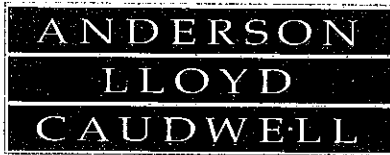


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BARRISTERS, SOLICITORS & NOTARIES SINCE 1862

22 August 2001

Clark Fortune McDonald  
PO Box 553  
**QUEENSTOWN**



Dear Neil

**IMAGES QUEENSTOWN LIMITED**

I **enclose** for your information a copy of the Environment Court's final Consent Order changing the zoning of the Hansen Road land.

Thank you for your assistance in this matter.

The Martyr Resources Limited appeal has been set down to be heard during the week commencing Monday 24 September at 2:00 pm. Two matters have been set down for that week – the Martyr appeal and references relating to the Remarkables Resort Hotel. The Martyr appeal is up first. I have written to all parties supplying a copy of the Consent Order and requesting advice as to whether their position will now change. I anticipate that the appeal is likely to fall over. I will be in touch in due course.

Yours faithfully

**ANDERSON LLOYD CAUDWELL**

Per:

**Warwick Goldsmith LLB (Hons)**  
**Partner**

Email: [warwick.goldsmith@andersonlloydcaudwell.com](mailto:warwick.goldsmith@andersonlloydcaudwell.com)  
Mobile: 025 750 490

encl.

cc: Mr. M. Halstead (letter only)  
PO Box 1221  
Invercargill

OFFICE  
Queenstown, New Zealand

ALSO AT  
Dunedin and  
Christchurch

LOCATION  
17 Marine Parade  
Queenstown

POSTAL  
PO Box 201  
Queenstown  
New Zealand  
DX ZP95010

PHONE  
+64 3 442-7570

FAX  
+64 3 442-8848

PARTNERS  
Frazer Barton  
Bruce Bolvin  
Lesley Brook  
Mark Christensen  
Stephen Christensen  
Warwick Deuchrass  
Barry Dorking  
Fraser Goldsmith  
Warwick Goldsmith  
Hamish Grant  
Jim Guthrie  
Christopher Littlewood  
Ted Lloyd  
Clare Malthus  
Alistair Moore  
Wayne Richards  
Peter Richardson  
Walter Rutherford  
Roger Sandford  
Lauren Sample  
Tony Sycamore  
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Stuart Walker

ASSOCIATES  
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Michael Garbett  
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Sarah-Jane Weir  
Anne Wilson  
Phillip Wilson

CONSULTANTS  
Alistair Broad  
Joseph Butler  
Hilary Calvert  
David Parker

GENERAL MANAGER  
Bill Eade

INTERNET  
[www.andersonlloydcaudwell.com](http://www.andersonlloydcaudwell.com)

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A NETWORK OF INDEPENDENT  
LEGAL PRACTICES NATIONWIDE

Decision No: C 131/2001

IN THE MATTER of the Resource Management Act 1991

AND

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

BETWEEN DIANE HOLDINGS LIMITED

RMA: 1252/98

Referrer

AND THE QUEENSTOWN LAKES  
DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

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

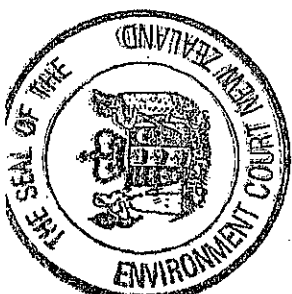
IN CHAMBERS at CHRISTCHURCH

RECORD OF DETERMINATION OF APPEAL

Background

[1] This reference under the Resource Management Act 1991 ("the Act") by Diane Holdings Limited ("the Referrer") is in relation to the Queenstown Lakes District Council Proposed District Plan as amended by decisions in September 1998 ("the Proposed Plan"). In particular the reference concerns Volume 2 – Planning Map 33 and Part 7 – Residential Area Rules - of the Proposed Plan.

[2] This reference relates to an area of land situated on the northern side of State Highway 6 and Hansen Road, near the "Frankton Corner". The land is approximately shown hatched on attached Plan "A" and shown more particularly on attached Plan "B", which shows in more detail State Highway 6, Hansen Road, and the Frankton Cemetery. The land subject to the reference is the flat land between State Highway 6 and Hansen Road on the south side and the Toe of the hill on the north side.



[3] On public notification of the Proposed District Plan in 1995, the land was zoned Rural Downlands. Jonty Limited (to which Diane Holdings Limited is the successor in title) lodged a submission requesting that the land be rezoned to Residential Low Density. The Council declined the submission and retained a Rural General zoning on the Land. On 29 September 1998 the Court received notice from Diane Holdings Limited of this reference requesting that the Land be rezoned Residential Low Density.

[4] The relief sought is as follows:

- a. *That the area of land being part Section 120 Block I and part Section 5 Block XXI Shotover District, being that part of the Applicant's property bounded by the cemetery, State Highway 7, Hansen Road, and the foot of the adjoining hill, and being the land hatched on attachments "A" and "B", be re-zoned from Rural General to Low Density Residential and that Planning Map 33 be amended accordingly.*
- b. *That any other necessary consequential amendments to be made to the policies and objectives of the proposed plan.*
- c. *That if the Court thinks it necessary, landscaping and buildings on the land subject to this Reference be controlled use activities rather than permitted activities, with the Council's discretion restricted to the effects of landscaping and building on visual amenities in terms of views from the State Highway.*

[5] On 13 October 1998 the Court received notice that Transit New Zealand ("Transit") wishes to be a party to this reference under section 271A of the Act. Transit opposed the Referrer's submission for the reason that:

*Development of land would encourage expansion of the urban boundary to the detriment of free flowing traffic and encourage cross highway movement of pedestrians.*

No other persons have given notice of an interest in this proceeding.



[6] On 30 July 2001 the Court received a joint memorandum of the parties ("the consent memorandum") setting out a compromise manner in which the reference might be determined by consent, subject to the approval of the Court. Counsel for the Council, counsel for Diane Holdings Limited and a representative for Transit New Zealand signed the consent memorandum.

[7] The Council has agreed that the land be rezoned as sought by the Referrer on the basis that:

- (i) A building line restriction is imposed on Planning Map 33, 5 metres in depth along the road boundary adjoining State Highway 6 and 4 metres in depth along the internal boundary adjoining the Frankton Cemetery, the site of a historic stone wall;
- (ii) A Zone Standard, specific to the land the subject of the reference, is inserted in Part 7 of the Proposed Plan providing for a footpath on the State Highway along the frontage between Hansen Road and the Frankton Cemetery and restricting vehicle access to Hansen Road; and
- (iii) A Site Standard with respect to landscaping requirements, again specific to the land the subject of the reference, is inserted in Part 7 of the Proposed Plan and with respect to that standard, relevant assessment matters.

### Orders

[8] Having considered the reference and the consent memorandum of the parties, the Court by consent, orders:

- (1) Appeal RMA 1252/98 is allowed to the extent set out in (2) below.



- (2) Under clause 15(2) of the First Schedule to the Act the Court directs the Queenstown Lakes District Council to modify the Proposed Plan as follows:
- (a) Rezone the land Residential Low Density as shown on attached “Plan C” attached to and forming part of this decision.
- (b) Insert a building line restriction, 5 metres in depth along the road boundary adjoining State Highway 6 and 4 metres in depth along the internal boundary adjoining Frankton Cemetery as shown on attached “Plan C”.
- (c) Insert the following Rules (site-specific to the land) in Part 7 of the Proposed District Plan:
- (i) **7.5.5.1 Site Standards – Residential and Visitor Accommodation in the High Density Residential Zone**  
*(i – xii unchanged)*  
**xiii Low density residential zone – Frankton Corner / Hansen Road**  
*The following standards shall apply to any development on Pt Sec 5 Block XXI Shotover SD, or any subdivided lot thereof, (on the northern side of State Highway 6 between Hansen Road and Frankton Cemetery – as shown on Planning Map 33):*
- (a) *No landscaping (including the removal of any of the existing trees as well as new planting) shall be carried out within 4 metres of the historic stone wall on the boundary of the Frankton Cemetery.*
- (b) *Prior to any new building being erected on Pt Sec 5 Block XXI Shotover SD, or any subdivided lot thereof, a landscaping plan shall be implemented within the*



*building line restriction area adjoining State Highway 6.*

*The landscaping shall:*

- *consist of trees and under planting to a depth of at least 5 metres; and*
- *contain trees planted at a maximum of 5 metre intervals, be specimens of at least 1.5 metres in height at the time of planting and shall be a species capable of reaching at least 3 metres in height at maturity; and*
- *be irrigated, maintained and any plants or trees that die or become, diseased or damaged replaced.*

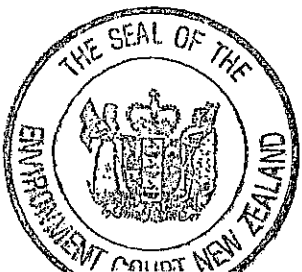
**(ii) 7.5.5.2 Zone Standards – Residential Activities and visitor accommodation in the High Density Residential Zone**

*(i-ix unchanged)*

***x Low density residential zone – Frankton Corner / Hansen Road***

*The following standards shall apply to any development on Part Sections 5 and 120 Block I Shotover SD and Lot 1 DP 26426, or any subdivided lot thereof, (on the northern side of State Highway 6 and Hansen Road near the Frankton Corner – as shown on Planning Map 33):*

- (a) *Prior to the erection of any buildings, a 1.5 metre wide compacted gravel footpath shall be constructed on the State Highway along the frontage between Hansen Road and the Frankton Cemetery. The final design and location of that footpath shall be as approved by Transit New Zealand.*
- (b) *All vehicle access shall be via Hansen Road to the State Highway. There shall be no vehicle access direct onto the State Highway.*



(iii) *7.7 Resource Consents - Assessment Matters - Residential Zones*

*7.7.2 xvi Landscaping - Low density residential zone Frankton Corner / Hansen Road*

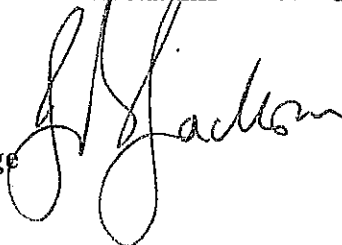
- (a) *With respect to landscaping (removal of existing trees as well as new planting) adjacent to the historic stone wall on the boundary of the Frankton Cemetery, whether:*
- (i) *removal of existing trees will damage the stone wall;*
  - (ii) *new landscaping will maintain the integrity and enhance the views of the historic stone wall;*
  - (iii) *consultation with local community groups and historical society has been undertaken.*
- (b) *With respect to landscaping within the building line restriction area adjoining State Highway 6, whether:*
- (i) *the landscaping will enhance the entrance to Queenstown;*
  - (ii) *the landscaping design will complement and harmonise with other landscaping adjacent to State Highway 6 on the Frankton Flats;*
  - (iii) *the landscaping will mitigate the visual effects of development;*
  - (iv) *the design incorporates alternatives such as mounding to compensate for reduction in tree planting.*
  - (v) *how the issue of ongoing maintenance has been addressed.*

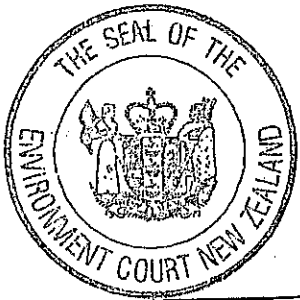
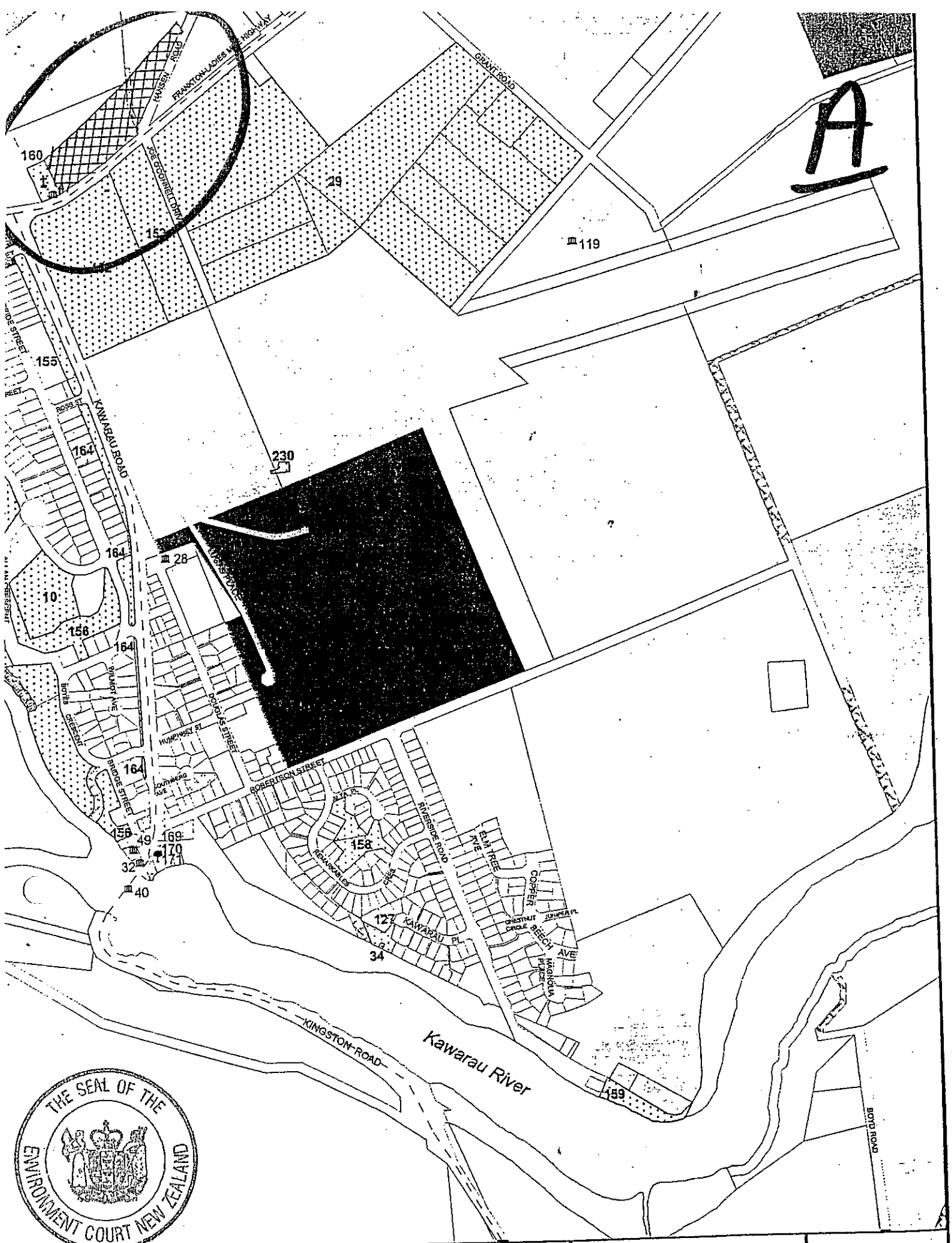
Renumber subsequent assessment matters.

(3) There is no order as to costs.

**DATED** at CHRISTCHURCH this 17th day of August 2001.

J R Jackson  
Environment Judge

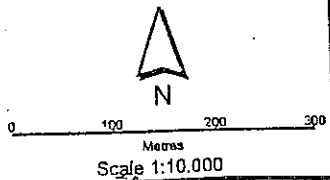
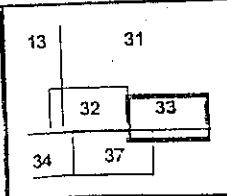


Frankton Council

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August 1998



Frankton

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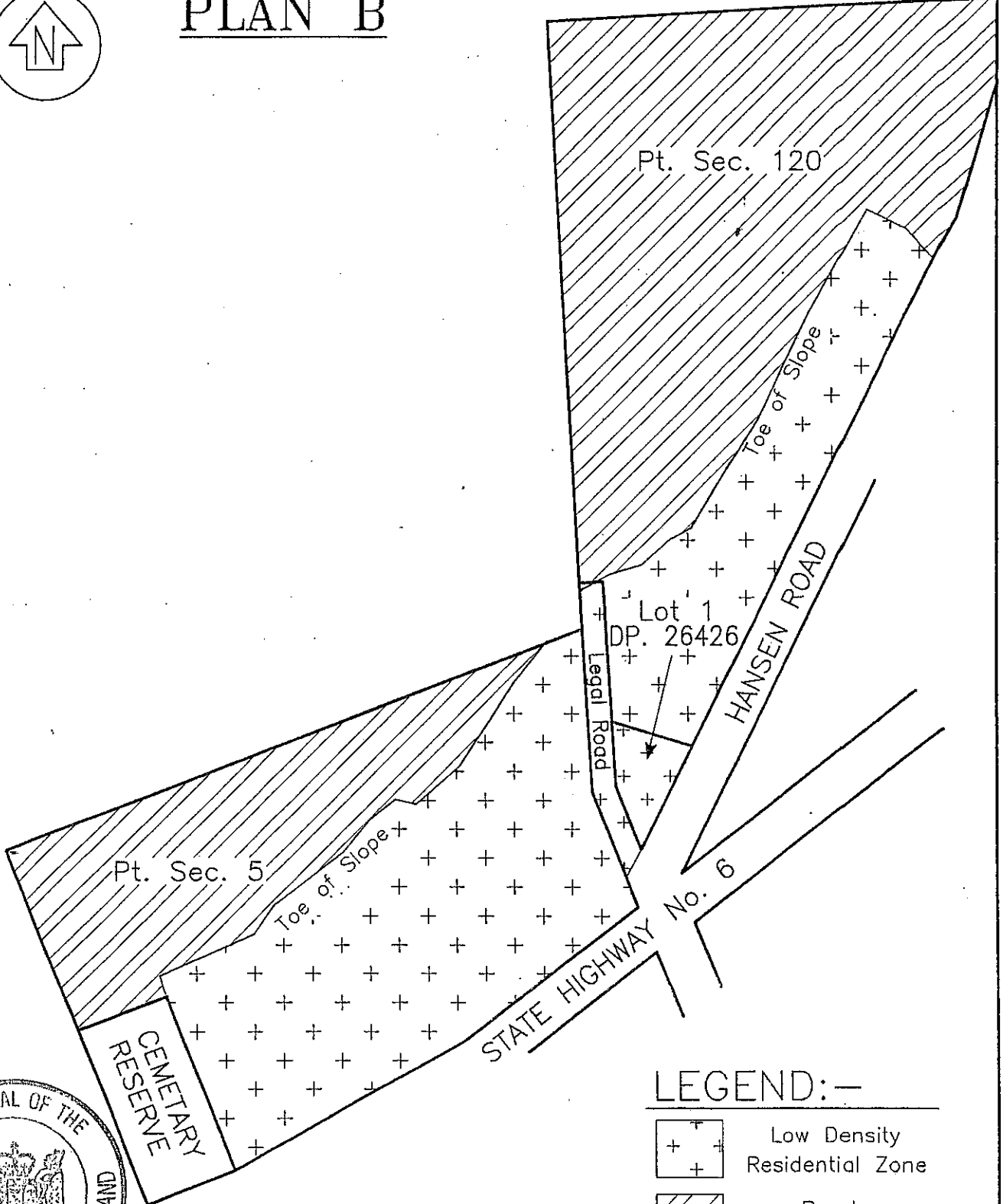
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B



# PLAN B



## LEGEND:—



Low Density Residential Zone



Rural General Zone

Pt. Sec's 5 & 120 and Lot 1 D.P.26426  
Block I Shotover S.D.



**CLARK FORTUNE McDONALD & ASSOCIATES**

REGISTERED LAND SURVEYORS LAND DEVELOPMENT & RESOURCE MANAGEMENT CONSULTANTS

309 Lower Shotover Rd, P.O.Box 553, Queenstown, Tel. (03)442-0990, Fax. (03)442-1066 Email q.t.surv@xtra.co.nz

SCALE 1:2500

DATE 20 JUN 2001

REF 7874\_1

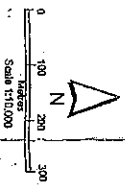
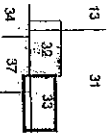
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# Queenstown Lakes District Council

## PROPOSED DISTRICT PLAN MAPS

June 2001



Frankton

*MSW*

# 33

