwelling. The extension area will remain screened by topography and extensive amenity planting, including the central row of Golden Elms, ensuring that no new or prominent views toward the building form are created from either road frontage. Importantly, the removal of these dense fir stands also

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realigns this portion of the site more closely with the intended character of LCU 1 by reintroducing a sense of openness that is otherwise uncharacteristic of this enclosed rural-residential pocket, without creating additional visual exposure of built form to public viewpoints.

The building addition will employ recessive colours, timber cladding, schist and low-reflectivity roofing, aligning with the assessment matters that require integration into the rural environment. These materials will visually anchor the addition within the established building cluster and complement the surrounding vegetation. Night lighting will be low-level and controlled to avoid spill beyond the site boundaries.

As highlighted above, the site is distinguished from the wider Malaghans Valley by its high degree of enclosure created by existing mature vegetation and localised topography. This pattern diverges markedly from the open and spacious landscape character described for LCU 1. The strong vegetative framework, including the retained Golden Elms and remaining amenity plantings, will continue to visually contain the dwelling and effectively absorb the increased building mass. As such, the extended dwelling will remain subservient within the wider landscape.

Given the removal of older outbuildings, the consolidation of built form, and the extensive visual containment provided by established vegetation, the proposal will not diminish the perception of openness that characterises the Malaghans Valley. Instead, the development remains consistent with the anticipated character outcomes for this part of LCU 1, with no adverse effects on environmental character or visual amenity.

Landform Modification and Earthworks
Earthworks relate primarily to forming the basement garage and refining the existing building terrace. The scale of modification will not alter the underlying landform patterns visible from public roads and the landscape change will be the built form that stabalised the landform change, which as discussed above, will integrate with the surroundings.

Influence of Proposed Subdivision
The proposed subdivision (RM250869) will create three lots, but the existing pattern of development, built form in the western quadrant and open pasture dominating the balance of the site, will remain legible with this proposed extension. The proposed dwelling extension is spatially confined and does not fragment the landscape character unit in a way that alters the broader sense of openness in Malaghans Valley.

Summary character and visual amenity conclusion
Incorporating the site's physical characteristics being a corner lot configuration, gentle sloping landform, mature vegetation, concentrated built form, and large areas of open pastoral land around the dwelling, the proposed alteration fits comfortably within its landscape. The actual and potential adverse effects associated with the landscape character and visual amenity are considered less than minor.

6.2.2 Infrastructure Effects

The current dwelling is adequately serviced by existing infrastructure.

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The on-site wastewater, and firefighting water supply will be upgraded with the dwelling extension. This will require a secondary discharge consent from the ORC, which will be obtained prior occupation of the addition. The ORC requirement due to the site being located in the Lake Hayes Catchment. This upgrade will result in a net benefit to Lake Hayes as it will modernise the wastewater system, likely to a tertiary system.

The proposal is therefore appropriately serviced with potential adverse effects less than minor.

6.2.3 Effects of Earthworks

Soil erosion and sedimentation
Erosion and sediment controls will be installed and maintained for the duration of works to minimise off-site sediment, and dust will be actively managed to avoid nuisance beyond the boundary. These measures align with PDP standards 25.5.12 and 25.5.13 and will be set out in the contractor's ESC plan (e.g., stabilised entrance, silt fencing as required, exposed areas minimised and promptly stabilised, water carts for dust). With these measures, adverse effects are expected to be less than minor.

Land Stability
The proposed earthworks are associated with the Stage 2 building and as the retaining for the cut and fill is integrated into the build, is subject to a separate approval under the Building Act. With works undertaken in accordance with the requisite building consent, Geotechnical recommendations and EMP, noting that the walls and works are located well away from site boundaries, land instability outside the site is considered highly unlikely.

Construction Traffic, Noise and Nuisance
The earthwork volume is largely balanced cut and fill with permitted volume that may leave the site meaning vehicle movements are anticipated by the plan. Works will be undertaken during standard construction hours and will be temporary and typical site redevelopment activity.

Water, Ecology and Freshwater
There are no waterbodies within 10m of the works and given the geotechnical findings, ground water is not expected; therefore, there are no direct freshwater effects.

Effects on Cultural, Heritage and Archaeological Sites
The site is not known to contain any significant cultural or archaeological values, and should anything be found accidental discovery protocols as per the district plan and other legislation will be employed.

Positive Effects
The works enable the reimagining of an existing dwelling, providing new basement garaging and level build area for the extension to better suit the new family.

6.2.4 Summary: Effects on Environment

The above assessment concludes that the actual and potential environmental effects of proposed dwelling alteration and addition and associated earthworks will be less than minor.

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6.3 Effects on Persons

Under **Schedule 4 Clause 6(3**) of the RMA, there is no obligation or expectation for an applicant to consult any person. In this case, no person has been consulted with respect to the addition.

6.3.1 Assessment of Affected Persons

Following consideration of the actual and potential effects of the proposal, the following assessment has been made in relation to potentially affected persons:

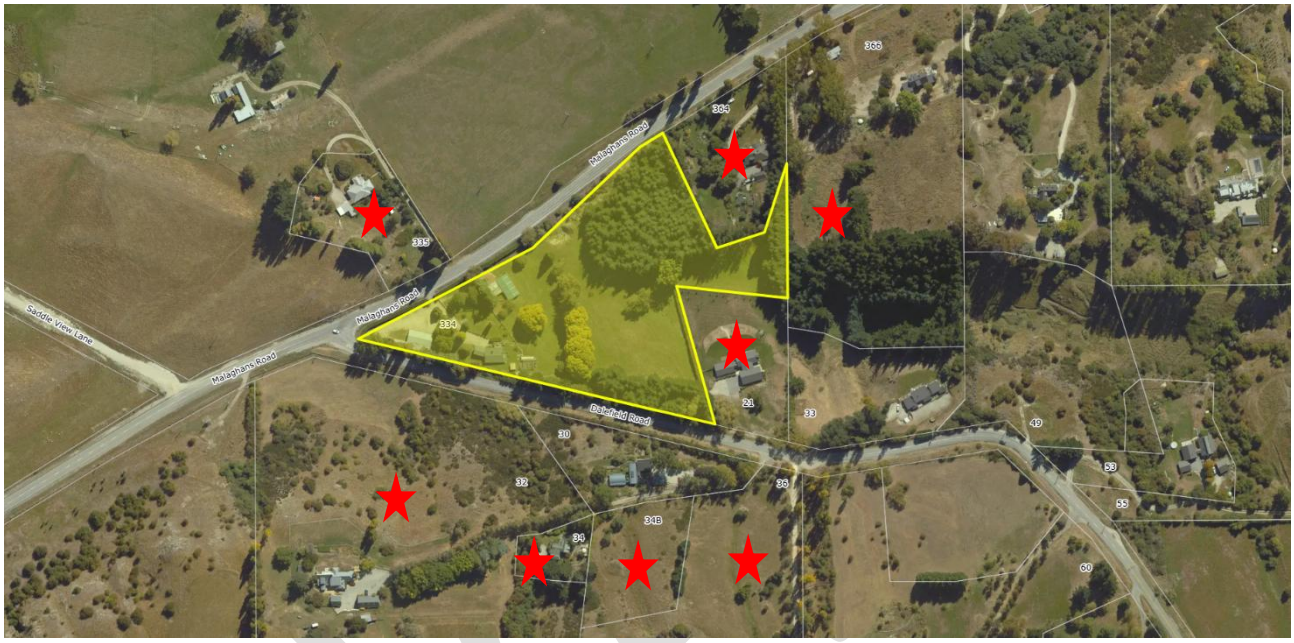


Figure 6: *Location map of relevant neighbouring sites*

The proposed addition is well away from adjoining neighbours and will be shielded from view by existing established vegetation and topography meaning the height and additional bulk will be difficult to see from outside the site.

Land instability from earthworks is not expected either on or outside the site, will be managed through the EMP and standard construction hours of operation which adequately mitigate potential effects on neighbouring persons.

Given the above no person is considered adversely affected by the addition and earthworks.

6.4 Conclusion

The above assessment concludes that the environmental effects of the addition and earthworks on the environment and persons will be less than minor.

7. RMA S104 (1) (b) Matters

The application has been assessed against the relevant provisions of the documents referred to in RMA section 104(1)(b) as detailed below.

7.1 District Plan Objectives and Policies

The application is required to be assessed against the objectives and policies of Queenstown Lakes Proposed District Plan (PDP).

7.1.1 Chapter 24 Wakatipu Basin

District Plan Provision	Assessment / Comment
24.2.1 Objective - Landscape character and visual amenity values in the Wakatipu Basin are maintained or enhanced	
Policies *24.2.1.2 Subdivision or residential development in all areas outside of the Precinct that are identified in Schedule 24.8 to have Very Low, Low or Moderate-Low capacity* ***must be*** *of a scale, nature and design that:* *a. is* ***not inconsistent with any of the policies that serve to assist to achieve objective 24.2.1****; and* *b. ensures that the landscape character and visual amenity values identified for each relevant Landscape Character Unit in Schedule 24.8 and the landscape character of the Wakatipu Basin as a whole are maintained or enhanced by ensuring that the landscape capacity is not exceeded.*	As discussed through the assessment of effects, the values associated with this 'pocket' are maintained. As discussed below, the proposal is considered consistent, with all of the relevant policies that support Objective 24.2.1 and therefore is consistent with and not inconsistent or contrary to Objective 24.4.1.
24.2.1.6 Ensure subdivision and development is designed (including accessways, services, utilities and building platforms) to minimise inappropriate modification to the natural landform.	The earthworks for the dwelling extension are modest and do not inappropriately modify the landform, consistent with this policy. The development is primarily confined to an already developed area, avoiding unnecessary earthworks across open paddocks or hillslopes. Any site formation is minor and carefully designed to accommodate the sloping topography, consistent with minimising modification to natural landforms which is consistent with this policy.
24.2.1.7 Ensure that subdivision and development maintains or enhances the landscape character and visual amenity values identified in Schedule 24.8 - Landscape Character Units.	Schedule 24.8 recognises that: *"Although the landscape character unit descriptions apply to specific areas within the Wakatipu Basin that share similar landscape or settlement pattern characteristics,* ***they do not uniformly describe the landscape character of any unit****. Across each unit there is likely to be variation in landform, development and vegetation patterns, which will require consideration and assessment through consent applications."* And *"The descriptions are based on the scale of the relevant landscape character unit,* ***and should not be taken as prescribing the values and/or capacity of specific sites****. The descriptions are intended to*
24.2.1.8 Maintain or enhance the landscape character and visual amenity values of the Rural Amenity Zone including the Precinct and surrounding landscape context by: *a. controlling the colour, scale, form, coverage, location (including setbacks) and height of buildings and associated infrastructure, vegetation and landscape elements.*	
24.2.1.9 Require all buildings to be located and designed so that they do not compromise the	

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landscape and amenity values and the natural character of Outstanding Natural Features and Outstanding Natural Landscapes that are either adjacent to the building or where the building is in the foreground of views from a public road or reserve of the Outstanding Natural Landscape or Outstanding Natural Feature *24.2.1.13 Control earthworks and vegetation clearance to minimise adverse effects on landscape character and visual amenity values.* *24.2.1.15 Provide for activities that maintain a sense of spaciousness in which buildings are subservient to natural landscape elements.* *24.2.1.16 Manage lighting so that it does not cause adverse glare to other properties, roads or public places, or degrade views of the night sky.*	*be read collectively to inform landscape decision-making in the Wakatipu Basin, by highlighting the important elements that are to be maintained or enhanced within certain landscape character units."* As discussed earlier, the site has a high degree of containment due to existing vegetation and topography. This is different to the spacious and open environmental character and visual amenity values described for LCU-1. The development will maintain the openness naturalness and spaciousness within the site as the addition is located in an area that currently contains ad-hoc built form which will be removed and replaced by the extension. The scale of development does not compromise the legibility of the wider landscape as the proposal will be contained within the established rural-residential pattern within the 'pocket'. The proposed infill planting will enhance the existing vegetation patterns. Together the landscape character and visual amenity values for the LCU and zone are maintained.
24.2.1.19 Require buildings, or building platforms identified through subdivision, to maintain views from roads to Outstanding Natural Features and the surrounding mountain Outstanding Natural Landscape context, where such views exist; including by: a. implementing road setback standards; and *b. ensuring that earthworks and mounding, and vegetation planting within any road setback, particularly where these are for building mitigation and/or privacy, do not detract from views to Outstanding Natural Features or Outstanding Natural Landscapes; while* c. *recognising that for some sites, compliance with a prescribed road setback standard is not practicable due to the site size and dimensions, or the application of other setback requirements to the site.*	Very limited views are obtained across the site from public places to the south (Dalelield Road) towards the Coronet Peak ONL due to the established vegetation. As such the proposal will not have a meaningful impact on views despite the height and setback encroachments.
24.2.4 Objective – Subdivision and development, and use of land, maintains or enhances water quality, ecological quality, and recreation values while ensuring the efficient provision of infrastructure.	
Policies *24.2.4.2 Restrict the subdivision, development and use of land in the Lake Hayes catchment, unless it can contribute to water quality improvement in the catchment commensurate with the nature, scale and location of the proposal.*	The proposal will contribute adequately and appropriately to improved Lake Hayes water quality through the wastewater upgrade under stage 2.

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24.2.4.4 Provide adequate firefighting water and emergency vehicle access to ensure an efficient and effective emergency response.	Adequate access and turning exists for emergency vehicles and the firefighting supply will be upgraded with the Stage 2 development works.
24.2.4.8 Encourage the removal of wilding exotic trees.	The site is heavily vegetated through existing and previously approved trees and hedgerows and amenity plantings which will not change with this application, other than to infill any gaps in the Dalefield Road existing hedge which will be retained.
24.2.4.9 Encourage the planting, retention and enhancement of indigenous vegetation that is appropriate to the area and planted at a scale, density, pattern and composition that enhances indigenous biodiversity values, particularly in locations such as gullies and riparian areas, or to provide stability.	

7.1.2 Chapter 25 Earthworks

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25.2.1 Earthworks are undertaken in a manner that minimises adverse effects on the environment, including through mitigation or remediation, and protects people and communities.	
25.2.1.1 Ensure earthworks minimise erosion, land instability, and sediment generation and off-site discharge during construction activities associated with subdivision and development.	The proposed earthworks will be undertaken to the extent necessary to establish the extension building pad in accordance with the related building consent, while appropriately managing the temporary effects through site controls under an EMP consistent with this objective and suite of policies.
25.2.1.4 Manage the scale and extent of earthworks to maintain the amenity values and quality of rural and urban areas.	
25.2.1.6 Ensure that earthworks are designed and undertaken in a manner that does not adversely affect infrastructure, buildings and the stability of adjoining sites.	
25.2.1.7 Encourage limiting the area and volume of earthworks being undertaken on a site at any one time to minimise adverse effects on water bodies and nuisance effects of adverse construction noise, vibration, odour, dust and traffic effects.	
25.2.1.9 Manage the potential adverse effects arising from exposing or disturbing accidentally discovered material by following the Accidental Discovery Protocol in Schedule 25.10.	
25.2.1.10 Ensure that earthworks that generate traffic movements maintain the safety of roads and accesses, and do not degrade the amenity and quality of surrounding land.	
25.2.1.11 Ensure that earthworks minimise natural hazard risk to people, communities and property, in particular earthworks undertaken to facilitate land development or natural hazard mitigation.	

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7.1.3 Conclusion: Objectives and Policies

The above assessment concludes that the proposed dwelling extension and earthworks are consistent with and not contrary to the relevant district plan objectives and policies.

7.2 National Environmental Standards (NES)

Ten NES are currently in force, of which only the NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NES-CS) is relevant to this application as the proposal involves earthworks exceeding the quantities permitted under the NES. A review of the most current information available from QLDC and ORC has been undertaken; it has not been identified that the site is or was a HAIL site. Accordingly, the NES does not apply.

7.3 National Policy Statements

No National Policy Statements are relevant to this application including NPS for Highly Productive Land 2022 which does not apply. While the Land Use Capability (LUC) mapping identifies the subject site as LUC 3, the Wakatipu Basin Rural Amenity Zone is not a general rural zone and therefore the NPS does not apply.

7.4 Otago Regional Policy Statement

The Otago Regional Policy Statement 2019 (**oRPS**) became fully operative on 4 March 2024 and provides a high-level policy framework for the integrated management of resources within the region, identifying regionally significant issues, and objectives and policies that direct how natural and physical resources are to be managed.

The oRPS is currently under review with the new Proposed Otago Regional Policy Statement (**pORPS**) notified on 26 June 2021. Following a determination by the High Court, the pORPS was separated into two parts: a freshwater and a non-freshwater planning instrument, with each proceeding through a separate RMA plan change process. The ORC notified its decisions on submissions on both the freshwater and non-freshwater parts on 30 March 2024, with some aspects now subject to appeal.

The land is zoned for residential and rural purposes within a landscape lens and is not inconsistent, to the limited extent they are relevant, with the landscape matters in the oRPS and the pORPS.

8. RMA S104(1)(c) Matters

Section 104(1)(c) *Other Matters* can include precedent effects where the activity is non-complying. Precedent effects arise where granting consent may imply that similar breaches should be approved, thereby undermining the District Plan. In this case, the proposal is non-complying only because the chimney exceeds the 8m height limit by a small and contained margin. The small exceedance is visually absorbed by established vegetation and occurs within an already developed part of the site.

The specific site context is important: the dwelling is long-established, the extension remains within an existing building cluster, and the surrounding landscape features effectively limit any wider visibility. These circumstances are not readily replicated elsewhere.

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Because the non-compliance is modest and tied to a unique and contained site setting, granting consent does not signal that larger or more exposed height breaches would be acceptable. Any future applications would still be assessed on their own merits.

9. Section 104D Matters

Section 104D of the Resource Management Act allows for a consent authority to grant a resource consent for a non-complying activity if it is satisfied that either -

a. *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be* less than minor*; or*
b. *the application is for an activity that will not be contrary to the objectives and policies of—*
   (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
   (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
   (iii) both the relevant plan and the relevant proposed plan if there is both a plan and a proposed plan in respect of the activity.

As discussed earlier, the actual and potential adverse effects on the environment from the proposed alteration and associated earthworks are less than minor and the application is consistent with and not contrary to the relevant PDP objectives and policies.

Therefore, Council is able to grant the resource consent for the proposal under s104D.

10. Section 106A Matters

Section 106A of the RMA provides that the Consent authority may refuse subdivision consent in certain circumstances as follows:

(1) A consent authority may refuse to grant a land use consent, or may grant the consent subject to conditions, if it considers that there is a significant risk from natural hazards.

(2) For the purposes of subsection (1), an assessment of the risk from natural hazards requires a combined assessment of all of the following taken together:
(a) the likelihood of natural hazards occurring (whether individually or in combination):
(b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards:
(c) whether the proposed use of the land would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b):
(d) whether the proposed use of the land would result in adverse effects on the health or safety of people.

(3) Conditions imposed under subsection (1) must be—
(a) for the purposes of avoiding or mitigating the effects referred to in subsection (1); and
(b) of a type that could be imposed under section 108.

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10.1 Natural Hazards

The application site is determined in the Geotechnical Report and not being at risk from a significant natural hazard, beyond a generalised and district wide seismic shaking risk. This residual risk will be adequately addressed through suitable foundations and building design subject to separate building consent. The proposed addition to the existing house will not accelerate or worsen any potential natural hazard risk. As such, Council can grant consent with respect to this matter.

11. RMA Part II Matters

The purpose of the Resource Management Act 1991 is to promote the sustainable management of natural and physical resources. The ODP has already given substance to the principles in Part 2 of the RMA and, therefore, no further assessment against Part 2 matters is required for this application (Environmental Defence Society Incorporated v New Zealand King Salmon (2014) NZSC 38, (2014) 1 NZLR 593).

Regardless, the application is considered to represent a sustainable management of natural and physical resources having had regard to the section 6 and 7 matters of the RMA.

12. Application Conclusion

Resource consent is sought as a non-complying activity under the PDP for alterations to an established dwelling that will increase the total area of buildings onsite, including the extended dwelling and existing sheds, for a small height infringement and for associated earthworks.

The dwelling is old, and has not been altered since the mid 1990's. The proposed change will modernise the building to be better suited to the new owner's family needs. The site is unique as it does not readily exhibit the landscape values for the LCU 1 in which it is located. As such the addition will not have a perceptible impact on the LCU 1 pastoral and openness values due to the site's natural containment by topography and vegetation. The building colours and materials are consistent with plan expectations, and positive upgrades to wastewater and firefighting water supply are proposed. Earthworks will be undertaken using industry standard environmental mitigation minimises potential construction effects.

As the environmental effects of the proposal are considered to be less than minor, the proposal is consistent with and not contrary to the WBRAZ objectives and policies, no parties are considered to be adversely affected, and RMA sections 104 and 106A are passed, it is considered that the application may be granted, and processed on a non-notified basis.

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Patersons South Island

Dunedin
(03) 477 3245
dunedin@patersons.co.nz

Cromwell
(03) 445 1826
cromwell@patersons.co.nz

Christchurch
(03) 928 1533
christchurch@patersons.co.nz

Queenstown
(03) 441 4715
queenstown@patersons.co.nz

Alexandra
(03) 448 8775
alexandra@patersons.co.nz

Other Regions
0800 128 812
enquiries@patersons.co.nz

Wānaka
(03) 441 0110
wanaka@patersons.co.nz

Oamaru
(03) 443 8727
oamaru@patersons.co.nz