Resource Consent Application

Subdivision, Land Use and Consent Notice Cancellation

9 Tuatara Rise and 18 and 20 Barclay Place, Wanaka

Client	Tuatara Trust
Project Address	9 Tuatara Rise and 18 and 20 Barclay Place, Wanaka
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1. Application Details

Applicant(s)	Tuatara Trust
Site Address	18 and 20 Barclay Place and 9 Tuatara Rise, Wanaka
Legal Descriptions	Lots 9, 10 and 29 DP 502229, and Lot 43 DP 585393
Record of Title	752828, 752829 and 1104321 (attached in **Appendix A** – Record of Title)
Site Area	2.357ha
District Plan	Queenstown Lakes Proposed District Plan (**PDP**)
Zoning	Rural (Part) Suburban Residential (**SR**) (Part)
Overlay	Building Restriction Area (**BRA**) – Rural Zone only Wanaka Urban Growth Boundary (**UGB**)
Hazards	LIC 1 – Nil to Low Risk for liquification susceptibility on QLDC GIS Hazards map
Land Use Capability	LUC Class 4 Arable. Significant limitations for arable use or cultivation, very limited crop types, suitable for occasional cropping, pastoralism, tree crops and forestry. Some Class 4 is also suitable for viticulture and berry fruit
Resource Consent	Subdivision and Land Use Consent, Consent Notice Cancellation
Activity Status	Non-Complying

2. Background

2.1 Site Description

The application site is comprised of four adjoining land parcels held within three Records of Title (**Appendix A**) as shown in ***Figure 1***.

The below shows the immediate site and zone context. Collectively these land parcels are described and referred to as 'the Site' within this application, and for fullness are described separately below.

The relevant title instruments and summary of interests are in **Appendix B**.

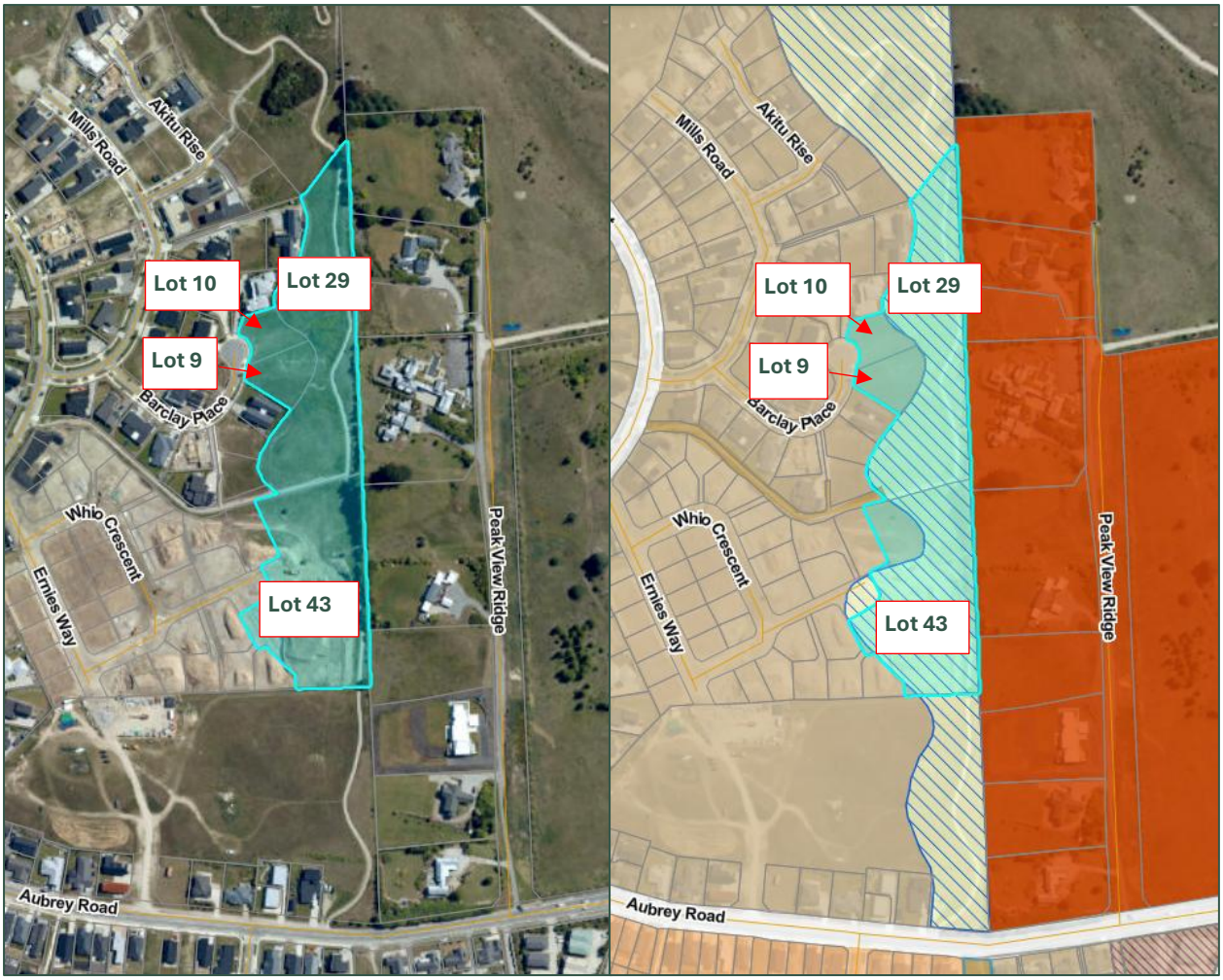


Figure 1: *Application site [Left], and the site with zoning context [Right].*

2.1.1 Lot 43 DP 585393 – 9 Tuatara Rise

Lot 43 is an irregular 10,541m^2 parcel. Approximately 1,260m^2 at the north-western corner is zoned Suburban Residential (**SR**), with the balance zoned Rural and subject to a Building Restriction Area (**BRA**).

The site sits at the eastern end of Tuatara Rise and rises gently to the northern and eastern boundaries. It is largely vacant except for a formed right of way providing access to 8 and 10 Tuatara Rise, and a gravel walkway/cycleway running parallel to the eastern boundary. This track connects Aubrey Road to Sticky Forest and is secured by easement.

The land is mostly grassed, with recently planted indigenous vegetation along and extending from the walkway/cycleway (subject to consent notice), and a row each of Leyland cypress and Himalayan cedar following the walkway/cycleway on its western side. Vehicle access is formed from the Tuatara Rise cul-de-sac.

The site was serviced under RM210405 and connected to the Council reticulated water, wastewater and stormwater network. Some of these, and related services, are secured by easements and covenant areas.

An area of uncertified fill is in the southeast part of the site, as identified on the title plan with associated consent notice conditions.

Consent Notice 12836723.4 applies in part to Lot 43. Additional to the uncertified fill areas are conditions pertaining to stormwater systems, overland flow paths, structure/planting restriction areas (shown as L, M, and Y), and maintaining certain existing planting as noted above.

The Consent Notices are included in **Appendix B**.

2.1.2 Lot 9 and 29 DP 502229 – 18 Barclay Place

18 Barclay Place comprises two lots held in one Record of Title (752828). Lot 9 (1,535m^2) is zoned SR. Lot 29 (10,402m^2) is zoned Rural and subject to the same BRA as 9 Tuatara Rise. The western boundary is sinuous, with bulges corresponding to flatter areas and waists where slopes increase.

Lot 9 forms the moderately sloped southern side of a gully rising from Barclay Place to the eastern boundary. Lot 29 also rises northward. Lot 9 contains short grass and rabbit warrens; Lot 29 contains unkempt rank grass, broom, and the Leyland cypress and Himalayan cedar rows continue to follow the western side of the trail.

The site is connected to the Council reticulated water, wastewater and stormwater network, and to power and telecommunications provided to this site under RM150426 and are protected by easements.

The southern edge of Lot 29 contains a pedestrian and cycleway that connects to the pedestrian/cycle network that runs west to Kirimoko Crescent via a Local Purpose Reserve. This ROW links to the walkway/cycleway along the eastern boundary of Lot 29 and connects with the same network within 9 Tuatara Rise. These walkway and service easements are continuations of those on Lot 43.

Consent notice 10623210.5 applies in part to Lot 29.

2.1.3 20 Barclay Place (Lot 10 DP 502229)

This lot is a 1,092m^2 irregular shaped parcel adjacent to, and north of, 18 Barclay Place. This parcel is entirely SR zoned with topography that rises from the west and south to north across the site.

The site was serviced under RM210405; a vehicle crossing installed and the site connected to the Council reticulated water, wastewater and stormwater network, and to power and telecommunications. Consent notice conditions apply to the ongoing maintenance of certain

stormwater infrastructure within Lot 10 (Easement Area M) and restrict further subdivision (CN 10623210.5). This application does not propose to further subdivide Lot 10.

2.2 Relevant Consent History

The following describes the relevant consented history of the application sites and surrounds.

RM210405 (as varied by RM230167) consent for a 43-lot fee-simple subdivision, land use consent to undertake bulk earthworks, setbacks from intersections and sightlines, to cancel a consent notice was approved 21 October 2021. The variation amended the earthworks to provide for the borrow pit.

RM150426 for land use for bulk earthworks and subdivision consent to create 26 residential lots, and two balance lots (roading and reserve), and cancel a consent notice (approved 1 September 2015).

3. Description of Proposal

3.1 Subdivision

The proposal is to subdivide Lots 43 DP 585393, Lots 9 and 29 DP 502229 into 19 residential allotments, associated rights-of-way (**ROW**), including a new ROW proposed across Lot 10 DP 50229, earthworks, and service infrastructure. The subdivision formalises a residential pattern consistent with the Wanaka UGB and existing surrounding development at Tuatara Rise, Barclay Place, and Kirimoko Crescent.

3.1.1 Proposed Lots

The proposal is a 19-lot subdivision (Lots 1–19) and right of way and service easement (ROW) over Lot 10 DP 502229. Proposed lot sizes range from 626m^2 – 1,757m^2 in area (621m^2 to 1,460m^2 net area). The boundaries of existing Lot 10 DP 502229 do not change; however, the net area will reduce due to a new ROW proposed across that site. Lot sizes have been designed to respond to the existing topography, local residential context, and the access network established by the four proposed rights-of-way.

Each lot within or part within the Rural zone contains a proposed building platform where the proposed boundary offset will comply with the SR boundary setbacks. The platform sizes range from 331m^2 to 941m^2. Within each platform, the land will be recontoured to create a battered building pad. The pad will represent the design ground level for each site in terms of NZVD 2016. Pads will be earthworked to the proposed design ground level as part of the subdivision. It is intended that future building can occur outside the pad and inside the building platform subject to meeting the maximum building height RL that will form a consent notice condition. As the earthworks are to occur through the subdivision process it is sought that the ground level be reset to the specified RL ground level at the completion of the subdivision as provided for in the PDP Chapter 2 definition of Ground Level.

These features are shown in the proposed subdivision plans (**Appendix C**), earthworks plans (**Appendix D**) and landscape plans (**Appendix F**), and detailed in ***Table 1*** below.

To note, Lots 1, 5 and 8 each have two pads/heights.

Table 1: *Lot and platform areas, design ground level and building heights*

Lot	Net Area (m^2)	Gross Area (m^2)	Building Platform Area (m^2)	Design Ground Level (RL)	Building Height above RL (m)
Lot 1	1,160	1,757	1a –243 1b – 444	346.3 (1a) and 346.8 (1b)	8 (1a) and 5.5 (1b)
Lot 2	1,006	1,545	703	346.4	5.5
Lot 3	1,274	1,615	941	340.9	8
Lot 10 DP 502229	678	1,092	447	334.9	7 (existing CN)
Lot 4	981	-	NA	335.5	7
Lot 5	1,249	1,752	5a – 218 5b – 633	341.0	7 (5a) 8 (5b)
Lot 6	972	1,407	702	341.0	5.5
Lot 7	697	764	482	337.7	5.5
Lot 8	691	760	495	336.1 (west) and 337.5 (east)	7 (west) 5.5 (east)
Lot 9	1,045	1,351	710	340.9	6
Lot 10	1,109	1,442	579	331.1	7
Lot 11	1,460	1,717	827	335.5	7
Lot 12	621	-	331	333.0	7
Lot 13	762	-	441	333.05	7
Lot 14	780	1,033	536	334.4	7
Lot 15	716	997	415	333.5	5.5
Lot 16	675	867	438	335.9	7
Lot 17	892	1,081	561	336.8	7
Lot 18	738	808	510	334.9	7
Lot 19	935	1,212	664	337.2	7

All lots are configured to obtain legal and physical access either direct from a road or from the new rights-of-way described below.

The subdivision will be staged, with a staging condition proposed to allow the staging to occur in any order subject to servicing and access.

3.1.2 Landscape and Urban Design Response

The subdivision has been prepared with the assistance of landscape and urban design advice from Rough Milne Mitchell Landscape Architects (**RMM**). The corresponding report is included in **Appendix E**. The report provides an overview of the existing landscape character, the anticipated effects of the development, and the general approach to mitigation. The analysis has been prepared to align with accepted best practice for landscape and visual assessment

and draws on the PDP planning framework, relevant strategic documents and Environment Court decisions, and site-responsive design principles.

The assessment focuses on the overarching landscape values of the site, its interface with the established and emerging residential neighbourhoods surrounding the site, and the contribution the land currently makes to the perception of an open space network. The report also identifies the key design considerations that inform the subdivision layout, including building platform placement, future built form controls, and the integration of the public walking and cycling connection.

The mitigation identified which forms part of the proposed consent conditions are compiled in **Appendix G**. The intention is to ensure that the subdivision is integrated into its setting in a manner that maintains the legibility of the local landscape pattern, supports a coherent urban form, and reinforces the established open space connections including viewshaft protection measures, with building height and permeability controls. Importantly the design seeks to provide and secure viewshafts for residents on Peak View Ridge and provide for some views from the trail.

The proposed landscaping plan includes structural plantings for the subdivision between the realigned trails east edge and the Peak View Ridge properties. This comprises approximately 1,090m^2 of native planting that will either be sourced new or relocated from the existing planting areas approved around the trail in Lot 43 under RM210405. The consent notice protecting the 950m^2 existing planted areas is proposed to be cancelled and replaced as described in section [**3.3**] below and **Appendix G** proposed consent conditions.

3.1.3 Access and Rights-of-Way

The subdivision connects directly to:

- Tuatara Rise
- Barclay Place
- The walkway/cycleway network along the eastern boundary, including the connection north to Sticky Forest, south beyond Aubrey Road and into The Heights, and west to Kirimoko Crescent.

These connections reinforce multimodal accessibility and provide continuity with existing development patterns. Legal and physical access relies on a series of private rights-of-way (ROW 1 - 4) from Tuatara Rise and Barclay Place into the proposed lots. The scheme plan clearly separates four ROW corridors, each serving clusters of lots as follows:

- ROW 1 is the primary link from Barclay Place across existing Lot 10 DP 502229 serving Lots 1-3 and 5-9.
- ROW 2 extends south from ROW 1, serving Lots 5-9.
- ROW 3 is the northern connection from Tuatara Rise serving Lots 10-11 and 13-14.
- ROW 4 is the southern connection from Tuatara Rise and serve Lots 16–19.

The proposed ROW dimensions and layout are described in full in the Infrastructure Report (**Appendix H**) and the engineering designs and Transport Assessment report (both appended to the Infrastructure Report**).**

Construction standards will align with QLDC engineering requirements, with detailed design occurring at engineering approval stage.

It is proposed to relocate and change parts of the pedestrian/cycle way track and associated easements along the east boundary of Lots 29 and 43. The current arrangement has complicated easements in the same general area for both the trail and infrastructure, and the trail is not contained entirely to the easement area. The current 10m easement is proposed to be reduced to follow the re-aligned trail alignment, with a 0.5m offset as shown in the landscape graphic attachment (**Appendix F**).

3.1.4 Earthworks

Earthworks are required to create the accesses and internal service corridors and establish the designed building pads. The earthwork plans (**Appendix D**) show the existing and proposed design contours with building pad levels that will represent the design ground level to measure future building height as described in **section [3.1.1]** above.

The total earthworks volume across the site is 19,075m^3 comprising:

- Topsoil strip: 4,400m^3
- Cut: 6,150m^3
- Fill: 4,475m^3
- Respread topsoil: 4,050m^3
- Waste topsoil: 2,025m^3

Across the main subdivision area, the maximum cut is approximately 3.4m and maximum fill is approximately 3.0m.

Uncertified fill from the borrow-pit on Lots 14, 17 and 19 is to remain and the related consent notice condition re-imposed.

Earthworks extend over approximately 1.76 ha of the site.

Proposed finished contours and earthwork extents are shown on the earthwork plans. The design maintains drainage pathways and integrates with overland flow paths already secured by existing easements and consent notices. The new contours are all shaped and battered into the landform. Low retaining walls are proposed and designed to support vehicle loading from proposed ROW 1 (Lots 2 and 3) and ROW 2 (Lot 6).

Geotechnical investigations have been undertaken across the site by Geosolve with their recommendation report appended to the infrastructure report. All earthworks are proposed to

be undertaken in accordance with this report, and any retaining over 1.5m to be the subject of engineering design.

As greater than 1-hectare of land will be exposed through the subdivision earthworks, a High-risk Environmental Management Plan (**EMP**) and Erosion and Sediment Control Plan (**ESCP**) have been prepared by Enviroscope (**Appendix I**). All earthworks will be undertaken in accordance with these plans, and any iterative amendments as agreed by Council. A consent condition is proposed to this effect.

The EMP and ESCP have been developed in accordance with the QLDC EMP guidelines, the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005), and the ORC Guide for residential earthworks in Otago, and has been prepared by a Suitably Qualified and Experienced Practitioner.

Appendix 1 to the EMP show the proposed layout of the overall ESCP, and schematics of erosion and sediment control measures. In summary, the EMP includes the following proposed methods:

- Earthworks will be staged and sequenced to minimise exposed areas, with progressive stabilisation (e.g. topsoiling, seeding, mulch, erosion matting or polymers) applied as works advance.
- A comprehensive erosion and sediment control system will be implemented, including clean water diversion, dirty water collection, and conveyance via drains, channels, check dams and pipe drops.
- Sediment retention devices (ponds and bunds) will be used to treat runoff, with chemical treatment where required to improve sediment removal prior to discharge.
- Water quality will be managed and monitored, including event-based sampling during rainfall and implementation of corrective actions where standards are not met.
- Dust, noise and vibration effects will be managed through standard construction practices, including water suppression, traffic management, equipment controls, and adherence to permitted working hours.
- Hazardous substances and fuels will be stored and handled in controlled areas, with spill prevention and response measures in place.
- Waste will be minimised, appropriately contained, and removed off-site, with no disposal occurring on-site.
- Contingency measures will be implemented for adverse weather and unforeseen events, including temporary cessation of works and additional controls where required.

The works will be undertaken in a staged and progressive manner, commencing with site establishment and installation of erosion and sediment controls, followed by bulk earthworks and infrastructure installation, and concluding with final landscaping and stabilisation. Environmental controls will be implemented upfront, maintained throughout construction, and only removed once disturbed areas are fully stabilised.

As over 2,500m^2 of residential earthworks are proposed land use and discharge consents are required from the Otago Region al Council. It is proposed to apply for this consent once the decision on this application has been released.

3.1.5 Stormwater, Wastewater, Water Supply & Utilities

As the site is located inside the Wanaka UGB it is proposed to connect into and extend the local council reticulated stormwater, wastewater and water supply. These connections will be subject to detailed design through post consent Engineering Acceptance conditions as proposed.

In summary, the subdivision anticipates the following based on the existing servicing environment, as described fully in the Infrastructure Report (**Appendix H**), the proposed engineering services drawings, the Geosolve Geotechnical report, CGW Consulting Engineers (**CGW**) Stormwater Management reports and recommendations (all of which are appended to the Infrastructure Report).

- *Stormwater:*

The earthworks plans (**Appendix D**) show defined swales, overland flow paths, and pad levels that ensure stormwater is directed into the existing reticulated network. This is further described in the Stormwater Layout plans and assessed in the CGW stormwater assessment (appended to the infrastructure report) of post subdivision hydraulic neutrality.

The stormwater design includes a combination of existing soakage and detention infrastructure integrated with new proposed infrastructure. The existing swales on proposed Lots 7 and 8 (marked easement area AC on Lot 29) will be removed as they become redundant with this proposal. . This necessitates changes to easements and associated land covenants and replacement consent notices as described in the **Appendix G** proposed consent conditions.

Proposed vesting arrangements are set out in the Infrastructure Report and generally provide for vesting of key stormwater infrastructure, with some elements retained in private ownership, including certain laterals and attenuation infrastructure.

- *Wastewater:*

Lots will connect to the existing reticulated wastewater network within Tuatara Rise and Barclay Place with any necessary upgrades made.

- *Water supply:*

Water reticulation will extend from the 125mm PE line at Tuatara Rise and the 50mm PE line at Barclay Place. A new fire hydrant will be installed to comply with the relevant standards inside existing Lot 10 to serve the ROW 1 and 2 properties. All other properties can be serviced for firefighting from existing hydrants located in the Tuatara Rise cul-de-sac head.

- *Power and telecommunications:*

Provided via extensions of existing underground services located within adjacent road corridors and existing easement corridors. Supply letters are included in the Infrastructure Report.

3.1.6 Easements

The subdivision formalises, creates and/or replaces easements including for:

- Vehicular access (ROW 1–4) over shared accessways.
- Infrastructure (stormwater, wastewater, power, telecoms, water) within and across affected lots.
- Relocate the part of the existing pedestrian/cycleway and change easements where necessary to sit fully within proposed new easement corridor.
- Change to the Easement Instruments terms to allow motorised cycles (e-bikes) and scooters to use the walkways/ cycleways.
    - 8867788.8 (Lot 29) and 867788.9 (Lot 43) currently prohibit motorised bicycles under clauses 1.1.1(f) and 3.1.1.
    - 10623210.6 (Lot 29) clause 6.1.1.
- Reduce the 10m wide QLDC easement to follow the western edge of the trail with a 0.5m offset.
- Remove the existing swales in proposed Lots 7 and 8 as shown on the scheme plans. This includes:
    - Remove Area AC from the terms under Instrument 10623210.5 as it relates to proposed Lots 7 and 8.

3.2 Land Use

Associated land use consent is sought to enable future buildings inside the proposed residential platforms in the Rural Zone and to be located within boundary setbacks with future buildings subject to these location and height controls other than Lot 4 which has no platform as it is fully within the SR zone.

3.3 Consent Notice Cancellation

The consent notices registered on the land titles are contained in **Appendix B**. To avoid duplication, it is proposed to cancel in full Consent Notices 12836723.4 (Lot 43) and 10623210.5 (Lot 9 and 29), and replace with new consent notices for each of the proposed lots containing only those conditions that remain relevant (e.g. protecting retained overland flow systems, new landscaping) along with the new proposed ongoing conditions in **Appendix G**.

3.4 Consent Conditions

Draft consent conditions and proposed consent notice conditions are provided in **Appendix G**. It is anticipated that conditions will be refined through the course of processing, and it is

requested that any Council-initiated conditions are provided for review prior to decision-making.

4. Resource Consent Required

The site is zoned Rural and Suburban Residential (Kirimoko Structure Plan) under the PDP. An assessment of the proposal against the relevant Zone and District Wide plan standards is in **Appendix K** with the following reasons for consent identified.

4.1 District Plan

Land use and subdivision consents are required under the Queenstown Lakes PDP for the following:

Subdivision

- A **discretionary** activity under rule 27.5.6 for a subdivision of rural zoned land as such subdivision does not fall under any other rule in section 27.5.

- A **controlled** activity under rule 27.7.2.1 for a subdivision in the Kirimoko Structure Plan area that is consistent with the principal roading layout in the structure plan. The subdivision does not change the established road network. The matters of control are:

  a. *roading layout;*
  b. *the provision and location of walkways and the green network;*
  c. *the protection of native species as identified on the structure plan as green network.*

- A **non-complying** activity under rule 27.7.2.2 for a subdivision in the Kirimoko Structure Plan area that is consistent with the principal roading layout in the structure plan but creates access ways for more than two properties. The subdivision does not propose to change the principal roading layout but adds four new ROWs that each access more than two properties.

- A **non-complying** activity under rule 27.7.2.3 for a subdivision of land zoned Rural that creates a lot entirely zoned Rural in the Kirimoko Structure Plan area. Proposed Lots 1-3, 7-9, 11-14, 16-17 and 19 will be entirely zoned Rural.

- A **non-complying** activity under rule 27.7.2.4 for a subdivision of land titles listed (of titles since derived from) in the Kirimoko Structure Plan area that creates more than one lot containing Rural zoning. Proposed Lots 5, 6, 10, 15 and 18 all in part contain Rural zoning and are from titles derived from those listed.

Earthworks

- A **restricted discretionary** activity under rule 25.5.11.1 for earthworks exceeding 2,500m^2 where the slope is 10° or greater. An area measuring approximately 1.76 ha will be exposed through subdivision earthworks. Discretion is restricted to the matters in 25.7 as 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.

Transport

- A **restricted discretionary** activity under rule 29.5.13.a, for access design to fee simple lots that does not meet the code of practice. Proposed RoW 1(south) will have an approximate 7m legal width whereas the CoP E11 road specifies a 9m legal width. RoW 1 (south) will provide access to nine lots for residential purposes being existing Lot 10 DP 50222 and proposed Lots 1-3 and 5-9. Discretion is restricted to:

  a. *Effects, including positive effects on the safety, efficiency, and amenity of the site and of the transport network, including the pedestrian and cycling environment.*
  b. *The design of the access, including the width of the formed and legal width.*
  c. *The on-going management and maintenance of the access.*
  d. *Urban design outcomes, including any positive effects on urban design quality.*
  e. *The vesting of the access in Council.*
  f. *Any positive effects on achieving planned intensification and compact urban form.*

Rural Zone – land use

- A **non-complying** activity under rule 21.4.29 for future buildings in the Rural Zone inside the subdivision proposed platforms on Lots 1-3, 5-9, and 11-19, to be constructed within a district plan mapped Building Restriction Area.

- A **restricted discretionary** activity under rule 21.5.1 for future buildings in the Rural Zone located within the proposed building platforms located closer than 15m to internal boundaries between proposed lots and neighbours with respect to Lots 1-3, 5-9, and 11-19, as per the **Appendix C** subdivision plans. Discretion is restricted to:

  a. *rural amenity and landscape character;*
  b. *privacy, outlook and amenity from adjoining properties.*

- A **restricted discretionary** activity under rule 21.5.2 for future buildings within the proposed building platforms on Lots 12 and 15 (Rural Zone) to locate closer than 20m to the Tuatara Rise road boundary. Discretion is restricted to:

    a. *rural Amenity and landscape character;*
    b. *open space;*
    c. *the adverse effects on the proposed activity from noise, glare and vibration from the established road.*
    d. *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, any adverse effects on that infrastructure.*

4.2 Consent Notice Cancellation

The proposed activity requires resource consent under the Resource Management Act 1991 for the following:

- A **discretionary** activity consent pursuant to 87B in accordance with Section 221 of the RMA which specifies a cancellation of a consent notice shall be processed in accordance with Sections 88 to 121 and 127(4) to 132. It is proposed to cancel and replace Consent Notices 12836723.4 (Lot 43) and 10623210.5 (Lot 9, 10 and 29) with new ongoing conditions relevant to this application.

4.3 Summary of Consents Sought

Overall, the proposal requires resource consents as outlined below:

- A **non-complying** activity under the Proposed District Plan for a subdivision of rural land within the Wanaka Urban Growth Boundary where the land is subject to a Structure Plan which the subdivision does not accord with.

- A **discretionary** activity under the RMA to cancel a consent notice.

These consents relate to different components of an integrated development proposal. The activities for which consent is sought are functionally and physically interdependent and cannot realistically be separated. As such, and in accordance with case law, 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.

Accordingly, the most restrictive activity status triggered across all components, and the application seeks resource consent as a **non-complying** activity.

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 RMA to process the application regardless of the type of activity that the application was expressed to be for.

5. Notification Assessment

5.1 Public Notification (s95A)

Section 95A Matter	Response
Step 1: Mandatory Public Notification	
Does the applicant request public notification (s95A(3)(a)	Yes
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 – 4 As the applicant volunteer's public notification, an assessment under Steps 2-4 is not necessary.	

5.2 Limited Notification (s95B)

Given the above request that the application be publicly notified there is no need for the application to be assessed against the limited notification criteria in s95B of the RMA.

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.

Consideration has been given to seeking a plan change rather than a resource consent, and a resource consent considered the appropriate pathway due to:

- A private or joint plan change being more logical across all the land subject to the Kirimoko BRA,
- The Council being subject to a plan stop.
- The applicant not owning all the land subject to the Kirimoko BRA;
- The receiving environment and policy context has changed to such a degree that a suitable consenting pathway is available to be pursued now, without the need for a plan change.
- The Applicant wishes to ensure that, like a plan change, the community and neighbours can be heard and participate in outcomes and to this end has requested voluntary

notification (same as a plan change would require). Consultation has already occurred with neighbours as discussed in section **[6.5]** below.

Based upon the reasons set out below the resource consent will not create a plan integrity issue for the PDP nor remaining parts of the structure plan subject to the BRA overlay.

As determined below it is considered that 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 from Permitted Activities

Sections 95 and 104 of the RMA 1991 state that a consent authority may disregard an adverse effect of the activity if a rule or National Environmental Standard (**NES**) permits an activity with that effect.

There are no permitted subdivision activities, however, there are some permitted land use activities that could occur on the sites being:

- Farming activities are permitted in the Rural zone which is defined as *'a primary purpose of the production of vegetative matters and/or commercial livestock.'*

  Permitted farming activities might involve limited non-production forestry cropping such as orchards or other tree / plant crops and limited grazing. Traditional farming such as beef and sheep, dairy farming, pigs or poultry, large scale cropping requiring heavy equipment / tractors are not feasible on this site given its size, topography and location adjacent to residential land.

  As a permitted activity, the site can be left to overgrow with unmown rank grass, a potential wildfire risk, and for self-sown plant and tree species to establish. Given the rolling topography and limited production potential this is a likely outcome.

- Farm buildings are permitted in the Rural zone, but only on landholdings greater than 100ha and where there is no BRA.

- Boundary fencing along any rural zoned land is permitted so long as it is post and rail, post and wire and post and mesh fences, including deer fences.[1, 2] Solid fences up to 2m high can be constructed in the Rural zoned parts of the site where greater than 10m from a road boundary, and around the SR zoned parts of the site, other than along reserves where a consent notice restricts the height to 1.2m.

- Residential use including construction of a single dwelling and accessory buildings within the SR zoned parts of Lot 10 DP 502229 and proposed Lot 4 (within Lot 9 DP

[1] Rule 21.7.1.1 for any structure which is greater than 5 metres in length, and between 1- 2 metres.
[2] Includes land contained in the BRA. Fencing of the walkway/cycleway, as permitted by EI 8867788.9

502229 presently) and proposed Lot 10 (within Lot 43 DP 585393 presently), where zone standards for development are met including an 8m building height, and up to 2m high fencing on those boundaries that are not reserves where fencing is restricted by consent notice.

- Detached Minor Residential Units are permitted under the NES-DMRU in residential and rural zones. A DMRU must be associated with and located no less than 2m from the primary residential dwelling, be only one DMRU per site, with a maximum 70m^2 internal floor area , and

    - the site coverage must not exceed 50% in a residential zone and the DMRU placed 2m or more from any boundary; or

    - in a rural zone, the coverage must comply with the district plan (there is no coverage rule in the PDP only an individual 500m^2 building size rule) and meet a 10m front boundary and 5m side boundary setbacks.

Earthworks are also permitted as a land use activity, up to 1,000m^3 per site in the Rural Zone and 300m^3 in the SR Zone provided the maximum 2.4m cut depth and 2m fill height standards are achieved, and where greater than 0.5m (cut or fill) is either not retained and battered 1v:3h or is retained at equal distance height to the boundary, that no more than 2,500m^2 area is exposed on a 10 degree or greater slope, erosion and sediment control measures are implemented and no more than 300m^3 is transported via road.

The activities permitted by the plan or NES can be restricted by consent notices on the site. The existing consent notices largely pertain to ongoing stormwater controls which are to be replicated as relevant in new consent notices, with other reserve fencing and subdivision control to remain, along with landscape planting, and which do not materially alter otherwise permitted activities on the site.

6.2 Existing Environment

The existing environment includes the site as it could be changed by approved and unimplemented resource consents. There are no other resource consents related to the site beyond those discussed in section **[2.2]** and already given effect to, as evidenced through the consent notices on the titles and site planting.

6.2.1 Trails

The existing (and receiving) environment contains a *"Trail"* which is defined in the Proposed District Plan (**PDP**), and means,

> *"any public access route legally created by way of a grant of easement registered after 11 December 2007 for the purpose of providing public access in favour of the*

Queenstown Lakes District Council, the Crown or any of its entities, and specifically excludes:

a. roads, including road reserves;

b. public access easements created by the process of tenure review under the Crown Pastoral Land Act; and

c. public access routes over any reserve administered by Queenstown Lakes District Council, the Crown or any of its entities."

The trails within the site were secured by easements and rights of way in favour of QLDC in 2011 (Easement Instruments 8867788.8 (Lot 29) and 867788.9 (Lot 43), and in 2016 (Easement 10623210.6 (Lot 29), thereby meeting this definition.

The benefit of this definition to any landowner who has given part of their land to public use is the exclusion under the district plan meaning of 'Public Place' (underlined),

Means every public thoroughfare, park, reserve, lake, river or place to which the public has access with or without the payment of a fee, and which is under the control of the council, or other agencies. Excludes any trail as defined in this Plan.

This is relevant to the assessment of effects, as the district plan expressly excludes *'Trails'* from the definition of *'Public Place'*. Accordingly, effects on the public from the Trails, including effects on rural character and visual amenity values, do not fall to be assessed in this context.

The formed trails and easement areas are currently unfenced; however, the public do not have a legal right to use or access across the properties outside the defined trail and easement areas, including across the informal tracks that have established in some places.

Easement Instrument 8867788.9 allows the walkway to be fenced under Clause 5.3 *"The right for the Grantor to fence the boundaries of the Servient Land adjoining the Pedestrian Right of Way Area as the Grantor sees fit"*. Given that this would be an internal fence more than 10m from a road boundary, it could be a solid fence up to 2m high.

6.3 Receiving Environment

The receiving environment comprises the established and emerging residential area within the northern part of Wānaka centred around the Kirimoko development. It includes the surrounding residential neighbourhoods of Kirimoko, parts of the older residential area along Rata Street, and the Large Lot Residential A (**LLR-A**) zoned land located north and south of Aubrey Road and east of Anderson Road including Peak View Ridge, and south into The Heights. The broader receiving environment also extends to the recently approved residential zoning associated with the Sticky Forest land.

The described areas are those from which the development may be seen and perceived and in which the development will sit. Due to topography, development within the Northlake Special

Zone, though within proximity to the site, is visually separated from the development by topography.

The receiving environment collectively forms part of Wānaka's northern residential growth area, characterised by planned suburban neighbourhoods developed under structure planning and design guideline frameworks and interlinked reserve and trail networks.

RMM describe the receiving environment and zone evolution in Sections 4 and 5 of their report (**Appendix E**) and are visually represented in ***Figure 2*** below.

Additional to the RMM landscape descriptions, the receiving environment context, as relevant to this application and site, is discussed further below.



Figure 2: *Landscape receiving environment / landscape character area (Source RMM)*

6.3.1 Receiving Landscape Character and Sticky Forest

As the site is zoned Rural, the receiving landscape character is a relevant consideration. The evaluation of landscape character is guided by the PDP framework, including the methodology and direction set out in Chapter 6 in relation to identifying, characterising, and assessing Rural Character Landscapes (RCLs), alongside any applicable landscape priority areas.

By default, pursuant to Policy 6.3.1.1, Rural zoned land that is not an Outstanding Natural Landscape or Feature is categorised as an RCL. However, the subject site has not been identified as part of Council's recent RCL mapping for the Upper Clutha. The supporting methodology confirms that fragmented areas of Rural land within the Wānaka urban environment were not scheduled, as these parcels generally relate to isolated sites, land subject to change, or areas embedded within urban zonings. As a result, there is no specific RCL description or set of identified values that applies to the site.

In the absence of a mapped RCL, the landscape character and values of the site and its receiving environment are identified and assessed in the Landscape Assessment prepared by RMM (**Appendix E**). That assessment provides the basis for understanding the site's landscape context and informs the assessment of effects.

To assist in understanding the character of the receiving environment, regard has also been had to the Environment Court's recent "Sticky Forest" decision (**Appendices K** and **L**), which considered a broader area of Rural land located between Kirimoko and the Clutha River/Mata-Au, and that forms part of the site's backdrop. That decision relates to a larger and more prominent landholding than the subject site and resulted in rezoning from Rural to Suburban and Large Lot Residential A.

The Court's findings are relevant in a contextual sense. Section 4.6 of the RMM report provides a synopsis and reference to relevant landscape matters in this decision. In particular, the Court recognised that parts of the area exhibit limited rural coherence and are influenced by the surrounding urban environment, and that residential development anticipated by the rezoning would not materially detract from the prevailing landscape character in that context.

While the Sticky Forest decision provides useful insight into how landscape character in this locality has been interpreted, it is not relied on as a precedent, though it is now part of the receiving environment for the site. The landscape assessment for this application identifies the site as forming part of a transitional landscape, influenced by the established and ongoing residential development of the wider Kirimoko Block and surrounding Wānaka urban area. In that context, the site does not display the attributes of a cohesive rural landscape but rather reflects an environment where rural zoning persists despite an established and still emerging, urban-influenced character.

Overall, the receiving environment is best understood as a peri-urban or transitional landscape. The Sticky Forest decision provides broader context to this transition.

The Environment Court approved Sticky Forest rezoning map is reproduced below for context (***Figure 3***) and is the area immediately north of the BRA, south of and inside the Wanaka UGB.

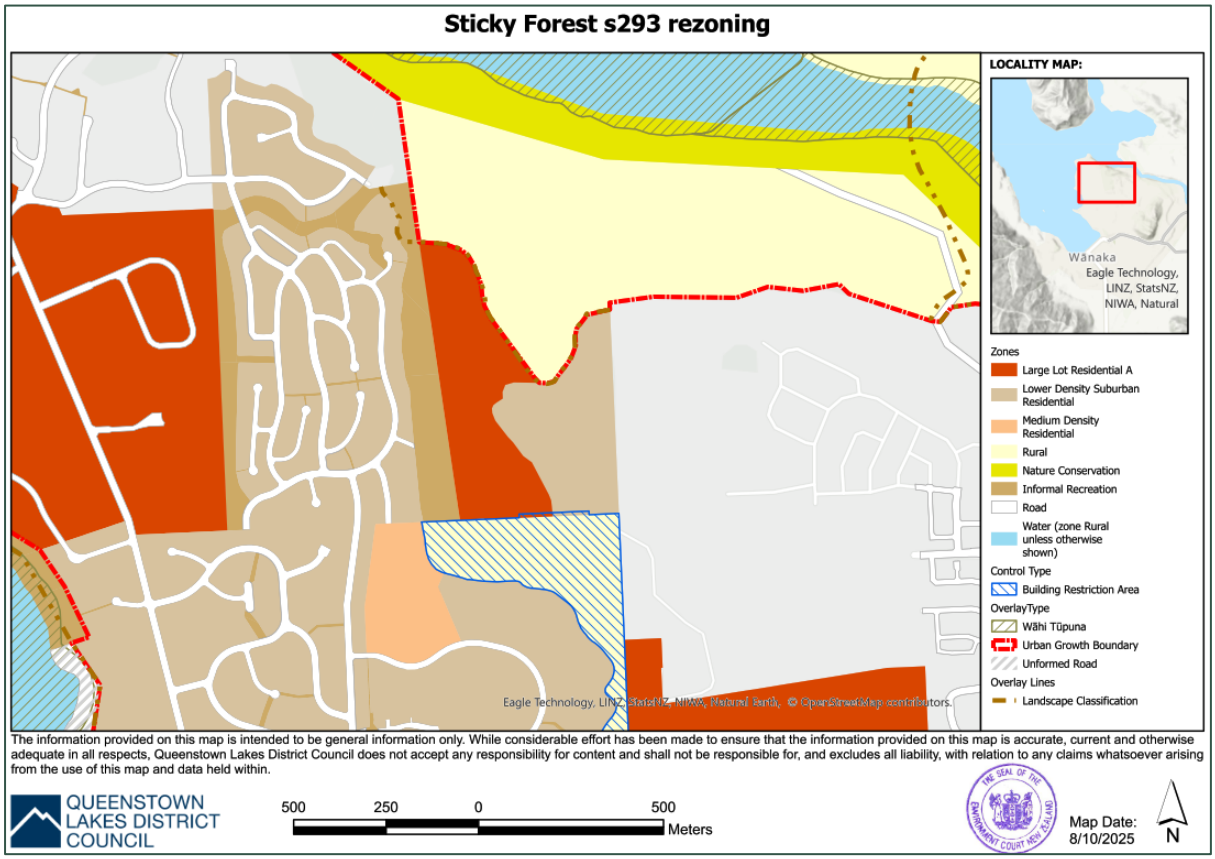


Figure 3: *Sticky Forest rezoning map*

6.3.2 Kirimoko Block Structure Plan and Zoning

The site and surrounding environment are located within the Wanaka UGB, and a large part of that receiving environment is subject to the Kirimoko Block Structure Plan (***Figure 4***). This structure plan is found in PDP Chapter 27.13.1, and ODP Chapter 7.

The Rural Zone land within the site forms part of a north–south strip of land retained through Plan Change 13 (**PC13**), which rezoned the wider Kirimoko Block from rural to residential in 2008. This strip includes the BRA, which was established to retain landscape and amenity values including landform, and to provide separation between the then new residentially zoned Kirimoko Block and the adjoining Rural and Rural Residential zoned land to the east and north at the time of rezoning.

The BRA includes a 3-metre-wide pedestrian and cycle trail, protected by rights of way in gross in favour of QLDC. The Rural zoning and BRA extend into adjoining land to the north and northwest (Section 2 SO 554926 and Lot 7 DP 300734 discussed further below) as far as the Sticky Forest area and south to Aubrey Road through the undeveloped Lot 2 DP 507076.

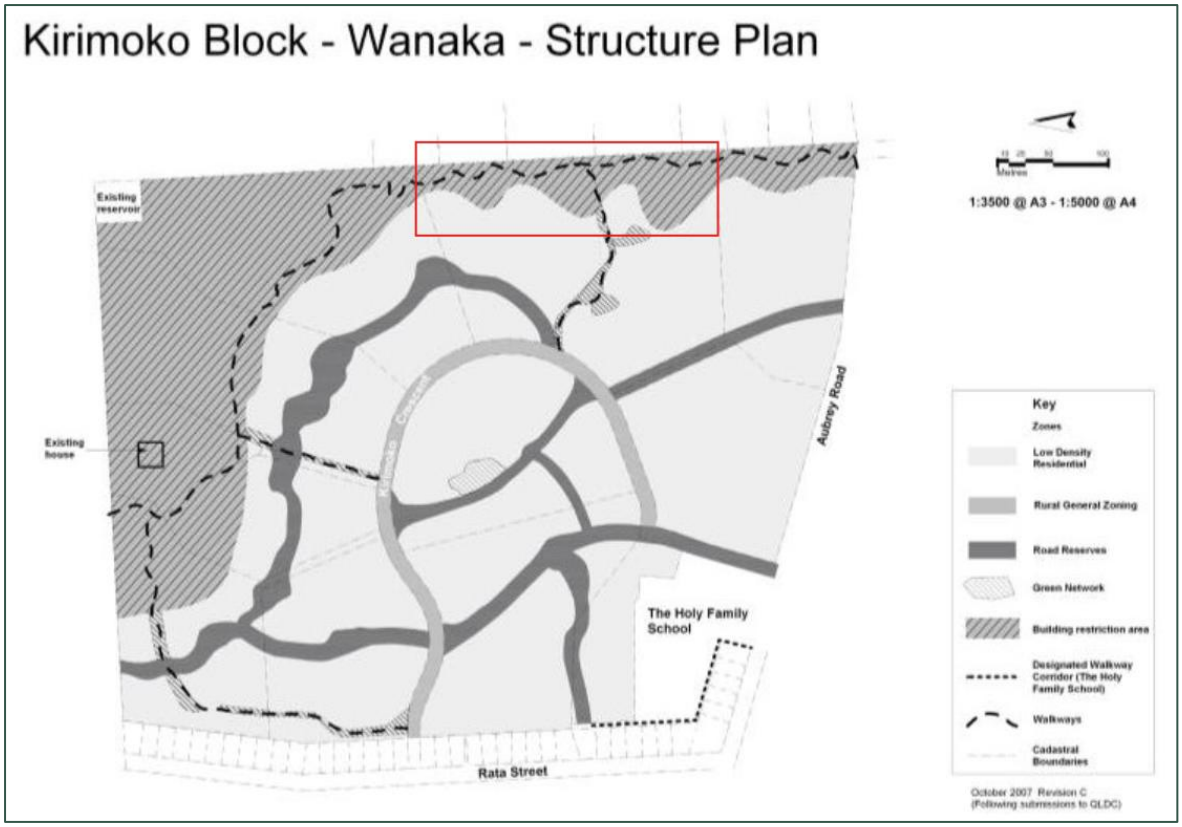


Figure 4: *Site location in the Kirimoko Block Structure Plan context.*

The 2008 structure plan for the Kirimoko Block was retained unchanged from the ODP to the PDP, however certain district plan expectations related to the structure plan area have changed since 2008, being:

1. The activity status for buildings within the BRA changed from prohibited (ODP rule 5.3.3.5) to non-complying (PDP rule 21.4.28), and ODP Chapter 5, Objective 8 to "*prevent development of the sensitive upper area of the Kirimoko Block…"* has not been retained for Kirimoko under Policy 21.2.8.1.

2. Land to the north-west within the Kirimoko Block was rezoned Medium Density Residential (Clearview Street, Dry Fly Avenue, Water Lily Lane, Mills Road, Fenton Avenue), allowing,
   - up to three dwellings per site and a maximum net site density of one dwelling per 250m^2 net area (land use); and
   - minimum 250m^2 net area for subdivision.

3. The SR zoning now provides a minimum 450m^2 net area subdivision lot size, reduced from the ODP 700m^2 minimum in Wanaka (in addition to the 450m^2 net area per dwelling).

4. The 3-metre height limit on planting within the BRA (landscape protection area) has been removed (ODP non-complying rule 5.3.3.4.vii).

This changed context is particularly important when considering the interpretation of the PDP provisions relating to the BRA for this site and in the receiving Kirimoko environment.

6.3.3 Kirimoko Undeveloped Sites

Additional to the application site are several other sites that are either rural zoned or split SR and Rural zone and are part of the plan enabled receiving environment.

- *Lot 2 DP 507076 (south)*

This large 3.3742 hectare, still to be developed greenfield site, is located south below Lot 43 between the site and Aubrey Road and entirely within the Kirimoko structure plan area. The zoning is predominantly SR (except for the BRA) and conservatively might accommodate 50 new low density residential sites assuming the District Plan anticipated 450m^2 minimum lot sizes is maintained and outside the BRA.

- *Section 2 SO 554926 and Lot 7 DP 300734 (north)*

Currently held in the same ownership, these two lots comprise 9.1573ha area of which approximately two-thirds contains the BRA. Section 2 immediately adjoins Lot 29's northern boundary and cannot be further developed as a permitted activity due to the BRA. The Sticky Forest rezoning resulted in the BRA now adjoining land zoned both LLR-A and SR.

That site contains many informal tracks and trails outside of, and that connect into, the formal pedestrian and cycle rights of way to connect to the application site. These are easily seen in aerial imagery and from various public and private viewpoints including The Heights subdivision. Lot 7 could conservatively have an additional 40-50 dwellings under the SR zoning. There are no relevant unimplemented resource consents on either site.

- *Lot 2 DP 304817 (northwest)*

This 1.6 ha site contains an existing dwelling that pre-dates the BRA despite the property being fully contained within the BRA. It is an elevated site containing obvious residential features and shares its northern boundary with the Sticky Forest LLR-A land.

6.3.4 Peak View Ridge

The residential properties on Peak View Ridge (east) were rezoned Large Lot Residential A (LLR-A) under the PDP from the ODP Rural Residential and are also within the Wanaka UGB. All the lots, except two, contain existing residential development. The developed properties generally contain large sprawling residences that take advantage of their elevated crest position, with views out and over the residential neighbourhoods to Lake Wanaka and the mountain ranges beyond.

These allotments range in size from 2,923m^2 to 9,547m^2. The LLR-A zoning allows a maximum of one dwelling per 2,000m^2 net area, meaning eight of the nine lots are appropriately sized for more than one dwelling under the PDP as a permitted activity.

6.3.5 Summary

Overall, the receiving environment within which the proposal's effects are to be assessed is most appropriately characterised as peri-urban, with an evolving urban residential character. This includes the more elevated and visually prominent parts of the spur feature of which the site forms a part. While portions of that land comprising the spur, beyond and adjacent to the Kirimoko Block is currently heavily forested, that will change over time as the new Sticky Forest zoning is realised.

6.4 Effects on the Environment

As a non-complying activity, the Council may consider all actual and potential effects associated with the proposal. To structure the assessment of effects, guidance has been taken from:

- Relevant objectives and policies of the District Plan
- Matters of control and discretion identified in rule 27.7.1 and 27.7.2 (Kirimoko subdivision) and 25.7 (earthworks)
- Assessment matters in Section 27.9.3.1 (urban subdivision), 27.7.2.1 (Kirimoko subdivision) and 25.8 (earthworks)
- The permitted baseline, existing and receiving environment.

The following assessment addresses the identified effects with reference to the framework, and for ease is set out under the same headers as the 27.9.3.3 assessment matters.

6.4.1 Subdivision Design and Landscape Effects

The proposal has been informed by a landscape and urban design assessment (**Appendix E**) that evaluates the site's character, its visual catchment, and the role it plays within the surrounding neighbourhood. Although zoned Rural and located within a BRA, the site functions as an urban gap within an established residential environment as described in section **[6.3]** above.

- *Visual and Amenity Effects*

The RMM visibility and visual effects assessment finds the development will be visible within the immediate urban environment, confined to elevated public places as indicated. Assessments from representative public locations were undertaken with the extent of development visibility identified and rated against Te Tangi a te Manu Aotearoa New Zealand Landscape Assessment Guidelines. Some future rooflines may breach the skyline depending on the roof form designed, but this has already occurred with the Peak View Ridge dwellings that are behind and higher up

the ridge. The visibility impact is found to range from Nil to Very Low representing a less than minor adverse visual effect.

The site's character will change as dwellings and associated domestic elements establish. The proposed development will appear as infill development with future building located at similar elevations or lower, to those already established in the receiving environment, providing a coherent visual urban form. Visibility of buildings is moderated by topography, the contained visual catchment, proposed building height restrictions and generous lot sizes. The scale and form of development will be consistent with the surrounding residential context.

- Effects on Landscape Character

The BRA was established at a time when the surrounding context was predominantly rural, with a clear planning intent to define a defensible edge to urban development and protect the visually sensitive upper slopes of the terminal moraine. As discussed through section **[6.3]** above, and in the RMM report, that context has materially changed over the intervening period.

As summarised in the RMM Landscape Assessment (section 4.10),

> *"…the underlying Rural Zone and BRA were planning mechanisms used in 2008 to use the middle section of the terminal moraine as a hard edge to the residential development within Wānaka and protect the visually sensitive upper slopes of the Rural Zone.*
>
> *Since 2008, residential development has and is anticipated to extend north and east of the site and the southern end of the terminal moraine through to Albert Town. These obvious changes to the landscape character were not anticipated when PC13 was approved and has resulted in the BRA becoming obsolete."*

In this evolved context, the conclusions of the landscape report are that the receiving environment is appropriately characterised as peri-urban with a prevailing and expanding residential character.

The proposal will introduce built form, reduce the current level of on-site openness, and modify the immediate landscape character of the site. These changes represent a shift from an open grassed paddock with scattered and increasingly regenerating vegetation to a more structured residential environment. However, consistent with the RMM assessment that "*change itself is not an effect*", the relevant consideration is the extent to which these changes affect landscape values.

In this regard, the site does not contribute meaningful rural character values within the contemporary receiving environment. Rather, the open character is transitional and increasingly influenced by surrounding residential development and vegetation change. The introduction of residential development at a density consistent with the adjacent Kirimoko development and

the wider Wanaka urban area will therefore read as logical infill, rather than an encroachment into a coherent rural landscape.

Importantly, the proposal has been designed to respond to underlying landform and visual sensitivities. The alignment of the Peak View Ridge and the broader undulating landform will remain legible, with building platforms and associated earthworks reflecting established design responses evident within the surrounding residential context. The proposed lot layout, distribution of building platforms, and platform-specific height controls will ensure that the prominence of the ridgeline is retained, and that built form does not dominate skyline elements.

Furthermore, the retention of key viewshafts and the use of curtilage controls, landscaping, and low fencing will maintain visual openness at a local scale and provide a coherent interface between private development and adjoining public spaces, including the trail network.

Overall, while the proposal will result in a reduction in the Site's existing open character, this change does not translate to a loss of identified landscape values within the current receiving environment. Instead, the proposal will integrate with, and reinforce, the established and evolving residential character of the area. On this basis, the adverse effects on landscape character and visual amenity are appropriately assessed as very low.

- *Urban Design*

The assessment below is informed by the Urban Design Assessment (**Appendix E**), which evaluates the proposal against the New Zealand Urban Design Protocol and the Seven 'C's of best-practice urban design. That assessment concludes the subdivision responds appropriately to its urban context, integrates with surrounding residential development, and improves connectivity and safety outcomes, particularly in relation to the public trail network.

The subdivision pattern reflects a clear and efficient internal structure with defined accesses and legible building areas. Lot sizes are generous in the receiving suburban context, though smaller than those anticipated in the adjoining LLR-A resulting in a transition, and proposed consent notice conditions for building location, height and type will create a consistent urban built character.

The proposal introduces a residential interface to the existing public trail, representing a change from the current environment where the trail traverses largely undeveloped land with limited passive surveillance. At present, visibility to and from the trail is constrained in places by vegetation, and there is minimal opportunity for natural oversight.

The proposed subdivision will establish ten residential allotments adjoining the trail, resulting in a more consistent pattern of occupation and increased informal surveillance. This is consistent with CPTED principles, particularly natural surveillance and activity support, and is expected to enhance both perceived and actual safety for trail users.

Design measures have been incorporated to maintain clear sightlines and an appropriate interface between private property and the public trail. The removal of existing Leyland cypress and Himalayan cedar vegetation will reduce visual enclosure and improve visibility. Proposed low-scale planting on the upslope side will provide landscape integration while maintaining openness. Low fencing along the downslope boundary will clearly define the public and private interface, supporting territorial reinforcement without compromising visibility.

Overall, the proposal will result in a more open, legible, and actively observed environment for trail users, representing an improvement in CPTED outcomes relative to the existing situation. The subdivision layout and proposed conditions collectively ensure the subdivision presents a coherent urban form and integrates appropriately with the surrounding residential areas.

- *Overall Assessment*

Taking the above into account, the subdivision is expected to generate low landscape and visual effects that are appropriate within the context of the site's peri-urban surroundings. The combination of build location and height controls, and landscape treatment around ROWs and trails provides an adequate response to potential effects on landscape character, visual amenity, and recreational values. On balance, the subdivision will integrate effectively into the receiving environment and is consistent with the anticipated character and amenity of this part of Wānaka. The proposal represents a change and in the receiving environment context that change and the adverse landscape character and visual amenity effects on the wider environment are no more than minor.

6.4.2 Effects from Earthworks

The effects of the proposed earthworks on the wider environment have been assessed against the relevant matters of discretion contained within rule 25.7.1 and assessment matters under 25.8 of the PDP:

- *Erosion, Sedimentation and Nuisance Effects*

The earthworks will be undertaken in accordance with the 'High-risk' EMP, which has been prepared in support of the application and is contained within **Appendix I**. The EMP sets out appropriate safeguards that will be put in place throughout the works to effectively mitigate the effects associated with soil erosion and generation to ensure there is no sediment run-off, dust or other nuisance effects outside the boundaries of the site.

All necessary sediment and erosion controls will be put in place during the proposed works, this will ensure the earthworks are appropriately retained on site and will not discharge into the roading drainage system as per the EMP.

Sound and vibration from the proposed works may be noticeable in the wider environment. This is not unexpected as sites redevelop and provided for through construction noise standards that recognise construction noise is louder than other noise and is temporary. The earthworks

will be staged progressively, with the hours of operation confined to 7:30am – 6pm Monday – Saturday inclusive, being standard construction hours. While the sound will be noticeable, this is a temporary effect for a limited duration, not unexpected in the context, and the effects can be effectively managed through the proposed mitigation.

It is considered that adherence with the EMP, and the Geotechnical recommendations (appended to the Infrastructure Report), that adverse effects with respect to soil erosion, generation, and run-off sediment, potential impact on water and nuisance effects on the wider environment are appropriately mitigated and managed, and no more than minor.

- *Natural Hazards and Geotechnical Considerations*

A detailed geotechnical investigation has been completed for the site (appended to the Infrastructure Report). The assessment confirms that the underlying geotechnical conditions are generally suitable for residential development, with most of the site underlain by dense glacial till that is classified as "good ground" once topsoil and shallow fill are removed. No active fault traces or evidence of slope instability were identified, and the risk of liquefaction is low due to deep groundwater and the density of the subsoils, meaning natural hazard risk is low.

The investigation identified an area of historical uncertified fill associated with a former borrow pit, affecting parts of proposed Lots 14, 17 and 19. This fill material does not meet the NZS 3604 definition of "good ground" and may be subject to settlement if used to support shallow foundations. To address this, the existing consent notice CN 12836723.4 condition f) already provides for foundations designed using Specific Engineering Design methods (such as piles founded in glacial till) as an alternative to removal and remediation of the uncertified fill. These measures are standard for sites with localised fill and will ensure that building platforms achieve appropriate long-term stability and performance.

Earthworks required to form accessways and platforms can be safely completed provided they are carried out in dry conditions and in accordance with the recommended batter slopes and engineered fill specifications. Retaining structures will be designed by a Chartered Professional Engineer using the geotechnical design parameters identified in the Geotech report. All completed earthworks will be certified through a Geotechnical Completion Report and Schedule 2A as required under the QLDC Land Development and Subdivision Code of Practice.

Overall, the geotechnical assessment confirms that the site can be developed safely for residential purposes including earthworks without increasing risk from natural hazards. With the proposed consent conditions, engineered fill controls, and certification processes, any potential geotechnical effects will be appropriately avoided or mitigated.

- *Effects on infrastructure and public roads*

As outlined in the EMP, a stabilised construction access from Tuatara Rise and Barclay Place will be maintained with silt socks and inlet protection. Loads will be covered and roads kept clear of

tracking. The active site management through the EMP will support safe and efficient operations to avoid adverse effects on safety and efficiency of public roads.

As such, the actual and potential adverse effects on infrastructure or public roads because of the proposed earthworks and removal of earth from the site, can be effectively managed to result in less than minor adverse effects with respect to earthworks.

- *Landscape and visual amenity values*

The site is peri-urban with limited landscape and visual amenity values mostly associated with the ridgeline which will be retained as discussed in the landscape report (**Appendix E**) and assessment in section **[6.4.1]** above. The proposed earthworks will be undertaken within the confines of the site and are required to create a suitable buildable area for the residential units. Earthworks of this nature are not out of character in the wider residential environment given the topography and desire to bench the sites with the subdivision so that the future buildings are nestled into the topography rather than sitting on top of it. The proposed earthworks are not considered to be visually obtrusive or detract from residential character, landscape or visual amenity values, and the Peak View Ridge alignment will remain legible. As such the earthworks for the subdivision will have less than minor adverse effects on landscape and visual amenity values.

6.4.3 Access and Connectivity

The Transport Assessment (appended to the Infrastructure Report) finds the proposal will result in a very small increase in traffic on the surrounding network, with a maximum of approximately nine additional vehicle movements per peak hour. This equates to one additional movement every 6-7 minutes and will not be perceptible to road users within the established road environment.

Given the low scale of change, the proposal is not considered to affect the function, capacity, or level of service of the surrounding roading network. Traffic volumes will remain below capacity thresholds, and intersections will continue to operate under free-flow conditions meaning the network can readily accommodate the additional demand without constraint.

Any increase in walking and cycling activity will be minor and comfortably absorbed by the existing environment. The scale of development does not generate demand for public transport and does not affect the future ability to provide such services on higher-order routes.

The proposal does not introduce adverse safety effects. The surrounding network will continue to perform well from a safety perspective and will continue to operate safely given the negligible increase in traffic volumes.

Overall, transport-related effects on the wider network are less than minor.

The proposal will utilise existing vehicle crossings to legal roads and extend a ROW network of an appropriate size, grade and formation appropriate to the number of lots being served. The Transport Assessment acknowledges that ROW 1 (west) has a smaller legal width than the Code of Practice (CoP) anticipates; however, the short length of the ROW (approximately 40m) combined with good visibility and the 5.5m formed width, allows for passing should an opposing vehicle be encountered, and therefore a less than minor safety effect.

6.4.4 Infrastructure and Services

The Infrastructure Report (**Appendix H**), confirms that the subdivision can be adequately and appropriately serviced by Council's reticulated 3-waters network and supplemented with onsite stormwater attenuation, as discussed below with reference to the engineering plans in appended to it and supplementary reports as referenced.

- *Stormwater*

A stormwater assessment has been undertaken by CGW (appended to the Infrastructure Report) to support the proposed 19-lot residential subdivision. The assessment confirms that, subject to the proposed design and recommended controls, the development can achieve hydraulic neutrality in accordance with the QLDC Land Development and Subdivision Code of Practice (2025).

As identified in the Geosolve geotechnical report (appended to the Infrastructure Report), the site is constrained by low permeability glacial soils, which preclude the use of soakage systems. Accordingly, stormwater management relies on specific stormwater capture and attenuation before controlled discharge to the existing QLDC reticulated network.

The development has been divided into three stormwater catchments corresponding to ROW 1 & 2, ROW 3, and ROW 4, each with separate discharge pathways and mitigation responses.

For ROW 1 and ROW 2, stormwater from new impervious surfaces will be directed to an existing downstream attenuation device located at the intersection of Mills Road and Kirimoko Crescent. That device was previously sized to accommodate runoff from undeveloped upstream lots and has sufficient residual capacity to accommodate the proposed additional impervious area. As part of this approach, future development of those upstream lots will be required to provide on-site attenuation to ensure overall system neutrality is maintained.

For ROW 3, an existing attenuation device located within a future lot (Lot 10) will be utilised to manage runoff from both the new access and future development on that lot. The assessment confirms that the device has been sized to attenuate 1% AEP events, has adequate capacity, subject to a limitation on the maximum impervious area of the lot (760m^2) and the installation of a cut-off swale to prevent additional upstream runoff entering the system.

For ROW 4, no existing downstream capacity is available. A new attenuation device is therefore proposed within Lot 15 to manage runoff from the accessway and future development on that

lot. The device has been conceptually designed to attenuate post-development flows to at or below pre-development levels for all storm events up to and including the 1% AEP event.

Across all catchments, modelling demonstrates that, with the proposed attenuation measures in place, post-development peak flows will not exceed pre-development flows. This confirms that the proposal achieves hydraulic neutrality and will not result in adverse effects on the capacity or performance of the downstream stormwater network.

The stormwater strategy relies in part on future on-site mitigation at the building development stage. This includes the installation of lot-level attenuation devices and, in some cases, limits on impervious surface coverage. These requirements will be secured through consent conditions and consent notices to ensure that the assumptions underpinning the stormwater design are maintained over time.

Overall, the proposed stormwater management approach is considered appropriate for the site conditions and is consistent with best practice and the relevant provisions of the QLDC Code of Practice.

- *Wastewater, Potable Water and Firefighting Water Supply*

The proposed lots will connect to the existing Council reticulated potable water and wastewater networks, with extensions undertaken in accordance with the design drawings and recommendations set out in the Infrastructure Report (**Appendix H**) and engineering plans (appended to the Infrastructure Report).

Based on the scale and nature of the development, the demand generated is expected to be within the capacity of the existing networks, subject to detailed design and standard servicing approvals at the subdivision stage. Network extensions and upgrades will be undertaken as required to ensure appropriate levels of service are maintained.

Firefighting water supply will be provided in accordance with the relevant standards, including upgrades within the subdivision and installation of additional hydrants as required. These works are reflected in the engineering plans and will ensure adequate coverage for firefighting purposes.

Overall, subject to detailed design and implementation, the proposal is not expected to result in adverse effects on three waters infrastructure capacity or functionality.

- *Energy and Telecommunications*

Aurora and Chorus have confirmed their networks have capacity to accommodate this development (appended to the Infrastructure Report). The necessary provider requirements and easements where necessary will be provided for the extended electricity and telecommunications supply consistent with managing any new subdivision and in accordance

with the supplier requirements, thereby adequately providing for these services, without adverse impacts.

6.4.5 Open Space and Recreation

The application provides for the continuance of the pedestrian and cycle trail. In places the formed trail will be moved so that it is closer to the eastern boundary through the subdivision and improved through low level native vegetation planting on the upslope western side as described in landscape plan (**Appendix E**). Some of this planting used will be relocated from the planted areas within Lot 43. This planting will improve the recreation values for users on the trail, giving a sense of wilderness within the urban environment, while still enabling views out across rooflines.

Realigning the trail within maximum gradient thresholds along with proposed planting and fencing treatments are expected to maintain a comfortable, human-scaled environment with some opportunity for users to look out across the subdivision in places. Although users may experience an increased sense of enclosure as dwelling are constructed, compared to the current open paddock (albeit increasing constrained by the existing evergreen trees adjacent to the trail), this effect is assessed as acceptable within the already urbanised setting, and is an appropriate change given public users of the trail have no legal right to enter the private property outside the trail alignment, and the District Plan directs that these trail spaces are not public places for effects assessment purposes.

6.4.6 Positive Effects

The application has a positive effect through the following:

- Providing additional housing supply.
- Through residential development the land, which is otherwise a pseudo private reserve and that may be left overgrown, will be more readily maintained.
- Given the landscape treatment proposed and building heights, trail users will still be afforded some views to the lake and beyond, including the view-shafts created by greater building platform offsets in Lots 5, 9 and 11. This is a better outcome than what can be expected under EI 8867788.9 where the edge of the trail can be fenced and planted blocking views.
- The ability to use e-bikes and e-scooters on the section of the trail in this application, which is not currently permitted.
- Existing views from Peak View Ridge properties are considered with building height restrictions less than 8m for selected Lots, and an offset of at least 10m distance from the eastern side of the building platforms to the boundary with the Peak View Ridge properties.

6.4.7 Summary – Effects on Environment

The above assessment concludes that the environmental effects of the development on the environment will be acceptable and **no more than minor**.

6.5 Effects on Persons

Under Schedule 4 Clause 6(3), there is no obligation or expectation for an applicant to consult any person. In this case, the owner/occupiers of the following properties have been consulted either through letter, direct conversations or email:

- Lot 2 DP 50706, Aubrey Road, Wanaka
- 6, 7, 8 and 10 Tuatara Rise, Wanaka
- 15, 21, 41, 43, 45, 49 Peak View Ridge, Wanaka
- 14 Mills Rd,
- 14 and 16 Barclay Place

Written approval has been provided by Aquarius Trustees (Dogterom) Ltd, Nanne Otto Dogterom, Dogterom Wanaka Ltd, the owner/occupier of Lot 2 DP 50706, Aubrey Road, Wanaka, as indicated and in **Appendix M**.

Land Covenant 12836723.12 (**Appendix B**) is a non-object covenant requiring written approval to be provided for RMA applications. It applies to Lot 43 and properties on Ernies Way, Whio Crescent, Tuatara Rise, and Lot 2 DP 507076 (located to the south of Lot 43). Written approval has been obtained from the owner of Lot 2 DP 507076; however, while written approval has not been requested from the other parties in the covenant, the covenant limits their involvement where development of Lot 43 is concerned.

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 relevant objectives and policies of the Queenstown Lakes Proposed District Plan (PDP).

A full assessment of these is contained in **Appendix N**, with a summary of the relevant findings below.

7.1.1 Chapter 3 Strategic Directions and Chapter 4 Urban Development

The proposal is consistent with the strategic direction for urban development by promoting a consolidated, well-integrated urban form within the Wanaka urban area. It contributes to housing supply and represents a logical extension of the established Kirimoko pattern, achieving a compact and connected urban environment that integrates with existing infrastructure and public access networks, while appropriately managing natural hazard risk (3.2.2, 3.2.2.1, 4.2.2A, 4.2.2.1). Although the underlying zoning does not currently anticipate this outcome, the site's location within the Urban Growth Boundary supports the broader intent of

enabling urban development within defined limits rather than beyond them (3.3.14, 3.3.15, 4.2.1 to 4.2.1.3).

The proposal will result in a quality built environment that responds to its surroundings through appropriate building locations, ensuring integration with neighbouring properties in terms of height, outlook, and shading, and maintaining amenity values (3.2.3, 3.2.3.2). It also aligns with the Urban Development chapter's focus on ensuring land use patterns reflect site characteristics, connectivity, and servicing capacity, with evidence confirming that infrastructure can be efficiently extended, natural hazard risk is not increased, and amenity effects are appropriately managed (4.2.2B, 4.2.2.2). While not fully aligned with the Kirimoko Structure Plan, the subdivision remains well connected to existing transport networks and is located in proximity to key community facilities, including schools, supporting a well-functioning urban environment (4.2.2.3).

Finally, the proposal does not give rise to adverse landscape or rural character effects, as the site is not identified as a Rural Character Landscape or an outstanding natural feature or landscape, and is already located within the urban environment (3.3.32). It is therefore consistent with the broader strategic and urban development framework, including the Upper Clutha Basin provisions, which direct urban development to occur within established urban limits and avoid encroachment into rural land beyond those areas (4.2.2.23).

7.1.2 Chapter 6 Landscapes and Rural Character

While zoned Rural, the site is too small to be a Rural Character Landscape in and of itself. It is a remnant of a wider landscape that is now located in a modified, urban context surrounded by established and emerging residential development and urban activities, inside the Urban Growth Boundary which defines where urban growth should locate. As such this proposal for urban scale development cannot meet Policy 6.3.2.1 to avoid urban development in the Rural Zone. However, the proposal is considered appropriate. It is otherwise consistent with relevant objectives and policies, which aligned with Policy 6.3.4.1, suggests an approval pathway is available despite being contrary to 6.3.2.1. This proposal is not urban sprawl but instead infill development that would not have a meaningful impact upon or degrade the night sky, or the Dublin Bay ONL values. Proposed building placement, height controls and mitigation and amenity planting is appropriate for the context such that it is consistent with the remaining relevant policies under 6.3.2.2 to 6.3.2.8 and 6.3.4.1 to 6.3.4.11.

7.1.3 Chapter 7 Suburban Residential

The proposal is consistent with the Suburban Residential Zone objective of providing a high amenity living environment with a compatible range of suburban densities (7.2.1). The site will be fully serviced by public infrastructure, with connections designed in accordance with Council standards, ensuring development aligns with infrastructure capacity (7.2.1.1). The subdivision layout and proposed building location and height controls will maintain a suburban scale and character, including predominantly one to two storey built form, while enabling efficient use of land and supporting a coherent residential environment (7.2.1.2). In addition, controls over building height, bulk, and platform location will ensure that amenity values for

neighbouring properties are maintained, including privacy, sunlight access, and protection of key views, thereby achieving an appropriate suburban-intensity outcome (7.2.1.3).

7.1.4 Chapter 21 Rural

The proposal is not inconsistent with the intent of the Rural Zone objectives, noting the site does not function as a rural resource and is physically and contextually disconnected from the outcomes anticipated by the zone. While the Rural Zone seeks to enable farming and protect landscape and natural resource values (21.2.1), the site is a small, constrained parcel located within the urban environment and surrounded by residential development, with no viable capacity to support rural productive activities. As such, the proposal represents a more appropriate use of the land in its current context and is effectively neutral in relation to rural production policies (21.2.1.1). Although rural setback standards are not achieved, potential effects on landscape character, visual amenity, and neighbouring properties are appropriately mitigated through site benching and building platforms (21.2.1.3). Infrastructure servicing, including firefighting water supply, can be readily achieved through connection to the reticulated network (21.2.1.9).

The subdivision will not compromise the life-supporting capacity of soils or water, given the limited productive potential of the land (Class 4 soils) and the use of reticulated services ensuring no adverse effects on water quality (21.2.2.2, 21.2.3.1) and is not part of a functioning rural landscape where diversification activities would be relevant (21.2.9.1).

Objective 21.2.8 is relevant as the site is subject to the Kirimoko Building Restriction Area identified on the District Plan maps; however, in the absence of specific supporting policies for this area in the plan, the proposal has been assessed on its merits and demonstrates that development can be appropriately located and designed to respond to site constraints and avoid or mitigate adverse effects. (21.2.8.1).

Overall, the proposal reflects a pragmatic and context-responsive use of land that does not undermine the objectives of the Rural Zone.

7.1.5 Chapter 25 – Earthworks

The proposed earthworks will be undertaken to the extent necessary to enable construction of the built form, thereby not having a lasting impact on the surrounding residential amenity values (25.2.1.4). The works will be actively managed throughout via an EMP that will effectively minimise erosion and sedimentation outside the site (25.2.1.1).

The earthworks and retaining installation will be monitored throughout by a geotechnical professional to ensure the site and surrounding sites stability in accordance with the supplied geotechnical report and subsequent detailed design for the retaining system to ensure impacts outside the site are minimised, and nearby infrastructure, buildings and land stability are not adversely impacted (25.2.1.6).

Considering the above, the proposed earthworks can be undertaken consistent with Objective 25.2.1

7.1.6 Chapter 27 Subdivision and Development

The proposal is consistent with the subdivision objective of enabling high quality urban environments that support the district as a desirable place to live, with subdivision design that responds appropriately to its context and supports future residential use (27.2.1). The subdivision layout reflects the established Kirimoko pattern, with lot sizes and shapes suitable for residential development, serviced appropriately, and designed to enable efficient future building platforms. Infrastructure is fit for purpose, including a bespoke stormwater solution and full servicing (water, wastewater, energy, and telecommunications), ensuring that the key requirements of future development are resolved at the subdivision stage (27.2.1.1–27.2.1.6). Overall, the proposal demonstrates a well-considered and functional subdivision outcome aligned with recognised design guidance.

In terms of amenity and urban design, the subdivision achieves a high level of liveability by responding to topography, optimising solar access, and integrating with the surrounding urban environment (27.2.2). While the use of rear lots departs from a strict road-frontage approach, the design remains appropriate to the site's constraints and is not contrary to the policy framework. The development is well connected to existing trails, roads, schools, and services, and enhances pedestrian and cycle connectivity through retained and improved trail linkages and new access arrangements (27.2.2.4–27.2.2.7). These elements contribute to a safe, accessible, and well-integrated neighbourhood consistent with the expectations for urban subdivision.

Infrastructure and servicing outcomes are appropriately addressed, with safe and efficient access provided via rights of way, and the existing transport network able to accommodate the additional demand (27.2.5.1–27.2.5.5). Reticulated water, wastewater, and energy services are available with sufficient capacity, and will be extended to all lots, with necessary easements secured (27.2.5.7, 27.2.5.13–27.2.5.17).

Within the Kirimoko context, the proposal is particularly well aligned with the objective of achieving a high-quality, landscape-responsive urban environment, with development appropriately located within the landform, maintaining key sightlines, and integrating with existing open space and trail networks (27.3.2, 27.3.2.1–27.3.2.7).

The subdivision therefore represents a logical and compatible infill response within the established Kirimoko area.

7.1.7 Chapter 29 Transport

The proposal is consistent with Objective 29.2.1 and Policy 29.2.1.1. It maintains a safe and efficient transport network, with negligible additional traffic readily accommodated within existing road network capacity. New legal ROWs provide suitable internal access for the number of users that are safe. Established walking and cycling trails are retained and integrated with

new landscaping and low fencing. The proposal does not constrain future public transport options and achieves an appropriate level of connectivity relative to its scale.

7.1.8 Conclusion – Objectives and Policies

The above assessment concludes that the proposal is on balance consistent with and not contrary to the relevant objectives and policies under the Proposed District Plan.

7.2 National Environmental Standards

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.

7.2.1 Contaminated Soil

The NES-CS is relevant as the proposal as it involves a subdivision. A review of the past resource consents and the most current information available from Queenstown Lakes District Council and Otago Regional Council has been undertaken, where 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

Ten National Policy Statements (**NPS**) are currently in force, of which three apply to this application; the NPS-Urban Development (**NPS-UD**), NPS for Highly Productive Land 2022 (**NPS-HPL**) and the NPS for Natural Hazards (**NPS-NH**).

7.3.1 Urban Development

The NPS-UD, in effect since 20 August 2020, aims to support well-functioning urban environments across New Zealand. Its objectives promote the social, economic, and cultural wellbeing of communities, now and in the future. The NPS-UD seeks to ensure urban planning enables affordable housing through competitive land and development markets, prioritising growth in well-connected, high-demand areas. It emphasises adaptation to changing needs, the integration of planning with infrastructure, and responsiveness to opportunities that significantly increase development capacity. Planning decisions must respect Te Tiriti o Waitangi, be evidence-based, and support climate resilience and emissions reduction.

The Queenstown Lakes District Council has recently decided a plan variation to implement the NPS-UD with changes to existing residential zone land and new provisions now incorporated into the PDP, subject to appeal. The plan changes to not fundamentally alter the zoning of site given it is largely rural.

Regardless, the proposal achieves the outcomes sought by the NPS-UD such that the proposal will contribute to the social, economic, and cultural wellbeing of all communities, both now and in the future through more effective and efficient use of land located within Wanaka's defined Urban Growth Boundary and in amongst existing residential zones and development.

7.3.2 Highly Productive Land

The NPS-HPL is relevant to the application because it is largely zoned Rural, which is a general rural zone for the purpose of the NPL-HPL.

The Land Use Capability (LUC) mapping identifies the subject site as LUC 4 and is therefore not productive land under the NPS-HPL. As such the NPS-HPL is not relevant to this application.

7.3.3 Natural Hazards

The NPS-NH came into effect on the 15 January 2026. The NPS-NH seeks to reduce the risks associated with natural hazards by directing local authorities to take a risk-based approach to managing development. It emphasises the importance of avoiding inappropriate development in areas exposed to significant natural hazard risk, while also recognising the need to enable appropriate use and development where risks can be appropriately managed.

A key focus of the NPS-NH is the consideration of both the likelihood and consequences of natural hazard events, including potential impacts on people, property, infrastructure, and the wider environment. It promotes the use of best available information, including hazard mapping and risk assessments, to inform planning decisions and to ensure that long-term hazard risks are considered.

Overall, the NPS-NH aims to support more resilient communities by improving consistency in how natural hazards are addressed across New Zealand, reducing exposure to hazard risk, and ensuring that development decisions are informed by an understanding of current and future natural hazard risks, including those influenced by climate change.

The proposal is consistent with the NPS for Natural Hazards as it adopts a risk-based approach and demonstrates that natural hazard risk at the site is low and can be appropriately managed. Detailed geotechnical investigations confirm the site is generally suitable for residential development, with no significant hazards identified and low liquefaction susceptibility (LIC 1), and any localised risks associated with uncertified fill can be effectively mitigated through standard engineering measures and consent conditions and the proposed bespoke stormwater solution supported by enduring consent notice conditions. The development therefore does not represent inappropriate development in a hazard-prone area and will not increase risk to people, property or infrastructure, aligning with the NPS-NH direction to avoid or mitigate natural hazard risk and support resilient, well-informed land use outcomes.

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 an urban area amongst established urban development and zoning. The current BRA creates an informal open space on private land albeit only the defined trail can be used by the public. The proposal supports housing initiatives and bottom lines by realising a more appropriate urban use of land within the urban environment that is not a protected landscape feature, where the design is responsive to the topography, location and neighbours, integrates effectively into existing urban subdivisions and is not inconsistent, to the limited extent they are relevant, with the relevant matters in the oRPS and the pORPS.

Overall, the proposal is considered to be consistent and not contrary to the provisions of the PORPS.

8. Section 104(1)(c) – Other Matters

8.1 Queenstown Lakes Spatial Plan

The Queenstown Lakes Spatial Plan to Grow Well | Whaiora (the 'Spatial Plan' or Spatial Plan 2021) (**Appendix O**), is a strategic document adopted by Council in 2021, developed with community engagement as a partnership between Central Government, Kāi Tahu, QLDC and ORC. It provides a strategic framework for how and where the Queenstown Lakes District should grow in the next 30 years.

The Spatial Plan 2021 is not a Future Development Strategy (**FDS**) under the NPS-UD; however, the second-generation plan was intended to become part of an FDS. The Council commenced work to prepare and complete the Spatial Plan Gen 2.0 in 2023. That work has not completed to date and has been placed on hold. Regardless the Spatial Plan 2021 can be considered and provides high level guidance for where appropriate co-ordinated development might locate.

The Spatial Plan identifies the wider site area as forming part of the Wānaka urban environment and anticipates a consolidated pattern of growth within and around existing urban areas. In that context, the proposal is not inconsistent with the Spatial Plan's strategic direction, which supports infill and coordinated development where infrastructure and accessibility can be achieved.

A detailed assessment of urban design and landscape response is provided in the RMM report (**Appendix E**). Overall, the proposal aligns at a broad level with the Spatial Plan's growth framework, despite the Rural Zoning, because the location is logically placed within the Urban

Growth Boundary, well connected to infrastructure networks and the surrounding urban context.

8.2 Precedent

As a non-complying activity, consideration of potential for a precedent and the impact on District Plan integrity is relevant. The receiving environment includes land to the north and south also within the Kirimoko Structure Plan area zoned Rural and subject to the same BRA.

The recent Environment Court decision on the Sticky Forest land gives an indication that the Site's zoning may no longer be appropriate or fit for purpose and this is further supported by the conclusions of the landscape assessment.

This application has been developed to integrate with the existing Kirimoko residential environment, including responding to outlook, topography and established trail linkages. These outcomes area supported through proposed consent conditions including new consent notices to manage future development. On this basis, the proposal represents a site-specific response to identified constraints and effects.

To the extent that the proposal could be considered to create a precedent, that precedent is limited to Rural zoned land in the Kirimoko Structure Plan area that is within the Urban Growth Boundary, not all Rural zoned land across the district. This confined setting limits the potential impact a decision to grant the application would have in terms of precedent and therefore does not fundamentally undermine the District Plan or zoning and creates no plan integrity issue on this basis.

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 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.

This proposal is a non-complying activity because it seeks to develop land with a building restriction imposed. As discussed through the assessment above, the effects on the environment have been appropriately addressed and mitigated, to be no more than minor.

While the proposal is not fully consistent with the Rural Zone objectives and policies, given it does not provide for rural productive use and does not meet all associated standards, this reflects the site's unique context as a small, constrained parcel within the urban environment that cannot support viable rural activities. For the reasons outlined above, the proposal is not contrary to the Rural Zone provisions. Importantly, it is consistent with the broader strategic objectives and urban development provisions of the District Plan, which promote consolidated urban growth within the Urban Growth Boundary, efficient use of land, and a well-integrated, high amenity urban form. On balance, the proposal aligns with the overall policy framework and therefore passes the objectives and policies gateway under section 104D

Therefore, Council can grant the resource consent for the proposal under s104D.

10. Section 106 Matters

Section 106 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 subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—

(a) there is a significant risk from natural hazards; or

(b) [Repealed]

(c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

(1A) For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of—

(a) the likelihood of natural hazards occurring (whether individually or in combination); and

(b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and

(c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).

10.1 Access

Legal and physical access is provided to each proposed lot as such; Council can grant consent with respect to this matter.

10.2 Natural Hazards

The application site is determined in the Geotechnical Report and not being at risk to 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.

The proposed and subdivision 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

11.1 Section 5- Purpose and Principles

The purpose of the Resource Management Act 1991 is to promote the sustainable management of natural and physical resources. The application seeks to subdivide a rural site that is assessed as being capable of absorbing the development proposed and therefore protects natural and physical resources. It is considered that the proposal contributes to the social and economic wellbeing of the applicant and future landowners and any adverse environmental effects have been avoided or mitigated. The application also provides certainty and preserves existing view amenity for the Peak View Ridge properties.

11.2 Section 6 – Matters of National Importance

Section 6 of the Act requires matters of national importance to be recognised and provided for. The application does not affect any Outstanding Natural Features or Landscapes, or areas of significant indigenous vegetation or habitats. There are no identified historic heritage sites or buildings located on site, nor are there any permanent waterbodies or margins of waterbodies. The site is also not identified as being subject to any wahi tupuna or other cultural area. As discussed throughout this report it is also considered that there is no increase in risk of natural hazards at this location. It is therefore considered that there are no relevant Section 6 matters that require consideration as part of this application.

11.3 Section 7 – Other Matters

Section 7 of the Act requires all persons exercising functions and powers in relation to managing the use, development, and protection of natural and physical resources, to have regard to a number of factors. The only Section 7 matters of particular relevance to this application are (b) the efficient use and development of natural and physical resources, (c) the maintenance and enhancement of amenity values, and (f) maintenance and enhancement of the quality of the environment.

An assessment of landscape and visual amenity affects has determined that the site is able to absorb the development proposed with ‘very low’ effects. It is therefore considered that the proposal will maintain visual amenity, and the proposed landscape planting and native regeneration of indigenous vegetation will result in some enhancement to the quality of the environment. As such, the proposed development provides for the relevant matters of Section 7 of the Act.

11.4 Section 8 – Principles of the Treaty of Waitangi

Section 8 requires all persons exercising functions and powers under the Act to take into account the principles of the Treaty of Waitangi when managing the use, development and protection of natural and physical resources. The application site is not located within a wahi tupuna area or a Statutory Acknowledgement Area. As such this Section of the Act is not considered relevant to this application.

12. Conclusion

Resource consent is sought to develop and subdivide 9 Tuatara Rise and 18 Barclay Place into 19 fee simple lots, to create a building platform on each lot (excluding Lot 4) and undertake earthworks, installation of services and planting for mitigation purposes. Consent is also sought to cancel consent notices.

The subdivision in the Rural zone, land use consent for creation of building platforms, building within the Building Restriction Area and the cancellation of the consent notice all require resource consent as Non-Complying Activities.

The application has been assessed against and is consistent with the objectives and policies of the Strategic Direction, Landscapes and Rural Character chapters of the Proposed District Plan. This proposal for urban scale development cannot meet Policy 6.3.2.1 to avoid urban development in the Rural Zone. However, the proposal is considered appropriate and is otherwise consistent with relevant objectives and policies, The supporting landscape assessment and conclusions also take guidance from the Environment Court direction from Sticky Forest.

The assessment of environmental effects, including on visual amenity, landscape character and landscape values have been evaluated as being no more than minor. Public notification of the application has been requested.

It is concluded that the site has the capacity to absorb the development proposed and will be consistent with the receiving peri-urban environment. The proposal will also result in some positive effects and enhancement to natural character associated with the proposed planting along the eastern walkway cycleway.

It is therefore considered that the proposal will result in no more than minor and acceptable adverse effects on persons and the environment, with some positive effects; and that resource consent can be granted on a notified basis.

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