APPLICATION FOR RESOURCE CONSENT

Battery Hill Limited



723 FRANKTON ROAD QUEENSTION

Cubitt Consulting Ltd

February 2026

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1. Description of Proposal

1.1 Description of the Site

The application site is located at 723 Frankton Road, Queenstown. It is legally described as Lot 2 DP 10197 (RT OT2D/1392) and comprises 809m^2. Access to the site is via a shared access way off Frankton Road located to the west of the site. This access way services several sites with 723 being located at the end.

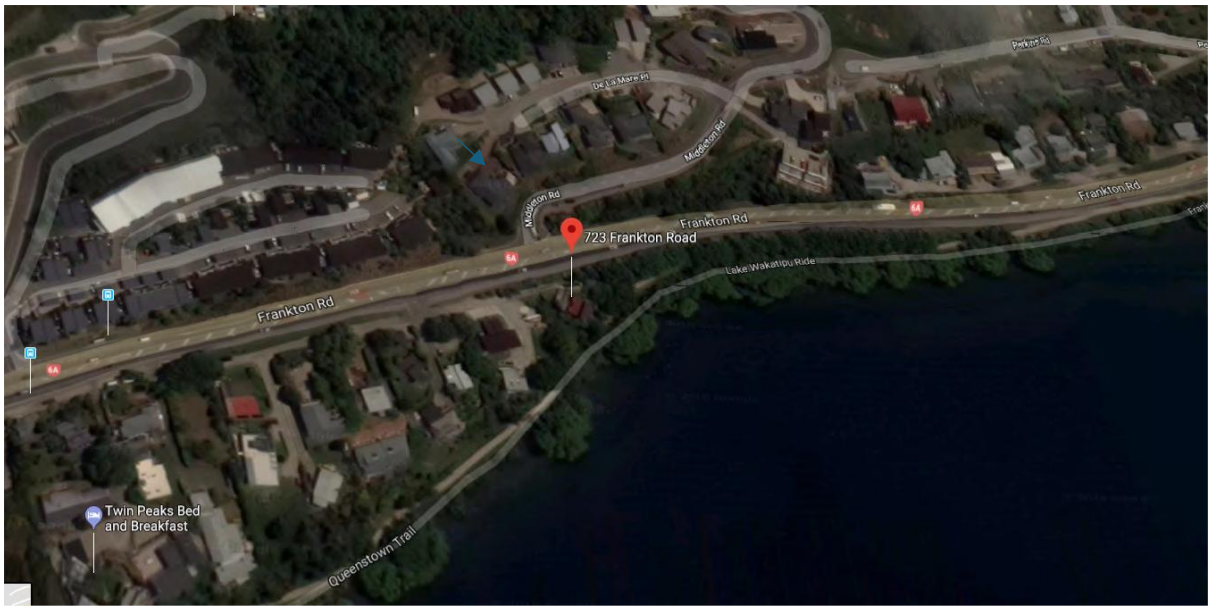


Figure 1: The site

The site is irregular shape that sits below Frankton Road to the northwest. Residential development adjoins the site to the west, while a vegetated area of Crown Land and the Queenstown Trail separate the site from Lake Wakatipu to the east and south.

The topography of the site is undulating and drops steeply to the southeast boundary and lake. An open creek flows through the site which collects stormwater from above Frankton Road. The stormwater is piped under the road to a culvert before flowing over the north-east corner of 719 Frankton Road and then continuing over 723 Frankton Road to the stormwater channel parallel to the trail below.

There is currently one residential dwelling on site with a small shed to the rear. This dwelling is of a pole house construction style, with a FFL of approx. 324.200m. A retaining wall to the rear of the dwelling provides for a flat driveway and carparking area. The remainder of the site contains trees and vegetation consistent with the adjoining crown land. There is no public access from Frankton Road to the trail via this site.



Figure 2: The existing dwelling

A resource consent (RM181197) was granted for the redevelopment of this site in June 2019. That consent enabled the construction of three residential units on the site that breached the District Plan setbacks and height standards, along with the necessary earthworks. The current owner purchased the site in 2024 when both the resource consent and building consent for the residential units were still 'live'.

However, it was then established that Queenstown's main water line runs through the property, which bought the project to halt as a solution was found. The new owner extended the building consent but did not realise that the resource consent also needed to be extended. To resolve this issue a variation application was lodged last year, but this was returned under section 88 of the RMA. The applicant was advised that an application for a new resource consent was needed. This application is a result of that advice.

The subject site is zoned **High Density Residential** in the Proposed District Plan. There does not appear to be any other overlays affecting the property. In discussion with QLDC planner,

Mr Seve Blackmore, we understand that neither the Operative District Plan nor the Urban Intensification Variation are relevant to this site. If the Operative Plan is applicable, the issues remain the same.

Frankton Road is a State highway (SH 6) and is a limited access road.

1.2 Proposed Activity

1.2.1 The Proposal

Given the delay caused by the need to address the watermain traversing the property, the applicant has taken the opportunity to redesign the proposal that was consented under RM181197. The development will now comprise three individual apartment buildings for short term rental purposes. Each building will be three levels with each floor containing a residential unit, giving a total of nine (9) residential units. The ground floor units will contain one-bedroom with the first and second floors units all containing two-bedrooms. Total building coverage is 310m^2 (just over 38%) with the remaining area landscaped (175m^2, 21.6%) or developed with a combination of impervious and permeable surfaces for access and parking.

Each apartment will have direct access to a deck of approximately 24m^2 from the living area and the main bedroom space. The ground floor apartments will be accessed via the deck. Each apartment has an open plan kitchen/living/dining space with bedrooms accessed via the entrance hallway. Claddings will be a mixture of plaster, vertical timber and schist stone with feature louvres for privacy.

Given the sloping nature of the site, earthworks will be required to nestle the building into the hillside. The location and extent of the earthworks are shown on attached plans. Cut volume is approximately 496m^3 with fill volume approximately 128m^3, which includes backfilling for retaining walls. While this is a total of 624m3, the balance will around 368m3 given cut material will be retained for use on site.

Water, electrical, foul sewer and stormwater services are already provided to the site. Electrical services will be installed underground to the dwellings. A new stormwater system has been designed as part of the original resource consent. This will involve the re-alignment and piping of the current overland flow path as detailed in the documents attached from StrataGroup and Cosgroves.

1.2.2 Consent Sought

As noted above, the site is zoned **High Density Residential** in the Proposed District Plan. **Rule 9.4** of that zone identifies the activity status for land use activities. **Rule 9.4.3** identifies

'residential units' as permitted activities provided there are no more than three (3) units per site. While three apartment buildings are proposed, each building will contain three self-contained household units, giving a total of 9 residential units on the site. Hence, this proposal is a **restricted discretionary activity** pursuant to **Rule 9.4.5.**

Rule 9.5 identifies are number of standards that activities must also meet. Non-compliance with the applicable standards is identified below.

Rules 9.5.1 and 9.5.2 Building Height on Flat sites
Not applicable.

Rule 9.5.3 Building Height – Sloping sites in all locations
The buildings exceed the maximum height of 10m so are **discretionary activities.**
Rule 9.5.3.3 is not applicable as the site is not within the affected zone.

Rule 9.5.4 Building Coverage
Building coverage is 38.27% so complies with the 70% maximum

Rule 9.5.6 Landscaped permeable surface coverage
The site is 809m^2 and will have a landscaped area of 175m^2. As exceeds the minimum required amount of 20% landscaped (permeable) surface, the proposal complies.

Rule 9.5.7 Building Length
The length of any building facade above the ground floor level shall not exceed 30m. All three buildings comply with this standard.

Rule 9.5.8 Minimum Boundary Setbacks
This rule requires a setback to all boundaries 1.5 metres except for the State Highway boundary where the minimum setback shall be 4.5m. Block 'C' infringes both setbacks as illustrated on the attached plan. All the apartment decks breach the Southern boundary rear yard setback. Non-compliance with this standard is a **restricted discretionary activity**

Rule 9.5.9 Waste and Recycling Storage Space
This rule requires a minimum of 2m² waste and recycling storage per residential unit or flat that complies with a number of standards. This requires 18m^2 however it is only proposed to provide 12m^2. Non-compliance with this standard is a **restricted discretionary activity**

Rule 9.5.10 Lighting and Glare
This rules requires all exterior lighting shall be directed downward and away from adjacent sites and road and that it not result in greater than a 3.0 lux spill onto other sites. This can be complied with on this site.

Rule 9.5.11 Sound Insulation and Mechanical Ventilation
As the buildings are located within 80m of the SH, a certificate will be provided to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the required internal design sound level.

Rule 9.5.12 Building Restriction Area
Not applicable

Rule 9.5.13 Flood Risk
Complies

Rule 9.5.15 Residential Visitor Accommodation
The proposal will comply with all standards with the exception of Rule 9.5.14.1 which limits total nights of occupation by paying guests on a site to no more than cumulative total of 90 nights per annum from the date of initial registration. Non-compliance with this standard is a **restricted discretionary activity**

Section 25 'Earthworks' also applies to the proposal. **Rule 25.5.3** of Table 25.5 permits a total volume of 300m^3 within the High Density Residential zone. As noted above, total earthworks amount to 624m^3, made up of 496m^3 cut and 128m^3 fill, a balance of around 368m^3. The earthworks standards also restrict the maximum depth of a cut to 2.4m and the maximum height of fill to 2m. As illustrated on the plans, these standards are exceeded with the largest cut being 3m and the highest fill being 2.755m. The proposed earthworks are therefore **restricted discretionary activities.**

Applying the bundling approach, the height infringement determines that the activity is a **discretionary activity** overall, despite the residential and accommodation activities being restricted discretionary.

2. Assessment of Environmental Effects

2.1 Introduction

Given that the overall activity status of the proposal is discretionary, Council is not limited in the matters that it can consider. However, outside the height infringement, the other areas of non-compliance are restricted discretionary and our assessment of these focuses on the matters that Council has restricted its discretion to.

While not strictly part of the permitted baseline, we note that Councils has previously granted consent for a similar development on the site under RM181197. While this proposal did not contain nine self-contained residential units, it nevertheless had a larger footprint than this development (by 10%), was higher and set further into both the side and front yards. Earthworks were also greater in volume. Hence, the scale of the development has been accepted as appropriate for the site in the past. This is considered to be reasonably significant in the assessment of this proposal.

2.2 Effects of the Residential Unit – Density and Height

While the height aspect of the proposal is a discretionary activity, the density component is a restricted discretionary activity. Rule 9.4.5 sets out a number of matters that Council will assess the residential unit against, which are also useful in assessing the effect of exceeding the 10m height maximum. These are considered below, where relevant, but as noted above Council has already considered a similar built form to be acceptable for the area. The site is at the end of a stretch of similar development and has no residential neighbours apart for the adjoining development to the southwest, which is owned by the applicant. Overall, any potential adverse effects of the proposal in this context are likely to be less than minor.

We assess the matters of discretion below. An assessment against the *Residential Zone Design Guide* is attached from the architect, Mr Sam Jones.

a. *location, external appearance, site layout and design of buildings and fences and how the development addresses its context to contribute positively to the planned urban form and character of the area;*
   The building has been designed to reflect the urban character of the existing development in the location. Good urban design and interest is addressed through modulation and the use of a range of materials and colours. Cladding's will include timber vertical weatherboards and schist to reflect the surrounding environment.

b. *building dominance and sunlight access relative to neighbouring properties and public spaces including roads;*
   While the building exceeds the 10m height restriction and some setbacks, the proposed earthworks are designed to nestle the built form into the hillside, stepping the development down the slope thereby reducing its impact on the wider environment. Although the current building on the site is visible Frankton Road, it is largely screened by the trees that fringe the road in this location. These trees will continue to provide screening while the new buildings will be constructed lower on the site which will

ensure that, along with a more recessive colour palette, they are less visible from Frankton Road than the existing development in the location.

Hence, views from Frankton Road to the lake and the mountains to the south will not be compromised. It is noted that existing vegetation within the Crown owned reserve adjoining the site already screen the lake views and impact on sunlight access from the walking track.

With respect to the adjoining crown land and walking track, we note that the previously consented development was assessed as not compromising views or appearing overly dominant in this location. Built form of similar scale evident along the Frankton Track. Further, views from this walking track are toward the west (i.e. across the Lake) as opposed to Frankton Road. Extensive existing plantings are located within the reserve which provide further visual screening.

Overall, any potential effects on public views from the Frankton Walking Track and Frankton Road are considered to be less than minor.

With respect to adjoining properties, the applicant owns 719 Frankton Road. Written approval is therefore implied and no consideration of effects on this property is required.

c. *how the design advances housing diversity, including through providing a range of unit sizes and typologies;*
See the attached assessment against the *Residential Zone Design Guide.*

d. *how the design promotes sustainability either through construction methods, design or function;*
See the attached assessment against the *Residential Zone Design Guide*

e. *privacy for occupants of the subject site and neighbouring sites;*
The apartments are designed to ensure privacy for both indoor and outside living spaces. Windows and decks are purposely staggered to make them more private. Noise effects between the apartments will be addressed through noise control construction methods to ensure a pleasant internal environment.

f. *street activation;*
The site sits approximately 6m below Frankton Road so does not have any

interaction with the street front. Being an extremely busy limited access state highway, activation for the Frankton Road frontage is not considered appropriate.

g. *parking and access layout: safety, efficiency and impacts on on-street parking and neighbours;*

Access is already formed to the site. While the NPS 2020 removed the requirement for car parking associated with residential development, the applicant has provided space for at least 7 complying on-site car parks. Adequate manoeuvrability will be available to ensure cars drive out of the site in a forward manner.

In the applicants experience with accommodation at 719 Frankton Road, this will be enough to cater for demand on this site. However, as the applicant controls the adjoining site and much of that driveway, additional car park spaces can be provided when needed.

h. design and integration of landscaping;

The proposed landscaping exceeds the 20% site threshold for the site. It has been designed to integrate the development into the surrounding environment which largely comprises established Council owned trees in clusters. A swale will be formed over the top of the new stormwater drain to be provided along the southwest boundary, that connects an overflow pathway to the Council storm water channel below the property. Between this boundary and the apartments, native grasses will be planted to blend in with the existing endemic flora. The landscaping to the south of the dwellings will be grouped areas of native grassland species including NZ Iris (Mikoikoi), Silver Tussock (Poa cita), & Copper Tussock (Chionochloa rubra). These grasses will be located in a simple planting structure representative of the endemic flora. All planted areas will have approx. 100mm depth of schist rock mulch applied over biodegradable weedmat. Larger shrubs & trees including Horopito (Pseudowintera colorata), South Island Kowhai (Sophora microphylla) & Whaririki/ Mountain Flax (Phormium cookanum) will be dispersed throughout the landscaping area. Locations will be determined on site as the location of Council trees are unknown and will affect the placement of trees on the site.

i. capacity of existing or planned infrastructure for potable water, stormwater and wastewater services;

As we understand it, there is capacity to service the proposed with all 3 Waters services. Connections are already available to the site.

j. low impact stormwater design;

The stormwater design previously consented under RM181197 will be installed. See attached plans and reports.

k. waste and recycling storage space and collection;

Only 12m2 of the required 18m^2 bin storage will be provided. This is addressed below.

l. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area:

n/a

m. The location, size, access, design and screening of waste and recycling storage space; and

The waste areas can be easily accessed and screened.

n. Consistency with the Residential Zone Design Guide 2021.

See attached

o. Where Electricity Sub-transmission Infrastructure or Significant Electricity Distribution Infrastructure as shown on the District Plan web mapping application is located within the adjacent road and any proposed building is located within 9.5 meters of that road boundary, any adverse effects on that infrastructure.

n/a

Having regard to the above assessment matters in the context of this particular location, we conclude that any adverse effects arising from the density and height of the proposal will be less than minor.

2.3 Visitor Accommodation Effects

Rule 9.5.14 sets out the matters Councils has restricted its discretion to in respect of visitor accommodation. These are set out below, but we note many of them address the same issues that have been assessed in the context for the density/height issue addressed above.

a. *The location, nature and scale of activities;*
The site is located within close proximity to public transport routes and cycleways and is easily accessible of Frankton Road. The Frankton commercial areas along with the CBD is within walking distance. Restaurants are also located nearby, such as the Boat Shed Café and Fino restaurant.

b. *Vehicle access and parking;*
Addressed above

c. *Privacy and overlooking;*
Addressed above. The apartments do not overlook any other development.

d. *Outdoor lighting;*
All outdoor lighting will be downward facing, to avoid adverse effects on adjoining properties, roads and to assist in reducing light pollution.

e. *The management of noise, rubbish, recycling and outdoor activities;*
This will be detailed in the 'Visitor Accommodation Management Plan' (VAMP) and will be communicated to guests when booking. See attached VAMP for 715 and 719 Frankton Road. We anticipate that Council will require the preparation of similar VAMP as a condition of consent. Rubbish and recycling from the units will be managed collectively by the company who manages the apartments.

f. *Guest management and complaints procedures;*
As above

g. *The keeping of records of the Residential Visitor Accommodation use, and availability of records for Council inspection; and*
We assume this will be a condition of consent

h. *Monitoring requirements, including imposition of an annual monitoring charge.*

We assume this will be a condition of consent

Overall, the site is well located for visitor accommodation purposes and can be managed to ensure amenity values in the neighbourhood are not compromised.

2.4 Boundary Setback Effects

Rule 9.5.8 contains a number of matters that Council will consider when assessing the impact of the setback breaches. Again, the locational context is significant in this assessment. The

minor encroachment into the 4.5m road setback has no impact as the site sits well below the Frankton Road carriageway and does not impact on access and parking manoeuvrability. The side and rear yard infringements adjoin the Crown reserve land that contains the Frankton Walking Track. However, the walkway is heavily vegetated so the impact of this breach will not be apparent to anyone using the track.

The matters of discretion are as follows:

a. *external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties;*
   Discussed above. Less than minor effect.

b. *streetscape character and amenity;*
   Discussed above. Less than minor effect

c. *any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants;*
   Discussed above. Less than minor effect

d. *effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan).*
   Discussed above. Less than minor effect

e. *Where Electricity Sub-transmission Infrastructure or Significant Electricity Distribution Infrastructure as shown on the District Plan web mapping application is located within the adjacent road and any proposed building is located within 9.5 meters of that road boundary, any adverse effects on that infrastructure.*

   n/a

Overall, any adverse effect of infringing the setbacks is considered to be less than minor.

2.5 Earthworks

As we have noted above, the earthworks proposed are to assist with nestling the building into the slope to reduce the impact of the built form. The previous application (RM181197) included a Geotechnical Report carried out by Jeff Bryant (Geoconsulting Ltd) that contains several recommendations with regard to earthworks. The total volume of earthworks proposed here is less than what was consent under RM181197 and again no rock blasting is required. However, schist bedrock is located at shallow depths, and this may require some rock breaking.

We understand that Council was satisfied that the key observations and recommendations contained within the previous Geotechnical Report can be adhered to. Earthworks will be required to be observed by a suitably qualified geotechnical professional. Should the site conditions be found to be unsuitable for excavation/construction methods, then the consent holder's engineer will be required to submit new designs/work methodologies for the works prior to additional works being undertaken. A site management plan (SMP) will be submitted to Council for approval before earthworks can be undertaken. The SMP is to include measures regarding how dust, stormwater and sediment control, and roading will be maintained during the earthworks phase. The implementation of an SMP is assessed as being appropriate to avoid potential adverse effects on the wider environment through while earthworks are being undertaken.

The matters of discretion are assessed below.

25.7.1.1Soil erosion, generation and run-off of sediment.

Industry standard practices will be employed to manage earthworks during the construction phase. We would expect that a similar condition to that imposed on RM181197 will be attached to this consent. That condition read as follows:

> *"The consent holder shall submit a construction Site Management Plan. This shall detail measures to control and or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with (but not limited to) the QLDC's Land Development and Subdivision Code of Practice. These reviewed measures shall be implemented prior to the commencement of any earthworks on site and shall remain in place for the duration of the project until exposed areas of earth are permanently stabilised. In addition the measures shall include, but not be limited to, the following:*
>
> ***Dust Control***
>
> *• Sprinklers, water carts or other similar measures shall be utilised on all materials to prevent dust nuisance in the instance of ANY conditions whereby dust may be generated.*
>
> ***Stormwater, Silt and Sediment Control***
>
> *• Silt traps (in the form of fabric filter dams or straw bales) shall be in place prior to the commencement of works on site to trap stormwater sediments before stormwater enters the QLDC stormwater reticulation system.*
>
> *• Site drainage paths shall be constructed and utilised to keep any silt laden materials on site and to direct the flows to the silt traps.*
>
> *• Stormwater flows into the site from neighbouring lots shall be managed during earthworks.*

• Protection of the existing QLDC sewer and stormwater mains located along/near the boundaries of the site.

• Silt traps shall be replaced or maintained as necessary to assure that they are effective in their purpose.

• The principal contractor shall take proactive measures in stopping all sediment laden stormwater from entering the QLDC reticulated stormwater system. The principal contractor shall recognise that this may be above and beyond conditions outlined in this consent.

Roading Maintenance

• The consent holder shall ensure tyres remain free of mud and debris by utilising wheel washing equipment, constructing a gravel hardstand area of sufficient depth, or other similar measures.

• The principal contractor shall ensure that the entrance to the site shall be swept regularly with stiff brooms.

• A suitably resourced contractor shall regularly mechanically sweep and clean the site entrance and the road 100m in each direction of the site entrance during works.

Traffic Management

• An approved traffic management plan.

• Details of how impacts on the other users of the shared access will be minimised.

The measures outlined in this condition are minimum required measures only. The principal contractor shall take proactive measures in all aspects of the site's management to assure that virtually no effects are realised with respect to effects on the environment, local communities or traffic. The principal contractor shall recognise that this may be above and beyond conditions outlined in this consent."

25.7.1.2 Landscape and visual amenity values.

The earthworks will be temporary and will essentially occur within the footprint of the proposed dwellings. Hence, there will be no long-term visual effects.

25.7.1.3 Effects on infrastructure, adjacent sites and public roads.

Councils watermain runs through the top of the section. While fill will be required in this location, it will be minimal and all work will be undertaken in accordance with the relevant Council standards. The State Highway will not be impacted by this proposal. The existing retaining wall will be affected.

25.7.1.4 Land stability.

The geotechnical assessment previously carried out by Jeff Bryant (Geoconsulting Ltd) addresses this issue. That report is attached and concludes:

"Given the above constraints, the proposed earthworks are considered feasible and modest in scale if the recommendation for piled foundations are adopted. We recommend penetrometer testing be undertaken prior to commencement of earthworks to determine whether ground improvement or other solutions are needed for the garage foundations. We also recommend construction monitoring during the earthworks phase."

The applicant will undertake all earthworks and building construction in accordance with the recommendations of the Geoconsulting Ltd report. A number of conditions were attached to RM181197 which should also apply to this consent.

25.7.1.5 Effects on water bodies, ecosystem services and biodiversity.

All earthworks are approximately at least 20m away from the lake. As noted above, care will be taken to prevent mobilised sediment during construction and will be addressed in the construction Site Management Plan.

The site contains no biodiversity values of note.

25.7.1.6 Cultural, heritage and archaeological sites.

The site contains no known cultural, heritage or archaeological values.

25.7.1.7 Nuisance effects.

Any nuisance effects will be temporary and will be managed under the construction Site Management Plan. The only property potentially affected in this regard is the applicant's adjoining property at 719 Frankton Road.

25.7.1.8 Natural Hazards.

The QLDC Webmaps site identifies the following hazards affecting the site:

- Regional scale alluvial fans – composite
- Liquefaction risk category LIC (1)

The geotechnical assessment carried out by Jeff Bryant concluded as follows in respect to natural hazards:

Although a stream passes through the site, no evidence was found, either from aerial photograph examination or from subsurface investigations, for alluvial fan deposition in the vicinity. Accordingly, this hazard is not seen as applicable to the subject site.

The soft, saturated, fine-grained sediments meet all the requirements for liquefiable soils and informal testing by shaking a hand sample confirms this supposition. ***This***

issue could readily be avoided by founding all footings on bedrock which is generally feasible given the shallowness of this soil layer.

RM181197 contained conditions that reflected the recommendations of this report. The applicant proposes to adopt these conditions.

25.7.1.9 Functional aspects and positive effects.

As noted above, the earthworks proposed will assist in reducing the impact of the built form on the site by nestling it into the slope.

Overall, we conclude that the earthworks can be feasibly undertaken on the site and that the effects will be temporary in nature with no lasting impact on the wider environment. Any adverse effects of earthworks on the wider environment are therefore considered to be less than minor.

2.6 Waste and Recycling Storage Space effects

To ensure there is adequate car parking space, the applicant proposes to reduce the area of bin storage from the required 18m^2 down to 12m^2. The bin storage area is to be established at the end of the driveway, so it does not interfere with the operation of the access and parking provided. It will be screened to avoid effects on amenity values. It is proposed that rubbish and waste collection will be managed as part of the contract for servicing the apartments, which reduces the need for individual storage areas. This approach is foreshadowed in matter (d) of Councils discretion which is *"whether a suitable communal or other alternative waste and recycling storage and collection solution is available."*

2.7 Conclusion

Overall, we conclude that any adverse effects of the proposal will be less than minor and the proposal will reflect the existing development in the area.

3. The Policy Framework

The purpose of 'High Density Residential Zone' is to provide for the efficient use of land for residential purposes that is within close proximity to town centres that is easily accessible by public transport, cycle and walkways. The objective is to minimise urban sprawl and consolidate growth in existing urban areas. To achieve this, **Objective 9.2.1** promotes that *'High density development occurs in urban areas close to town centres, to provide greater housing diversity and respond to expected population growth**.'***

Visitor accommodation is also anticipated and enabled in this zone to respond to projected growth in visitor numbers. To achieve this, Objective 9.2.8 promotes that '*Visitor accommodation, residential visitor accommodation and homestays are enabled in urban areas close to town centres to respond to strong projected growth in visitor numbers, whilst ensuring that adverse effects on residential amenity values and traffic safety are avoided, remedied or mitigated.'*

The proposal is consistent with the purpose of the zone and will be developed in a manner that avoids adverse effects the residential amenity values of nearby residents. We assess the proposal against the policy provision that address these matters below.

Objective 9.2.2 seeks development that provides a positive contribution to the environment through quality urban design. The associated policies require development to respond to its context (Policy 9.2.2.1) which has been at the forefront of the architect's design approach for this site. While the buildings will not be particularly visible from any public space, and therefore do not spatially dominate such areas, the design achieves a high level of visual interest with the use of modulation, setbacks and a range of different materials. The architectural style is reflective of the neighbouring development and provides a high degree of amenity for residents and neighbours alike. While exceeding the 10m maximum height (due to the sloping nature of the site), the design reduces the perception of height and bulk through modulation of building form, the use of setbacks and 'stepping' the building elements, along with providing separation between building blocks. This approach ensures the proposal maintains adequate sunlight access and avoids additional shading of neighbouring sites.

Overall, we consider the proposal is consistent with urban design policy provisions.

Objective 9.2.3 seeks to maintains a minimum level of existing amenity values for neighbouring sites as part of positively contributing to the urban amenity values sought within the zone. The associated policies do this by applying bulk and location standards that are designed to address amenity values and privacy. We have assessed the proposal above as achieving a high level of amenity for both residents and neighbouring property owners, bearing in mind the only adjoining private property is owned by the applicant. Sunshade diagrams have been provided but it is noted that shading already occurs in this location due to the terrain and vegetation. This proposal does not exacerbate those effects.

Overall, we consider the proposal is consistent with the amenity related policy provisions.

Objective 9.2.6 and its associated policies address infrastructure matters and requires development to efficiently utilise existing infrastructure and minimise impacts on infrastructure and roading network. Services and access to the site are existing and will be utilised by the proposal. Adequate car parking will be provided on-site while the crossing point to Frankton Road is considered safe and acceptable. NZTA's written approval is being sought. The design of the development uses of a variety of stormwater management measures which will have a low impact on the surrounding environment.

Overall, we consider the proposal is consistent with infrastructure related policy provisions.

In conclusion, we consider that the proposal achieves the relevant policy outcomes sought for the High Density Residential zone.

The Earthworks chapter also contain a number of objectives and policies. **Objective 25.2.1** and its associated policies require that earthworks minimise adverse effects on the environment, including through mitigation or remediation, and protects people and communities. The effects assessment above largely addresses the policy outcomes sought. None of the areas of special interest areas identified in **Policy 25.2.1.2** are affected by this proposal. We also note that the earthworks are required to nestle the buildings into the site, thereby reducing their impact. This is consistent with **Policy 25.2.1.5** which requires *"earthworks to recognise the constraints and opportunities of the site and environment."*

Objective 25.2.2 requires earthworks to benefit people and communities. Th earthworks achieve this insofar as allowing the site to be efficiently developed and thereby contributing to Queenstown social and economic wellbeing.

Overall, we consider the proposal is consistent with the relevant earthworks related policy provisions.

4. Affected Persons and Notification

With regard to sections 95A, 95B and 95C of the Act, it is considered that the subject application should be processed on a non-notified basis, without written approvals except for that of NZTA, because:

- The activity will have or is likely to have adverse effects on the environment that are less than minor.

- The applicant did not request public notification of the application.

- There is no rule or National Environmental Standard that requires public or limited notification of the application.

- The activity will not have adverse effects that are minor or more than minor on any person(s) or order holders(s) with exception of NZTA given that Frankton Road is a limited access State Highway. Their written approval is being sought.

- No special circumstances exist in relation to the application.

The Court of Appeal in Far North District Council v Te Runanga–a-iwi O Ngati Kahu [2013] NZCA 221 summarised the relevant law relating to special circumstances as follows:

… A "special circumstance" is something, as White J accepted, outside the common run of things which is exceptional, abnormal or unusual but less than extraordinary or unique. A special circumstance would be one which makes notification desirable despite the general provisions excluding the need for notification. As Elias J noted in Murray v Whakatane District Council:

… the policy evident in those subsections seems to be based upon an assumption that the consent authority does not require the additional information which notification may provide because the principles to be applied in the decision are clear and non-contentious (as they will generally be if settled by district plan) or the adverse effects are minor. Where a consent does not fit within that general policy, it may be seen to be unusual.

[37] …the special circumstance must relate to the subject application. The local authority has to be satisfied that public notification, as opposed to limited notification to a party or parties, may elicit additional information bearing upon the non-complying aspects of the application...

As noted in our assessment of effects above, we consider that any potential adverse effects of the proposal will be less than minor. The proposal is not unique.

5. Summary and Conclusion

The application is for a nine-unit visitor accommodation development within the **'High Density Residential' zone**. While the built form contravenes a number of bulk and location standards, these infringements generally occur due to the topographical constrains of the site. However, the design of the proposal adequately mitigates the effects of these infringements and reflects the character of adjoining development.

We have concluded the proposal will have adverse effects that are less than minor and that it is consistent with the relevant policy framework. In our view, granting the consent will enable the sustainable management of Queenstown's natural and physical resources, thereby achieving the purpose of the Act.