

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHU**

**Decision No. [2024] NZEnvC 25**

IN THE MATTER

of the Resource Management Act 1991

AND

an appeal under s120 of the Act

BETWEEN

SHUNDI QUEENSTOWN  
LIMITED

(ENV-2020-CHC-85)

Appellant

AND

QUEENSTOWN LAKES DISTRICT  
COUNCIL

Respondent

Court: Environment Judge J J M Hassan  
Environment Commissioner J T Baines

Hearing: 14 July 2021 in Queenstown

Appearances: J M G Leckie & M J J Turner for Appellant  
J Wilson & J G Robertson for the Respondent  
D Ng and R Yang (s274 parties)  
J and P French (s274 parties)  
S Kooy and J Gavin (s274 parties)  
M Holden (s274 party)

Last case event: 24 November 2023

Date of Decision: 29 February 2024

Date of Issue: 29 February 2024

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**DETERMINATION OF THE ENVIRONMENT COURT  
BY CONSENT**

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SHUNDI QUEENSTOWN LTD v QLDC

- A. The Modified Proposal satisfies all RMA requirements for consent.
- B. Timetable directions are made for the purposes of a further and final decision effecting grant of consent to the Modified Proposal.
- C. There will be no order as to costs, these are to lie where they fall.

## REASONS

### Introduction

[1] Shundi Queenstown Limited (“Shundi”)<sup>1</sup> appealed against a decision of the Queenstown Lakes District Council (“QLDC”) to decline land use consent for a hotel proposal at 53-65 Frankton Road, Queenstown (“Site”).<sup>2</sup> A number of submitters to the first instance hearing joined as parties to the appeal. Those include people who own residential properties in the neighbourhood and who took active part in the hearing.<sup>3</sup>

[2] Following the conclusion of the hearing, parties filed a joint memorandum

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<sup>1</sup> Shundi Queenstown Ltd is a New Zealand company incorporated in 2017. We are informed that its ultimate shareholder is Yi Shao, through a holding company Landa NZ Trustee Ltd. We are also informed that the Shao family have been instrumental in the development of “high-quality apartment buildings and hotels in Shanghai and the Eastern Regions of China since 1996”: opening submissions for Shundi, dated 14 July 2021, at [1]-[2].

<sup>2</sup> The QLDC decision specifies the legal description of the Site as Lot 2 Deposited Plan 15118 and Section 6-8 Block XLI Town of Queenstown held in Record of Title OT12D/547; and Section 9 Block XLI Town of Queenstown held in Record of Title OT17D/357.

<sup>3</sup> Those s274 parties who participated in the hearing were John Gavin and Sonja Kooy, Denise Linda Ng and Yang Chin Ping (Robert Yang), Pamela Maxwell French and John Gibson French, Miles Holden. Lynda Maree Wright-Sear remained as a s274 party but did not participate. She informed the court that she would not pursue her outstanding issues. On inquiry from the court in light of the filing of a joint memorandum by other parties, she reiterated that she opposed the grant of consent but did not wish to comment on the proposal: email of L Wright-Sear to the Registry (24 November 2023). New Zealand Transport Agency (Waka Kotahi) and Kirsty Sinclair filed s274 notices but subsequently withdrew from the proceeding before the commencement of the hearing: Memorandum of counsel for New Zealand Transport Agency withdrawing s274 interest dated 18 February 2021 and email of K Sinclair to the Registry (1 June 2021).

recording their agreement to the effect that consent can be granted to the modified hotel proposal ('Modified Proposal') subject to specified conditions. On the evidence, we find that it would accord with the relevant RMA<sup>4</sup> requirements to grant consent to the Modified Proposal subject to the conditions in Annexure 2.

### **The Site and environs and zoning**

[3] The Site is bare land on the southern (lakeward) side of Frankton Road ('SH6A') between Suburb and Adelaide Streets on the approaches to downtown Queenstown. It is some 4700 m<sup>2</sup> in area and relatively flat. Immediately to its west is the Paddy Burton Memorial Park.<sup>5</sup> Along Frankton Road in the vicinity of the Site, there is a predominance of visitor accommodation uses. Those include the Alexis Motel (at 69 Frankton Road) to the immediate east and the Millennium, Ramada Queenstown Central and the Copthorne Hotel and Resort.

[4] From the southern boundary of the Site down to Lake Whakatipu/Wakatipu,<sup>6</sup> between Suburb Street and Adelaide Street (east and west of the Site), the land is predominantly residential in character. The s274 parties who participated in the hearing own dwellings there, some on Suburb Street and another on Adelaide Street.

[5] The Site as well as the various Suburb Street and Adelaide Street properties of the s274 parties are within the High Density Residential ('HDR') zone under the proposed district plan ('PDP') (and this area is similarly zoned under the operative district plan).<sup>7</sup> The HDR standards and other controls enable "taller buildings" than are anticipated in other residential zones, but "subject to high design quality" and a further proviso that "adverse effects on the residential

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<sup>4</sup> Resource Management Act 1991.

<sup>5</sup> The Paddy Burton Memorial Park incorporates a water pump station and is subject to designation (reference 35 – Leary's Gully Water Pump Station).

<sup>6</sup> Note, the official name is subject to review pending consideration of the name change request by Ngāi Tahu filed with the New Zealand Geographic Board.

<sup>7</sup> The HDR zone is assigned to land close to the town centres of Queenstown and Wānaka.

amenity values of nearby residents” are “avoided, remedied or mitigated”.<sup>8</sup> This is backed by HDR policies, activity standards and other controls. The HDR is primarily designed to provide for “high density housing development ... close to town centres, to provide greater housing diversity and respond to expected population growth” (PDP Obj 9.2.1). However, it also provides for hotels and other forms of “visitor accommodation” as activities for which consent can be sought. That is in order to “respond to projected growth in visitor numbers”.<sup>9</sup>

[6] In terms of landform, Queenstown Hill is a dominant presence north-east of the Site. It significantly limits sunlight access, especially during the winter months, for the residential dwellings in the area including those along Suburb Street and Adelaide Street. In those terms, these dwellings have a significant advantage at present in the fact that the Site is greenfields, hence allowing for significantly greater relative sunlight access. Development of the Site as proposed will change those conditions significantly, especially during the winter months. The evidence reveals that is particularly the case for 8 and 12 Suburb Street.

[7] On the other hand, the fact that the Site is on an elevated and relatively flat terrace allows for a hotel design that can offer superior unobstructed views across Lake Whakatipu/Wakatipu to the Remarkables, Walter Peak and beyond.

### **Original proposal declined consent at first instance**

[8] Shundi’s original application was for land use consent for an 82 room, 4 suite hotel, including a restaurant, bar and meeting rooms, and associated basement parking for 58 vehicles (and associated earthworks and landscaping). The proposal then was for access to be left in/left out from Frankton Road.<sup>10</sup>

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<sup>8</sup> 9.1 Zone Purpose, PDP.

<sup>9</sup> 9.1 Zone Purpose, PDP. Provision 2.1, definitions, PDP defines ‘visitor accommodation’ to mean ‘the use of land or buildings to provide accommodation for paying guests where the length of stay for any guest is less than 90 nights’ and to include, amongst other things, hotels.

<sup>10</sup> QLDC decision RM190113, dated 15 May 2020, at [5]-[6].

That access arrangement was necessitated by the then configuration of Frankton Road. It meant the transport management arrangements for the hotel relied on the usage of local side streets by visiting coaches and other vehicles. For the first instance hearing, Shundi proposed some adjustments to that proposal in response to concerns raised by submitters and QLDC officers. Those included:<sup>11</sup>

- (a) reduction in building height to be mostly under 15m, some changes in articulation and a reduction in the overall scale of the building such that it was then proposed to accommodate 77 rooms and 5 suites;
- (b) some changes to carpark design and coach access and Site access design.

[9] However, the independent commissioners declined consent primarily in view of their concerns about how the proposal would impact on the local road network (in essence as a consequence of the left in/left out access to Frankton Road, necessitating additional traffic movement along local side streets). The commissioners summarised their reasons as follows:<sup>12</sup>

207. In exercising our delegation under sections 34 and 34A of the Act, and having regard to the matters discussed above under sections 104D and 104(1), we have determined that resource consent to the non-complying activity application by Shundi Queenstown Limited to establish a hotel **be refused**, as the application, while it can meet the Section 104D gateway tests, has not taken sufficient steps to ~~minimise~~ its impacts on the local road network in accordance with Section 104(1). This conclusion is made on the basis of potential adverse effects on the adjacent local road network, being effects that cannot be controlled or mitigated.

208. Reasons for the decision are:

- (a) The proposed building design (including height, façade length and articulation and massing) while generating effects on the existing

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<sup>11</sup> QLDC decision RM190113, dated 15 May 2020, at [7].

<sup>12</sup> QLDC decision RM190113, dated 15 May 2020.

environment, is appropriate within the context of the High Density Residential zoning of the site and surrounds.

- (b) The proposed activity may generate adverse effects that are more than minor on the safety and amenity of the adjacent local road network. These are effects that cannot be avoided or mitigated. The design of the building and layout of the site will mean that reliance has to be placed on the local road network providing safe access into and out of the site for some manoeuvres, no matter how the hotel is operated and what type of guests it attracts.

## **The Modified Proposal**

### ***Traffic design and operational management changes***

[10] Fortuitously in time for pre-hearing mediation and expert conferencing, funding was secured for a major upgrade to Frankton Road and parts of the local road network. That project, being undertaken jointly by the NZ Transport Agency ('Waka Kotahi') and QLDC, is now substantially complete. With the upgrade came the opportunity to redesign access arrangements for the hotel, in particular to address the key findings at first instance that resulted in decline of consent.

[11] Full agreement was reached between the transportation engineers, Stephen Hewett and Mike Smith, on a modified access design and operational management conditions.<sup>13</sup> Similarly, agreement in support of the proposal so modified was reached between the urban design and planning experts for Shundi and QLDC.<sup>14</sup> In light of those developments, QLDC changed its position to one of support for the grant of consent on those agreed conditions.<sup>15</sup>

[12] However, several residents (as s274 parties) remained opposed to the

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<sup>13</sup> Joint witness statement ('JWS') of Stephen Hewett and Mike Smith, transportation engineers, dated 12 March 2021 (JWS – Transport).

<sup>14</sup> JWS dated 12 March 2021, Ashley Muir, Garth Falconer and Paula Costello (JWS – Urban Design); JWS dated 23 March 2021, John Edmonds and Katrina Ellis (JWS – Planning).

<sup>15</sup> QLDC memorandum dated 25 May 2021.

proposal as modified.

***The Court's preliminary observations following testing of evidence***

[13] A number of the s274 parties gave evidence of their concerns, which we come to shortly. The expert and other witnesses for Shundi and QLDC were called and tested in cross-examination by the s274 parties and questioned by the court. At that stage of the hearing, the court made it clear that it did not fully accept the experts' opinions, particularly as to the amenity values of neighbouring residential land. As is recorded in Annexure 1, we noted that we had particular concerns about the extent of loss of sunlight access during winter for 8 and 12 Suburb Street. We signalled that unless our concerns could be satisfactorily addressed, Shundi could anticipate that consent would be declined. We allowed Shundi leave to reconsider its proposal, in anticipation that this would be the subject of scrutiny at a resumed hearing.

[14] By memorandum dated 21 December 2021, Shundi proposed changes to the design of the hotel building intended to mitigate the loss of sunlight access to 8 and 12 Suburb Street.<sup>16</sup> Jurisdictional scope to make the modifications was not a matter of contention and we are satisfied that, in all respects, the Modified Proposal can be considered within scope.

***The Modified Proposal the subject of this determination***

[15] The Modified Proposal, therefore, includes the agreed modifications to both the traffic and access design and operational management arrangements and modifications to the design and scale of the hotel. What is now proposed is a 75 room/4 suite hotel. With a view to mitigating sunlight access issues for affected dwellings, built form changes include reductions to:

- (a) the floor area of level 5 on the south façade by 50% and

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<sup>16</sup> Shundi memorandum dated 21 December 2021.

- consequently the width of the roof terrace on level 6;
- (b) the height of the south edge of the roof of the hotel at level 5 to largely lie under the PDP's applicable 12m height plane standard; and
- (c) the built form by replacing the roof at level 5 with a flat roof with a matching flat ceiling inside the guest rooms.

[16] The lengths of balconies on levels 1, 2 and 4 are also reduced. There is no change in relation to setbacks, site coverage, building length, earthworks or transport related matters.<sup>17</sup> These modifications are as depicted in updated plans referenced in revised and updated proposed consent conditions.

[17] As we find on the evidence that the Modified Proposal satisfies all RMA requirements for consent, we make directions for the filing for our approval of an updated resource consent document, including a clean set of consent conditions and a complete set of referenced plans. At this stage, for reference, we refer to the copies of plans and the updated conditions as provided by Shundi for its closing submissions and which are reproduced in Annexure 2.

### **Statutory framework and principles**

[18] Although this determination is made in light of the agreement reached between parties following the hearing, we record that we make it according to the statutory framework we now outline.

#### ***The Modified Proposal is to be assessed as a discretionary activity***

[19] As John Edmonds, the planning witness called by Shundi explains, aspects of the Modified Proposal are classed as restricted discretionary and other aspects discretionary.<sup>18</sup> Therefore, we consider the bundle of activities that comprise the Modified Proposal as a discretionary activity for the purposes of our

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<sup>17</sup> Edmonds affidavit 21 December 2021 at [16].

<sup>18</sup> Edmonds affidavit 21 December 2021 at [20].

determination.

[20] At first instance, the proposal was assessed as a non-complying activity because of the uncertainty at that time as to whether construction would contravene the PDP's construction vibration rule (r 36.5.9). We accept the planning witnesses' agreed opinion that changes to proposed consent conditions overcome that uncertainty, effectively rendering the Modified Proposal a discretionary activity.

[21] Therefore, we may grant or refuse the land use consent sought. We may grant consent subject to conditions.<sup>19</sup>

### ***General powers, duties and discretion***

[22] We have the same power, duty and discretion as QLDC's independent hearing commissioners had concerning the appealed decision.<sup>20</sup> We are to consider the Modified Proposal subject to pt 2 RMA, according to the various matters set out in s104. Of particular significance are:

- (a) any actual and potential effects on the environment of allowing the activity;<sup>21</sup> and
- (b) any relevant provisions of the PDP.<sup>22</sup>

### ***The 'permitted baseline' should not be applied to residential amenity impacts***

[23] We decline to apply the permitted baseline discretion in s104(2), RMA. Hence, we do not accept the opinions of the urban design and planning experts

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<sup>19</sup> RMA, ss 104B and 108.

<sup>20</sup> RMA, s290.

<sup>21</sup> RMA, ss 290, 104(1)(a).

<sup>22</sup> RMA, ss 290, 104(1)(b)(vi).

that we should do so.

[24] Those experts effectively invited us to set aside the concerns raised by residents about sunlight access loss by virtue of what the HDR would permit, in terms of height, bulk and site coverage, for any high density residential development on the Site. Notwithstanding the harsh consequences of that, the experts maintained that applying the permitted baseline discretion in this way was duly in accord with the PDP's objectives and policies.<sup>23</sup> Shundi's opening submissions were to similar effect.<sup>24</sup>

[25] We find the application of the s104(2) RMA permitted baseline discretion would offend the intentions of the PDP and, in light of the evidence, be plainly unjust and inequitable.

[26] On our reading of the PDP, hotel developments of the kind proposed are not intended by the HDR to be treated as akin to high density residential development. That is especially when considering effects on residential amenity values. In particular:

- (a) Obj 9.2.8 on the enablement of visitor accommodation is qualified by the rider "whilst ensuring that adverse effects on residential amenity values and traffic safety are avoided, remedied or mitigated";
- (b) Pol 9.2.8.2 is relevantly to the effect that the range of accommodation options, including hotels, positively contribute to residential amenity values by ensuring that adverse effects on residential amenity values are avoided, remedied or mitigated.

[27] Importantly, those directions are not framed by reference to PDP recession plane, height, setback or coverage controls. In those terms, they are materially

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<sup>23</sup> Edmonds evidence, dated 4 May 2021, at [39]-[41]; Falconer evidence, dated 30 April 2021, at [30]; Ellis evidence, dated 21 May 2021, at [3.2] and [3.3].

<sup>24</sup> Opening submissions for Shundi, dated 14 July 2021, at [35]-[42].

different from Pol 9.2.3.1 on high density residential development.

[28] The rationale for that difference in approach, as between visitor accommodation and high density residential development, is not clearly explained in the PDP. However, a possible rationale is that interests of equity and fairness differ. In a relative sense, high density residential development is a type of residential usage and the primary intention of the HDR. By contrast, visitor accommodation is not a type of residential usage akin to what is established in relevant neighbourhoods and it is allowed for in the HDR, but on a more qualified basis.

[29] That distinction is also reflected in the discretionary activity classification accorded to the Modified Proposal as a type of anticipated visitor accommodation in the HDR.

[30] We find that the PDP intends that full and proper account be taken of the evidence concerning how any visitor accommodation proposal of the kind proposed here would impact upon residential amenity values. That is not with the intention of necessarily maintaining or fully protecting those values. Rather, the HDR is a zone for land close to Queenstown and Wānaka CBDs and is designed to allow for materially greater density in development, including residential development, than in other residential zones. However, the HDR recognises that visitor accommodation development, needed as part of a predominantly visitor economy, must occur in an established residential setting and hence duly respect residential amenity values.

[31] Furthermore, the evidence we heard from affected residents plainly reveals that the approach those experts argued for would result in significant unfairness and disenfranchisement. In essence, s274 parties who would suffer a material reduction in their amenity values would not have had their cases fairly heard or their interests fairly weighed and addressed in our determination of the appeal. That is particularly in light of the evidence as to the present amenity value of

sunlight access and, to a lesser extent, privacy, for the most affected; namely 8 and 12 Suburb Street.

*The PDP is the predominant planning instrument*

[32] As is directed by s104, we have had regard to relevant provisions of the various RMA planning and policy instruments.

[33] As was the consensus of the planning experts, we give most weight to the PDP as the predominant instrument in terms of the direction it offers for how we approach consideration of the Modified Proposal. The HDR objectives and policies that we have already discussed are particularly significant in terms of our consideration of competing factors.

[34] As the PDP is beyond challenge in relevant respects, we do not give significant weight to the ODP.<sup>25</sup> That was the consensus opinion of the planning experts and we concur.<sup>26</sup>

[35] Hence, we do not give the ODP significant weight. We are satisfied that the PDP already gives relevant effect to the partially operative Otago Regional Policy Statement 2019, its predecessor the Regional Policy Statement for Otago 1998 and the proposed Otago Regional Policy Statement 2021. Therefore, we do not give significant further weight to those instruments. The only relevant national policy statement is the National Policy Statement – Urban Development 2020. We accept Mr Edmonds’ opinion that there is no material inconsistency with this instrument.<sup>27</sup>

[36] For the purposes of the resumed hearing, we were invited by Shundi to consider a then recently notified proposed Urban Intensification variation to the

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<sup>25</sup> That includes the provisions of PDP Ch 9 (High Density Residential), Ch 25 (Earthworks), Ch 29 (Transport), Ch 31 (Signs) and Ch 36 (Noise).

<sup>26</sup> JWS – Planning dated 23 March 2021, signed by John Edmonds and Katrina Ellis.

<sup>27</sup> Edmonds evidence dated 4 May 2021, at [114].

PDP.<sup>28</sup> The variation was at that stage open to submissions. As we then signalled to parties, we do not accord it significant weight given that it is only in the early stages of QLDC's consideration.<sup>29</sup>

### ***Other relevant matters***

[37] We are also directed to have regard to any other matter that we consider relevant and reasonably necessary to determine the application.<sup>30</sup> All relevant matters are as reported in our findings in this determination.

### **The evidence**

#### ***Observations as to the court's approach to evaluation***

[38] Although this determination is made in light of the agreement reached between the parties, we record that it is on the basis of our findings on the evidence. As we have noted, that includes both expert evidence in various disciplines called by Shundi and QLDC, and lay evidence called by various s274 parties as to their concerns.

[39] We are satisfied that all experts offered their opinions in due accordance with the Code of Conduct in the court's Practice Note.<sup>31</sup> The experts were cross-examined by s274 parties, notwithstanding that none of them called expert evidence in these matters. A number of the experts were also questioned by the court.

[40] In material terms, the experts support the grant of consent to the Modified Proposal. That is particularly as expressed in the various JWS produced following

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<sup>28</sup> Memorandum of counsel for Shundi dated 28 August 2023.

<sup>29</sup> Minute dated 31 August 2023.

<sup>30</sup> Sections 290, 104(1)(c), RMA.

<sup>31</sup> [Practice-Note-2023-.pdf \(environmentcourt.govt.nz\)](#).

court-directed conferencing.

[41] However, as we have noted, the urban design and planning witnesses for Shundi and QLDC undertook their evaluations on the mistaken premise of applying a permitted baseline approach to their consideration of the effects of the Modified Proposal on residential amenity values. On that basis, they did not properly account for the evidence heard by the court on these matters from the following s274 parties, all of whom own dwellings in the neighbourhood of the Site. While that impacts on how we weigh that evidence, it does not impede our capacity to determine the appeal as we are able to make all necessary judgments on all the evidence before us (notably including the evidence of the s274 parties).

### ***Site visits***

[42] To assist our evaluation of the evidence, the court undertook site visits of the Site and various localities (including 8 and 12 Suburb Street) according to the parties' recommended itinerary. We reported our observations back to the parties during the hearing.

## **Evaluation**

### ***Urban design***

[43] The urban design experts agree with the appropriateness of the Modified Proposal in relevant respects, and this was not contested by the s274 parties other than in terms of residential amenity values as we address shortly. We accept the urban design evidence in finding that the proposed hotel building will contribute positively to the Frankton Road streetscape. The design of the building form and landscape treatment will assist in those terms, particularly in softening and breaking up the building mass. On the evidence, we find that the building's southern façade, facing residential properties, will not appear dominant. The building overall is well articulated. Together with landscape treatment, this will provide for a quality urban design outcome.

*Transportation and road network effects including safety*

[44] Notwithstanding the endorsement of the modified transportation design and operational arrangements, John and Pamela French remained concerned about these matters.<sup>32</sup>

[45] They own a holiday home in Adelaide Street that has been enjoyed by their family for many years. They did not call expert evidence but predominantly focused on traffic and parking matters in their evidence to us. Mr French considers that, despite the modified arrangements, there will be “a confused bottleneck” on an already congested road.<sup>33</sup>

[46] The court is well familiar with the congestion frustrations that Mr French describes. Frankton Road is part of the State highway network (as SH6A) and serves as the principal arterial route in and out of Queenstown CBD. It is usually busy and, at peak times, highly congested. That is particularly so in the vicinity of the Site and closer to the CBD, as those seeking to access the amenities there compete with those seeking to move to and from the many local side roads and hotels and other commercial activities that line it on each side. Pedestrian refuges are provided but it can be a challenging exercise to use them. The major upgrade project now underway is intended to help address these safety and efficiency issues, but it would be naïve to presume this will bring an enduring solution to the problems Mr French describes.

[47] However, the road network in the vicinity exists to serve the community of users who rely on it, and congestion issues of the kind described are in essence a consequence of that usage. That includes usage by existing and future hotels and

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<sup>32</sup> Mr Hewett and Mr Smith signalled some confined differences concerning the specifications for a so-termed ‘Ongoing Transport Management Plan’ (OTMP) intended to be instituted through a consent condition (condition 63). In the JWS – Planning, the planning experts propose a variation to proposed condition 63 to address that difference. We are satisfied the matter is duly addressed in the final version conditions for the Modified Proposal in Annexure 2.

<sup>33</sup> French evidence, dated 9 April 2021, at [22].

other commercial and residential activities in the vicinity.

[48] Primarily, the impact that the proposal would have had on local side streets led the commissioners at first instance to find it contrary to relevant PDP objectives and policies and to decline consent.

[49] That particular feature of the proposal is addressed in the modified access arrangements and associated proposed conditions. Matters of functionality of the road network involve questions of judgement through the informed eyes of traffic engineers. We give significant weight to the fact that the modified arrangements were developed with the assistance of Messrs Hewett and Smith and have their full endorsement. Furthermore, in its capacity as the local road controlling authority, QLDC finds the modified arrangements suitable and appropriate (Waka Kotahi, as the State highway agency, having withdrawn as noted). We find these modified arrangements align appropriately with the functionalities of Frankton Road and local roads in the network such as to not be contrary to relevant PDP objectives and policies. We find on the evidence that the issues that led to decline of consent at first instance are satisfactorily and sufficiently addressed.

### ***Overview of the evidence from residents on their amenity values***

[50] The focus of other evidence and representations on behalf of the s274 parties who attended the hearing was primarily on residential amenity values, especially in terms of loss of sunlight access. Privacy and some other concerns were also raised. The evidence and representations on those matters was mainly from parties who own or reside in residential dwellings in Suburb Street.

[51] The Suburb Street sections are mostly generously proportioned and the dwellings on them generally relatively small, old and tired. No. 8 Suburb Street includes a typical 3 bedroom mid-19<sup>th</sup> century dwelling. No. 12 Suburb Street, which is the closest to the Site, includes a small, somewhat dilapidated, bungalow. Like several other houses in the locality, both properties present development opportunities in accordance with their HDR zoning.

[52] The owners of 12 Suburb Street, Sonja Kooy and John Gavin, explained their concerns that development of the Site would cause loss of sunlight access and privacy. They also challenged the accuracy of the shading diagrams offered by Shundi in evidence. At the initial hearing, Mr Gavin explained that his elderly mother lived in the dwelling. He updated us prior to the close of the hearing that his mother had now moved out. He explained that he and Ms Kooy do not have plans to develop the property, instead intending at this stage to pass it on to their children, whether in its present state or as bare land.<sup>34</sup>

[53] The owners of 8 Suburb Street, Denise Ng and Yang Chin Ping purchased it in 2010, as an investment property. Ms Ng explained that this was particularly because of the sunlight access it enjoyed and its close proximity to the Queenstown CBD.<sup>35</sup> In their evidence, Ms Ng and Mr Yang emphasised the value they place on the amenity of sunshine, light, thermal gain and warmth from sun access. That is in terms of enjoyment and comfort and the economics associated with keeping their holiday home warm and well lit.<sup>36</sup> Ms Ng told us that, during the winter months, the best sun access enjoyed in the existing dwelling is between 11 am and 2 pm – 3 pm.

[54] Ms Ng and Mr Yang acknowledge that, given that the Site is presently vacant, any new building on it would increase shading effects for their property. However, they seek to ensure any hotel design enables 8 Suburb St (as well as No. 12) to get a “minimum of three hours of sun in the specific key living areas” of their dwelling. They also express concerns as to the reliability of Shundi’s related evidence, including its shading analysis.<sup>37</sup>

[55] Miles Holden does not claim that his property at 5 Suburb Street would itself be significantly impacted. That is an appropriate position to take in that his

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<sup>34</sup> Transcript 1 September 2023, p 60, l 27-p 61, l 5.

<sup>35</sup> Transcript, July 2021, p 208, l 21-30.

<sup>36</sup> Ng & Yang evidence, dated 28 March 2022.

<sup>37</sup> Ng & Yang evidence, dated 28 March 2022.

property is some distance further downhill and on the opposite side of the road from the Site. However, as someone who has lived for many years in this street, he is mindful of the interests of his neighbours. As he explained it:<sup>38</sup>

Sunshine is an amenity our community values and to have this so dramatically taken away by this Hotel is unfair. We are zoned residential and this needs to be taken into account when allowing a non-complying activity next to us. The amount of shading this hotel creates over our street contradicts the definition of the District Plan.

[56] Mr Holden applied his skills as a professional photographer. He challenged the accuracy of Shundi's shading diagrams and related evidence.

## **Evaluation**

### ***Sunlight access***

#### *Introduction*

[57] Our preliminary observations on the evidence as tested are set out in Annexure 1. As to sunlight access, the court was not satisfied that the effects on 8 and 12 Suburb Street were appropriate. We recognised that morning sunlight access would be difficult to maintain under any realistic development scenario. However, in regard to sunlight access during the afternoon, particularly during the winter months either side of winter solstice, we expressed a lack of confidence in the reliability of the estimates offered on behalf of Shundi. We observed that we did not then have confidence that we could make sound findings on both the extent of loss of sunlight access that would result and whether or not this is satisfactory and what could be achieved by design change. We signalled that, unless Shundi elected to seek to remedy those deficiencies (leave being given for those purposes), the decision in due course would be to decline consent. We

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<sup>38</sup> Holden evidence, dated 10 April 2021, at [11].

encouraged Shundi to rectify the evidential deficiencies, discuss matters with residents and “[make] every attempt to get a modified proposal to achieve solstice re three hours’ minimum for 8 & 12 Suburb Street”. Our intention in those remarks was to achieve that outcome during the winter solstice. We emphasised, however, that we did not make at that stage any “final determination about whether that is sufficient”.

[58] As we have noted, Shundi elected to make the design changes we have described as part of what we call the Modified Proposal. Shundi’s architect, Ashley Muir, explained how these were made with a view to mitigating shading impacts for residents. Shundi tendered supplementary evidence, including by surveyor Kurt Bowen, as to shade modelling and associated prediction.

[59] As Shundi’s supplementary evidence explains, the mitigation achieved in terms of sunlight access on the walls of the existing dwellings at 8 and 12 Suburb Street at the winter solstice is predicted as follows:

	<i>As initially proposed</i>	<i>With the Modified Proposal</i>	<i>Increase and % improvement</i>
<i>8 Suburb Street</i>	3 hrs 14 mins	3 hrs 39 mins	25 mins (19%)
<i>12 Suburb Street</i>	1 hr, 13 mins	2 hrs, 13 mins	1 hr (82%)

[60] As can be observed, the achieved mitigation for 8 Suburb Street was significantly more than three hours but for 12 Suburb Street (the closer of the two to the Site) it was significantly less than that.

*The methodology applied is sufficiently reliable and fit for purpose*

#### Shundi’s evidence

[61] Shundi’s initial shading analysis, which we expressed lack of confidence in, was undertaken by Mr Muir’s architectural consultancy, Mason & Wales. To seek to respond to the court’s preliminary observations in Annexure 1, Shundi engaged

Mr Bowen, a surveyor, to do a comparative “Shadow Analysis Study” (“SAS”). Mr Bowen gave evidence on this work when the hearing resumed concerning the Modified Proposal. The court also received supplementary evidence from Mr Muir as to his testing of accuracy of his predictions pertaining to the architectural plans he prepared of the Modified Proposal.

[62] As Mr Bowen’s affidavit explains, the SAS used the winter solstice on 21 June 2021 as an “existing base site sunshine baseline” (“baseline date”). That baseline date was chosen as being the date when there are the least daylight hours available due to the sun being at its lowest annual elevation. Mr Bowen explained that his team (at Paterson Pitts) modelled “the entire Queenstown Basin” in order to “fully assess the shading effects” of the Modified Proposal at the Site. The modelling involved:<sup>39</sup>

- (a) use of “12d software” to model the before and after scenarios, for every hour across the daylight hours on the baseline date, with additional analysis at the 30-minute marks around the time of sunrise and sunset on the subject site;
- (b) analysis in the Mt Nicholas 2000 coordinate system and the Dunedin 1958 height system, both of which are standard datums used commonly in the Queenstown region;
- (c) use of four sources of data for the 3D existing surface modelling, namely:
  - (i) Land Information New Zealand (‘LINZ’) 2021 Lidar Digital Surface Model (‘DSM’) data to create an “existing surface model” that includes vegetation and rooftops in the relevant environs of the Site (the LINZ data being accurate to +/- 0.2m vertically and +/- 1.0m horizontally, which is consistent with the tolerance stated by LINZ in the metadata associated with this dataset);

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<sup>39</sup> Bowen affidavit, dated 21 December 2021, at [6]-[13].

- (ii) 3D contours for the broader region sourced from LINZ Data Services website to create a model of ground surface for the wider Queenstown Basin (comparison with the more accurate DSM data at several locations outside the Queenstown Basin showing this data is accurate to  $\pm 5\text{m}$  in the vertical dimension, or in terms of differences in sunlight time, a 5m height difference on the Fernhill ridge 4.4km away results in less than 1 minute difference in sunset time); and
- (iii) a model of the Modified Proposal, as supplied by Mason & Wales, which the team under Mr Bowen's supervision incorporated into their shade modelling at the position and level in relation to Site boundaries (as proposed by Mason & Wales).

[63] Mr Bowen explained that his team also ran data checks and undertook ground truthing to verify that the modelling was producing accurate results. That included:

- (a) comparing the NZ Topo derived contour surface to the Lidar data "at several peripheral locations" around the Queenstown Basin. He explained that the assessed accuracy of the data is  $\pm 5\text{m}$ ;
- (b) checking the DSM data against field survey information, this showing that the spot-by-spot accuracy of that data is frequently better than its stipulated accuracy (i.e.  $\pm 0.2\text{m}$  vertically and  $\pm 1.0\text{m}$  horizontally at the 95% confidence);
- (c) undertaking field measurements of the extent of clear shading by distinct features to compare modelled with actual shading at the specific time and day of the survey (i.e. 3 pm on 13 September and 12.26 pm on 14 September), this confirming "that the modelled shading is consistent with the measured shadow"; and
- (d) undertaking further ground truthing, this revealing a three minute margin of accuracy as between the calculated sunset time for the Site on 23 September (5.21 pm) and the period observed by staff in the

field (i.e. between 5.23 pm and 5.24 pm). Mr Bowen considers this difference to be “an accurate reflection” of the various data tolerances that are associated with the modelling calculations.

[64] In his affidavit, Mr Bowen reports the outcomes of the SAS, including in the various plans illustrating predictions. He also explains that he and members of his team met with the s274 parties to explain the SAS and its predictions. He reports on the discussion that occurred at that time.

[65] Mr Bowen is satisfied that the SAS and shading data presented in evidence provide a reliable prediction of two key matters:<sup>40</sup>

- (a) the extent to which the land south and downhill of the Site is currently affected by shading; and
- (b) how that land would be affected by the revised hotel design under the Modified Proposal.

[66] As we have noted, the modelling undertaken by Mr Bowen and his team underpins the predictions in the table at [60] concerning sunlight access on the walls of the existing dwellings at 8 and 12 Suburb Street as at the winter solstice. That prediction is with respect to the existing dwellings there. As we have noted, the existing dwellings are relatively small and tired and the HDR facilitates their development, particularly for residential purposes. The court asked Mr Muir to comment, with respect to 12 Suburb Street, on whether a new dwelling could be designed so as to have good afternoon sun in living areas and good thermal qualities. He answered:<sup>41</sup>

the first point is that the north is up the hill so to speak away from the view and the adverse of that is that the view is to the south, so that immediately gives us some clues to the plan of the house. It has to be in my terms, double-sided. You

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<sup>40</sup> Bowen affidavit, dated 21 December 2021, at [29]-[31].

<sup>41</sup> Transcript, 1 September 2023, at p 49, l 29-p 50, l 19.

need to be able to have the sun come in from the north and we need to be able to look out to the south and that takes me to a plan of single roomed decks and we have designed many houses like that in the Queenstown area and it also applies in Wanaka.

Just simply because where the views are relative to where land is available to build on and they could be very good plans so the first point is that it will be a single room width for the living areas. ... bedrooms ... have different characteristics, where the sun comes in from the north and the view is to the south. The other factor that is induced relative to having a hotel to the north is illustrated by the existing house on number 8 where they have got roof lights letting sun into the house. Now it could be that a single storied house on number 12 had roof lights of some description. I am not a great fan of roof lights, I don't think they are nice things to live under but so then the alternative to that is that you might choose to design the house on two levels. The upper level would be living with opportunities for the entry of sun simply because of the elevation of that level with bedrooms below it but as you will know there are arguments for and against living above the ground level. It might be decided for a particular client they choose to balance those and in fact live on the ground. It's, the variables here are to do with the plan in two dimensions and the elevation, being the third dimension.

[67] We took from that answer a somewhat qualified view that material further enhancement to sunlight access is achievable by design, depending on the client's priorities and recognising there would be significant trade-offs needed.

#### Mr Holden's evidence

[68] Mr Holden is concerned about the accuracy of the SAS and shading data as provided in evidence. In his written evidence, he explains his opinion that it significantly underestimates the extent of loss of sunlight access that the Modified Proposal would cause during the six or seven weeks either side of the winter solstice.

[69] By contrast to Mr Bowen, Mr Holden did not undertake a shading analysis or related modelling. Instead, he used a 12m pole and an iPhone "app" called

“Photopils” to calculate when the proposed hotel building would shade lower land at relevant times. Photopils is a well-known app used by photographers, for example to assist their determination of the relative position of the sun at particular dates and times, to aid their photography. Mr Holden explained that the pole positions demonstrated “approximately where the [hotel’s] ... intended southern wall will be” and the Photopils’ screenshot overlays were used to show the sun’s path “on the shortest day” (i.e. on 19 June 2022).<sup>42</sup> By this method he concluded that around the winter solstice, the Modified Proposal would give rise to almost “a black-out on a majority of 12 Suburb Street”.<sup>43</sup>

### Evaluation

[70] Any method of predicting sunlight access or shading consequences involves a degree of imprecision. In essence, any model involves input assumptions and is a predictive representation. It cannot be anything more. An app, such as Photopils, is informed according to its algorithm and other programming elements that have their own prediction accuracy limitations. Added to that, using a pole as a calculation marker involves inherent accuracy limitations and associated requirements for sound interpretative judgements to be made.

[71] Hence, subjectivity overlays each methodology, calling for us to make associated evaluative judgments as to reliability.

[72] Of the two prediction methodologies, we prefer that of Mr Bowen as more reliable. In part, that is because it relies on reliable input data, from various noted and reputable sources, and ground truthing to test initial modelling assumptions and predictions. Those engaged in this predictive analysis are professionally qualified and experienced. In particular, we refer to Mr Bowen whom we are satisfied has undertaken and supervised this work according to his responsibilities as an expert witness. According to those responsibilities, he has duly reported on

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<sup>42</sup> Holden evidence, dated 27 March 2022, attached method statement.

<sup>43</sup> Holden evidence, dated 27 March 2022.

the inputs to, and assumptions made, in undertaking the assessment and making the associated predictions.

[73] We also find Mr Bowen to be a duly qualified, highly experienced and reliable witness who abided by the Code of Conduct for Expert Witnesses.

[74] We mean no disrespect to Mr Holden in observing that he undertook his assessment work as an interested and inherently biased party, not as an expert. We acknowledge and appreciate his representations, mindful of the interests of his neighbours. We have found his evidence of significant assistance in those terms. But that also means he cannot offer impartial opinion. Also with respect, we are not in a position to interrogate the accuracy of his underpinning Photopils app (in terms of fitness for our purposes) or the accuracy or otherwise of his choice of location of the single pole he used as a point of reference for his predictions. We accept his explanation for why he used only one pole. However, it is at best a very crude representation of what is proposed by way of the hotel building and we have no way of knowing whether he positioned it with due accuracy.

[75] For those reasons, we prefer the evidence of Mr Bowen and find it sufficient for our purposes.

*Predicted sunlight access or shading effects*

[76] The table at [60] sets out the predicted sunlight access effects of the Modified Proposal as given in Shundi's evidence

[77] In his written evidence, Mr Holden expresses the opinion that, around the winter solstice, the Modified Proposal would give rise to almost "a black-out on a majority of 12 Suburb Street".<sup>44</sup> In questioning, he commented:<sup>45</sup>

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<sup>44</sup> Holden evidence, dated 27 March 2022.

<sup>45</sup> Transcript, July 2021, p 54, l 28-34.

I almost feel like the shade from it later and earlier is going to have more sweeping effect on the area around us, like it, we are on a total south-facing street, even on a mild winters we battle the shade and permafrost ... . The shade from that I believe will be pretty extreme and yeah and that there is not really anything else to compare it to because it is literally right in front of something that is dead south-facing.

[78] However, in answer to questions from the court, Mr Holden put his position in somewhat clearer terms. He understands that Suburb Street now gets 4.5-6 hours' of sunshine during the six to seven weeks either side of the solstice.<sup>46</sup> He expects that the Modified Proposal would reduce sunlight access by an hour or so on the shortest day.<sup>47</sup> However, he did not offer a more precise opinion concerning the likely consequences for 8 and 12 Suburb Street.

[79] We prefer the evidence of Mr Bowen and Mr Muir on these matters for the reasons we have given. Hence, we accept and rely on the predicted sunlight access consequences as summarised in the table.

*Is the predicted loss of sunlight access reasonable and appropriate?*

[80] That leaves us to determine whether those predicted consequences are reasonable and appropriate and in keeping with the PDP's intentions.

[81] In his evidence, Mr Holden characterised the issue concerning sunlight access as being one of fairness.<sup>48</sup> We find that a helpful construct in terms of the core intentions of the PDP, as expressed through the objectives and policies we have identified. They do not direct that residential amenity values necessarily must be maintained in all circumstances. As we have noted, the HDR zone is designed to allow for high density residential development. As such, it would be unrealistic to try to couple that with a direction that amenity values necessarily be maintained

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<sup>46</sup> Transcript, July 2021, p 58, l 2-p 59, l 35.

<sup>47</sup> Transcript, July 2021, p 58, l 2-p 59, l 35.

<sup>48</sup> Holden evidence, dated 10 April 2021, at [11].

insofar as existing residential dwellings are concerned.

[82] Rather, the directions are expressed in the alternative, namely as to avoiding, remedying or mitigating adverse effects on residential amenity values. Hence, the intention is to examine each proposal in its relevant context for how it would impact on residential amenity values and what should be done in those terms. In some circumstances, avoidance of any loss of amenity values may be called for. In other circumstances, mitigation may be adjudged the proper course and then there could be degrees of mitigation to evaluate. The competing interests of proponent and affected party each come into consideration. Inherently, evaluation calls for informed application of principles of equity and fairness.

[83] The evidence satisfies us that, in terms of the interests of the s274 parties, the focus is appropriately on 8 and 12 Suburb Street. Number 5 Suburb Street is significantly further distant and downhill such that, on the evidence we are satisfied there will not be a material change to the status quo.

[84] Whilst we appreciate that Mr Holden has offered concerns for his unrepresented neighbours, none of them are parties before us. We can infer that, for those dwellings in closer proximity to 8 and 12 Suburb Street, there will be similar physical outcomes. However, we do not give material weight to any associated amenity value outcomes because we have no evidence directly about them and none of the relevant owners has sought to join as a party to the appeal.

[85] We consider the position for 8 and 12 Suburb Street with regard to both their current configuration and their future development potential. That is as part of predicting the future state of their environments when the Modified Proposal is implemented and the hotel is established. That includes accounting for the potential for development of each of these residential properties, in terms of what is anticipated under the HDR zone. We accept Mr Muir's albeit equivocal answer to us in finding there could be some potential to enhance sunlight access to

relevant dwelling areas with a new build on these sites.<sup>49</sup>

[86] Some of the s274 parties pointed out that the predicted sunlight access outcomes for the Modified Proposal would not precisely align with the court's preliminary observations concerning expectations. That is the case for 8 Suburb Street at least prior to any development of it that involves replacement of the existing dwelling.

[87] However, those observations were plainly preliminary, rather than given as directions or findings or as a pre-judgment of what is appropriate in all the circumstances.

[88] The lie of the land inevitably means that any development of the Site, even of a much smaller scale, will significantly reduce sunlight access for 8 and 12 Suburb Street. The Site is a greenfields site and the HDR zone anticipates its development. High density residential development is anticipated as is visitor accommodation such as with a hotel.

[89] On matters of sunlight access, we find that the appropriate balance to be struck as between the competing interests of Shundi and the interests of residents in this case, so as to reflect the PDP's intentions, is as now reflected in the Modified Proposal. That is because the Modified Proposal is duly informed by its residential setting, and allows for a quality hotel build that takes fair advantage of its superior unobstructed views whilst providing for reasonable access to afternoon sunlight for 8 and 12 Suburb Street during the winter solstice. As to what is 'reasonable', that is of course fundamentally a matter of informed judgment in the particular context. Noting that the sunlight access outcomes are predicted to be different for 8 and 12 Suburb Street, what informs our judgment that those outcomes are reasonable are:

- (a) the intention of the HDR to enable and encourage high density

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<sup>49</sup> Transcript, 1 September 2023, p 49, l 13 and following.

development of the scale of the proposal, including on each of the impacted Sites;

- (b) the significant improvements to winter solstice afternoon sunlight access achieved by Shundi's more considered design from what was originally proposed; and
- (c) the potential, under a single dwelling redevelopment scenario, to improve on the sunlight access position predicted for the existing dwellings, accepting however that this would involve a need to consider trade-offs for what was sought overall in any single dwelling development on each impacted site.

[90] We add that there is a paucity of planning guidance on acceptable benchmarks of acceptability for sunlight access as a discrete residential amenity value. Nevertheless, the sunlight access outcomes we find appropriate for 8 and 12 Suburb Street would not appear to be inconsistent with the planning guidance where it does exist.<sup>50</sup>

[91] Therefore, we find the reduced extent of development under the Modified Proposal strikes an appropriate balance so as to be mitigation to the extent anticipated by the PDP. By contrast, we find declining consent to the Modified Proposal would be a disproportionate outcome in terms of the intentions of the PDP. That is, in terms of the scale of judgment allowed for in the objectives and policies, the circumstances do not warrant avoiding any loss of sunlight access as presently available for 8 and 12 Suburb Street largely as a result of the greenfields state of the Site.

### ***Privacy concerns***

[92] On the evidence, we find that the Modified Proposal will be effective in respecting residential privacy. Whilst the Site is on a higher elevation, the hotel

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<sup>50</sup> Auckland Design Manual, produced by Auckland Council, 2024, Residential Design Guide, Wellington City Council, 2014.

building itself is reasonably well set back from the residential property dwellings and the natural orientation of views would not be down on the dwellings. Rather, as can be expected, the hotel design is intended to allow occupants to take in the grand views over the lake, for example to the Remarkables and Walter Peak.

[93] In terms of their current configurations, the dwellings and outdoor living areas of 8 and 12 Suburb Street are not particularly exposed to views from where the hotel building would be sited. Under any redevelopment scenario, there is opportunity in each case to achieve different outcomes as may be preferred. No such issues arise for 5 Suburb Street, given the distance to it or for the property owned by Mr and Mrs French in Adelaide Street.

### ***Noise and vibration***

[94] In their evidence, the s274 parties did not signal any particular concerns regarding noise and vibration. However, as we have noted, the non-complying status accorded to the proposal at first instance was by reason of potential contravention of the PDP construction vibration rule (r 36.5.9).

[95] As part of the Modified Proposal, Shundi proposes construction and operational noise and vibration conditions designed to ensure relevant PDP permitted activity standards are complied with. For example:

- (a) any earthworks on the site are limited to between 8 am and 6 pm on weekdays and between 9 am and midday on Saturdays only, which is more stringent than is recommended by NZS: 6803: 1999 on construction noise and PDP r 36.5.12;<sup>51</sup>
- (b) proposed conditions also require a Neighbour Communication Plan to be certified prior to the commencement of any works, as a means for ensuring the neighbouring residents are aware of the timing of any earthworks and construction activities and any potential nuisances

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<sup>51</sup> Proposed consent conditions 37, 46-52, JWS – Planning at [7], [9].

they may cause, and have a clear complaints procedure available to them;<sup>52</sup>

- (c) proposed conditions also restrict usage of outdoor areas, limit the sound levels of plant and equipment, and include a requirement to manage effects on neighbouring property owners and occupiers. Those include an Operational Communication Liaison Plan as a mechanism by which residential neighbours can make complaints and detailed training protocols exist for staff to deal with any noise issues and any complaints received.<sup>53</sup> The planners inform us that this specification is additional to current consent requirements elsewhere in the district.<sup>54</sup>

[96] Damian Ellerton, an acoustics expert called by Shundi, told us about the careful analysis that underpins these proposed conditions. He assured the court that it means that both in construction and operation, the proposal will comply with relevant PDP noise and vibration permitted activity standards.<sup>55</sup> His evidence was not challenged.

[97] We accept his evidence, and the related planning evidence, in finding that noise and vibration will be properly managed according to the intentions of the PDP.

### ***Other matters***

[98] The Modified Proposal would assist to achieve the intentions of the PDP of assisting to meet needs for visitor accommodation as part of helping to support the District's predominantly visitor economy. That is both in terms of adding bed numbers and adding to the existing complement in the market with a quality 5 star

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<sup>52</sup> Proposed conditions 26-27.

<sup>53</sup> Proposed conditions 53-59.

<sup>54</sup> JWS – Planning at [10], [11].

<sup>55</sup> Ellerton evidence, dated 30 April 2021 at [17], [21]-[30].

– 6 star hotel. That will assist to enable the wellbeing of people and communities. The architectural and landscape treatment of the Site as will be implemented in the Modified Proposal will also be an urban design enhancement to this important entry point to Queenstown’s CBD.

[99] In view of our other findings, therefore, we find that granting consent will assist to achieve the PDP’s intentions and hence the sustainable management purpose of the RMA.

## **Conclusions**

[100] For those reasons, we find that it is in accordance with the RMA (including as reflected in the relevant provisions of the PDP as we have discussed) to grant consent to the Modified Proposal.

[101] We find Shundi’s final proposed conditions as set out in Annexure 2 to be sound and appropriate. Subject to one matter, we find the associated plan set suitable for consenting purposes, as referenced in various proposed conditions. We note there would appear to be some discrepancy on one point of design detail. Counsel for Shundi explains that the Modified Proposal would no longer include a pergola on the southern façade of the proposed building (with this being replaced by three gable features above particular hotel rooms). However, the plans for the Modified Proposal appear to continue to show the pergola.

[102] It is directed:

- (a) Shundi, in consultation with QLDC, will file a land use consent in QLDC’s preferred format including a clean set of conditions and complete set of referenced plans to give effect to our findings herein;
- (b) Shundi will file a memorandum of counsel addressing, and if necessary explaining any correction to the noted apparent discrepancy in the plans;
- (c) the timetable for those steps will be as proposed by Shundi in a

memorandum to be filed within 15 working days of this decision, subject to any further timetable directions made.

[103] Parties can anticipate that the court will issue a final decision effective in granting consent in due course, subject to satisfactory compliance with those directions.

[104] On the signalled indication in the joint memorandum that the parties do not seek an order as to costs, these lie where they fall.

For the court



**J J M Hassan**  
**Environment Judge**



## **Annexure 1**

### **Preliminary observations made prior to the initial hearing adjournment<sup>1</sup>**

1. The Court is not in a position to be satisfied that the Proposal, including as modified, satisfies the RMA's requirements for consent. As signalled to parties prior to the adjournment, the issues on which the Court remains to be satisfied are as to loss of sunlight access and shading effects for 8 and 12 Suburb Street.
2. All parties should appreciate that neither the RMA nor the District Plan guarantees no loss of sunlight access. Further, considering the likely future environment of Suburb Street, morning sunlight access would seem difficult to maintain under realistic future environment scenarios. The issues more strongly centre on afternoon sunlight access and what can and should be maintained
3. There are the following related substantial issues yet to be resolved:
  - a. A lack of confidence in the reliability of the estimates offered by Mr Muir in his supplementary evidence as to the extent of solstice sunlight access and the extent of loss under different scenarios;
  - b. A related lack of capacity to make reliable findings on both the extent of loss of sunlight access that would result and whether or not this is satisfactory in accordance with related District Plan objectives and policies and pt 2, RMA;
  - c. A lack of present understanding of the extent to which any acceptable reduction in loss of sunlight could be achieved, by design change, given a lack of evidence to enable consideration of the related economics.
4. It is for the applicant to consider its position on these matters. If it seeks to remedy the present deficiencies in its case, it will need to seek leave to do so. If it elects not to remedy those deficiencies, our decision in due course will be to decline

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<sup>1</sup> Transcript, July 2021, pp 285-286.

consent.

5. Turning to discussion – leave will be granted and is directed now that the applicant will file within 10 working days a reporting memo setting out its intentions and directions sought for closing submissions and modified proposal.
6. The Court urges the applicant to consider a couple of things if minded to find a way through. Get reliable sunlight data and discuss with residents and endeavour to get their [confidence] in it. Make every attempt to get a modified proposal to achieve solstice re three hours' minimum for 8 & 12 Suburb Street.
7. The Court makes no final determination about whether that is sufficient.

**ANNEXURE 2**  
**REVISED CONDITIONS OF CONSENT**

Amendments made during the hearing are reflected in **Blue** with ~~strikethrough~~ representing deletions and underlining representing additions.

Amendments made post-hearing are reflected in **Green** with ~~strikethrough~~ representing deletions and underlining representing additions.

Amendments made through mediation are reflected in **Purple** with ~~strikethrough~~ representing deletions and underlining representing additions.

Amendments made prior to Environment Court hearing are reflected in **Red** with ~~strikethrough~~ representing deletions and underlining representing additions.

Amendments made during the Environment Court hearing are reflected in **Pink** with ~~strikethrough~~ representing deletions and underlining representing additions.

Amendments made post the Environment Court hearing are reflected in **Brown** with ~~strikethrough~~ representing deletions and underlining representing additions.

### **General Conditions**

1. That the development must be undertaken/carried out in accordance with the plans:
  - Architectural Plans prepared by Mason & Wales Architects, titled 'Hotel, 53-65 Frankton Road, Queenstown', referenced:
    - ~~Plan 4R, dated 10/02/2020~~
    - ~~Plan 4R2, dated 20/03/2020~~
    - ~~Plan E, dated 21/10/2020~~
    - ~~Plan E1, dated 19/07/2021~~
    - ~~Plan E, dated 21/12/2021~~
    - ~~Plan 5R, dated 11/12/2019~~
    - ~~Plan F, dated 21/10/2020~~
    - ~~Plan F1, dated 19/07/2021~~
    - ~~Plan F, dated 21/12/2021~~
    - ~~Plan 6R, dated 10/02/2020~~
    - ~~Plan G, dated 21/10/2020~~
    - ~~Plan G1, dated 19/07/2021~~
    - ~~Plan G, dated 21/12/2021~~
    - ~~Plan 7R, dated 10/02/2020~~
    - ~~Plan 7R2, dated 20/03/2020~~
    - ~~Plan H, dated 21/10/2020~~
    - ~~Plan H1, dated 19/07/2021~~
    - ~~Plan H, dated 21/12/2021~~
    - ~~Plan 8R, dated 11/12/2019~~
    - ~~Plan 8R2, dated 20/03/2020~~
    - ~~Plan I, dated 21/10/2020~~
    - ~~Plan I1, dated 19/07/2021~~
    - ~~Plan I, dated 21/12/2021~~
    - ~~Plan 9R, dated 11/12/2019~~
    - ~~Plan 9R2, dated 20/03/2020~~
    - ~~Plan J, dated 21/10/2020~~
    - ~~Plan J1, dated 19/07/2021~~
    - ~~Plan J, dated 21/12/2021~~
    - ~~Plan 10R, dated 11/12/2019~~
    - ~~Plan 10R2, dated 20/03/2020~~

- ~~o Plan K, dated 21/10/2020~~
- ~~o Plan K1, dated 19/07/2021~~
- ~~o Plan K, dated 21/12/2021~~
- ~~o Plan 11R, dated 11/12/2019~~
- ~~o Plan L, dated 21/10/2020~~
- ~~o Plan L1, dated 19/07/2021~~
- ~~o Plan L, dated 21/12/2021~~
- ~~o Plan 12R, dated 11/12/2019~~
- ~~o Plan M, dated 21/10/2020~~
- ~~o Plan M1, dated 19/07/2021~~
- ~~o Plan M, dated 21/12/2021~~
- ~~o Plan 13R, dated 11/12/2019~~
- ~~o Plan 13R2, dated 20/03/2020~~
- ~~o Plan N, dated 21/10/2020~~
- ~~o Plan N1, dated 19/07/2021~~
- ~~o Plan N, dated 21/12/2021~~
- ~~o Plan O, dated 21/10/2020~~
- ~~o Plan O1, dated 19/07/2021~~
- ~~o Plan O, dated 21/12/2021~~
- ~~o Plan 15R, dated 11/12/2019~~
- ~~o Plan 15R2, dated 19/02/2020~~
- ~~o Plan 15R4, dated 20/03/2020~~
- ~~o Plan P, dated 21/10/2020~~
- ~~o Plan P1, dated 19/07/2021~~
- ~~o Plan P1a, dated 19/07/2021~~
- ~~o Plan P, dated 21/12/2021~~
- ~~o Plan 15aR, dated 10/02/2020~~
- ~~o Plan 15aR2, dated 20/03/2020~~
- ~~o Plan 16R, dated 11/12/2019~~
- ~~o Plan 17R, dated 11/12/2019~~
- ~~o Plan 21, dated 11/12/2019~~
- ~~o Plan R, dated 21/12/2021~~

- Landscape Plans prepared by Baxter Design, titled 'Hotel- Frankton Road', referenced:
  - ~~o Sheet 1- Landscape Masterplan dated 20 October 2020~~
  - ~~o Sheet 2- Materials Plan dated 20 October 2020~~
  - ~~o Sheet 3- Planting Palette dated 20 October 2020~~
  - ~~o Sheet 4- Elevations- Basic Tree Shapes and Wall Detail~~
- Earthworks Plans prepared by Clark Fortune McDonald & Associates, titled 'Proposed Earthworks- Plan View, Sec 6-9 BLK XLI Queenstown and Lot 2 DP 15118, Frankton Road', referenced:
  - ~~o Drawing No.01, dated 13.12.18~~
  - ~~o Drawing No.02, dated 13.12.18~~
  - ~~o Drawing No. E001, Sheet No.001, Rev.E, dated 21.02.2020~~
  - ~~o Drawing No. E001, Sheet No.002, Rev.E, dated 21.02.2020~~
  - ~~o Drawing No. E001, Sheet No.003, Rev.E, dated 21.02.2020~~
  - ~~o Drawing No. E001, Sheet No.004, Rev.E, dated 21.02.2020~~

stamped as approved on [date]

and the application as ~~submitted-amended through the resource consenting and subsequent mediation and Environment Court processes~~ with the exception of the amendments required by the following conditions of consent.

2. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.

3. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.

### Landscaping Conditions

4. The landscaping shown on the landscape plan approved under Condition 1 of RM190113 shall be implemented within the first planting season following commencement of works, and the plants shall thereafter be maintained and irrigated in accordance with that plan. If any plant or tree should die or become diseased it shall be replaced within the next available planting season. The low shrubs between the Porte Cohere and State Highway 6, and low shrubs between the down ramp to car park and State Highway 6 must be maintained at no higher than the heights specified on the landscape plans (sheet 2 materials plan) approved under condition 1.

### Design Conditions

5. All external paint finishes must be as detailed in the following table or, in the instance an alternative is required, an alternative with the near equivalent LRV.

<b>Schedule of Exterior Materials, Finishes and Colours</b>			
<b>Item</b>	<b>Material</b>	<b>Finish</b>	<b>Colour</b>
<b><u>The Pavilions</u></b>			
<u>Columns</u>	<u>ACP Cladding</u>	<u>Matt</u>	<u>"Bark Crinkle"</u> <u>Resene "Scoria"</u> <u>BS Colour R36-049-033</u>
<u>Parapets</u>	<u>ACP Cladding</u>	<u>Matt</u>	<u>"Bark Crinkle"</u> <u>Resene "Scoria"</u> <u>BS Colour R36-049-033</u>
<u>Glass</u>	<u>Clear, Low-E Glass,</u> <u>Double Glazed Units with</u> <u>Argon Fill</u>	<u>Non-</u> <u>Reflective</u>	<u>Clear Glass</u>
<u>Roof</u>	<u>Colorcote/Colorsteel</u> <u>Standing Seam Roofing</u>	<u>Low Gloss</u>	<u>"Grey Friars"</u> <u>BS Colour 1 GR16</u>
<b><u>Guest Wing</u></b>			
<u>Exterior Walls</u> <u>(Floors 1 and 2):</u> <u>Columns</u>	<u>ACP Cladding</u>	<u>Matt</u>	<u>"Bark Crinkle"</u> <u>Resene "Half Haystack" /</u> <u>BS Colour Y87-031-077</u>
<u>Exterior Walls</u> <u>(Floors 1 and 2):</u> <u>Slab Edges</u>	<u>Paint</u>	<u>Satin</u>	<u>"Bark Crinkle"</u> <u>Resene "Haystack" /</u> <u>BS Colour Y84-041-077</u>
<u>Exterior Walls</u> <u>(Upper Floors):</u> <u>Columns</u>	<u>ACP Cladding</u>	<u>Matt</u>	<u>"Lime Dune"</u> <u>Resene "Haystack" /</u> <u>BS Colour Y84-041-077</u>
<u>Exterior Walls</u> <u>(Upper Floors):</u> <u>Slab Edges</u>	<u>Paint</u>	<u>Satin</u>	<u>"Lime Dune"</u> <u>Resene "Half Haystack" /</u> <u>BS Colour Y87-031-077</u>
<u>Columns</u>	<u>ACP Cladding</u>	<u>Matt</u>	<u>"Lime Dune"</u> <u>Resene "Haystack" /</u> <u>BS Colour Y84-041-077</u>
<u>Portico/South Wall</u>	<u>ACP Cladding</u>	<u>Matt</u>	<u>"Bark Crinkle"</u> <u>Resene "Scoria"</u> <u>BS Colour R36-049-033</u>
<u>Glass</u>	<u>Clear, Low-E Glass,</u> <u>Double Glazed Units with</u> <u>Argon Fill</u>	<u>Non-</u> <u>Reflective</u>	<u>Clear Glass</u>
<u>Roof</u>	<u>Colorcote/Colorsteel</u> <u>Standing Seam Roofing</u>	<u>Low Gloss</u>	<u>"Grey Friars"</u> <u>BS Colour 1 GR16</u>

6. Balustrades along the southern façade of the building will be designed generally in accordance with the design principles described in the Architectural Statement dated 21 October 2020 and illustrated in Plan P including balustrade articulation where shown.
7. During construction, the consent holder shall ensure that the scaffolding on the southern side of the development will be screened similar to the Layher Protection System.

#### **Transport Condition Precedent**

8. Physical works shall not commence on site until confirmation has been provided by Waka Kotahi to the Council Monitoring and Enforcement Officer that physical works on the State Highway upgrades along Frankton Road in the immediate locality of the Site have commenced and a Waka Kotahi commissioned independent road safety audit (that considers the access, and egress, and pedestrian crossings described in Condition 24(b) and (k) into the subject site) has been prepared. The design of the State Highway Upgrade must either be:
  - a) that shown in the plan submitted, entitled 'NZTA F2Q Business Cases Queenstown Town Centre M+W Overlay Option 3' and 'Stage 1 Plan and Long Section MC02-CH 680.000m – 793.102' dated 31.07.2020; or
  - b) an alternative plan that meets the following key characteristics of the plan in a) above:
    - i. the median must be flush, and long and wide enough to accommodate a coach in a safe position parallel with the direction of traffic; and
    - ii. the coach must be able to undertake a right hand turn movement from the flush median to access the site by a vehicle crossing that can accommodate the coach tracking swept path and access locations shown in the plan referred to in a) above.

Any alternative plan (meeting the key characteristics under b) above) must be submitted to Council's Monitoring and Enforcement Team and certified by a Council appointed traffic engineer.

#### **Environmental Management Conditions**

##### ***To be completed prior to the commencement of any works on-site:***

9. At least 15 working days prior to any works commencing on site the consent holder shall submit an Environmental Management Plan (EMP) to Queenstown Lakes District Council's (Council) Monitoring and Enforcement Team for review and acceptance. This document must be prepared by a suitably qualified and experienced person. The EMP shall be in accordance with the principles and requirements of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans* and specifically shall address the following environmental elements as specified in the guidelines:
  - a) Administrative Requirements
    - (i) Weekly site inspections
    - (ii) Notification and management of environmental incidents
    - (iii) Records and registers
    - (iv) Environmental roles and responsibilities of personnel (including nomination of Principal Contractor)
    - (v) Site induction
  - b) Operational Requirements
    - (i) Erosion and sedimentation (including Erosion and Sediment Control Plan) (to be prepared by a suitably qualified and experienced person)
    - (ii) Water quality
    - (iii) Dust
    - (iv) Cultural heritage

- (v) Noise (to be prepared by a suitably qualified and experienced person)
- (vi) Vibration (to be prepared by a suitably qualified and experienced person)
- (vii) Contaminated sites (to be prepared by a suitably qualified and experienced person)
- (viii) Indigenous vegetation clearance
- (ix) Chemical and fuel management
- (x) Waste management

The EMP (and any sub-plans e.g. ESCP described below) shall also be consistent with any recommendations outlined in the Geotechnical Report (by GeoSolve Limited, Reference: 160853, dated January 2017) and the Detailed Site Investigation Report (by WSP Opus, Reference: 6-XZ421.00, dated February 2018) submitted with the application.

10. Prior to ground-disturbing activities on the initial stage of works or any subsequent new stage of works, the consent holder shall engage an Appropriately Qualified Person to prepare and submit an Erosion and Sediment Control Plan (**ESCP**) to Council's Monitoring and Enforcement Team for review and acceptance. This plan shall be a sub-plan of the overarching EMP and must be prepared in accordance with the requirements outlined on pages 13 – 18 in *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*. These plans must be updated when:
  - a) The construction program moves from one Stage to another; or
  - b) Any significant changes have been made to the construction methodology since the original plan was accepted for that Stage; or
  - c) There has been an Environmental Incident and investigations have found that the management measures are inadequate.
11. Prior to commencing ground-disturbing activities, the consent holder shall nominate an Environmental Representative for the works program in accordance with the requirements detailed on pages 9 and 10 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.
12. Prior to commencing ground disturbing activities, the consent holder shall ensure that all staff (including all sub-contractors) involved in, or supervising, works onsite have attended an Environmental Site Induction in accordance with the requirements detailed on page 8 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.

***During construction:***

13. All works shall be undertaken in accordance with the most current version of the EMP as accepted as suitable by Council.
14. The EMP shall be accessible on site at all times during work under this consent.
15. The consent holder shall establish and implement document version control. Council shall be provided with an electronic copy of the most current and complete version of the EMP at all times.
16. The consent holder shall develop and document a process of periodically reviewing the EMP as outlined on page 6 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*. No ground disturbing activities shall commence in any subsequent stage of development until an EMP has been submitted and deemed suitable by Council's Monitoring and Enforcement Team.
17. The consent holder shall undertake and document weekly and Pre and Post-Rain Event site inspections as detailed on pages 10 and 11 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.

18. In accordance with page 9 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*, ~~where if~~ any Environmental Incident occurs where the EMP has failed leading to any adverse environmental effects offsite ~~occurs~~ the consent holder shall:
  - a) Report to the Council-QLDC details of any Environmental Incident within 12 hours of becoming aware of the incident.
  - b) Provide an Environmental Incident Report to the Council-QLDC within 10 working days of the incident occurring as per the requirements outlined on page 9 of *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.
19. Environmental records are to be collated onsite and shall be made available to the Council-QLDC upon request; immediately if the request is made by a Council-QLDC official onsite and within 24 hours if requested by a Council-QLDC officer offsite. Records and registers to be managed onsite shall be in accordance with the requirements outlined on page 10 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.

### **Engineering Conditions**

#### **General:**

20. All engineering works shall be carried out in accordance with the ~~Queenstown Lakes District Council's~~ policies and standards, being QLDCthe Council's Land Development and Subdivision Code of Practice adopted on 3rd May 2018 and subsequent amendments to that document up to the date of issue of any resource consent.  
*Note: The current standards are available on Council's website via the following link:*  
<http://www.qldc.govt.nz>

#### **To be completed prior to the commencement of any works on-site:**

21. Prior to commencing works on site the consent holder shall obtain and implement Traffic Management Plan approved by the Waka Kotahi New Zealand Transport Agency (NZTA), or its network management consultant, ~~Aspiring Highways~~, prior to undertaking any works within or adjacent to the State Highway that affects the normal operating conditions of the road reserve through disruption, inconvenience or delay. The Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor (**STMS**). All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS to manage the site in accordance with the requirements of the NZTA's "*Traffic Control Devices Manual Part 8: Code of practice for temporary traffic management*". The STMS shall implement the Traffic Management Plan. A copy of the approved plan shall be submitted to the Manager of Resource Management Engineering at Council prior to works commencing.
22. ~~The owner of the land being developed~~ consent holder shall provide a letter to the Manager of Resource Management Engineering at Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this development, and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.7 & 1.8 of the Council-QLDC's Land Development and Subdivision Code of Practice, in relation to this development.
23. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. ~~In the event that any material is deposited on any roads, the Consent Holder shall take immediate action, at his/her expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.~~
24. Prior to commencing works on the site, the consent holder shall obtain 'Engineering Review and Acceptance' from the ~~Queenstown Lakes District Council~~ for development works to be undertaken ~~and information requirements specified below~~. The application for 'Engineering Review and Acceptance' shall include all development items listed below unless a 'partial' review approach has been approved in writing by the Manager of Resource Management Engineering

at Council. The 'Engineering Review and Acceptance' application(s) shall be submitted to the Manager of Resource Management Engineering at Council for review, prior to acceptance being issued. At Council's discretion, specific designs may be subject to a Peer Review, organised by the Council at the applicant consent holder's cost. The 'Engineering Review and Acceptance' application(s) shall include copies of all specifications, calculations, design plans and Schedule 1A design certificates as is considered by Council to be both necessary and adequate, in accordance with Condition 20, to detail the following requirements:

- a) The provision of a detailed site management plan and construction methodology to be prepared in conjunction with the earthworks contractor. This plan shall include, but not be limited to:
  - Temporary retaining details;
  - Procedures for ensuring debris is not deposited on surrounding roads or land;
  - Identification of any stockpile areas and management of those stockpiles both short term and long;
  - Temporary cut or fill slope parameters;
  - Hours of activity;
  - Communication with neighbouring land owners and a complaints procedure;
  - Monitoring strategy to ensure that management measures are fit for purpose and corrective action strategy for improvements;
  - Detailed construction methodology;
  - Site access for construction vehicles;
  - Parking for contractors vehicles;
  - Pedestrian safety;
  - Temporary hoarding and fencing;
  - Works outside the site boundaries;
  - Crane operation; and
  - Procedures for identifying and protecting existing services.

These measures shall be implemented prior to the commencement of any earthworks on site and shall remain in place for the duration of the project, until all exposed areas of earth are permanently stabilised.

- b) A plan showing treatment of the pedestrian crossings within the site. Specifically, a plan shall be submitted showing a contrasting surface treatment for the pedestrian crossing across the up and down ramp to and from the basement car park to ensure that each drivers are aware that it is a pedestrian crossing. The design must meet the design requirements for contrast suitable for persons of low vision.
- c) The provision of a water supply to the development in compliance with Council standards. This shall include an approved valve and valve box with backflow prevention and provision for bulk flow water metering to be located at the road reserve boundary. The costs of the connection shall be borne by the consent holder.
- d) The provision of a foul sewer connection to the development. The costs of the connection shall be borne by the consent holder.
- e) The design of a stormwater system by a suitably qualified professional as described in section 1.7 of the Council QUDC's Land Development and Subdivision Code of Practice to dispose of water from all impervious areas within the site to an onsite attenuation system that attenuates the discharge to a rate (litres per second) no greater than would have occurred from the undeveloped catchment during a 60 minute 5 year storm and which subsequently connects to the Council reticulated stormwater disposal system. The designs shall include the provision of water quality treatment for the interception of settleable solids and floatable debris prior to discharging to the receiving water. The connection shall be designed to provide gravity drainage for the entire development site.

- f) Provision of a suitable firefighting water supply with adequate pressure and flow to service the development and an accompanying report from a suitably qualified professional demonstrating compliance with the NZ Fire Service Code of Practice for Firefighting Water Supplies 2008 (SNZ PAS 4509:2008). Any buildings on the lot shall either be fitted with a sprinkler system and/or be designed with an appropriate fire cell size to meet the requirements of SNZ PAS 4509 for the relevant water supply classification prior to the occupation of any buildings.
  - g) The provision of a computed easement plan showing a stormwater easement in favour of the development site over the adjacent Recreation Reserve on Lot 1 DP 311236, and the registration of easements prior to hotel occupation, unless the Council confirms that an easement is not requirement.
  - h) The provision of Design Certificates for all engineering works associated with this development submitted by a suitably qualified design professional (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the Council QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.
  - i) The provision of a Design Certificate submitted by a suitably qualified design professional for the Wastewater Pump Stations required for the wastewater reticulation. The certificates shall be in the format of IPENZ Producer Statement PS1 or the Council QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.
  - j) The provision of a plan identifying air conditioning units and similar equipment and demonstrating that they are to be concealed from public view.
  - k) The provision of a plan that demonstrates the proposed signs in the locations on the plans approved under condition 1 does not impact sight lines for vehicles exiting the site. Should it be found that any sign does impact sight lines, then an alternative location must be provided to Council for certification by Council's engineer and urban designer, which demonstrates the signs do not impact sight lines, and are suitably located in terms of design.
25. At least 7 days prior to commencing excavations, the consent holder shall provide the Manager of Resource Management Engineering at Council with the name of a suitably qualified professional, as defined in Section 1.7 of the Council QLDC's Land Development and Subdivision Code of Practice, who is familiar with the Geosolve Report 170331-Rev1 dated September 2017; and who shall supervise the excavation and filling procedure and retaining construction.
- A bond shall be entered into, in a form to be determined by the Council's solicitors, to secure performance of the earthworks to be carried out as per the plans approved for this development. The cost of setting up the bond is to be borne by the applicant. Any guaranteed bond shall be guaranteed by a financial institution approved by Council's solicitors. ~~This resource consent~~The earthworks shall not be exercisedbegin until the applicant has provided evidence to the Council that the bond has been established. The bond shall be for a sufficient amount to cover the cost of stabilising the site should the works be abandoned for a period in excess of 30 days and is only intended to provide a method of recourse to potential land instability extending beyond the site boundaries as a result of incomplete works abandonment. The amount of such a bond shall be 1.5 times the value of stabilisation works as determined by an estimate made by a suitably qualified engineer experienced in such works, using as a basis for his/her calculations engineered plans and specifications provided by the applicant. Council may require that a second estimate be provided to confirm the proposed bond amount is appropriate. Such bond may be released upon the completion of the earthworks covered by this bond.~~issuance of a Certificate of Compliance for the proposed works authorised by this consent.~~
- Neighbour Communication Plan
26. Not less than 10 working days prior to the commencement of works, the consent holder must provide the Monitoring and Enforcement Team at Council for certification a Neighbour

Communication Plan (NCP) indicating for how communications will be undertaken as between the consent holder (including its contractors) and local residents during the construction of the development. The CCP must be in accordance with **Condition 27**.

27. The CCP must specify (but is not limited to) processes for communications as between the consent holder and local including:
  - a) communication by the consent holder about earthworks and construction activities, scheduling/timing of works and potential temporary nuisance effects (including changes in access);
  - b) communication by local residents of any enquiries or complaints about construction activities;
  - c) alternative (non-electronic) means of communicating key information to local residents (including mail drops);
  - d) the contact details for the lead contractor/project manager and a representative of the consent holder's management team; and
  - e) a complaints procedure for neighbours including procedures for responding to any complaints within 24 hours 3-working days of the complaint being received.
28. The consent holder must comply with the NCP certified under Condition 26.

***To be monitored throughout the earthworks and hotel construction:***

29. The site management shall be undertaken in accordance with the recommendations of the site management plan and construction methodology reviewed and accepted in Condition 20 above.
30. All earthworks and geotechnical investigations shall be carried out under the guidance of suitably qualified and experienced geotechnical professional as described in Section 1.7.2 of the ~~Queenstown Lakes District~~ Council's Land Development and Subdivision Code of Practice.
31. The earthworks, batter slopes, temporary and permanent retaining shall be undertaken in accordance with the recommendations of the Geosolve Report (Reference: 160853, dated January 2017), and a subsequent detailed geotechnical assessment and slope stability assessment to be completed prior to works commencing.
32. A PS1 Producer Statement shall be obtained from a suitably qualified professional for any temporary or permanent retaining walls within the lot which exceed 1.5m in height or are subject to additional surcharge loads.
33. The Manager of Resource Management Engineering at Council shall be notified and work shall stop immediately if any cracking, movement, structural distress or damage to any existing buildings, structures, underground services, public roads, pathways and/or surrounding land occurs.
34. If at any time Council officers, or its elected representatives, receive justifiable complaints about, or proof of effects from, vibration sourced from the earthworks activities approved by this resource consent, the consent holder shall, at the request of the Council, ~~shall~~ cease all earthworks activities and shall engage a suitably qualified professional who shall prepare a report which assesses vibration caused by earthworks associated with this consent and what adverse effect (if any) these works are having on any other land and/or buildings beyond this site. Depending on the outcome of this report, a peer review may be required to be undertaken by another suitably qualified professional at the consent holder's expense. This report must take into consideration the standard BS 5228:1992 or a similar internationally accepted standard. Both the report and peer review (if required) shall be submitted to Council for review and acceptance. The Consent

holder shall implement any measures proposed in the report that will mitigate any negative effects of the vibration.

35. No earthworks, temporary or permanent, are to breach the boundaries of the site including any rock anchors, with the exception of service connections and vehicle crossings authorised by this consent.
36. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at his/her expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.

*Hours of Operation – Earthworks*

37. Hours of operation for earthworks, shall be:
  - Monday to ~~Friday~~Saturday (inclusive): 8.00am to 6.00pm.
  - Saturdays: 9.00am to midday.
  - Sundays and Public Holidays (this includes the adjacent weekend if the public holiday falls on a Monday or Friday): No Activity

In addition, no heavy vehicles are to enter or exit the site, and no machinery shall start up or operate earlier than 8.00am. All activity on the site is to cease by 6.00pm.

***Prior to the commercial operation or occupation of the hotel:***

38. Prior to the commercial operation or occupation of the Hotel, the consent holder shall complete the following:
  - a) The submission of 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development at the consent holder's cost. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Roads (including right of way and access lots), Water, Wastewater and Stormwater reticulation (including private laterals and toby positions), and all removed reticulated services.
  - b) The completion and implementation of all certified works detailed in **Condition 24** above.
  - c) An Elster Helix 4000 or C4000 / 4200 or Sensus Meitwin; Meistream; WP water meter or water meter approved by the Manager of Resource Management Engineering at Council as having the equivalent performance of the Elster Helix 4000 or C4000/4200 or Sensus Meitwin; Meistream; WP water meters shall be installed as per **Condition 24** above.
  - d) All vehicle access, manoeuvring and parking areas associated with the developments to the porte cochere area shall be subject to a post construction safety audit by an independent traffic engineer in accordance with the NZTA Manual "Road Safety Audit Procedures For Projects" at the consent holders cost and the results shall be submitted to Council for review and certification to ensure compliance with the NZTA "Road Safety Audit Procedures for Projects" manual. ~~Should the review recommend any further works required to achieve a 'safe' traffic environment, the consent holder shall have these works approved by Council and implemented prior to occupation of the hotel.~~
  - e) Any power supply and/or telecommunications connections to the building shall be underground from existing reticulation and in accordance with any requirements/standards of the network provider's requirements.
  - f) All signage and markings within the road reserve amended by this development shall be installed in full accordance with Council's signage specifications and the NZTA Manual of Traffic Signs and Markings, and the Traffic Control Devices Manual.

- g) All exposed areas shall be top-soiled and grassed/revegetated or otherwise permanently stabilised as soon as practicable and in a progressive manner as earthworks are completed.
- h) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
- i) The submission of Completion Certificates from both the Contractor and Approved Engineer for all infrastructure engineering works completed in relation to or in association with this development (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the Council-QLDC's Land Development and Subdivision Code of Practice Schedule 1B and 1C Certificates and/or IPENZ Producer Statements PS3 and PS4.
- j) The submission of Completion Certificates from both the Approved Contractor and Approved Certifier for the Wastewater Pump Station(s). The certificates shall be in the format of IPENZ Producer Statements, or the Council-QLDC's Land Development and Subdivision Code of Practice Schedule 1B and 1C Certificate.

### **Managing Soil Contaminants**

- 39. At least 10 working days prior to the disturbance of the site, the consent holder shall submit to the Consent Authority a Contaminated Soils Management Plan (CSMP). The CSMP shall contain sufficient detail to address the following matters:
  - a. A brief summary of the works to be undertaken with references to other relevant documents.
  - b. A description of the known or suspected contamination present.
  - c. Relevant contact information of those onsite and managing the construction or earthwork activities.
  - d. Allocation of responsibilities, including who is responsible for implementing and monitoring the controls detailed within the CSMP.
  - e. A description of relevant regulatory requirements and conditions of consent.
  - f. Soil management procedures during the works, including siting and management of soil stockpiles, and erosion, sediment and dust control procedure.
  - g. Handling and disposal procedures for any contaminated material encountered during the activity including recommended personal protective equipment.
  - h. Soil, air quality, groundwater and/or surface water monitoring requirements.
  - i. Contingency measures to address any unexpected or accidental discoveries of contamination or discharges identified at the site.
- 40. All soil disturbance activities shall be undertaken in accordance with the CSMP provided in accordance with Condition 1.
- 41. Within two months of the completion of the soil disturbance works on site, the following shall be provided to the Consent Authority:
  - a. The location and dimensions of the excavations carried out, including a relevant site plan.
  - b. Records of any unexpected contamination encountered during the works including soil validation results, if applicable.
  - c. Copies of the disposal dockets for the material removed from the site.
- 42. The duration of the earthworks and exposed areas of soil disturbance shall be no more than three (3) months. The consent holder shall confirm to the Council-QLDC's Manager, Resource Consents the earthworks start date at least two (2) weeks prior to the work commencing. The duration of the earthworks component of the consent shall commence from the start date confirmed to the Council.
- 43. ~~Prior to any soil disturbance commencing, a sufficient water source shall be established and the site regularly watered to suppress dust.~~

44. ~~Throughout the entirety of the soil disturbance period and construction of the building, suitable protection including dust masks and water baths shall be made available to all person visiting and working onsite, if necessary.~~
45. All cut material is to be retained and reused on site or, if taken off site, shall be taken to an approved landfill disposal site that is approved by Council. Prior to any soil being removed from the site, the consent holder shall submit the details of the receiving site and volumes disposed of to the Council ~~QLDC~~'s Manager, Resource Consents for consideration and certification.
46. Any growing of domestic food (vegetable garden) shall be established in areas where no soil disturbance occurs as identified in the approved cut/fill plan.

#### **Accidental Discovery Protocol**

47. If the consent holder:
- a) does not have an archaeological authority from Heritage New Zealand Pouhere Taonga *and* discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder shall without delay:
    - (i) notify Council, Tangata whenua and Heritage New Zealand Pouhere Taonga and in the case of skeletal remains, the New Zealand Police.
    - (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by the Heritage New Zealand Pouhere Taonga and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation. Site work shall recommence following consultation with Council, the New Zealand Pouhere Taonga, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
  - (i) stop work within the immediate vicinity of the discovery or disturbance; ~~and;~~
  - (ii) advise Council, the Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the New Zealand Pouhere Taonga Act 2014; ~~and;~~
  - (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may only recommence following consultation with Council.

#### **Noise and Vibration Conditions**

##### **Construction Noise and Vibration**

48. Prior to commencement of works onsite, and subject to the consent of landowners, the Consent Holder is to carryout a "pre-survey" building condition survey of the immediately adjacent properties to the Site and provide these to the Monitoring Officer at Council on request. The purpose of this survey is to record any existing cracks, defects or subsidence in neighbouring buildings prior to any earthworks or construction occurring on application site.
49. Prior to the commencement of works on site, the consent holder shall submit to Council's monitoring team for certification a Construction Noise and Vibration Management Plan (CNVMP).

The objective of the CNVMP is to provide a framework for the development and implementation of measures to avoid, remedy or mitigate adverse construction noise and vibration effects, and to minimise any exceedance of the criteria set out in Conditions ~~52 and 53~~ ~~48 or 49~~. The CNVMP must ~~be proportionate to the scale of potential effects of the works and~~ be prepared in general accordance with the NZ Transport Agency State highway construction and maintenance noise and vibration guide (version 1.0, 2013).

50. All works shall be carried out in accordance with a ~~Construction Noise and Vibration Management Plan (CNVMP)~~ required by Condition ~~48~~ ~~49~~.
51. If measured or predicted noise and vibration from a construction activity exceeds the criteria in Conditions ~~52~~ ~~48~~ or ~~53~~ ~~49~~, a Schedule to the CNVMP for that activity must be prepared in accordance with the NZ Transport Agency State highway construction and maintenance noise and vibration guide (version 1.0, 2013). The Schedule must be provided to the Council at least five working days, where practicable, in advance of the activity proceeding. A schedule must establish the best practicable option for noise or vibration mitigation to be implemented for the construction activity.
52. Construction noise must be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise. The construction noise criteria in Table CNV1 must be complied with, as far as practicable, however noting the breach of these provisions granted by this consent.

Construction noise criteria			
Day	Time	L <sub>Aeq</sub> (15min)	L <sub>A</sub> Fmax
Weekdays	0630h - 0730h	55 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	65 dB	80 dB
	2000h - 0630h	45 dB	75 dB
Saturdays	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
Sundays and Public Holidays	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	55 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB

53. Construction vibration must be measured in accordance with ISO 4866:2010 *Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures*. The Category A construction vibration criteria in Table CNV2 must be complied with as far as practicable. If measured or predicted vibration from construction activities exceeds the Category A criteria, a suitably qualified person must assess and manage construction vibration during those activities. ~~If measured or predicted Vvibration from construction activities shall not exceeds the Category B criteria those activities must only proceed if effects on affected buildings are assessed, monitored and mitigated by suitably qualified people.~~

Construction Vibration criteria			
Receiver	Details	Category A	Category B
Occupied dwellings	Night-time 2000h - 0630h	0.3mm/s ppv	1mm/s ppv
	Daytime 0630h - 2000h	1mm/s ppv	5mm/s ppv
Other occupied Buildings (including visitor accommodation)	Daytime 0630h - 2000h	2mm/s ppv	5mm/s ppv
All other buildings	Vibration - transient	5mm/s ppv	BS 5228-2* Table B2

	Vibration - continuous		BS 5228-2* 50% of table B2 values
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\*BS 5228-2:2009 'Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration'

~~54.~~ Earthworks, including earth drilling, must only occur on weekdays and from 9am to midday on Saturday and Saturdays between 0800h and 1800h. For the avoidance of doubt, earthworks and earth drilling and compaction cannot occur on Sundays or public holidays (including the adjacent weekend if the public holiday falls on a Monday or Friday).

~~55.~~ 54. Prior to construction, a design report prepared by a person suitably qualified in acoustics must be submitted to Council, demonstrating how compliance with PDP Rule 9.5.121 will be achieved.

### **Operational Noise**

~~56.~~ 55. All operational activity must comply with the district plan noise limits, other than:

- People on the restaurant balcony subject to a noise limit of 60 dB LAeq(15 min) at the boundary of the Garden Court Suites & Apartments between 0800h and 2200h.

~~57.~~ 56. Prior to operation, a design report prepared by an acoustics specialist must be submitted to Council, demonstrating that all building services equipment will comply with the noise limits.

~~58.~~ 57. The restaurant balcony must be vacated and locked and windows and doors to the restaurant and bar shall be closed between 2200h and 0800h.

~~59.~~ 58. A fence or wall must be constructed or, if agreed with the owners of Alexis Motel, the existing boundary fence upgraded on the site boundary adjacent to the car park exit ramp. It must be ~~no~~ greater than 2 metres above the existing ground level of the Alexis Motel without holes or gaps

~~60.~~ 59. All drainage, service covers or other discontinuities adjacent to the building and within wheel paths of the car park and ramps shall be flush with the surface and mechanically fixed in place. All other wheel paths of the car park and ramps must not have any drainage, service covers or other discontinuities. All drainage, service covers or other discontinuities within wheel paths of the car park and ramps shall be flush with the surface and mechanically fixed in place to minimise any noise associated with the drain cover moving or becoming dislodged.

~~61.~~ 60. Prior to operation of the hotel, an Operational Communication Liaison Plan (OCLP) must be submitted to the Council's monitoring team for certification. At a minimum, the OCLP must include the following:

- detail a training protocol regarding the implementation of the OCLP by hotel staff and the management and communication of noise and complaints;
- provide a mechanism for neighbours to make complaints relating to:
  - compliance with District Plan noise limits as amended by **Condition 556**;
  - the vacation and locking of the restaurant terrace and lounge balcony between 2200h and 0800h in accordance with **Condition 578**; and
  - non-compliance with any other operational conditions detailed in these conditions of consent; and
- detail the procedure for responding to complaints in a timely manner.

~~62.~~ 61. The OCLP certified under Condition ~~604~~ shall be complied with in perpetuity.

### **Operational Conditions**

~~63-62~~ In Condition ~~246~~**23**, Ongoing Transport Management Plan (OTMP) means a plan prepared by the consent holder to assist the control and management of transportation effects and that is in accordance with Condition ~~623~~:

a. The OTMP must:

- i. Ensure that unsafe conflicts with guest vehicles, service vehicles, accessible parks and coaches are avoided.
- ii. Ensure the ongoing safe operation of the site and manage the site to avoid any unsafe impacts of the hotel operation on the wider transport network.
- iii. Avoid operations in the porte cochere that result in queuing on State Highway 6A (Frankton Road).
- iv. Minimise traffic generation and parking by staff on local roads through the provision and encouragement of alternative transportation options by staff including but not limited to bicycle parking.
- v. Show the design of the proposed site entry and exit to Frankton Road (including swept paths) and demonstrate that it is in accordance with the plans stamped approved and referred to in Condition 1.
- vi. Demonstrate the method of managing traffic (car and coach) entering and exiting the site to ensure it ~~be~~is in accordance with the plans stamped approved referred to in Condition 1 and the draft Ongoing Transport Management Plan dated 21 October 2020.
- ~~vii. Be prepared in consultation with, and approved by, QLDC and Waka Kotahi.~~
- viii. Demonstrate that access and egress includes signage and appropriate directional arrows to be marked on the pavement surface to identify the direction of travel. The signage and marking shall be installed and maintained in accordance with the NZTA Manual of Traffic Signs and Marking (MOTSAM) and the Traffic Control Devices Manual.
- ix. Demonstrate that methods are in place to require that no third party tour buses enter the site to pick up guests. These methods shall include a sign being located at the entry of the site advising third party tour buses of this.
- x. Tour coaches that pick up and drop off exclusively with guests of the hotel on this site only will be allowed. This shall include a sign being located at the entry of the site advising third party tour buses of this.
- xi. Provide that all rubbish once removed from inside the rooms and other internal areas shall be stored ~~externally~~ in bins within the Rubbish Storage Area on the western side of the basement. All rubbish collection shall be by a ~~flatbed~~ truck, no taller than 3.0m.
- xii. Demonstrate the prevention of permanent overnight coach parking on-site through evidence of an offsite (and offstreet) parking arrangement.
- xiii. Include an An-induction protocol for staff and delivery drivers who are to be driving in using the basement. This induction must include warnings around height limits and entry and exit ramp manoeuvring.
- xiv. Ensure that staff and management trained by a suitably qualified person and are kept up to date with the requirements of the OTMP and that staff are enforcing the OTMP.
- xv. A register of all staff shall be kept recording briefing on OTMP requirements. This register shall be available to Council Officers at all times.
- xvi. Demonstrate the basement height is a minimum of 3.3m and meets the requirements of ASNZ2890.6 2009 in relation to ASNZ4121.2004.

b. Prior to the hotel being occupied by guests ~~commencement of works on the site~~ the OTMP must be submitted to the Council-QLDC's Manager Resource Consents and certified by that person to be in accordance with Condition ~~2463~~; and

c. The consent holder must review, and amend as required to ensure the requirements in Condition 623 are being achieved, the certified OTMP on an annual basis and provide this (on request)OTMP to the Council's manager of resource consents for certification in relation to any amendments, and amend as required, to ensure ongoing compliance with the objectives of this condition.

d. The Consent Holder must comply with the OTMP at all times.

~~64.63.~~ The hotel on the Site shall not be occupied by guests until works on the State Highway upgrades at the intersection of Dublin St, Melbourne Street, Frankton Road in **Condition 8** have achieved practical completion.

### **Covenants**

~~65.64.~~ A covenant pursuant to Section 108(2)(d) of the Resource Management Act 1991 shall be registered on the Computer Freehold Register for Lot 2 DP 15118; and Section 6-8 Block XLI Town of Queenstown; and Section 9 Block XLI Town of Queenstown, providing for the performance of the following condition on an ongoing basis:

- a) The hotel basement carpark floor shall not be directly accessed by hotel patrons or guests, –except when escorted through internal lifts to remove goods from vehicles,– and shall be limited to hotel valet staff and ~~familiar-users~~ delivery drivers who have been inducted in accordance with the OTMP only.
- b) In the event that the Engineering Acceptance issued under Condition ~~2024~~ contains ongoing conditions or requirements associated with the installation, ownership, monitoring and/or maintenance of any infrastructure subject to Engineering Acceptance, then at Council's discretion, a Covenant in Gross (or other alternative legal instrument acceptable to Council) shall be registered on the relevant Records of Title detailing these requirements for the lot owner(s). *[Note: This condition is intended to provide for the imposition of a legal instrument for the performance of any ongoing requirements associated with the ownership, monitoring and maintenance of any infrastructure within this development that have arisen through the detailed engineering design and acceptance process, to avoid the need for a consent variation pursuant to s.127 of the Resource Management Act].*
- c) The final form and wording of all covenant document(s) shall be checked and approved by Council's solicitors at the consent holder's expense prior to registration to ensure that all of the Council's interests and liabilities are adequately protected. The applicant shall liaise with the Subdivision Planner and/or Manager of Resource Management Engineering at Council in respect of the above. All costs, including costs that relate to the checking of the legal instrument by Council's solicitors and registration of the document, shall be borne by the applicant.

### **Surveyor's Certificate**

~~66.65.~~ In order to ensure that the proposed building is located exactly as proposed in the application and complies with the maximum height control of the Queenstown Lakes District Plan or the degree of infringement applied for, the consent holder shall employ an appropriately qualified surveyor at their expense who shall:

- a) Certify to Council in writing that the foundations have been set out in accordance with the approved consent in terms of levels and position; and
- b) Confirm to Council in writing upon completion of the building that it has been built in accordance with the approved plans and complies with the maximum height control/degree of infringement applied for.

*Note: The consent holder is advised that they will require a suitably qualified surveyor to carry out a survey of the land, recording the ground levels, prior to any earth works being carried out on the site.*

### **Review**

~~67.66.~~ Within six months of the date of this decision; and/or upon the receipt of information identifying non-compliance with the conditions of this consent, and/or within ten working days of each anniversary of the date of this decision, in accordance with Sections 128 and 129 of the Resource

Management Act 1991, the Council may serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:

- a) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen and assessed at the time the application was considered and which it is appropriate to deal with at a later stage.
- b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
- c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.

~~68-67~~ As part of the review clause stated in Condition ~~66~~7 of this consent, the Council may have the construction noise and vibration management plan audited at the consent holder's expense.

**Recommended Advice Notes:**

- (i) This consent triggers a requirement for Development Contributions, please see the attached information sheet for more details on when a development contribution is triggered and when it is payable. For further information please contact the DCN Officer at the Council QLDG.
- (ii) The consent holder is advised that any retaining walls proposed in this development which exceeds 1.5m in height or walls of any height bearing additional surcharge loads will require Building Consent, as they are not exempt under Schedule 1 of the Building Act 2004.
- (iii) Prior approval via a Connection to Council Services for a Temporary Water Take is required if Council's water supply is to be utilised for dust suppression during earthworks. This shall include the use of a backflow prevention device to prevent contamination of Council's potable water supply.
- (iv) No further signs, such as window signs or sandwich boards, are permitted by this resource consent.
- (v) This site may contain archaeological material. Under the Heritage New Zealand Pouhere Taonga Act 2014, the permission of the Heritage New Zealand Pouhere Taonga must be sought prior to the modification, damage or destruction of any archaeological site, whether the site is unrecorded or has been previously recorded. An archaeological site is described in the Act as a place associated with pre-1900 human activity, which may provide evidence relating to the history of New Zealand. These provisions apply regardless of whether a resource consent or building consent has been granted by Council. Should archaeological material be discovered during site works, any work affecting the material must cease and the Heritage New Zealand Pouhere Taonga must be contacted (Dunedin office phone 03 477 9871).
- (vi) The subject site is identified on the Council's interim hazard register as being within an area that has been notated as being subject to liquefaction, however that risk is 'probably low'. It is recommended that the consent holder consult an appropriately qualified engineer to confirm whether such a potential threat actually exists in relation to the proposed activity.

**Condition 8(a) - 'NZTA F2Q Business Cases Queenstown Town Centre M+W Overlay Option 3'  
and 'Stage 1 Plan and Long Section MC02-CH 680.000m – 793.102' dated 31.07.2020.**



SH09602-9614156.3