

DECISION OF THE QUEENSTOWN-LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

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| Applicant: | Crescent Investments Limited |
| RM reference: | RM090895 |
| Location: | Kirimoko Crescent, Wanaka |
| Proposal: | A 51 lot subdivision comprising 37 residential allotments; two balance lots (lots 38 and 51); the remaining 12 lots to be utilised for access and storm water detention. |
| Type of Consent: | Subdivision and Land use |
| Legal Description: | Lot 1 DP 347876 held in Computer Freehold Register 196498; Lot 2 DP 301928 held in Computer Freehold Register 7788 and Lot 12 DP 300734 held in Computer Freehold Register 3657 |
| Valuation Number: | 2905100312 |
| Zoning: | Low Density Residential |
| Activity Status: | Non-complying |
| Notification: | Publicly notified |
| Commissioner: | Commissioners Jane Taylor and Leigh Overton |
| Date: | 13 September 2010 |
| Decision: | Granted with Conditions |

UNDER THE RESOURCE MANAGEMENT ACT 1991

IN THE MATTER OF an application by **CRESCENT INVESTMENTS LIMITED** for consent to a 51 lot subdivision comprising 37 residential allotments, a further lot for the proposed purpose of a Childcare Centre (Lot 38) and a balance lot (Lot 51). In addition, there are 12 lots which are proposed to be retained for access and roading.

Council File: RM090895

**DECISION OF JANE TAYLOR AND LEIGH OVERTON,
HEARINGS COMMISSIONERS APPOINTED PURSUANT TO
SECTION 34A OF THE RESOURCE MANAGEMENT ACT 1991**

Introduction

1. The subject site is located at Kirimoko Crescent, Wanaka, and is within an area of land known as “the Kirimoko Block”. The property is legally described as Lot 1 DP 347876 held in Computer Freehold Register 196498; Lot 2 DP 301928 held in Computer Freehold Register 7786; and Lot 12 DP 300734 held in Computer Freehold Register 3657.
2. The subject site is zoned Low Density Residential (“LDR”) and is approximately 11.86 hectares in size. The current application relates to only a portion of the site (approximately 4 hectares) and which is known as Stage 1.
3. The property forms part of the “Kirimoko Block – Wanaka – Structure Plan” following Plan Change 13, which became operative on 28 March 2008.¹ The Structure Plan delineates areas within the Kirimoko Block zoned LDR; Rural General; the Building Restriction Area; a Network of Walkways; the Green Network; and a Designated Walkway between the Holy Family School and the back of the properties that face onto Aubrey Road and Rata Street. The Kirimoko Block Structure Plan also sets out an indicative roading network.
4. In addition to the Structure Plan, an objective, associated policies and rules specific to the Kirimoko Block were inserted into the Operative District Plan (“the District

¹ The Structure Plan is incorporated in the Operative District Plan at page 7-66.

Plan”) at Part 5 – *Rural Areas*, and Part 15 – *Subdivision* when Plan Change 13 became operative.²

5. Importantly, at Part 15.1.3 – *Objectives and Policies relating to Subdivision, Development and Financial Contributions*, a specific objective (Objective 7) has been set out in relation to the Kirimoko Block as follows:

“To create a liveable urban environment which achieves best practice in urban design; the protection and incorporation of landscape and environmental features into the design of the area; and high quality built form.”

6. The relevant rules in Part 15 at 15.2.3.4(vi) that are specific to the Kirimoko Block state:

“(vi) Any subdivision that is not in general accordance with the location of the principal roading and reserve network contained with the Kirimoko Structure Plan shown on page 7-59 shall be a non-complying activity.

(vii) Any subdivision of land zoned Low Density Residential Zone on the Kirimoko Block prior to a walkway being constructed to QLDC standards from Aubrey Road to Peninsula Bay and an easement in gross for such a walkway being registered against all servient titles.

(viii) Kirimoko Block – Wanaka: any subdivision of land zoned Rural General proposed to create a lot entirely within the Rural General Zone, to be held in a separate Certificate of Title.

(ix) Kirimoko – Block – Wanaka: any subdivision of land described as Lots 3 to 7 and Lot 9 DP 300734, and Lot 1 DP 304817 (and any title derived therefrom) that creates more than one lot which has included in its legal boundary land zoned Rural General.”

7. If any of the above rules apply, the subdivision is to be assessed as a non-complying activity. If none of the rules at (vi) to (ix) are offended by the subdivision proposal, then the application is *prima facie* a restricted discretionary activity in accordance with Rule 15.2.3.3(vii).

The Proposal

8. The application comprises a total of 51 allotments; 37 of which are for residential use, the remainder relating to access, storm water detention and two balance allotments. A Childcare Centre (the subject of a separate resource consent) has been proposed

² The rules in Part 5 state that any building in the area of “landscape protection” that is protected by the building line restriction (other than development required for the creation of pedestrian or cycle access ways) is a prohibited activity. These rules have no relevance to the current application.

for one of the balance lots. Of the 37 residential allotments proposed, one (proposed Lot 3) is earmarked for comprehensive development.

9. It is important to note that the application site comprises the entire three original lots (11.86 hectares) in relation to the approval of the Master Plan for storm water and the Green Network design. However, it is proposed that development will be undertaken in multiple stages, and the current subdivision application is confined to Stage 1.
10. Stage 1 of the subdivision proposal is approximately 4 hectares and is located on the southern portion of the site. The subject site is accessed from both Kirimoko Crescent and Rata Street (via Little Rata Street). The proposed roading layout is generally in accordance with the Kirimoko Block Structure Plan. Three cul-de-sac access ways are also proposed within Stage 1.
11. The Lakes Environmental Senior Planner, Ms Grinlinton-Hancock, has described the proposal as follows:

“The proposal is a mixed density residential development with the Applicant proposing a range of residential cluster areas each within its own specific character and density. Allotments range in size from 316m² to 1288m². The average lot size for Stage 1 (not including proposed Lot 3 which is proposed to be developed into four lots as a comprehensive development site) is 576m².”

12. The application contains a level of development, design and control more akin to a “Comprehensive Residential Development” than a traditional LDR subdivision. Mr Kruger, the Applicant’s Landscape Architect, and Ms Lauenstein, an Urban Designer engaged by the Applicant, explained that an integrated comprehensive design approach was applied, the commencement of which was to base the entire development on inherent landscape values. A comprehensive and sustainable design concept for residential living was then generated in accordance with these values. It was submitted that the nature of this development does not perpetuate the “boring sameness of the current subdivisions evident in Wanaka”.³
13. Although the application corresponds with that envisaged by a Comprehensive Residential Development (“CRD”), which is provided for in Rule 7.5.3.4(v) as a discretionary activity, the present proposal does not strictly comply with the requirement of this Rule, as building consents have not been applied for. It seems apparent that formal CRDs were envisaged for much smaller parcels of land where it

³ Paragraph 11 of Ms Lauenstein’s evidence.

is more feasible to apply for building consents, although it is noted that the net area for a CRD must be 2,000m² or larger. Notwithstanding this, the Applicant has endeavoured to follow the approach taken to a CRD rather than a more conventional subdivision design approach.

14. Section 4.3 of the Morgan Pollard report contained with the application sets out the sustainable development principles that have been used in developing the proposal, which include the maintenance and enhancement of the quality of natural resources, sustainable use of energy, creation of distinct living environments, development patterns and densities that promote sustainable use of land, a safe and efficient circulation network, quality open space and a range of recreational opportunities within walking distance from residential nodes. The unique details of the proposal will be further discussed in considering the evidence presented at the hearing.

Submissions

15. Ms Grinlinton-Hancock has summarised the submissions received at pages 5 to 8 of her planner's report. 11 submissions were received in opposition to the application, 1 in support and 1 in conditional support to the application.
16. Most of the submissions in opposition voiced their disagreement to the proposed lot sizes (which are, in the main, less than 700m²) and related concerns regarding the density of development. Associated concerns involve parking, access and traffic volumes as a result of the perceived increase in density of the subdivision. The points raised by submitters will be discussed further in our analysis of the assessment matters and objectives and policies of the District Plan.

Consultation

17. Consultation has been undertaken with the owners of the neighbouring Rata Street properties, the Holy Family School and the developers of the proposed Childcare Centre on proposed Lot 38.
18. Following notification of the application, a public meeting (on a without prejudice basis) was held at which approximately 40 persons from the community attended. A further pre-hearing meeting was convened on 23 June 2010 for the purpose of assisting the Applicant to understand the concerns of submitters and the outcomes

they would like to see achieved. The issues raised by submitters included the density and how it differs from the District Plan, sun, views, storm water and commitments beyond Stage 1 of the proposed development.

The Hearing

19. The hearing was held in Wanaka on the 4th and 5th of August 2010. The Applicant was represented by Mr Phil Page of Galloway Cook Allan, Lawyers, Dunedin, who called evidence from Mr John May, a shareholder and director of Crescent Investments Limited; together with expert evidence from Mr Ralf Kruger, a Landscape Architect and Environmental Planner, and director of Morgan Pollard & Associates Limited; Ms Nicole Lauenstein, an Urban Designer and Architect, and principal of A+rchitecture Urban Design; Mr Mike Garland, a Resource Management Consultant and principal of the firm Robson Garland Limited; and Mr Scott Edgar, a Resource Management Planner with Southern Land Limited (formerly CKL Surveying and Planning), a Survey and Planning Consultancy based in Wanaka.
20. Mrs Loris King and Mr Graeme Dickson attended the hearing and spoke to their submissions. Both Mrs King and Mr Dickson had previously attended the pre-hearing meeting referred to above. Their views and opinions will be discussed more comprehensively further in our decision.
21. Prior to the hearing, we had the benefit of very comprehensive s.42A reports from Ms Michelle Grinlinton-Hancock, a Senior Resource Management Planner with Lakes Environmental, Wanaka; Dr Marion Read, Principal, Landscape Architecture, Lakes Environmental Limited; Mr Mark Townsley, Principal, Engineering, Lakes Environmental Limited; and an urban design report by Mr Nick Karlovsky, an Urban Designer with Queenstown-Lakes District Council. Having considered the evidence of the experts engaged by Lakes Environmental, Ms Grinlinton-Hancock recommended that subject to new or additional evidence being presented at the hearing, the application be granted on the following basis:
 - (a) It is considered that the adverse effects of the activity will be no more than minor for the following reasons:
 - (i) In terms of Part 2 of the Act, the proposal is considered to be sustainable and consistent with the primary purpose of the Act;

- (ii) The proposal will result in an innovative subdivision design that results in positive effects in terms of landscape and storm water;
- (iii) The proposal will not result in a precedent effect with regard to density and allotment size.
- (iv) The proposal is generally in accordance with the objectives and policies for the Zone.

22. Prior to the hearing, the Commissioners undertook a site visit to the location of the application and the surrounding environs.

District Plan Provisions

23. As previously discussed by way of background, the site forms part of the Kirimoko Block and is zoned LDR under the District Plan. Although there are no notations of particular note in terms of the planning maps, the site is subject to a number of provisions in relation to the Kirimoko Block following Plan Change 13.

24. Ms Grinlinton-Hancock summarises the planning requirements of the LDR zone at page 9 of her report, which is to provide for a LDR living environment, enabling people to provide for their residential needs. She states:

“Section 7.1.1(iii) outlines that the components of character and scale include open space, density of development, building height, dominant styles in built form and topographic influences and recognises that there is a difference in scale between suburban residential and low density rural living environments. Section 7.1.1(iii) also outlines that change in the character and scale of residential areas can result from closer subdivision and construction of additional houses at higher densities with resultant losses of views, open space and a discontinuation of community cohesion and well-being, but also recognises that some changes are necessary to provide for the needs of people wanting smaller properties, and newer, smaller houses. The main low density areas have developed a low density character with general protection of views, sunlight admission and privacy.”

25. Ms Grinlinton-Hancock sets out the resource consents required in terms of both land use and subdivision at pages 9 to 10 of her report. In particular, the proposal is non-complying in respect of the following:

Land use

- A **non-complying** activity pursuant to Rule 7.5.3.5 as it is proposed that future dwellings on proposed Lots 1 to 9, 11 and 12, will not have to comply with the recession plane requirements on specified boundaries in accordance with Zone Standard 7.5.5.3(v) where it is proposed to build up to the boundary.
- A **non-complying** activity pursuant to Rule 7.5.3.5 as the proposed density in Stage 1 will not comply with Zone Standard 7.5.5.3(iii), which requires a minimum net area of 450m² for each residential unit contained within a site. Lots 1 to 4, 5, 7, 9, 11, 12, 19, 24 and 34 have lots sizes of between 316 and 444m². The smallest of the proposed lots is 316m² in area.

Subdivision

- A **non-complying** activity pursuant to Rule 15.2.3.4, as some of the proposed allotment sizes do not comply with Zone Standard 15.2.6.3 which requires the minimum lot size in Wanaka to be 700m². Thirty of the 37 residential allotments in Stage 1 do not comply with this Standard.
- A **non-complying** activity pursuant to Rule 15.2.3.4, as the subdivision is proposed to take place prior to the construction of a walkway to QLDC standard from Aubrey Road to Peninsula Bay and an easement in gross for such walkway to be registered on all servient titles. The walkway is partially constructed and an easement has not yet been registered on all servient titles.

26. Overall, it was agreed that the proposal should be assessed as a **non-complying** activity.

Statutory Considerations

27. The application, which is a non-complying activity, must be considered in terms of s.104 and S.104D of the Resource Management Act 1991 (“the Act”). The approach of the Commission is based on the recent decision of the Environment Court in A23/2009 *Foster v Rodney District Council*. In that case the Court examined whether the threshold test in s.104D, which established jurisdiction for the grant of a consent

under s.104(1), should be employed as an “entry” or “exit” test. The Court recognised that the threshold test in s.104D is a high level filter and a “pass” under each of the two limbs does not necessarily mean that an application will be granted under s.104(1). Rather, the consent authority must consider the application under s.104(1) and Part 2 of the Act before reaching a final decision; irrespective of whether the s.104D test is used as an entry or exit threshold test. The correct approach to s.104D will depend on the circumstances in each individual case.

28. In relation to the current application, we have adopted the approach of the Court in *Foster*, which is to examine:
- (i) All of the effects on the environment;
 - (ii) The relevant provisions of the District Plan;
 - (iii) Any other matters under s.104(1)(c) before moving to a consideration of the threshold tests under s.104D, following which a decision under s.104(1) and Part 2 of the Act is reached.
29. The two threshold tests required by s.104D of the Act state that a consent authority may grant a resource consent only if it is satisfied that either:
- (a) The adverse effects of the activity on the environment (other than any effect to which s.103(3)(a)(ii) applies) will be minor; or
 - (b) The application is for an activity that will not be contrary to the objectives and policies of:
 - (i) The relevant plan, if there is a plan, but no proposed plan in respect of the activity ...
30. Sections 108 and 220 empower the consent authority to impose conditions on a resource consent.

Assessment

Actual and Potential Effects on the Environment

31. Our enquiry as to the actual and potential effects on the environment will focus on the relevant assessment matters for resource consents as set out in Part 15 of the District Plan – *Subdivision, Development and Financial Contributions*, specifically the assessment matters set out at 15.2.6.4, 15.2.7.3, 15.2.8.3, 15.2.16.2 and 15.2.17.2, which are all relevant to the non-complying resource consents required.
32. Prior to turning to the assessment matters in detail, it is perhaps useful to set out a brief summary of the Applicant’s evidence presented at the hearing which illustrates, in particular, the comprehensive and holistic manner in which this subdivision has been planned.

Mr John May

33. Mr May gave evidence in relation to the philosophy behind what he considers “*the carefully designed and integrated approach*” to the proposed subdivision. He began by asking: “*What is special about Wanaka?*”; concluding that the answer lies in the magnificent vast landscapes and also the more subtle landforms of the town. He expanded:

“Kirimoko occupies a distinctive amphitheatre that deserves to be managed carefully. We knew this when the Plan Change proposal was prepared and that is why Kirimoko has the benefit of specific objectives and policies and a carefully drawn Structure Plan prepared by Ralf Kruger.”

34. In Mr May’s view, it is simply not enough to let the Low Density Residential Rules govern future subdivision. The results of the application of the rules in existing subdivisions, in his opinion, have resulted in “*sprawl and sameness*” that “*speaks of ordinariness, ad hock-ness, and a lack of imagination*”. He stated:

“Major parts of Wanaka have achieved the remarkable feat of blandness within an outstanding landscape.”

35. In his opinion, unless an integrated design approach to subdivision is adopted, simply following the rules will not achieve a high quality urban living environment.
36. Importantly, Mr May highlighted that the approach taken is designed to “*remove the risk from buying in a new development*”. He stated:

“I believe that the blandness of what we see in suburban Wanaka is in most cases people’s reaction to the uncertainty of what might happen on the properties next door to them. People build as high as they can as far away from their northern boundaries of the properties that they can. This means that people tend to build as close as possible to their southern boundaries. Why did they do this? Because they can exert no control over how, what, or where people can build on the properties next door. So to protect their sunlight and views people take maximum advantage of Plan rules which were never designed to respond to the individual circumstances of their property. People turn their backs to their neighbours for fear of what might happen next door. That is not how communities should be. It is not how communities have evolved in the ‘old world’ of Europe. If we want a sense of community we must build communities where interaction is planned and spaces for that purpose are designed.”

37. Mr May went on to state that quality urban spaces do not happen by accident. Accordingly, experts were engaged by the Applicant to:

“Embark upon a massively complex project of designing the interaction of each lot with each other and designing building platforms and a suite of controls to ensure that the relationship between properties, and those people who live within them, can be optimised.”

38. In the resulting low impact subdivision design, storm water is seen as a resource rather than a burden. Comprehensively designed streetscapes and green networks (public and private) are further important components of the integrated design concept.
39. Mr May explained that through the design process, optimal layouts were found to include small sections as well as large ones, all being determined by the contour of the land and the natural and physical attributes of each property. The individual capabilities of each site have been individually assessed in relation to views and sunlight.
40. Mr May commented that including small lots in the development caters for different price ranges and budgets. Rather than subdividing into 900m² sites (which can be re-subdivided under the 900/450m² density provisions) the subdivision aims to deliver smaller sections at a lower price by designing them into the project at the start. This approach also has the advantage of offering greater certainty and design integrity, as all sections (including those over 900m²) will be covenanted against further subdivision, reducing speculative activity.

41. Overall, Mr May summarised the design philosophy as follows:

“It is our proposal that all our holdings are developed in a very carefully designed and integrated way. The form of what we propose is driven by function. To implement our integrated design philosophy we have proposed a comprehensive suite of covenants and consent conditions. It is essential that all stakeholders have confidence that they will be able to exercise control, through these covenants, conditions, and consent notices on how the land is developed. Delivering certainty is essential to the integrity of our design philosophy.”

Mr Kruger

42. Mr Kruger underlined the process and the integrated nature of the proposal, which is based on the inherent landscape values and the potential to utilise those in residential, urban living.
43. A thorough landscape assessment process was undertaken, with a catchment analysis being an important component. The enclosing element – Beacon Point Ridge – and its interrelationship with the landform of the Kirimoko Block was considered to be of wider significance. This important landscape feature illustrates the extent glaciers advanced during the Pleistocene period. The gently rolling landform with gentle to moderate slopes is located on old terminal moraine at the southern end of Lake Wanaka. It is a contributing element to the complex of interrelated terminal moraine landforms of the Upper Clutha Basin. In Mr Kruger’s view, the wider significance of these landforms is enhanced by the fact that they remain largely intact, are clearly visible from the surrounding district and are legible as prehistoric landscape features. In his view they can remain visible in a residential development.
44. Mr Kruger commented that the “standard” approach to subdividing land in the District (and elsewhere in New Zealand), and the resultant destruction of inherent landscape values, is inappropriate for this land. In contrast, the Applicant’s vision for the development strongly supports the maintenance of landscape values. Mr Kruger commented in detail on the specific objective (Objective 7 - *Kirimoko Block, Wanaka*) and associated policies incorporated into the District Plan following the approval of Plan Change 13.

45. Importantly, Mr Kruger, having reviewed the Plan Change process and its outcome, stated that:

“It is evident - and important to bear in mind – that this outcome asks for proposals such as this in this landscape and in this part of Wanaka. In fact ... such development as is proposed here is favoured by the Plan throughout the district. While the District Plan is asking for innovation and an approach that does improve over subdivision that we wish to call ‘standard’ or ‘conventional’, it does not foresee proposals such as this in every capillary of the rules network.”

46. Mr Kruger went on to set out the “signature” landscape principles of the proposal, which are summarised as follows:

(a) Protection of landform and existing vegetation

The geophysical characteristics of the land (landform and vegetation remnants) governed all early decisions on subdivision elements. The protection of these geophysical characteristics was paramount in terms of compliance with the District Plan as well as maintaining and enhancing high ecological, natural and amenity values within the proposed living environment.

(b) Natural drainage systems protected and utilised.

The Applicant, having opted for a low impact storm water management system, set aside the areas required to implement such a system very early in the planning stage.

(c) Visual amenity from outside and inside maintained, enhanced and protected

Mr Kruger commented that during the Plan Change process, views into and out of the new Low Density Residential area were of major concern and resulted in the No Build Zone higher on the moraine landform. He commented:

“The town’s appearance from the wider landscape is obviously an important aspect of managing growth and development. This desire has been an important consideration in our design process and the thinking process triggered during the Plan Change process propagated into this application. The result of the landscape driven approach is an ‘automatically’ positive visual appearance – the landscape structure created offers the highest level of visual amenity.”

Similarly, views out (from public spaces and private lots), was also an important consideration. Mr Kruger identified that apart from the inherent

landscape qualities, the views and vistas towards the wider mountain and lake landscape (especially from the more elevated land areas) are the major asset of the site and the wider Kirimoko area. He stated:

“The general setback provisions in the District Plan or the LDR Zone cannot adequately protect and secure views and vistas for all future landowners. For that reason – coupled with other urban design aspects such as provision of solar exposure, privacy, streetscape connections and clustering – the building platform approach was adopted and implemented. Through this instrument, views and vistas can be maintained and kept open in perpetuity. It is important to understand that each and every building platform has been examined to ensure that if each neighbour builds pursuant to the proposed controls, then adequate views and solar access will be preserved.”

(d) Balanced provision of private and public open space

Mr Kruger explained that in some areas of the proposed residential living area, emphasis has been placed on usable public space, balanced against smaller lots with more intensive residential activity and smaller areas of private open space. The larger lots provide greater open space – garden – areas, as is more traditional in New Zealand subdivisions. Between these extremes lie private open space provisions of varying dimensions. Mr Kruger stated:

“This has been done in recognition of the need to offer a variety of opportunities for future landowners with differing life perspectives, requirements and desires. From my professional experience in landscape and garden design – especially having reviewed the last 16 years here in New Zealand – the desire to have a large garden has reduced significantly. More and more of my company’s clients prefer smaller, well designed private outdoor areas (as small as single courtyards) over larger gardens.”

Mr Kruger also commented that rather than focusing on large sections and gardens, this latter group generally prefers the amenity of a well designed public Green Network with functions such as walking and cycling facilities, areas for passive recreation and children’s play.

(e) Balanced use of streetscape for amenity and traffic

One of the more innovative aspects of the application is the recognition that roads can and should function in a more diverse way other than solely as conveyors of traffic. Mr Kruger notes that roads are public spaces and can

accommodate amenity uses. The proposed relegation of traffic to a co-user of the road space assists in the elevation of the function of the roads as public space available for gathering, play, recreation and the extension of public open space.

47. In conclusion, Mr Kruger is of the opinion that, in terms of landscape and sustainable use of the land resource, the proposal is thoroughly consistent with Objective 7 and the associated policies specifically applicable to the Kirimoko area. He is also of the view (noting the agreement of Mr Garland and the Lakes Environmental Officers) that the proposal is broadly consistent with the other relevant provisions of the District Plan and that it meets the purpose of promoting the sustainable management of natural and physical resources expressed in section 5 of the Act.

Ms Lauenstein

48. Ms Lauenstein gave comprehensive evidence outlining the design methodology and comprehensive approach applied to the overall site; the specific urban design aspects of Stage 1 and her consideration of items raised in the Planning Officer's report, Mr Karlovsky's urban design report and submissions relating to landscape and building design guides and controls, definition of space and related maintenance and ownership, parking, site coverage and building coverage, lot size. We will comment on Ms Lauenstein's evidence as applicable in our discussion of the assessment matters.

Mr Garland

49. Mr Garland set out the background to the Kirimoko Structure Plan in the District Plan (page 7-66) and referred to the specific Objective 7 on page 15-6 which is "*designed to encourage a high level of originality*". He noted that the Plan Change 13 Commissioners recorded in their report that the Kirimoko Group presented a case for an innovative approach. Mr Garland went on to state that:

"Thus, when the Zone change became operative, we were pleased with the results even though we envisaged something far better than thoughtless adherence to the rules would produce. Rules are not meant to be kept, they are not targets and they have not been since 1991. It would be quite wrong to assume that they represent some sort of ideal state. They are however trigger points which when activated require a project to be closely examined as to its performance, principally in meeting the purpose of the Act. In this sense, District Plans are not the proactive documents that our old district schemes were. They are not and indeed cannot be specific

visions for the future. Slavish adherence to the rules is an easy way out and in this instance I am sure it would be more profitable (it would certainly give us more sections) but with this parcel of land that would be a great pity."

50. Mr Garland explained that the project is the product of a well held intention to do better in environmental terms than is the expectation of the District Plan and that, if the Applicant is to do better, it is inevitable that not all of the standards in the District Plan will be met as is the case.

51. Mr Garland explained that the proposal is novel for Wanaka for a number of reasons:

- *"It provides for a variety of living styles in a mixed configuration overcoming what is becoming a generally expressed criticism of bland low density styles.*
- *It has a strong ingredient of 'design with nature' whereby, instead of using a bulldozer to subject the land to development, firstly, account is taken of the natural shape of the land in terms of its capacity to provide corridors for storm water, roads and open space. Secondly, this becomes the driver for section sizes, their disposition and the establishment of building platforms.*
- *It espouses the concept of hydraulic neutrality whereby storm water discharges down slope are not exacerbated by the development proposed. As far as possible, we wish to ensure that downstream effects are not any different from the current situation.*
- *At the same time, the externalities (the effects on properties outside the application site) are no more or in fact is rather less than is likely to occur from the normal exercise of the Low Density Zone."*

52. In Mr Garland's view, the effects of departing from the rules in the District Plan are internal and have been voluntarily adopted by the developer, not imposed by others. For example, the rules envisaged by this application relating to building and site development are much more stringent than those in the District Plan. Mr Garland stated:

"This is a case where I believe better urban design outcomes can be achieved by substituting tailored outcomes unique to each lot."

53. Having regard to that background, we now examine the assessment matters, together with any other actual and potential effects on the environment and will refer to the Planning Officer's and expert's reports as necessary during this discussion.

15.2.6.4 – Lot Size and Dimensions

54. In considering whether or not to grant consent or impose conditions in respect to lot sizes and dimensions, the Commission must have regard to, but not be limited by, the assessment matters set out at paragraph 15.2.6.4. A great deal of the expert evidence at the hearing was focused on the key areas of non-compliance; which are essentially the smaller lot sizes proposed, the apparent increase in density as a result of the smaller lot sizes, and the breach of recession plane requirements on proposed Lots 1-9, 11 and 12 where it is proposed to build up to the boundary.
55. Assessment matters (a) to (d) are relevant to the proposal:⁴
- (i) *Whether the lot is of sufficient area and dimensions to effectively fulfil the intended purpose or land use, having regard to the relevant standards for land uses in the zone;*
 - (ii) *Whether the lot is of sufficient size, given the nature of the intended development and site factors and characteristics, for onsite disposal of sewage, storm water or other wastes to avoid adverse environment effects beyond the boundaries of the lot;*
 - (iii) *Whether the proposed lot is of a suitable slope to enable its safe and effective use for its anticipated purpose or land use, having regard to the relevant standards for land uses in the zone;*
 - (iv) *The relationship of the proposed lots and their compatibility with the pattern of the adjoining subdivision and land use activities, and access.*
56. Of the relevant assessment matters, (a) is arguably the most important criteria in that it clearly defines the issue in this particular application. In evaluating this criterion, the Commission has taken a holistic approach as to whether each of the lot sizes is of sufficient area and dimensions to effectively fulfil the intended purpose or land use, while having regard to the relevant standards for land uses in the Zone. As previously set out, the proposed subdivision breaches Zone Standard 15.2.6.3 which requires the minimum lot size in Wanaka to be 700m². Similarly, the proposal breaches Zone Standard 7.5.5.3(iii) which requires a minimum net area of 450m² for each residential unit contained within a site.
57. The Applicant's experts gave extensive evidence in relation to the comprehensive design approach adopted, which takes account of the environmental attributes of the

⁴ Criteria (e)-(g) have been disregarded as they have no application to the assessment of this application.

wider site, and which defines public and private areas to achieve the maximum potential amenity. Each of the proposed lots to be used for residential purposes has been allocated a building platform which is spatially oriented to ensure that sufficient sunlight and daylight are available for each future dwelling, while also preserving the views in and out of each residential lot and the wider environs. Although 30 of the residential allotments do not meet the minimum 700m² allotment size, there is a finite level of density as all sites (including those 900m² and above which could theoretically be subdivided as of right) will be covenanted against further subdivision.

58. Ms Lauenstein gave evidence in relation to the integrated comprehensive design approach adopted by the Applicant and the difference between this approach and the standard subdivision design. She stated:

“The standard subdivision design approach is dominated by planning requirements, technical parameters and financial outcomes that leave very little space for innovative design. Development outcomes, in particular yield, are often set before a proper analysis of the site has been conducted and the design phase is narrowed down to a ‘make it fit’ exercise.

For this particular project the approach was different. The emphasis was to base the entire development on inherent landscape values and generate a comprehensive and sustainable design concept for residential living in accordance with these values. A development that ‘looks, feels and works right’ and does not perpetuate the boring sameness of the current subdivision is evident in Wanaka.”

59. In regard to the proposed building platforms, the Applicant is seeking dispensation from complying with some of the bulk and location standards of the District Plan, specifically internal yard setbacks, continuous building length and height to boundary. Ms Grinlinton-Hancock has concluded that due to the layout of the respective allotments, the environmental effects of the dispensation from these requirements will be contained within the site. A site-specific analysis has been undertaken for each site and in some cases the setbacks proposed in the form of the building platform will be greater than the requirements of the District Plan.
60. Mr Karlovsky notes that the minimum lot size of 700m² in Wanaka is already compromised in that sites over 900m² may be subdivided into two lots of 450m² after two dwellings have been constructed on the original site. He stated:

“Examples of this are not infrequent in Wanaka, and tend to jar with the prevailing low density subdivision pattern. What’s more it is

possible to achieve sites of 350m² in Wanaka's LDR Zone through the comprehensive subdivision provisions."

61. Although this proposal is not a Comprehensive Residential Development as defined in the District Plan, the level of design control that is proposed is comparable to that which Council is able to exercise under the CRD rules to ensure an adequate level of amenity is provided for. As Mr Page submitted, "*Certainty [in respect of a CRD development] is the key*". We concur with Mr Page that the level of development design and control provided in this application is closer to Comprehensive Residential Development than a traditional Low Density Residential subdivision and that, accordingly, the 350m² density that is envisaged in a CRD arguably fulfils the intended purpose or land use for this particular subdivision.

62. The approach of the Applicant was supported by Mr Karlovsky's evidence. He stated:

"As is the case for assessing comprehensive development proposals, the key issue in terms of achieving a suitable urban design outcome is the extent to which the proposal will blend with the neighbourhood context and the extent to which a reasonable level of residential amenity can be achieved."

63. In Mr Karlovsky's view, the extent to which the outcome on neighbourhood character can be determined at subdivision stage has effectively been dealt with by the integrated landscape approach that establishes specific neighbourhood identities, and through the identification of building platforms by undertaking specific site analysis.

64. We are also satisfied that the other major component to the neighbourhood character outcome, the built form and the relationship and contribution of that built form to the streetscape, is adequately provided for via the design code to be finalised by the Applicant after subdivision consent has been obtained. A condition of consent has been included to require such guidelines in respect of which, as Ms Lauenstein explained, the management body will retain control over individual site developments through the design approval process. Council has only retained control of the aspects of the design code that are central to the grant of this consent.

65. We accept Mr Karlovsky's evidence in relation to the importance of adequate ground rules to determine how the varying building typologies will interface with the

streetscape public realm, in particular where building platforms border the street frontage, which has implications for both the privacy of residents and the comfort of people using the street in close proximity. A condition of consent has been included to ensure that, in relation to those lots with a nil frontage (lots 1, 2, 3, 4, 5 and 6), plans are submitted to Council for approval demonstrating the facade modulation at the road boundary; that an appropriate balance is achieved between passive surveillance and residential privacy; and that there is a clear distinction between public and private space.

66. Ms Lauenstein has stated that the intention in Kirimoko is to create a variety of sections, with smaller lots interspersed amongst larger ones, to keep the overall character of open space in the area intact. She explained that the relationship between density and lot size is not a “default setting” where LDR means all properties are large (i.e. 700m² or above). Rather, the main characteristic of a LDR area is the protection of amenity values through open space. It is Ms Lauenstein’s expert opinion that the proposed site layout and corresponding lot sizes, which takes into account the topography and other natural features of the site, is the result of a design process that responds to these qualities. Boundaries are not set arbitrarily but have been carefully identified so that individual properties sit well within the landscape. The result is a more varied and diverse urban environment. She stated:

“Such a mixed palate delivers a better built fabric with more visual and physical variety. Smaller lots tend to push buildings closer to the street edge giving the streetscape a built form – this is not necessarily required everywhere but adds to the variety. Mixing up lot sizes also has the added advantage that building locations vary more and building sizes respond to relative lot sizes creating a more diverse overall layout of buildings with varying gaps between them giving relief from the repetitive ‘line up’ of houses created by 700m² lots with generic setback rules.”

67. Both Ms Lauenstein and Mr Karlovsky were of the opinion that mixed lot sizes create a more inclusive environment through choice and affordability, adding to demographic and social diversity which is important for Wanaka in particular, where property prices are relatively high. Indeed, Mr Karlovsky commented:

“Together with Wanaka’s comparatively high land values, the predominantly low density settlement pattern has an adverse effect on affordability of housing, meaning that the service workforce are increasingly likely to be forced to locate beyond Wanaka, adding commuting costs to their housing dilemma. This also impacts on the turnover within that sector.”

68. Ms Lauenstein has stated that:

“When assessing the suitability of a subdivision layout with respect to lot sizes it filters down to four core factors that need to be considered:

- *The relationship of a lot to the adjoining street, public space etc.*
- *The interrelationship between adjoining residential/private lots.*
- *The spaces that can be achieved on the lot by placing a dwelling
...*
- *The quality of the dwelling itself, design, scale, proportion, materials etc.”*

69. The first of these factors concern the public interface and/or neighbours and is controlled through site-specific setbacks, together with stringent building platform and height controls. Mr Karlovsky describes the advantages of this system, describing it as being *“a far more responsive approach than blanket rules and providing a far greater level of certainty”* for neighbours. The third and fourth factors mainly concern the lot owner and are a consequence of architecture and landscape design, which are controlled by the proposed design code. We recognise that all of the factors are matters of quality not quantity and do not necessarily bear any relevance to whether a lot is large or small *per se*. We accept Ms Lauenstein’s statement that *“there is no evidence of a direct relationship between lot size and design quality or amenity value”*. We also agree that the quality of a property is not necessarily dependent on size and that other aspects, such as orientation, topography and geometry are as, if not more important. As Ms Lauenstein has noted, building designs can adapt to various lot sizes and take advantage of the desirable aspects of smaller lots, creating an intimate relationship between building and site, and generating smaller houses with a better floor-area-to-footprint ratio which in turn are more sustainable.

70. Mr Karlovsky notes that, in assessing the proposal’s impact on the wider established character of Wanaka, it is important to take account of the subdivision’s locality and the level of visual exposure of that locality to the wider public. He notes that the density proposed in Stage 1 represents a discreet enclave of medium to low density housing located in a relatively low lying basin off the main traffic routes that lead back to the town centre. The residential component of Stage 1 is shielded to the west by established housing along the east side of Rata Street and from the south by the Holy Family Primary School and the Childcare Centre proposed in the south-western corner of the subject land. The site will be more exposed to Kirimoko Crescent and the as yet undeveloped land to the north and east, which is expected, in the future, to

engulf the current proposal. The Applicant has stated an intention to expand the average size of lots as the later stages are developed. Mr Karlovsky concludes:

“Taken together with the commitment to develop a comprehensive landscape based neighbourhood in which an integrally coordinated landscape setting will over time help mitigate the visual impact of a denser than normal subdivision, the proposal has the potential to provide a discreetly located area of relief to the relative homogeneity of the wider suburban context.”

71. It is also important to note that the Applicant (as highlighted by Mr Garland at the hearing) has volunteered a condition to give surety that the Applicant will not seek to further increase densities in future stages of the development. Although we accept Ms Lauenstein’s evidence that overall, the proposed densities are not inconsistent with those expected in the Low Density Zone, this proposed condition will ensure that the benefits obtained during Stage 1 are not diluted by subsequent development of the remainder of the Applicant’s land.
72. We are satisfied that the proposed subdivision ensures that the positive aspects of small lots can be achieved and that possible adverse effects (lack of sunlight and privacy) have been addressed via the location and specification of building platforms and other appropriate restrictions. Indeed, the generic plan rules relating to setback and recession angle are arguably insufficient to achieve the desired outcomes. Rather, the proposal, as Ms Lauenstein has stated:
- “Takes care of the potential negative effects on smaller lots via restrictions that go a lot further and identify building platforms, a variety of height restrictions within the platform and setbacks specific to terrain, location, orientation, sun angles, access, vegetation, view shafts, streetscape and landscape protection and, last but not least, existing and proposed neighbouring activities.”*
73. We are satisfied that the comprehensive design process adopted by the Applicant will ensure a higher quality outcome for the overall LDR environment and that, as a result, any adverse effects on lots sizes and dimensions are less than minor.

15.2.7.3 – Subdivision Design

74. The relevant assessment matters for Subdivision Design are found at 15.2.7.3 of the District Plan as follows:

- (i) *The relationship and size of the lots in terms of their solar advantage including the alignment and layout of the lot, the location of building platform, relationship to adjoining lots.*
- (ii) *The provision for, and safety and practicality of, pedestrian access including unsealed walking tracks, the relationship of these to reserves (existing or proposed); access to the lakes and rivers, and the opportunities for enhancing a rural walkways network in the Wakatipu Basin.*
- (iii) *The provision for, safety and practicality of, using open storm water channels and wetland areas.*
- (iv) *The relationship and orientation of lots, particularly in respect of land in adjoining zones, and the ability to create an attractive and interesting edge between development in the Residential and Rural-Residential Zones and adjoining Rural Zones;*
- (v) *The degree to which any likely development of the lots, taking into account the earthworks proposed for the subdivision, will adversely affect the opportunities for views from properties in the vicinity, or will result in domination of surrounding properties by buildings on the lot(s).*
- (vi) *The effects of the scale and nature of the earthworks proposed for the subdivision, the methods proposed for the disposal of excess soil or vegetation, and the need for any conditions to avoid or mitigate any adverse effects, including effects at the disposal site.*
- (vii) *The effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance.*

75. Some of the matters referred to above have been extensively canvassed in the previous section of this decision. However, we comment more particularly in relation to sunlight, the provision of pedestrian access, the provision and practicality of using open storm water channels and wetland areas and views from the properties in the vicinity.

76. By way of introduction, it was Ms Lauenstein's evidence that the intensification within the Kirimoko Block that this subdivision application advocates is both appropriate and will enhance the character of Wanaka. She noted that Wanaka is rapidly growing with residential sprawl in all possible directions and that there is a gradual expansion of commercial, tourism and community related activities around the central core. New secondary urban nodes have developed in the surrounding suburban environments (one such node being the commercial areas of the east).

77. Ms Lauenstein notes that a second node is gradually emerging around the lower end of Aubrey Road due to surrounding schools and reserves. Because of the significant increase in residential activity in these eastern parts of Wanaka, this “education and recreation node” will most likely continue to develop and provide for other living related needs such as a small corner dairy. In her opinion, the discreet enclave of medium density housing is therefore well positioned within the context of the area. Shielded from visual exposure due to its low-lying location and the extensive vegetation towards the existing neighbours, it will integrate well into the built fabric and provide a controlled residential consolidation within the predominantly low density residential environment.
78. Ms Lauenstein was plainly of the view that if the character of any small town is to be enhanced, mono-cultural environments should be avoided. It is variety that makes an urban environment unique, picturesque and gives it character. She stated:
- “Diverse character can neither be determined nor protected by generic zoning rules, generic lot sizes or generic building styles. The character of the urban fabric is a complex response to the underlying factors of inherent landscape values, called sustainable principles and specific community needs.”*
79. We found Ms Lauenstein’s evidence in relation to access to sunlight to be instructive. In her view, smaller lots are often perceived to be inferior to larger lots with regard to accessing sunlight, which is largely a result of generic setback rules and recession angles that cannot cater for integrated smaller sites. This may, in her opinion, result in a loss of amenity either on the lot itself or adjacent properties, as buildings are designed around these restrictions, maximising individual gains without knowledge or consideration for neighbours. Often non-compliance with internal boundary restrictions is overcome by mutual agreement, particularly where lots are owned by the same party.
80. The proposal articulates built form parameters within the building platform for each lot, specifying areas restricted to a single storey where a minimum height of 4.5 metres is permitted, areas where two storeys up to a 7 metre height limit are enabled (two storeys are mandated on some sites if the covenants appended to the application are to be given effect to) and in certain cases, areas where a split level built form is required. Smaller areas appended to the main form are identified as provision for ancillary buildings, most often related to vehicle crossing locations suggesting that these are intended as garages or carports. The platform locations

are not constrained by the LDR site standard setbacks, and the provisions of the proposal seek to have built form exempted from the LDR recession planes.

81. This subdivision seeks to provide more certainty, which is key to preserving access to sunlight, as opposed to reliance on generic site standard setbacks and recession planes. Ms Lauenstein stated:

“To test the robustness of this process, the worst case scenario on the most affected lots has been cross-checked against the plan rules to ensure that the overall outcome is at least as good as the plan requirements.”

82. Mr Karlovsky notes that there are a number of advantages to nominating building platforms derived from specific site analysis over reliance on the standard LDR provisions, in particular for medium density development where space is at a premium. He states:

“Building platforms are tailored to each site and provide a level of certainty for neighbours over where built form can occur. This is a far more responsive approach to the kind of criteria listed above than blanket rules that minimise adverse effects on neighbours while increasing the level of certainty for neighbours over where built form can occur.”

83. Mr Karlovsky also notes that a particular benefit of identifying building platforms is to enable a far better rationalisation of house locations for optimal solar exposure and the relationship of that solar exposure to private outdoor space. This advantage is very relevant in the Wanaka context because of the climate.

84. We do not accept Mr Dickson’s view that rigid adherence to the site standard setbacks and recession planes contained in the District Plan will result in better access to sunlight for individual lots. It appears that his calculations have not been based on the minimum setbacks (but rather those proposed by the Applicant) and have not taken account of the varying height restrictions on different parts of each proposed lot. Rather, we prefer Ms Lauenstein’s evidence that the proposal provides an improved outcome for each individual lot and that the inclusion of the specific spatially designed building platforms will give a potential purchaser certainty over the position of buildings on neighbouring properties and, correspondingly, access to sunlight.

85. Safety and custodial issues regarding the boundaries between private and public space arise for consideration under the general ambit of the subdivision design

assessment criteria. Ms Lauenstein explained that the public open spaces within the first stage were designed to provide additional outdoor spaces to counter-balance the higher density through the integration of smaller lot sizes, and can be grouped into three main categories:

- *“Specifically designed public space, such as the square and play streets, providing formal gathering spaces and additional outdoor spaces within the living clusters.*
- *Tertiary storm water detention areas with a dual function as usable open space for play and recreation.*
- *Informal meeting spaces as part of the circulation network (streets, walkways and footpaths).”*

86. Ms Lauenstein is of the view that the intentional placing of these formal and informal spaces into the streets is deliberate and encourages the interaction of people with their neighbourhood, giving the street its main purpose: *“A platform for human communication, for meeting and greeting, a place to see and be seen”.*

87. The local road and “play streets” provide a predominantly pedestrian oriented environment. Ms Lauenstein explained that footpaths and roads have been combined into a single platform, supporting the activities of people over cars. In a similar way, the public ways do not distinguish between vehicular and pedestrian areas, which again places emphasis on pedestrian movement.

88. Mr Karlovsky identified that although the boundaries between private lots are in many cases defined by planted areas and/or ephemeral waterways that form part of the storm water network, issues regarding custodianship, maintenance, safety and the private capture of public space arise. In his view, some clarity of delineation is desirable (for knowing who is responsible for maintaining what, in relation to the public/private interface). He recommended a condition of consent that detailed landscape plans for the subdivision be submitted to Council for approval to demonstrate a clear delineation between private and public space.

89. The Applicant has accepted Mr Karlovsky’s advice regarding the importance of ensuring appropriate legibility of boundaries to enable people to distinguish between different ownership and uses. Ms Lauenstein commented that the definition between public and private spaces requires a wider palette of demarcation tools, as the need for legibility and physical representation of such boundaries varies greatly depending on spatial layout and activities. We are satisfied that the identification, safety and

custodial issues regarding boundaries between private and public spaces has been satisfactorily addressed by the inherent design of the application, together with the proposed conditions canvassed at the hearing.

90. Ms Lauenstein explained the elements of the subdivision design with respect to site coverage and building coverage. As with the comprehensive design controls, a site specific approach has been taken to site and building coverage for each site. However, although some smaller lots may have a higher potential site and building coverage than larger lots, the proposal ensures that overall, the 40% target is met. A condition of consent has been agreed that:

- That as part of the engineering design the Applicant stipulates the extent of building coverage for each individual site; and
- That the combined building coverage area of all allotments in Stage 1 does not exceed 40% of the private residential area.

91. We are satisfied that rather than having the same generic 40% coverage restrictions on each site (which the Applicant has argued contributes to the development of a monotonous and repetitive built environment) the alternative approach adopted, which responds to the surrounding landscape features and urban form of each cluster, provides a more flexible distribution of built form and open space, in turn creating a more diverse urban fabric. We recognise that the ability to exceed the 40% building coverage on the smaller lots (which is technically an increase in density for each particular lot) is crucial to ensure that these affordable lots can accommodate dwellings of a reasonable size. Overall, we are satisfied the intention and underlying concerns of the District Plan are met in relation to site and building coverage.

92. Mr Karlovsky notes that the Applicant has proposed (in concept form) a high level of on-street public amenity well in excess of the standard suburban streetscape, which meets policies 7.3 and 7.5 of Objective 7. However, he notes that this level of amenity may also entail an ongoing maintenance burden on Council in excess of the maintenance costs incurred by more typical streetscapes. He stated:

“It would be unfortunate if the long-term outcome for the neighbourhood were to be that the level of amenity proposed is not sustainable to maintain.”

93. Mr Karlovsky proposed that to ameliorate this issue a high standard of quality and durability must be attained in all on-street amenity in order to minimise the long-term maintenance costs. He recommends that a specification for all on-street amenity be agreed to by Council with the requirement for such specification locked in by conditions of consent. Accordingly, a condition of consent has been included requiring that the detailed specifications for all on-street amenity be submitted and approved by Council prior to each stage of the development.
94. Although it is often stated that the District Plan does not protect views, criterion (v) does specifically address the degree to which any likely development will adversely affect the opportunities for views from properties in the vicinity, or will result in domination of surrounding properties by buildings on the lots.
95. In this respect, we are satisfied that the proposal protects views from properties to a much greater extent than would be possible for a subdivision that complies with the “bare minimum” rules. Ms Lauenstein gave a detailed description of the view shaft analysis that was undertaken in creating the lot layout. This analysis applied to views both into and out of the site. The use of spatial building platforms with maximum height rules will also help to protect views from properties in the vicinity and there will be no domination of surrounding properties by building on the lots, particularly those on Rata Street where the design incorporates large open spaces on the boundaries.
96. In relation to assessment criterion (iii), the proposal incorporates a low impact storm water design, which provides a robust flood protection while maintaining the intended site concept as a high quality and sustainable residential development. Ms Lauenstein gave a thorough explanation of the proposed system, which consists of a series of rain gardens located on private land and within the legal road to treat surface water at or as close as possible to the source. A secondary mechanism is made up of a series of swales and infiltration/detention basins located within natural indentations of the land, designed and vegetated to suit the specific location (i.e. private garden, road edge, reserves etc), which provides a variety of smaller open spaces and relief from hard surfaces and built form. A tertiary system of infiltration/detention basins detains and infiltrates any overflow from the primary and secondary systems. These larger basins are located at the lowest part of each catchment, marking the end point of the “water chain” where the low impact design system connects to the standard Wanaka storm water drainage.

97. Ms Lauenstein stressed that the storm water system, which was recognised as an important ecological, visual, physical and spatial connection in the development phase of the property, provides the main “green” and “blue” network for the site with purposefully landscaped basins, swales and rain gardens extending into private properties and streetscape. Selected landscape features such as the Kanuka stand and larger meadows on plateaus and spurs have been integrated into this network and are protected. We are satisfied that the low impact design for storm water meets the purpose and intention of the assessment criterion. In addition, the storm water detention area (the tertiary detention site on the subdivision plan) provides a buffer between the properties on Rata Street and the more dense development proposed for the western portions of Little Rata Street.

15.2.8.3 Property Access

98. The relevant assessment criteria in relation to property access are set out at Part 15.2.8.3 of the District Plan. This set of assessment matters relates to the roading network and the proposed roading pattern, having regard to the roading hierarchy, standards of design, construction for roads and private access. Amongst other things, the safety and efficiency of the roading network; the effect of any new intersections or accesses created by the subdivision on traffic safety and efficiency; the provisions of the Council’s code of practice for subdivision in respect of the design and construction of roads and private access; the accounts taken of safe, pleasant and efficient pedestrian movement; the provision of space for cyclists; the amenity values of the street; and the opportunities for tree planting in the open space of the roadway to enhance the character and amenity of the neighbourhood; are all relevant considerations.

99. Ms Lauenstein described the features of the application in relation to roads as follows:

“The local road and play streets provide a predominantly pedestrian-orientated environment. Footpaths and roads have been combined to a single platform, supporting the activities of people over cars. In a similar way, the public lanes do not distinguish between vehicular and pedestrian areas, which again place emphasis on pedestrian movement.

Where such measures are not suitable, designated pathways ensure a fluid and direct pedestrian and cycling connection. Dished storm water crossings are used as traffic-calming devices and have been

positioned in close proximity to pedestrian crossings to add to the convenience and safety of the pedestrian.

The public walkway is extended from the edge of the Holy Family School through a sequence of different spaces, the 'square', the play street and the lower part of the 'green gulley' with the potential to connect it further north to other walkways leading to Sticky Forest. This walkway retains the 'design line' through the site but adds significantly to its character."

100. It is proposed that within the square, play streets and lanes, cars and pedestrians share the same space. This was the subject of questions by the Commissioners at the hearing, particularly with regard to the benefits of this design approach and the consequent impact on the safety of pedestrians. Ms Lauenstein explained that the merging of spaces and blurring of edges is deliberate:

"Spatial definition and boundary demarcation occur naturally between the various interlocking public spaces through surface treatment, placement of street furniture, structured storm water basins, and trees and other vegetation. But above all the users, through their activities, will define spaces and create temporary boundaries."

101. Mr Karlovsky discussed in detail the proposed hierarchy of roads, noting that on the collector and local roads the carriageways are reduced to the width required for the vehicular traffic function, with occasional parking beside the road on structural grass substituting for the continuous provision of parking. On 'play streets' and private lanes no provision for parking is made at all. Much of the remaining legal road is dedicated to amenity and landscaping inclusive of storm water treatment. Mr Karlovsky notes that there is a strong emphasis on "traffic calming".

102. The concept of shared space, where the road and footpath are amalgamated with the same surface treatment is perhaps novel in this District. In response to questions from the Commission, Mr Page advised that the only relatively close example in the District was Beech Street in Queenstown. The philosophy that "*removing the usual queues and markings associated with a roadway induces drivers to take greater care and responsibility for their driving behaviour*" is counterintuitive to many people's expectation that a clear delineation between vehicular and pedestrian zones contributes to the safety of pedestrians. In support of this aspect of the application, Mr Karlovsky notes that:

"However, perhaps owing to that perception, evidence to date indicates significant increases in safety where shared space has been introduced."

103. Mr Karlovsky explained that a number of measures are proposed to calm the traffic speed, which include reducing sealed carriageway widths to the minimum dimension required, introducing gentle curves in the carriageway path, narrowing the perceived width of the carriageway with trees and other landscape features, and in some cases (lots 1, 2 and 3) eliminating the setback between buildings and the street. In addition to slowing traffic to make the street more conducive to a public space function, these measures also discourage through traffic as it significantly slows the journey time.
104. Mr Karlovsky is of the opinion that the carriageway rules set out in NZSS4404 are generally complied with if the usual requirements for on-street car-parking within the carriageway are dispensed with. We note that the proposed on-street parking design has been approved by the Lakes Environmental Engineer, Mr Townsley, who has concurred that 125 on-street car parks (as required by the current standard) would be excessive for the proposed development. In this respect, although it has not yet been adopted by Council, the newly revised NZSS4404 places a stronger emphasis on context and place within the road layout. The revised NZSS4404 no longer requires certain numbers of car parks to be provided, but instead requires a design and access statement to be submitted with an application for design approval to the territorial authority.⁵ Overall, we are satisfied that the proposed shared on-street parking in the form of parking bays, together with the off-street parking that is proposed, is sufficient given the nature and scale of the proposal.
105. In contrast to other subdivisions in Wanaka (particularly Mt Iron and Meadowstone), Mr Karlovsky referred us to a review of low density neighbourhoods entitled “Urban Design Critique of Subdivisions in the Queenstown Lakes District” by Boffa Miskell Limited. The key findings for Mt Iron include:
- *“Roads dominate this scheme, both in width and alignment. Wide unused road reserves contribute little and reduce the overall success of the subdivision.*
 - *Though the layout effectively and efficiently subdivides the site, there is little evidence of any creativity in road, lot, or built form arrangements. A combination of acceptable standards provides adequate functionality but fails to promote or generate special character or necessarily contribute to its local context.*
 - *The wider road reserves reduce the overall success of the subdivision.”*

⁵ Per Mr Garland's evidence at paragraph 14.

106. We concur with Mr Karlovsky's conclusion that the emphasis the proposal places on streets as a public place is:

"A very worthy one, which along with the lands use layout and provisions will contribute to a distinctive neighbourhood identity and enable, if not facilitate, community interaction."

107. For the reasons previously discussed, we are satisfied that the proposal meets the standard required by the assessment criteria in respect to access. In particular, the emphasis on the pedestrian oriented environment, while perhaps novel in the context of Wanaka, is, based on the evidence given, a desirable design goal and will result in a network of roads and associated public spaces that are both safe and efficient.

15.2.16.2 – Open Space and Recreation

108. The assessment matter at 15.2.16.2(i) states that the Council shall have regard to, but not be limited by, the extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities.

109. The application proposes a considerable amount of public open space, some of which is specifically designed (the Square and play streets) to provide formal gathering spaces and additional outdoor space within the living clusters. In addition, the tertiary storm water detention areas have a dual function as useable open space for play and recreation. We note Ms Lauenstein's advice that the intention of placing these formal and informal spaces into the streets is deliberate and encourages the interaction of people with their neighbourhood. Accordingly, we are satisfied that the application meets the standard required by this assessment matter.

15.2.17.2 – Protection of Vegetation and Landscape

110. The District Plan sets out a number of criteria with regard to the protection of landscape features and/or vegetation including the following material criteria in relation to this application:

- (i) *Whether any landscape features or vegetation, including mature forests, on the site are of sufficient amenity value that they should be retained and the proposed means of protection;*
- (iii) *Whether the subdivision design will detract from or enhance the significant landscape and visual values of the district including loss, retention or enhancement of native vegetative cover;*
- (iv) *The extent of any earthworks or roading within the subdivision and the need for additional planting or landscaping; and*
- (v) *Any need to provide continual protection for vegetation and/or landscape features within the subdivision, including protection of heritage trees listed in Appendix 5.*

111. Mr Kruger gave extensive evidence as to the landscape values of the site, which have formed the foundation for the comprehensive development approach (in particular, the storm water system and the layout of the lots on the site). Ms Lauenstein commented that the natural character and identity of the site, spatial qualities and general interrelationship of landscape elements have been protected and enhanced by the design approach taken, not just by integrating them into the development but making them the key drivers for the urban design and subdivision layout. She stated:

“Landscape values, elements and individual features have been matched with complimentary and supporting urban values, elements and features in purpose, scale and quality. Making the urban design and built form subordinate to the landscape was considered the most appropriate way to ensure the inherent landscape qualities are not overridden and the positive effects of the landscape features would carry through into the amenity values of the finished design.”

112. The application has been assessed by Dr Marion Read, who described the resulting lot layout as *“much more sensitive to the natural character of the land”* than the more conventional pattern of the existing adjacent development in Rata Street. In relation to the protection of vegetation and landscape she commented:

“The design of the subdivision is such that it responds and builds upon the existing landscape character of the site. A conventional subdivision would erase the interesting convolutions of topography and bury drains in the natural storm water channels. This subdivision proposal uses the natural drainage patterns to create a framework for the subdivision and aims to build upon the character of the site to create character clusters. I consider that it does this very well and that the outcome of this would be both to maintain and to enhance the amenity and character of the site.”

113. Dr Read notes that a feature of the proposed subdivision, based on the low impact storm water management system is the high level of planting proposed within what will become private lots. These landscaping features have been protected in perpetuity by a condition in the consent notice attaching to each title.
114. Dr Read referred us to the manual: "*How to put Nature into our Neighbourhoods: Application of Low Impact Urban Design and Development (LIUDD) Principles, with a Biodiversity Focus, for New Zealand Developers and Home Owners*", which was published by Landcare Research in 2008. She concludes that the proposal complies with the primary LIUDD principle of working with nature's cycles on a catchment basis, stating:

"It directs development through appropriate site selection protecting the character of the landscape. The proposed subdivision aims to work with the natural systems of the site and to cluster activities and to encourage vertical over horizontal form retaining and improving the natural character of the resultant open space. The management of storm water on site maintains the natural catchment flow characteristics. In concert with the storm water management system, indigenous habitat is to be reduced and environmentally sensitive parts of the land are to be re-vegetated. In all, looking at the principles relevant to my areas of expertise, I consider that this proposal complies with the LIUDD principles and has the potential to create a sustainable urban eco-system."

115. Having considered the evidence, we are satisfied that the proposal more than adequately meets the assessment criteria set out at 15.2.17.2 in relation to the protection of vegetation and, in particular, landscape.

Summary of Assessment Matters

116. Overall, we concur with both Mr Garland and Ms Grinlinton-Hancock that the application, although a departure from several of the rules in the District Plan, accords with the criteria required by the assessment matters and that any adverse effects of the rule breaches are less than minor. The approach adopted, which parallels the comprehensive residential design approach contemplated by the District Plan is, in our opinion, far more satisfactory in this case than rigid adherence to the rules, which can only, necessarily, be a blunt instrument. We accept that the strict application of the rules in isolation may not adequately take into account other

aspects of a proposed development which, when considered more holistically, may give greater effect to the intention of the District Plan.

Other Actual and Potential Effects on the Environment

Services

117. Both Ms Grinlinton-Hancock and Mr Townsley have assessed the application in relation to the provision of water, storm water (which has been discussed above) and the foul sewer and telecommunications and power. On the basis of the conditions that have been proposed and agreed to by the Applicant, we are satisfied that there are no effects that are more than minor in relation to services.

Access

118. It should be noted that the proposed roads are in accordance with the Structure Plan. Ms Grinlinton-Hancock noted that the application has been assessed by Mr Jason Bartlett of GHD (Council's Traffic Network Manager). Mr Townsley notes that:

“GHD have generally accepted that the proposal can provide access suitable to Council and that it is appropriate to assess/approve a detailed design should consent be granted.”

119. Based on the advice received from GHD and Lakes Environmental, we are satisfied that there are no issues in relation to access that have not been adequately remedied or mitigated by conditions agreed between Lakes Environmental and the Applicant.

Earthworks

120. We note Ms Grinlinton-Hancock's advice that the proposed earthworks are reasonable and necessary to enable the construction of roads for the development. In her view that application meets the standards required by the District Plan, as mitigated or remedied by appropriate conditions of consent, and we are therefore satisfied that the effects of the proposed earthworks on the environment will be less than minor.

Objectives and Policies of the District Plan

121. The relevant objectives and policies are provided for under s.4 – *Districtwide Issues*, and s.15 – *Subdivision, Development and Financial Contributions of the Operative District Plan*.

122. Ms Grinlinton-Hancock has thoroughly discussed the objectives and policies in relation to Objective 1 – *Servicing*, Objective 5 – *Amenity Protection*, Objective 7 – *The Kirimoko Block*; together with the relevant objectives and policies for the LDR, in particular Objective 1 – *Availability of Land*, and Objective 3 – *Residential Amenity*, as contained in Part 7.1.2 – *Districtwide Residential Objectives and Policies*.
123. We adopt Ms Grinlinton-Hancock’s detailed analysis, noting that many of the issues covered by the relevant objectives and policies have previously been discussed under the assessment matters. However, we wish to comment further on Objective 7 at Part 15.1.3 of the District Plan, which was included following the approval of Plan Change 13 on 28 March 2008 and set out as follows:

“Objective 7 – Kirimoko Block, Wanaka

To create a livable urban environment which achieves best practice in urban design; the protection and incorporation of landscape and environmental features into the design of the area; and high quality built form.

Policies:

- 7.1 *To protect the landscape quality and visual amenity of the Kirimoko Block and to preserve sightlines to local natural landforms.*
- 7.2 *To require that the walkway from Scur Heights across the Kirimoko Block to Peninsula Bay is completed before any subdivision is applied for.*
- 7.3 *To protect the natural topography of the Kirimoko Block and to incorporate existing environmental features into the design of the site.*
- 7.4 *To ensure that urban development of the site is restricted to lower areas and areas of concealed topography, such as gullies (all zoned Low Density Residential) and that visually sensitive areas such as the spurs are left undeveloped (building line restriction area).*
- 7.5 *To ensure the provision of open space and community facilities that are suitable for the whole community and which are located in safe and accessible areas.*
- 7.6 *To develop an interconnected network of streets, footpaths, walkways and open space linkages which facilitate a safe, attractive and pleasant walking, cycling and driving environment.*
- 7.7 *To provide for road and walkway linkages to neighbouring developments.*
- 7.8 *To ensure that all roads are designed and located to minimise the need for extensive cut and fill and to protect the natural topographical layout and features of the site.*

- 7.9 *To minimise disturbance of existing native plant remnants and to enhance areas of native vegetation by providing linkages to other open space areas and to areas of ecological value.*
- 7.10 *To design for stormwater management which minimises run-off and recognises stormwater as a resource through re-use in open space and landscape areas.*
- 7.11 *To require the roading network within the Kirimoko Block to be planted with appropriate trees to create a green living environment appropriate to the areas.”*

124. We have previously discussed Mr Kruger’s evidence in relation to the Kirimoko Plan Change process and the District Plan outcomes which are, to an extent, reflected in Objective 7. It is interesting that the overriding objective for the Kirimoko Block is:

*“To create a liveable urban environment **which achieves best practice in urban design**; the protection and incorporation of landscape and environmental features into the design of the area; and high quality built form.” [Our emphasis]*

125. The reference to “best practice in urban design” perhaps can be viewed as a signal that the standard approach to subdividing land in the District may not in fact be “best practice” for this particular area and that, in order to protect and incorporate landscape and environmental features into the design of the area, a different approach should be adopted. Certainly, the policies at 7.1 to 7.11, which define the key principles, support this approach.
126. We have examined each of the policies set out at 7.1 to 7.11 and have concluded, overall, that the proposal does meet the Objective set out in the District Plan for the Kirimoko Block notwithstanding its departure from several of the Zone rules. It is plain that the landscape quality and the visual amenity of the Kirimoko Block are protected to the greatest extent possible, and that sightlines to local natural landforms (i.e. views out of the subdivision) are also protected. Indeed, this is a central component of the overall design. As Mr Kruger points out, from external viewpoints this Policy is achieved primarily by the Open Space Zone. Similarly, Policy 7.4, which is to ensure that urban development of the site is restricted to lower areas and areas of concealed topography and that visually sensitive areas are left undeveloped, is also achieved.
127. The policies designed to protect the natural topography of the land and to incorporate existing environmental features into the design of the site have already been

canvassed in the proceeding analysis. Accordingly, we are satisfied that Policies 7.3, 7.9, 7.10 and 7.11 are all advanced by the proposal.

128. In relation to Policy 7.5, open space is to be provided in the form of a network of green spaces across the site which are safe and accessible and which provide good linkages to the walking and cycleway network provided for as part of Plan Change 13. Ms Grinlinton-Hancock has noted (in related Policy 7.6) that:

“The proposal provides an interconnected network of streets, facilitating a safe, efficient and pleasant environment for walking, cycling and driving. We are satisfied that the development has taken into account the existing network of walk cycleways set out in the structure plan and that the proposed roading network will connect into the existing network.”

129. Overall, we are satisfied that the application is consistent with the objectives and policies set out in Parts 7 and 15 of the District Plan and, in particular, the specific objectives and policies that relate to the Kirimoko Block.

130. In relation to the residential objectives and policies, we are satisfied that the application is consistent with Objective 3 - *Residential Amenity* and the associated policies. Policy 3.10 in particular, which is *“to provide for and encourage new and imaginative residential development forms within the major new residential areas”*, is clearly advanced by this proposal. Ms Grinlinton-Hancock has noted that the proposal is an innovative design which will result in imaginative residential forms due to the shapes of the sites that have been designed, and the building platforms orientated on the basis of an integrated landscape approach.

131. In relation to Policy 3.12, we are satisfied that the application has not compromised the *“single dwelling character and accompanying amenity values”* of the LDR zone by way of an increase in the density of the zone that is not anticipated. The evidence at the hearing was that although some of the smaller sites would exceed the density standards, overall the subdivision does achieve the density envisaged by the District Plan. Ms Grinlinton-Hancock has concluded that:

“The proposal will not result in an unanticipated level of density: while the density proposed is greater than what could be achieved at subdivision stage, it is acceptable given the detailed design of the building platform locations, heights and setbacks, which ensure that

overall amenity and character anticipated in this zone is maintained into the future.”

132. As previously noted, a covenant will protect against any further subdivision of the larger lots.

133. Policy 3.13 is apposite in relation to this application:

“To require an urban design review to ensure that new developments satisfy the principles of good design.”

134. The proposal has been reviewed in terms of urban design by Mr Karlovsky and we have had the benefit of Ms Lauenstein’s expert evidence at the hearing. Mr Karlovsky considers that:

“The key issue in terms of achieving a suitable urban design outcome is the extent to which a reasonable level of residential amenity can be achieved.”

135. Overall, Mr Karlovsky concludes that although the proposal pushes the boundaries of acceptable subdivision, the landscape approach offers a number of substantial benefits in establishing a series of discreet sub-neighbourhoods with distinct identities. He stated:

“The proposed subdivision sets out to create an urban neighbourhood setting based on an integrated landscape approach featuring low impact design techniques that aspire towards a new benchmark for subdivision standards in the district. The proposal also pushes at the boundaries of acceptable subdivision practice for the Low Density Residential Zone in regard to lot sizes and setbacks from roads and the configuration of the streetscape. I am satisfied that the landscape approach offers a number of substantial benefits in establishing a series of discreet and distinguished sub-neighbourhood of distinct identities, with an integrated streetscape design that achieves an appropriate balance between transport and public space functions with the street types proposed. I am also satisfied that in achieving the above, the proposal fulfils the specific Kirimoko Block Objective 7 and Policies set out in the District Plan.”

136. We have also had regard to the evidence of Mr Garland on behalf of the Applicant. Mr Garland has had a long and distinguished career as a Planner, both within this District and elsewhere in New Zealand.

137. Mr Garland notes, rightly, that for a proposal to be contrary to any objective and policy:

“Something has to be opposed to it in nature, repugnant to or antagonistic to rather than being in contravention of it. Not only that, the array of objectives and policies in every District Plan are inevitably slightly (sometimes significantly) in tension, pulling in different directions. For that reason, a balanced judgment must be made when examining a proposal in light of the relevant objectives and policies, whether for the gateway test of Section 104D or the considerations relevant to Section 104.”

138. In Mr Garland’s view, the 700m² standard is:

“... not there to portray an ideal section size. It is the trigger point below which a proposal is to be examined, among other things, in terms of the array of relevant objectives and policies.”

He goes on to state that he cannot find one objective or policy that this particular proposal could be said to be contrary to.

139. Having reviewed all of the objectives and policies, together with the expert evidence presented by way of report or at the hearing, we concur with Mr Garland’s view in this regard. Importantly, in our view, the District Plan anticipates that the Kirimoko Block will be different from other Low Density areas. Objective 7 and its emphasis on best practice in urban design, in our opinion, anticipates such an outcome. In particular, this relevant objective and associated policies anticipate and encourage different solutions to those of merely following the standards in the District Plan by the use of the word “innovative”. As Mr Garland has noted:

“Kirimoko is expected to be different and it should look different as well if we are to be consistent with the balance of these objectives and policies.”

140. Mr Garland notes that Objective 3 of the objectives regarding residential areas relates to residential amenity, referring to pleasant living environments within which adverse effects are minimised while still providing the opportunity for community needs. He notes that this objective is taken straight from the purpose of the Act set out in s.5. We agree with his comment that there is no common view on what constitutes a pleasant living environment as this is a matter of individual attitude. The current application will produce a living environment much of the nature of which will be known before building occurs, particularly in relation to sunlight, outlook and building bulk and location. It will be up to individual purchasers as to whether this particular environment conforms to their perception of pleasantness.

141. Overall, we agree with Mr Garland's conclusion that developments which simply follow District Plan rules as if they represent an "ideal" will not necessarily meet the objectives and policies for the Kirimoko Block. Rather, we are satisfied that the proposed development is consistent with not only the objectives and policies of the Kirimoko Block but, generally and overall, consistent with all relevant objectives and policies of the District Plan.

Issues Raised by Submitters

142. Mr Graham Dickson and Ms Loris King attended the hearing and spoke in opposition to the application. Their main concerns were in relation to the breach of the minimum lot size and density provisions. Mr Dickson noted that the minimum lot size in the LDR zone in the District generally is 600m², but that Wanaka's minimum lot size of 700m² was reflective of the recognised wish for Wanaka to be developed at a lower density than other parts of the District. In Mr Dickson's view, the objective of the Low Density Zone is to provide lots with sufficient space for a 150-250m² dwelling, room on the section to park boats and trailers, room for children to play, to dry the washing and space for gardens and ancillary sheds. In his opinion that the bulk and location controls ensure sunlight and daylight to dwellings and separation between dwellings to give privacy.
143. For the reasons already given, it is our view, based on the expert evidence, that the proposal, although in breach of the District Plan bulk and location controls, does in fact give effect to their intent – almost certainly in a manner that ensures that sunlight and daylight will be available to each of the dwellings and that there will be sufficient separation between dwellings (in fact more so than the current rules necessarily provide). As far as Mr Dickson's emphasis on living standards is concerned, these are generally externalities that the District Plan does not and cannot regulate. In our opinion, there is sufficient choice within the subdivision layout to provide for families wishing to purchase a larger section, together with those who do not require a large area of land but are content with a smaller more manageable property. The submitter's concerns in relation to "Wanaka's merits or character" have, to a certain extent, been compromised through the ability to subdivide to 450m² in the event that two residences are erected on a 900 m² site prior to subdivision.
144. Mr Dickson notes that in the design of the subdivision, the primary emphasis seems to have been on sustainability and environmental matters. He notes that this is

demonstrated by the sustainability principles which are set out in the application and applied to the design of development. In his view, they seem to focus on “macro issues” and place little emphasis on “liveability” as opposed to the appearance of the development on each site. We respectfully disagree with Mr Dickson and consider that the Applicant has had a very high regard to “liveability”, particularly in relation to the preservation of sunlight, privacy and the protection of views both into and out of the subdivision.

145. As previously noted, the District Plan does not “provide for a lifestyle”. Although we agree with Mr Dickson that residents in Wanaka generally desire an outdoors lifestyle, this does not necessarily mean that all such people require large sections with the associated costs of maintenance. Rather, many residents and holiday home owners do enjoy an outdoor lifestyle which consists of mountain biking, skiing, golf and other activities that necessarily occur outside of private land ownership. Not all residents require a garden, clothesline, tool sheds and wood storage; however, this proposal also caters for those who do.
146. At the conclusion of the hearing, we were presented with a notional plan on which the Applicant had subdivided the Stage 1 area onto 900m² sections, calculating that if these were to be further subdivided into 450m² lots, a total of 46 lots would result. If all lots were a minimum of 700m² in size, there would be 31 lots on the site. In the Applicant’s view, the most realistic outcome of a “conventional” subdivision design would be a total of 36 lots, which is comparable to the current proposal. Accordingly, we do not accept either Mr Dickson or Ms King’s concerns in relation to lot sizes or density which, overall, is comparable with what could be permitted within the Zone standards but which clearly, in our view, would be an inferior outcome for this property.
147. We note further that we had a written submission from Mr Mark Sheehan in support of the application. Mr Sheehan was impressed with the concept and the sound environmental approach taken by the Applicant.
148. In response to the submitters’ concerns, it is plain that the approach taken to urban design for the Kirimoko Block is different and that this was the intention of the Applicant. We have heard evidence criticising the existing patterns of development for their “amorphous nature” and for the fact that they have been driven by the desire to squeeze in as many sections as can possibly be achieved within the standards of

the District Plan. Mr Garland has noted that this has resulted in connectivity problems, neighbourhoods that are unfriendly to pedestrians and increased unmitigated storm water runoff. Although we need not express a view on the merits of previous subdivisions, we are satisfied that this subdivision plan for Kirimoko is innovative, that it encapsulates the principles of best practice urban design for this property, and that it is both landscape and ecologically friendly whilst endeavouring to be socially proactive.

Other Issues

Permitted Baseline

149. Both Mr Page and Ms Grinlinton-Hancock addressed the issue of the permitted baseline. Mr Page noted that while Kirimoko has specific objectives and policies that encourage innovative design (Objective 7 and its associated policies at page 15.6 of the District Plan), the rules that define the permitted baseline in the LDR portion of Koromiko are the same generic LDR land use and subdivision rules that apply District Wide. As a result, and as has been demonstrated by this application, there is considerable tension between urban design best practice and the “blunt” restrictions of the lot size and density Zone standards. We accept Mr Page’s submission that the application of the permitted baseline is discretionary and that the permitted baseline only incorporates those activities that are permitted.
150. Rule 15.2.3.1 states *“there shall be no permitted subdivision activities”*. Accordingly, there can be no permitted baseline against which an application for subdivision can be assessed. We accept Mr Page’s further submission that in considering this component of the application, the Commission is restricted to considering subdivision that is contemplated by the District Plan through its minimum area and site density rules. This is the approach that we have adopted.
151. In discussing the latter approach, Ms Grinlinton-Hancock notes that if all lots were subdivided into 900m² and had two dwellings constructed on them prior to subdivision, up to 62 allotments could be created. However, in her opinion, a more realistic scenario under the current District Plan rules would be that only 50% of the 900m² allotments would be developed for two units, which would result in the creation of 47 allotments overall. This figure is similar to that advanced by the Applicant and referred to in our preceding discussion. As has previously been

discussed, the application provides for 36 residential allotments, which is considerably less than that which might be obtained under the District Plan rules as a controlled activity.

Precedent

152. A number of submitters have raised the issue of precedent and the effect that granting this application may have on the integrity of the District Plan and, consequently, the public's confidence in the District Plan.

153. In our opinion, the proposal will not set a precedent in the sense that it will negatively impact on the integrity of the District Plan. For the reasons previously explored, the proposal does not result in any adverse effects that cannot be suitably remedied, mitigated or avoided, and is not, when taken as a whole, contrary to the objectives and policies of the District Plan. Rather, it is consistent with those that are the most relevant (i.e. those that refer directly to the Kirimoko Block). Further, the proposal closely resembles a comprehensive residential development (notwithstanding the absence of detailed building designs) and, accordingly, is in a sense a development that is contemplated by the District Plan. As Ms Grinlinton-Hancock observed, the Applicant is proposing a highly articulated design having set out for each site the building form parameters that future dwellings will be constructed within and has volunteered a "no further subdivision" condition so that the density of the site will be finite. In her words:

"Therefore the proposal is not considered to set a precedent in terms of minimum lot size, however it is likely to set the precedent or benchmark for innovative subdivision design in the wider Wanaka area."

We respectfully concur with this view.

154. Mr Garland went further, stating:

"Would there be a precedent set? On the basis of like being treated in like fashion, I am comfortable in saying 'I hope so', because there is both good and bad precedence. There would be no encouragement for others to have smaller sections unless they too were part of a comprehensive development with hydraulic neutrality, rather less dwellings than could result from a regular development and no further subdivision allowed."

Rule 15.2.3.4(vii) Non-compliance

155. As previously noted, the application technically does not currently comply with Rule 15.2.3.4(vii) in relation to the construction of a walkway to QLDC standard between Aubrey Road and Peninsula Bay, which is to be protected by the registering of an easement in gross on all servient titles. Mr Garland explained that the walkway has been formed and the form of the easement finalised, but that the detail in relation to reserve contributions has not been agreed between the parties. Accordingly, the easement has not yet been registered on the appropriate titles (none of which we understand are involved in this application).
156. On the technical side, Council has confirmed that the walkway does meet the required standard. Accordingly, we are of the view that as the walkway has been formed and is in operation, and that the matter of the easement, which is almost finalised, is not within the control of the Applicant, the technical non-compliance with the rules is not a reason to decline this proposal.

Threshold Test

157. From our detailed analysis of the effects on the environment, which focuses on the relevant assessment matters, we have concluded that there are no adverse effects which are more than minor. The proposal therefore passes the first limb of the threshold test in s.104D.
158. For the reasons outlined above, we have formed the view that the proposal is consistent with the relevant objectives and policies of the District Plan when taken as a whole and that it cannot be regarded as “contrary” insofar as s.104D is concerned.
159. Accordingly, the proposal passes the threshold test set out in s.104D for a non-complying activity.

Section 104(1) – Evaluation of the Proposal

160. As the proposal has passed the threshold test in s.104D, we must now address the substantive decision under s.104(1). Given that this is a non-complying application, there must be some unusual quality to justify a departure from the provisions of the District Plan.

161. Having had regard to the actual and potential effects of the proposal on the environment together with the objectives and policies of the District Plan based on the comprehensive design approach adopted by the Applicant (all of which have been discussed in detail above), we find that the unusual quality of the application as a whole does justify a departure from the Zone standards of the District Plan for the reasons examined in detail above.

Part 2

162. We concur with Mr Garland that s.5 is:

“Singularly important because the purpose of the Act is to promote the sustainable management of natural and physical resources.”

163. Mr Garland goes on to note that the function of District Plans is to protect the environment from the adverse effects of development, while also recognising that people in communities must be able to achieve reasonable outcomes with their properties. In his words:

“Some detractions to the environment are inevitable if we are to live on land and that is acceptable. I believe that is why adverse effects do not have to be avoided but can be mitigated. A balance is required.”

164. We agree with Mr Garland that District Plans should reflect a balance between sustainability and the right to use and develop land for community purposes. However, they are, and can only be, crude tools in that respect. In our view the Applicant has in fact significantly refined this tool by replacing the more generic provisions of the District Plan with site specific provisions. In this way, a wide choice of living styles which sit comfortably together in a common environment, and which have no unexpected effects on existing development, can be accommodated while at the same time the usual adverse effects in terms of storm water runoff are avoided or mitigated. Overall, the proposal is perhaps more regulated than the District Plan seeks to provide to purchasers and residents; however, the trade-off is that purchasers can be more certain of the effects that adjoining developments can have.
165. Ms Grinlinton-Hancock also addresses Parts 2 and s.7 of the Act in her report. In her opinion, the proposal gives effect to the purpose of the Act, sustainable management, and is consistent with the relevant matters listed in s.7(b), (c) and (f).

166. We note that the definition of “amenity values”, which are natural and physical characteristics that contribute to people’s enjoyment of an area, their appreciation of its pleasantness and aesthetic coherence, and cultural and recreational attributes are both maintained and significantly enhanced by the proposal. In particular, the design and layout of the subdivision, which takes into account the topography of the land and the sustainability of the design in terms of the use of water and disposal of storm water, which has in turn led to a network of green areas, rain gardens and open spaces, is entirely consistent with the relevant principles set out in s.7.

Conclusion

167. The Applicant has sought consent for a 51 lot freehold subdivision which includes 37 residential allotments, associated infrastructure, identification of build areas and associated earthworks.

168. Overall, the activity has been assessed as a non-complying activity.

169. Having regard to the matters set out in s.104, which have been addressed in this decision, we exercise our discretion to grant the application. Overall, in our view, the proposal will result in sustainable development and is therefore appropriate for this particular site.



Jane Taylor and Leigh Overton

Hearings Commissioners

14 September 2010

Crescent Investments Limited Conditions

Decision 1: Subdivision Consent

Consent is GRANTED pursuant to Section 104 of the Act, subject to the following conditions imposed pursuant to Section 220 of the Act:

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans (***stamped as approved 14 September 2010***) and the application as submitted, with the exception of the amendments required by the following conditions of consent. The approved plans are as follows:
 - a. Morgan+Pollard plan ref: 037 040 *'Resource Consent Application Stage 1 – Sheet 1'*
 - b. Morgan+Pollard plan ref: 047 040 *'Resource Consent Application Stage 1 – Sheet 2'*
 - c. Morgan+Pollard plan ref: 039 040 *'Interim Layout and Heights Development Plan'*
 - d. Morgan+Pollard plan ref: 009 080 *'Overall Public Structure & Circulation Network'*
 - e. Morgan+Pollard plan ref: 015 080 *'Overall Private Structure & Clusters'*
 - f. Morgan+Pollard plan ref: 019 080 *'Overall Stormwater Treatment'*
 - g. Morgan+Pollard plan ref: 023 080 *'Overall Green Network'*
 - h. Morgan+Pollard plan ref: 031 080 *'Stage One Layout'*
 - i. Morgan+Pollard plan ref: ID007B 080 *'Landscape Implementation'*

Engineering

2. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being New Zealand Standard 4404:2004 with the amendments to that standard adopted on 5 October 2005, except where specified otherwise.
3. The subdividing owner of the land shall provide a letter to the Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this subdivision and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.4 & 1.5 of NZS4404:2004 "Land Development and Subdivision Engineering", in relation to this development.
4. Prior to the commencement of any works on the land being subdivided the consent holder shall provide to the Queenstown Lakes District Council for review and approval, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (2), to detail the following engineering works required:
 - a) The provision of a water supply to the subdivision connected into the 300mm Council water main located in Kirimoko Crescent connected to service each Lot in terms of Council's standards and connection policy. This shall include an Acuflo GM900 as the toby valve to each residential lot and an appropriate connection to the proposed Childcare Centre. The costs of the connection shall be borne by the consent holder. The water supply shall be provided to the boundary of each stage to cater for future development.
 - b) The provision of fire hydrants with adequate pressure and flow to service the development with a Class FW2 fire risk in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies 2008. Any lesser risk must be approved in writing by Fire Service NZ, Dunedin Office.

- c) The provision of a foul sewer connection from each Residential Lot to Council's reticulated sewerage system in accordance with Council's standards and connection policy, which shall be able to drain the buildable area within each lot. The costs of the connections shall be borne by the consent holder. Sewer reticulation shall be provided to the boundary of each stage to cater for future development.
 - d) The provision of a 'Low Impact Design' stormwater reticulation and disposal system generally in accordance with the report prepared by Pattle Delamore Partners Ltd, dated May 2009. The low impact stormwater drainage system shall be designed by to ensure the peak flow rate discharged at Rata Street and Kirimoko Crescent shall not exceed the assessed undeveloped peak flow rate for a 50 year ARI rainfall event. The system shall include the provision of a connection from all future impervious areas in each Residential Lot to the Council reticulated stormwater disposal system. Each connection shall be able to drain the entire area of the lot. The costs of the connections shall be borne by the consent holder.
 - e) The provision of secondary flow paths to contain overland flows in a 1 in 100 year event so that there is no inundation of any buildable areas on any Lot, and no increase in the peak flow rates onto land beyond the site from the pre-development situation.
 - f) The formation of all subdivision roads in accordance with Council's standards. Road links shall be provided to the boundary of each stage to cater for future development.
 - g) The provision of intersections with Kirimoko Crescent and Rata Street in accordance with Council's Standards.
 - h) The provision for the design and construction of all parking and manoeuvring areas in accordance with Council's standards.
 - i) The formation of all pedestrian and cycling links within Stage 1 as detailed in the application.
 - j) The provision of road lighting in accordance with Council's road lighting policies and standards, including the *Southern Light* lighting strategy. Any road lighting installed on private roads/rights of way/access lots shall be privately maintained and all operating costs be the responsibility of the lots serviced by such access roads. Any lights installed on private roads/rights of way/access lots shall be isolated from the Council's lighting network circuits.
 - k) The nature and extent of all earthworks associated with the subdivision including any earthworks associated with the low impact stormwater system, landscaping, roading or servicing to be carried out on Lot 51, being the balance land within the site upon which future stages will be developed.
 - l) A suitably qualified geotechnical professional shall provide a completed Schedule 2A as found on page 40 in NZS4404:2004 that shall provide the Council assurance that the land is suitable for the proposed residential development.
5. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
- a) Obtain confirmation from QLDC Infrastructure Services that either:
 - i) the Bremner Bay Waste Water Pump Station has been upgraded and commissioned to create capacity for this development; or
 - ii) sufficient capacity exists within the existing reticulated waste water system to accommodate this development.

- b) The submission of 'as-built' plans in accordance with Council's 'as-built' standards, and information required to detail all engineering works completed in relation to or in association with this subdivision.
- c) The completion and implementation of all works detailed in Condition (4) above.
- d) Each lot created, for residential use, by this subdivision shall be provided with a minimum electricity supply of single phase 15kVA capacity. This supply shall be made available to the net area of the Lot. Each supply shall be underground from any existing reticulation.
- e) The consent holder shall provide a suitable and usable telecommunications connection to each lot. These connections shall be underground from any existing reticulation and in accordance with any requirements/standards of Telecom.
- f) Where this development involves the vesting of assets in the Council, the consent holder shall submit to Council a copy of the Practical Completion Certificate, including the date it was issued and when it lapses. This information will be used to ensure the Council's Engineering consultants are aware of the date where the asset is no longer to be maintained by the consent holder and to assist in budgeting for the Annual Plan.
- g) All signage, including road names, shall be installed in accordance with Council's signage specifications and all necessary road markings completed on all public or private roads (if any), created by this subdivision.
- 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 building platforms as shown on the scheme plan shall be registered on the pertinent Computer Freehold Register.
- j) A covenant shall be prepared and registered against the computer freehold register of each lot within stage 1, excluding Lot 3, Lot 38 and Lot 51 stating the following:
- "There shall be no further subdivision of this Lot other than minor boundary adjustments that do not create any additional, separately saleable, residential allotment/s".*
- k) A covenant shall be prepared and registered against the computer freehold register of Lot 51 stating the following:
1. *"Any application for further subdivision of Lot 51 shall result in an overall residential density within the Subdivision Site (being the underlying lots Lot 1 DP 347876, Lot 2 DP 301928 and Lot 12 DP 300734) not exceeding 1 residential unit per 650m²."*
 2. *"For avoidance of doubt, residential density is calculated by including only those lots within the Kirimoko subdivision upon which a residential dwelling may be constructed."*
- l) A covenant shall be prepared and registered against the computer freehold register of Lot 51 stating the following:
- "Any application for further subdivision of Lot 51 shall be in general accordance with the following plans:*

Morgan+Pollard plan 015-080 'Overall Private Structure & Clusters'

Morgan+Pollard plan 023-080 'Overall Green Network'."

6. Prior to certification pursuant to Section 224 of the Act and in accordance with Section 221 of the Act, a consent notice shall be prepared and approved by the Council for registration against the pertinent computer freehold register of each lot for the performance of the following conditions on a continuing basis:
- a) "Except for Lot 3, Lot 38 and Lot 51 there shall be no further subdivision of any lot other than minor boundary adjustments that do not create any additional, separately saleable, residential allotment/s"
 - b) "Any application for further subdivision of Lot 51 shall result in an overall residential density within the subdivision site (being the underlying lots Lot 1 DP 347876, Lot 2 DP 301928 and Lot 12 DP 300734) not exceeding 1 residential unit per 650m²
For avoidance of doubt, residential density is calculated by including only those lots within the Kirimoko subdivision upon which residential dwellings may be constructed."
 - c) "Any application for further subdivision of Lot 51 shall be in general accordance with the following plans:
Morgan+Pollard plan 015-080 'Overall Private Structure & Clusters'
Morgan+Pollard plan 023-080 'Overall Green Network'."
 - d) "All buildings shall be sited entirely within the building platform as shown on the Plan of Subdivision except:
 - a. Minor encroachments beyond the building platform which comply with the following:
 - (i) The encroachment extends no more than 1m outside of the building platform as shown on the Plan of Subdivision; and
 - (ii) the variation does not exceed more than 10% of the building platform area identified of the Residential Lot on the plan of subdivision; and
 - (iii) the encroachment is offset elsewhere in the Building design so the buildable area for the Residential Lot is not increased; and
 - (iv) Prior written approval is obtained from all of the adjacent land owners of Residential Lots and the Kirimoko Park Resident's Association Incorporated."
 - e) "In respect of lots 1, 2, 3, 4 (western boundary only), 5 and 6 the Building constructed on the site shall not have any setback from the legal road boundary".
 - f) "In respect of lots 33, 34 and 35 the Building constructed on the site shall not have any setback from access lot 36.
 - g) "Any building constructed on a building platform shall comply with the controls specified in the table below relating to maximum building area and any specified ancillary areas. The location of each Building shall be in accordance with the building platform identified in the Plan of Subdivision. Any ancillary structure may be located to any point along the building platform boundary shown on the Plan of Subdivision with the prior approval of the Kirimoko Park Residents Association Incorporated.

| Kirimoko | | | | | | |
|-------------------------------------------------------|--------------|------------------|-------------------|--------------|---------------------------|-------------|
| Maximum Building Area for each lot | | | | | | |
| lot number | lot area m2 | platform area m2 | max building area | % | ancillary areas m2 | % |
| 1 | 337 | 190 | 160 | 47.5% | | |
| 2 | 316 | 226 | 170 | 53.8% | | |
| 3 | 1288 | 910 | 910 | 70.7% | comprehensive development | |
| 4 | 415 | 194 | 190 | 45.8% | | |
| 5 | 426 | 176 | 176 | 41.3% | | |
| 6 | 458 | 185 | 185 | 40.4% | | |
| 7 | 444 | 168 | 168 | 37.8% | | |
| 8 | 600 | 208 | 208 | 34.7% | | |
| 9 | 392 | 187 | 187 | 47.7% | | |
| 10 | 645 | 257 | 257 | 39.8% | 25 | |
| 11 | 380 | 178 | 178 | 46.8% | | |
| 12 | 411 | 251 | 220 | 53.5% | 14 | |
| 13 | 678 | 231 | 200 | 29.5% | 16 | |
| 14 | 775 | 208 | 200 | 25.8% | 14 | |
| 15 | 697 | 276 | 220 | 31.6% | 18 | |
| 16 | 687 | 282 | 220 | 32.0% | 26 | |
| 17 | 527 | 185 | 185 | 35.1% | 26 | |
| 18 | 543 | 225 | 190 | 35.0% | 16 | |
| 19 | 407 | 191 | 191 | 46.9% | 22 | |
| 20 | 530 | 190 | 190 | 35.8% | 16 | |
| 21 | 522 | 173 | 173 | 33.1% | 16 | |
| 22 | 644 | 241 | 200 | 31.1% | 16 | |
| 23 | 676 | 193 | 193 | 28.6% | 18 | |
| 24 | 373 | 146 | 146 | 39.1% | | |
| 25 | 606 | 213 | 213 | 35.1% | 22 | |
| 26 | 763 | 241 | 241 | 31.6% | | |
| 27 | 706 | 186 | 186 | 26.3% | 22 | |
| 28 | 483 | 224 | 200 | 41.4% | 25 | |
| 29 | 751 | 333 | 250 | 33.3% | 30 | |
| 30 | 1039 | 392 | 320 | 30.8% | | |
| 31 | 869 | 377 | 353 | 40.6% | | |
| 32 | 709 | 335 | 260 | 36.7% | | |
| 33 | 527 | 250 | 200 | 38.0% | | |
| 34 | 416 | 202 | 200 | 48.1% | | |
| 35 | 541 | 262 | 200 | 37.0% | | |
| 37 | 710 | 274 | 250 | 35.2% | 18 | |
| 39 | 700 | 228 | 228 | 32.6% | 16 | |
| Total | 21991 | 9188 | 8418 | 38.3% | 376 | 1.7% |
| Maximum possible combined building area is 40% | | | | | | |

7. All easements shall be granted or reserved.
8. Prior to commencing works on site, the consent holder shall submit a Site Management Plan to Council for Approval detailing all measures to be taken to ensure that the adverse effects resulting from any earthworks undertaken on the site will be controlled and mitigated.

9. Prior to commencing works on site, the consent holder shall submit a traffic management plan for the connections into Rata Street and Kirimoko Crescent to Council for approval. The Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor (certification gained by attending the STMS course and getting registration). All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Traffic Management Plan.
10. The consent holder shall implement the following traffic management measures during all works carried out on the site:
 - Suitable site warning signage shall be in place on the road in both directions from the site entrance.
 - Safety 'dayglo' vests or similar shall be worn by any staff working on the road.
 - Safe sight distances and passing provisions shall be maintained.
11. Prior to commencing any work on the site the consent holder shall install vehicle crossings from Rata Street and Kirimoko Crescent, which all construction traffic shall use to enter and exit the site. The minimum standard for this crossing shall be a minimum compacted depth of 150mm AP40 metal and extend a minimum of 50m into the site. These crossings shall be upgraded in accordance with Council's standards at the time the roading is constructed on the site.
12. The consent holder shall install measures to control and or mitigate any dust, silt run-off and sedimentation that may occur. 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.
13. 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 their expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.
14. On the completion of the earthworks a suitably qualified engineer experienced in soils investigations shall provide certification, in accordance with NZS 4431:1989, for all areas within the site on which buildings may be founded.
15. Within four weeks of completing the earthworks the consent holder shall submit to Council an as built plan of the fill, which shall be forwarded to the GIS analysts. This plan shall be in terms of Transverse Mercator (projection clearly referenced) and shall show the contours indicating the depth of fill. Any fill that has not been certified by a suitably qualified and experienced engineer in accordance with NZS 4431:1989 shall be recorded on the as built plan as "uncertified fill".
16. At the completion of the earthworks all earth-worked areas shall be top-soiled and grassed or otherwise permanently stabilised within 4 weeks.
17. No earthworks, temporary or permanent, are to breach the boundaries of the site other than those associated with the realignment of Kirimoko Crescent and the formation of stormwater detention areas within the road reserve.
18. In order to allow for the development and release of allotments in a controlled and logical manner the subdivision may be staged in any order that the consent holder sees fit provided that all residential allotments within each stage are adequately serviced and accessed in accordance with the conditions of this consent.

Design Control and Landscaping

19. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
 - a. A detailed design guide for the development shall be submitted to Council. In this instance the design guide should meet the following objectives:
 - Set a palette of architectural and landscape forms, features and materials to establish a cohesive sense of visual character to individual neighbourhoods
 - Set the ground rules for how varying building typologies will interface with the streetscape public realm to ensure a balance between passive surveillance and residential privacy.
 - b. Detailed landscape plans shall be submitted to and approved by Council prior to each stage of the development. The detailed plans shall demonstrate a clear distinction between private and public space where required.
 - c. Detailed specifications of on street amenity (road and footpath treatments) shall be submitted to Council and approved prior to each stage of the development.
 - d. All planting shall be undertaken in accordance with the approved plans and plans as amended by condition 18(b) within the first available planting season following the completion of all site works for a specific stage. All planting shall be irrigated as necessary until established and then shall be maintained according to the approved plan. Should any plant die or become diseased or damaged it shall be replaced within the next available planting season.

20. Prior to certification pursuant to section 224 of the Act and in accordance with section 221 of the Resource Management Act 1991, a consent notice shall be registered on the pertinent Computer Freehold Register for the performance of the following conditions on a continuing basis:
 - a. All planting which has been undertaken by the subdivider in accordance with the approved plans and which located within the residential lots shall be maintained according to those plans in perpetuity. Should any plant die or become diseased or damaged it shall be replaced within the next available planting season.
 - b. All dwellings shall be constructed in accordance with the design guidelines and must receive approval from ***Kirimoko Park Resident's Society Incorporated*** prior to the commencement of construction. A copy of the approval shall be provided with any building consent application.
 - c. No building shall exceed a height of 7 metres as defined in the plan at the time of granting consent.
 - d. Any structures constructed outside the building platform shall be subject to the relevant rules of the District Plan.

21. Prior to certification pursuant to section 224(c) of the Act the consent holder shall incorporate The Kirimoko Park Resident's Association Incorporated. The Society shall be responsible for, among other things:
 - a. The implementation and enforcement of the Kirimoko Design Code;
 - b. The proper supply, operation, maintenance, repair, renovation and replacement of communal property and hydrological systems within Kirimoko Park; and

- c. Installation and maintenance of utilities.
22. Prior to certification pursuant to section 224(c) of the Act a covenant shall be prepared and registered on the computer freehold register of all the lots (except 38 and 51) requiring the following:
- “On becoming the registered proprietor of a Residential Lot in the Kirimoko Park Subdivision the registered proprietor shall:*
- Automatically become a member of the Kirimoko Park Residents’ Association Incorporated formed in compliance with condition 21 above; and*
- remain a Member of the incorporated society for so long as they are the registered proprietor of that Residential Lot; and*
- to fulfil and to continue to fulfil the obligations of a Member as set out in the Rules of the incorporated society.”*
23. Prior to certification pursuant to section 224 of the Act the final form of the covenants relating to the bulk, location and design of future dwellings shall be provided to Council and registered on the relevant computer freehold registers.
24. This consent shall lapse ten years from the date of issue.

Decision 2: Land Use Consent

Consent is GRANTED pursuant to Section 104 of the Act, subject to the following conditions imposed pursuant to Section 108 of the Act:

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans (***stamped as approved 14 September 2010***) and the application as submitted, with the exception of the amendments required by the following conditions of consent. The approved plans are as follows:
 - a. Morgan+Pollard plan ref: 037 003 '*Resource Consent Application Stage 1 – Sheet 1*'
 - b. Morgan+Pollard plan ref: 047 003 '*Resource Consent Application Stage 1 – Sheet 2*'
 - c. Morgan+Pollard plan ref: 039 003 '*Interim Layout and Heights Development Plan*'
2. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991 and shall pay to Council an initial fee of \$100.

Design Control

3. The dwelling and ancillary buildings constructed within each lot shall comply with the following standards:
 - (a) All structures (excluding ancillary buildings) shall be located within the building platforms as shown on the concept development plan; except
 - (i) Where the encroachment of any building beyond the building platform is minor, and extends no more than 1m outside of the building platform as shown on the concept development plan and
 - (ii) The variation does not exceed more than 10% of the overall buildable area identified for the allotment on plan (reference); and
 - (iii) The encroachment is offset elsewhere in the building design so the buildable area for the allotment is not increased; and
 - (iv) Prior written approval is obtained from all of the adjacent landowners and the management body.
 - (b) The maximum height of any two storey section of any dwelling as specified for the allotment on Morgan+Pollard's Interim Layout and Heights Development Plan shall not exceed 7m.
 - (c) The maximum height for any single storey section of any dwelling as specified for the allotment on Morgan+Pollard's Interim Layout and Heights Development Plan shall not exceed 4.5m; except where
 - (i) the proposed single storey section does not exceed 5m above ground level; and
 - (ii) the prior written approval is obtained from all of the adjacent landowners and the management body.
 - (d) Prior to the commencement of any works on the land being subdivided the consent holder shall provide to the Queenstown Lakes District Council the 'design guidelines' for development within the subdivision.

(e) Prior to the commencement of any works on Lots 1, 2, 3, 4, 5 or 6 plans shall be submitted to Council for approval outlining the relationship of any proposed dwelling with the street. The plans to be submitted shall demonstrate the following:

- Facade modulation at the road boundary
- That an appropriate balance between passive surveillance and residential privacy is achieved
- A clear distinction between public and private space

Building Coverage

4. Prior to any building works being carried out on any of the residential allotments the consent holder shall submit a schedule to Council outlining what the maximum building coverage will be for each lot which will maintain an overall maximum building coverage of 40% across the entire site.

Engineering

5. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being New Zealand Standard 4404:2004 with the amendments to that standard adopted on 5 October 2005 except where specified otherwise.

6. The subdividing owner of the land shall provide a letter to the Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this subdivision and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.4 & 1.5 of NZS4404:2004 "Land Development and Subdivision Engineering", in relation to this development.

7. Prior to the commencement of any works on the land being subdivided the consent holder shall provide to the Queenstown Lakes District Council for review and approval, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (5), to detail the following engineering works required:

- a) The provision of a water supply to the subdivision connected into the 300mm Council water main located in Kirimoko Crescent connected to service each Lot in terms of Council's standards and connection policy. This shall include an Acuflo GM900 as the toby valve to each residential lot and an appropriate connection to the proposed Childcare Centre. The costs of the connection shall be borne by the consent holder. The water supply shall be provided to the boundary of each stage to cater for future development.
- b) The provision of fire hydrants with adequate pressure and flow to service the development with a Class FW2 fire risk in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies 2008. Any lesser risk must be approved in writing by Fire Service NZ, Dunedin Office.
- c) The provision of a foul sewer connection from each Residential Lot to Council's reticulated sewerage system in accordance with Council's standards and connection policy, which shall be able to drain the buildable area within each lot. The costs of the connections shall be borne by the consent holder. Sewer reticulation shall be provided to the boundary of each stage to cater for future development.
- d) The provision of a 'Low Impact Design' stormwater reticulation and disposal system in accordance with the report prepared by Pattle Delmore Partners Ltd, dated May 2009. The system shall include the provision of a connection from all future impervious areas in each Residential Lot to the Council reticulated stormwater disposal system. Each connection shall be able to drain the entire area of the lot. The costs of the connections shall be borne by the consent holder.

- e) The provision of secondary flow paths to contain overland flows in a 1 in 100 year event so that there is no inundation of any buildable areas on any Lot, and no increase in run-off onto land beyond the site from the pre-development situation.
 - f) The formation of all subdivision roads in accordance with Council's standards. Road links shall be provided to the boundary of each stage to cater for future development.
 - g) The provision of intersections with Kirimoko Crescent and Rata Street in accordance with Council's Standards.
 - h) The provision for the design and construction of all parking and manoeuvring areas in accordance with Council's standards.
 - i) The formation of all pedestrian and cycling links within Stage 1 as detailed in application.
 - j) The provision of road lighting in accordance with Council's road lighting policies and standards, including the *Southern Light* lighting strategy. Any road lighting installed on private roads/rights of way/access lots shall be privately maintained and all operating costs be the responsibility of the lots serviced by such access roads. Any lights installed on private roads/rights of way/access lots shall be isolated from the Council's lighting network circuits.
 - k) The nature and extent of all earthworks associated with the subdivision including any earthworks associated with the stormwater system, landscaping, roading or servicing to be carried out on Lot 51, being the balance land within the site upon which future stages will be developed.
 - l) A suitably qualified geotechnical professional shall provide a completed Schedule 2A as found on page 40 in NZS4404:2004 that shall provide the Council assurance that the land is suitable for the proposed residential development.
8. Prior to commencing works on site, the consent holder shall submit a Site Management Plan to Council for Approval detailing all measures to be taken to ensure that the adverse effects resulting from any earthworks undertaken on the site will be controlled and mitigated.
 9. Prior to commencing works on site, the consent holder shall submit a traffic management plan for the connections into Rata Street and Kirimoko Crescent to Council for approval. The Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor (certification gained by attending the STMS course and getting registration). All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Traffic Management Plan.
 10. The consent holder shall implement the following traffic management measures during all works carried out on the site:
 - Suitable site warning signage shall be in place on the road in both directions from the site entrance.
 - Safety 'dayglo' vests or similar shall be worn by any staff working on the road.
 - Safe sight distances and passing provisions shall be maintained.
 11. Prior to commencing any work on the site the consent holder shall install vehicle crossings from Rata Street and Kirimoko Crescent, which all construction traffic shall use to enter and exit the site. The minimum standard for this crossing shall be a minimum compacted depth of 150mm AP40 metal and extend a minimum of 50m into the site. These crossings shall be upgraded in accordance with Council's standards at the time the roading is constructed on the site.
 12. The consent holder shall install measures to control and or mitigate any dust, silt run-off and sedimentation that may occur. 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.

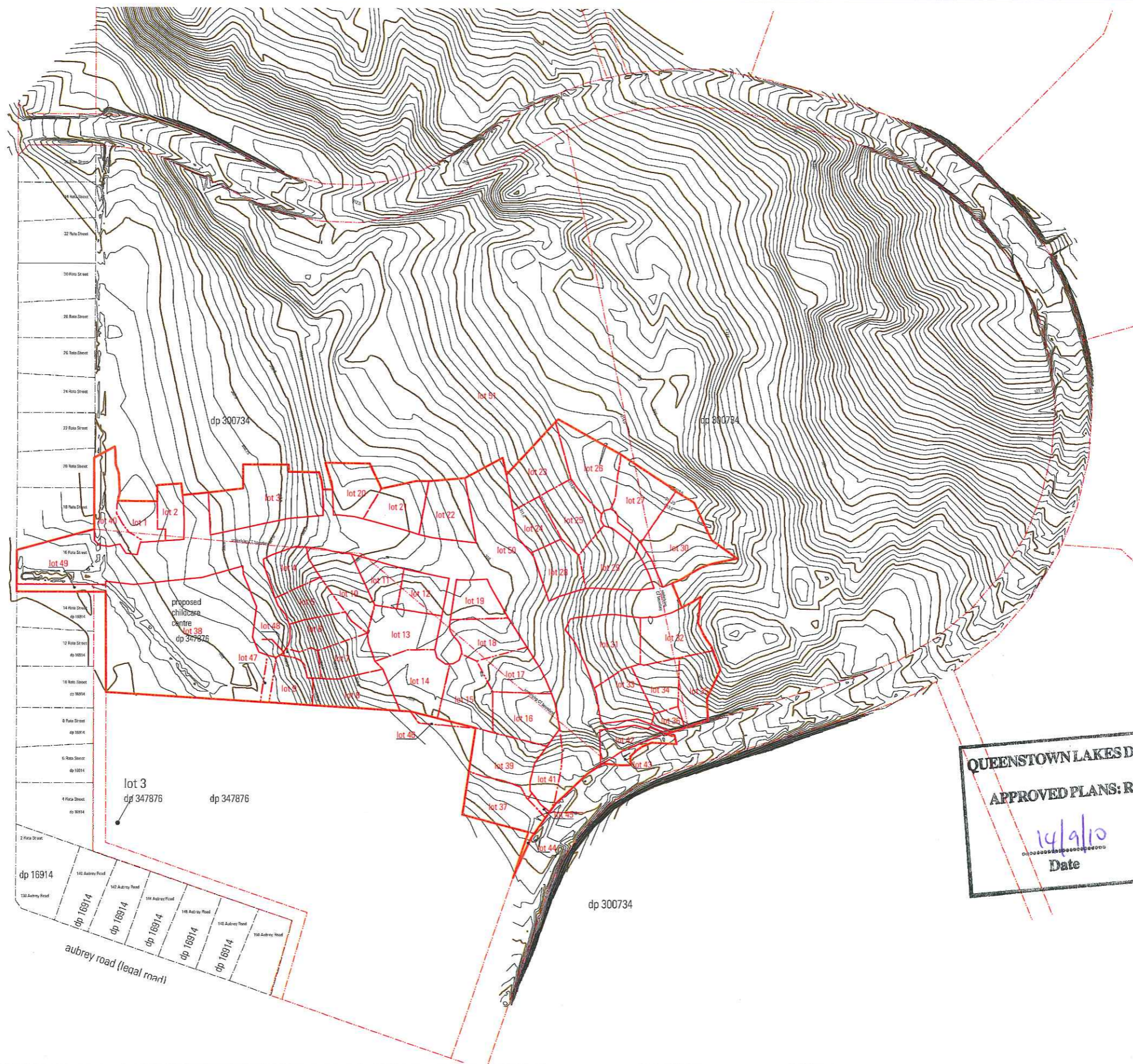
13. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at their expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.
14. On the completion of the earthworks a suitably qualified engineer experienced in soils investigations shall provide certification, in accordance with NZS 4431:1989, for all areas within the site on which buildings may be founded.
15. Within four weeks of completing the earthworks the consent holder shall submit to Council an as-built plan of the fill, which shall be forwarded to the GIS analysts. This plan shall be in terms of Transverse Mercator (projection clearly referenced) and shall show the contours indicating the depth of fill. Any fill that has not been certified by a suitably qualified and experienced engineer in accordance with NZS 4431:1989 shall be recorded on the as built plan as "uncertified fill".
16. At the completion of the earthworks all earth-worked areas shall be top-soiled and grassed or otherwise permanently stabilised within 4 weeks.
17. No earthworks, temporary or permanent, are to breach the boundaries of the site other than those associated with the realignment of Kirimoko Crescent and the formation of stormwater detention areas within the road reserve.

Review:

18. Within 10 working days of each anniversary of the date of this decision or upon the receipt of information identifying non-compliance with the conditions of this consent, the Council may, in accordance with Sections 128 & 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
 - (a) there is or is likely to be an adverse environmental effect as a result of the exercise of this consent, which was unforeseen when the consent was granted.
 - (b) monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse effect on the environment.
 - (c) There has been a change in circumstances such that the conditions of the consent are no longer appropriate in terms of the purpose of the above Act.

Advice Note

- a. This site may contain archaeological material. Under the Historic Places Act 1993, the permission of the NZ Historic Places Trust 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 NZ Historic Places Trust must be contacted (Dunedin office phone 03 477 9871).



key - private lots

⊗ datum:
OITIV DP300734, Height 327.71m

— proposed legal boundaries

— stage one - demarcation boundary

— abutments

— contours major (2.5m interval)

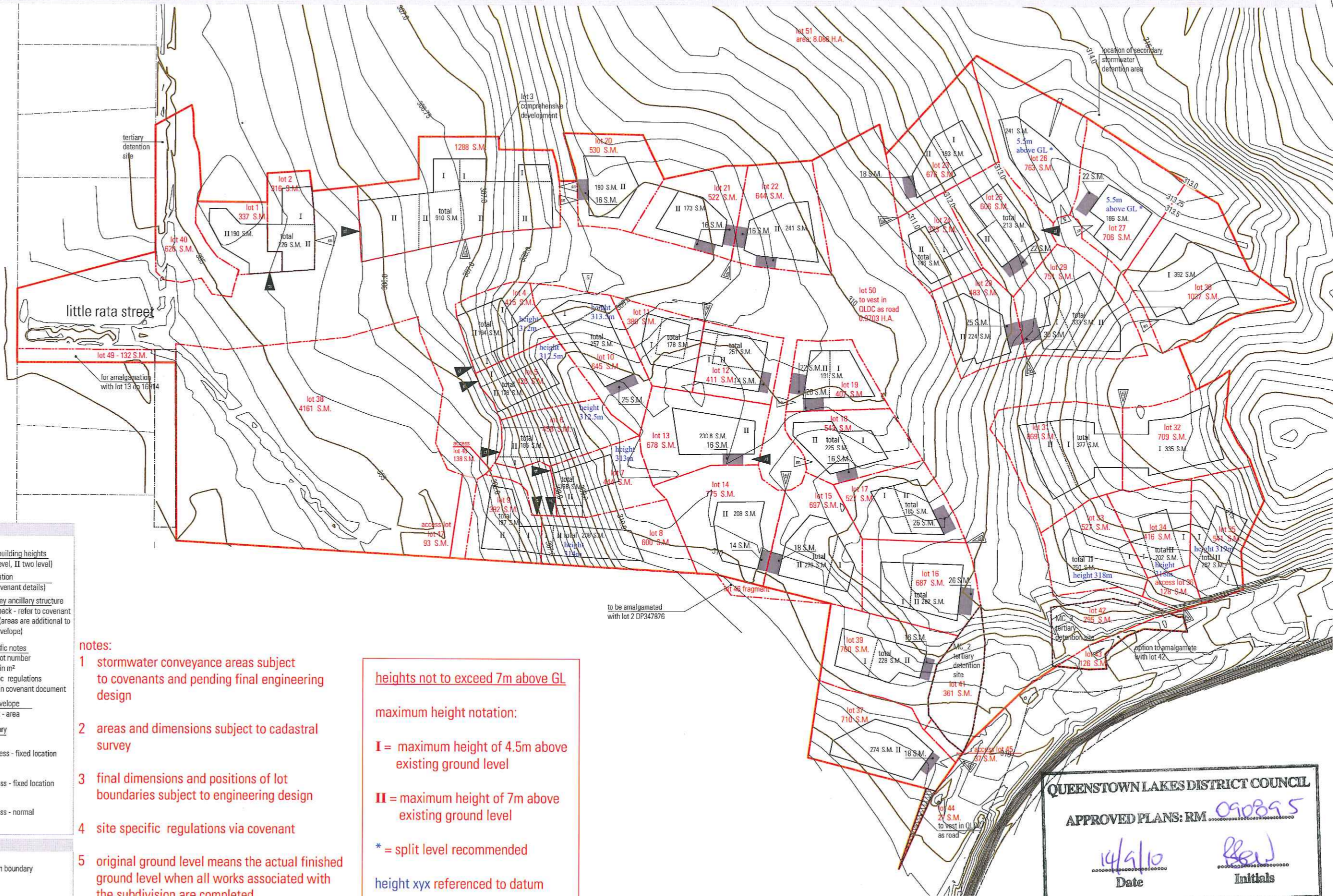
— contours minor

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLANS: RM *090825*

14/9/10
Date

RM
Initials



key - private lots

- proposed building heights (I single level, II two level)
- height notation (refer to covenant details)
- single storey ancillary structure within setback - refer to covenant document (areas are additional to setback envelope)
- lot specific notes
 - interim lot number
 - lot area in m²
 - site specific regulations explained in covenant document
- setback envelope - black text - area
- lot boundary
- shared access - fixed location
- single access - fixed location
- single access - normal

key

- stage one - demarcation boundary
- abutments
- contours major (2.5m interval)
- contours minor

- notes:**
- stormwater conveyance areas subject to covenants and pending final engineering design
 - areas and dimensions subject to cadastral survey
 - final dimensions and positions of lot boundaries subject to engineering design
 - site specific regulations via covenant
 - original ground level means the actual finished ground level when all works associated with the subdivision are completed

heights not to exceed 7m above GL

maximum height notation:

I = maximum height of 4.5m above existing ground level

II = maximum height of 7m above existing ground level

* = split level recommended

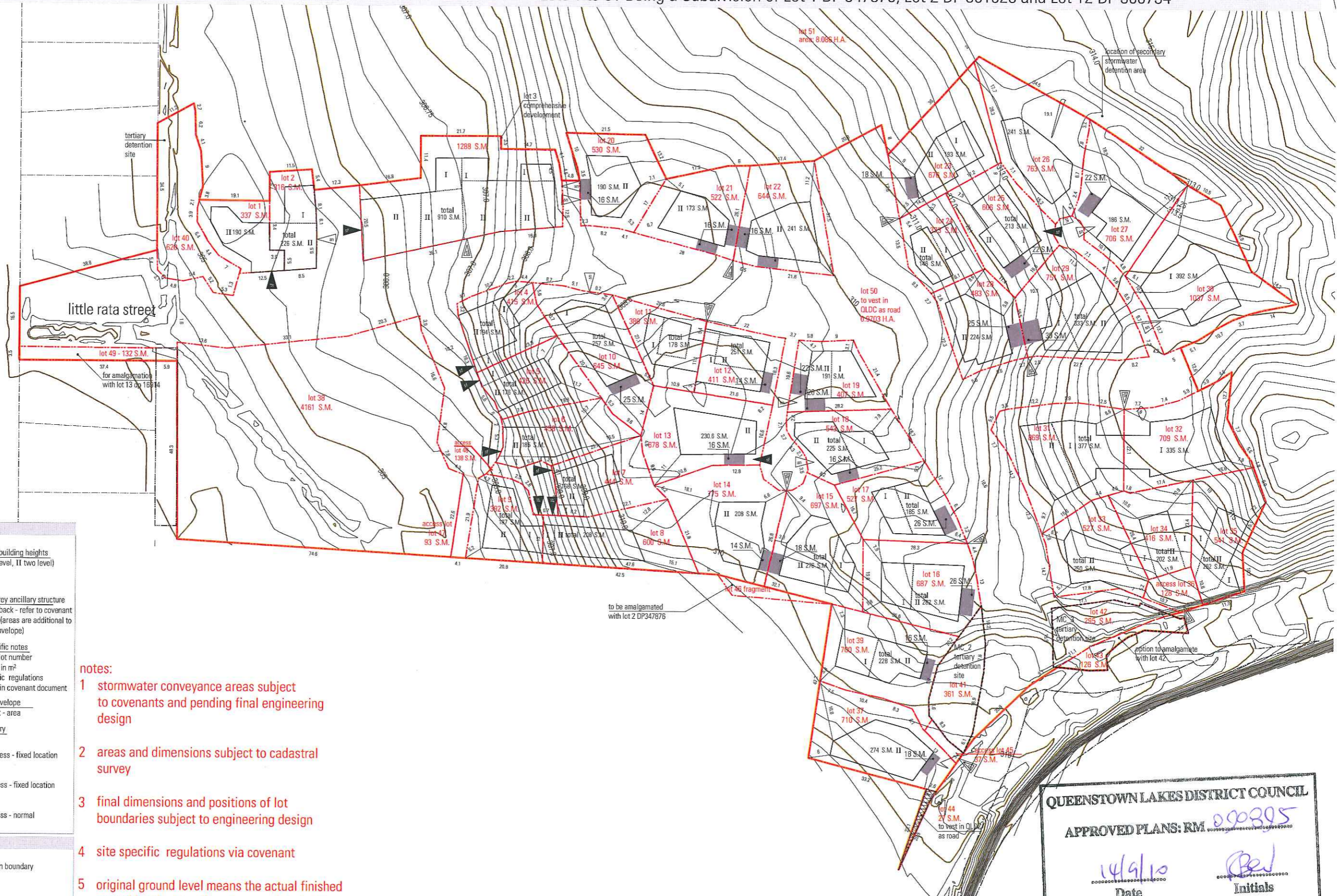
height *xyx* referenced to datum

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLANS: RM 090895

14/9/10 Date

[Signature] Initials



key - private lots

proposed building heights
(I single level, II two level)

single storey ancillary structure
within setback - refer to covenant
document (areas are additional to
setback envelope)

- lot specific notes
- interim lot number
- lot area in m²
- site specific regulations
explained in covenant document

setback envelope
- black text - area

lot boundary

shared access - fixed location

single access - fixed location

single access - normal

key

stage one - demarcation boundary

abutments

contours major (2.5m interval)

contours minor

notes:

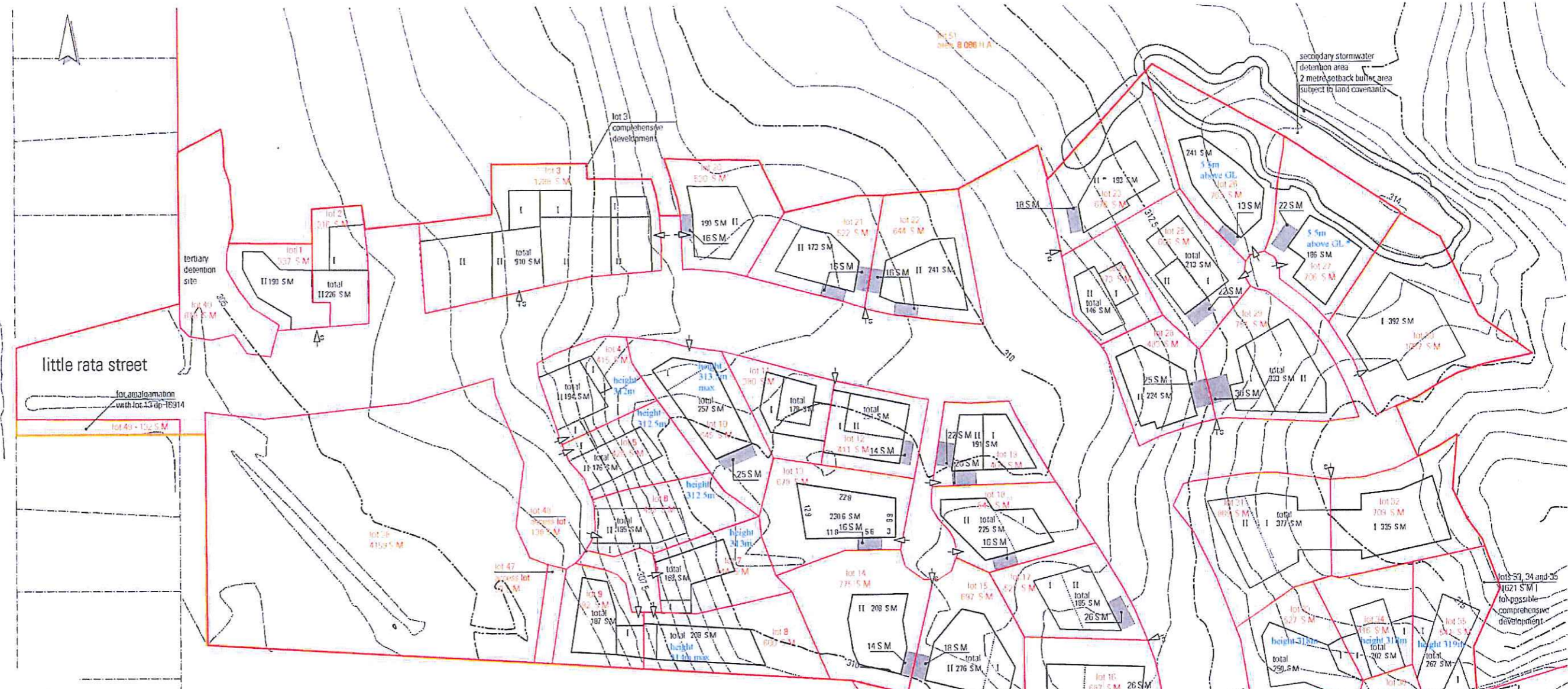
- 1 stormwater conveyance areas subject to covenants and pending final engineering design
- 2 areas and dimensions subject to cadastral survey
- 3 final dimensions and positions of lot boundaries subject to engineering design
- 4 site specific regulations via covenant
- 5 original ground level means the actual finished ground level when all works associated with the subdivision are completed

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLANS: RM 000395

14/9/10
Date

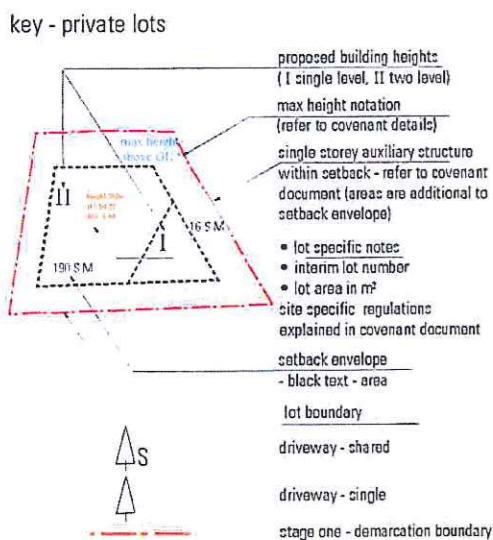
Red
Initials



- notes:**
- 1 stormwater conveyance areas subject to covenants and pending final engineering design
 - 2 areas and dimensions subject to cadastral survey
 - 3 final dimensions and positions of lot boundaries subject to engineering design
 - 4 implementation outside stage one is via a memorandum of understanding
 - 5 site specific regulations explained in covenant template version 4 and the integrated kirimoko crescent stage 1 report
- datum:**
OITV DP300734, Height 327.71m

interim plan - final heights to be confirmed but not to exceed 7m above GL

maximum height notation:
I = maximum height of 4.5m above existing ground level
II = maximum height of 7m above existing ground level
 * = split level

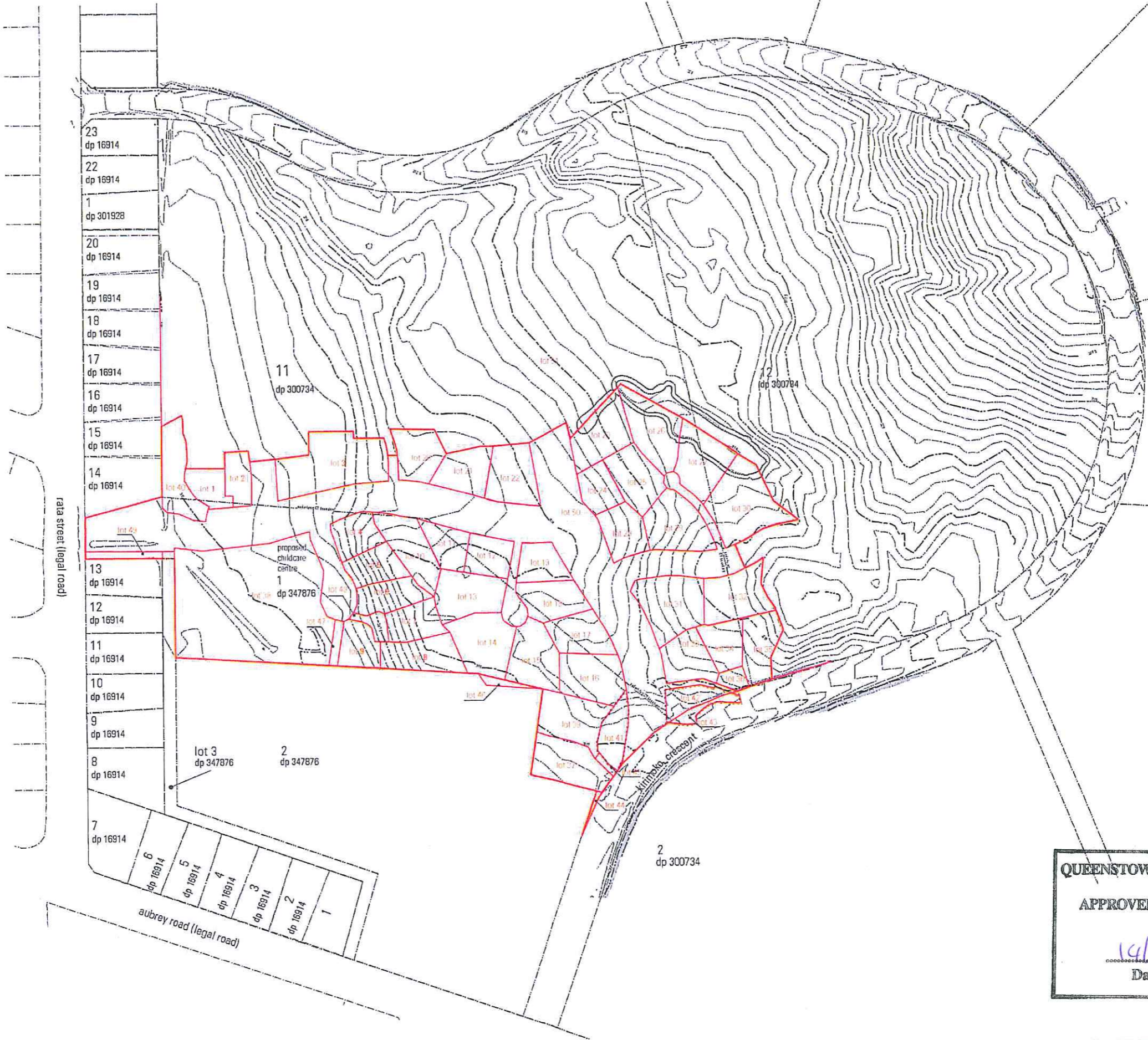


QUEENSTOWN LAKES DISTRICT COUNCIL







APPROVED PLANS: RM 090895

14/9/10 Date

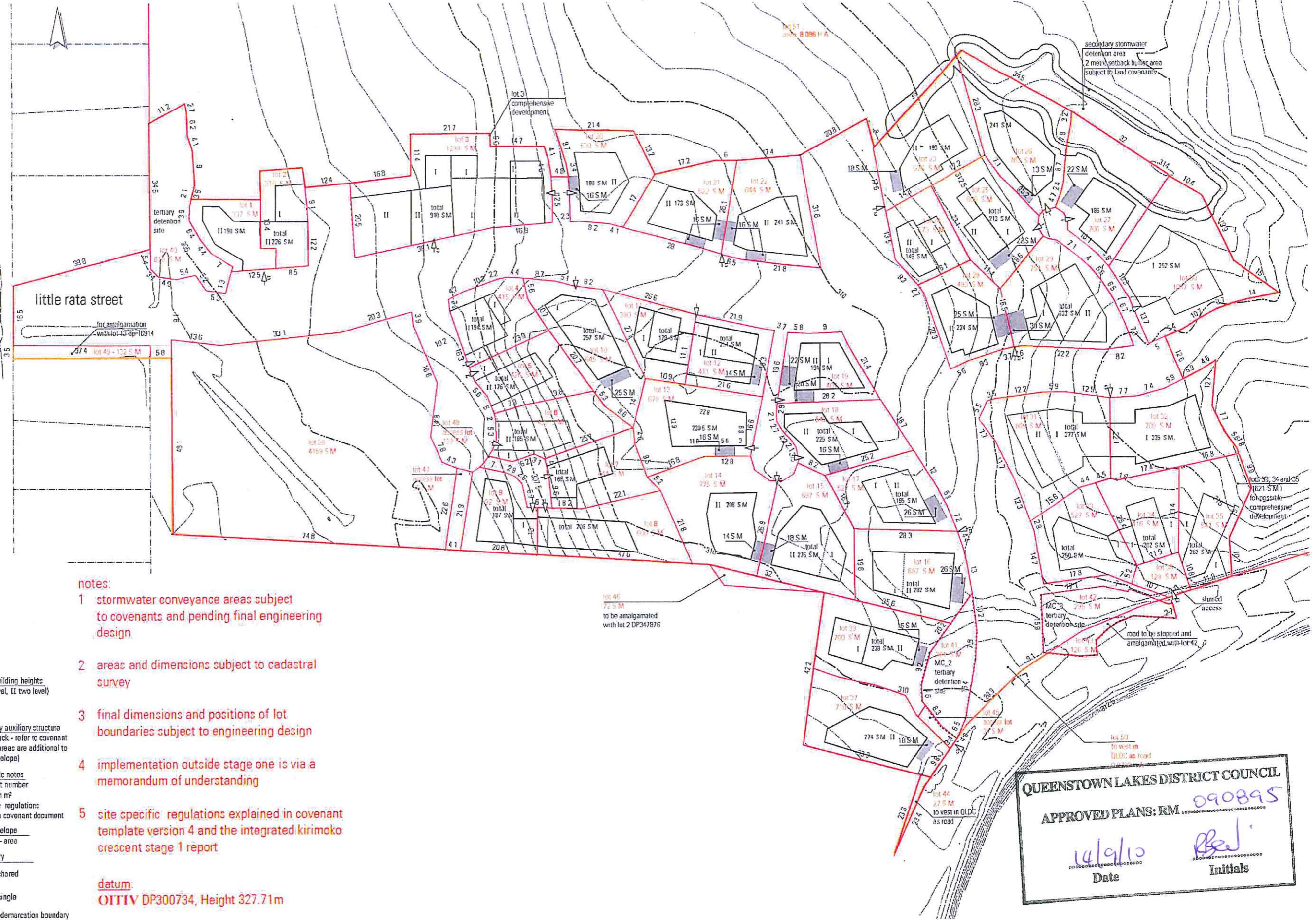
Initials



key - private lots

-  datum
OITIV DP300734, Height 327.71m
-  proposed legal boundaries
-  stage one - demarcation boundary
-  abutals
-  contours major (2.5m interval)
-  contours minor

QUEENSTOWN LAKES DISTRICT COUNCIL
 APPROVED PLANS: RM 090895
 14/9/10 Date
 [Signature] Initials



- notes:
- 1 stormwater conveyance areas subject to covenants and pending final engineering design
 - 2 areas and dimensions subject to cadastral survey
 - 3 final dimensions and positions of lot boundaries subject to engineering design
 - 4 implementation outside stage one is via a memorandum of understanding
 - 5 site specific regulations explained in covenant template version 4 and the integrated kirimoko crescent stage 1 report
- datum:
OITIV DP300734, Height 327.71m

key - private lots

proposed building heights:
(I single level, II two level)

single storey auxiliary structure within setback - refer to covenant document (areas are additional to setback envelope)

- lot specific notes
- interim lot number
- lot area in m²

site specific regulations explained in covenant document

setback envelope
- black text - area

lot boundary

driveway - shared

driveway - single

stage one - demarcation boundary

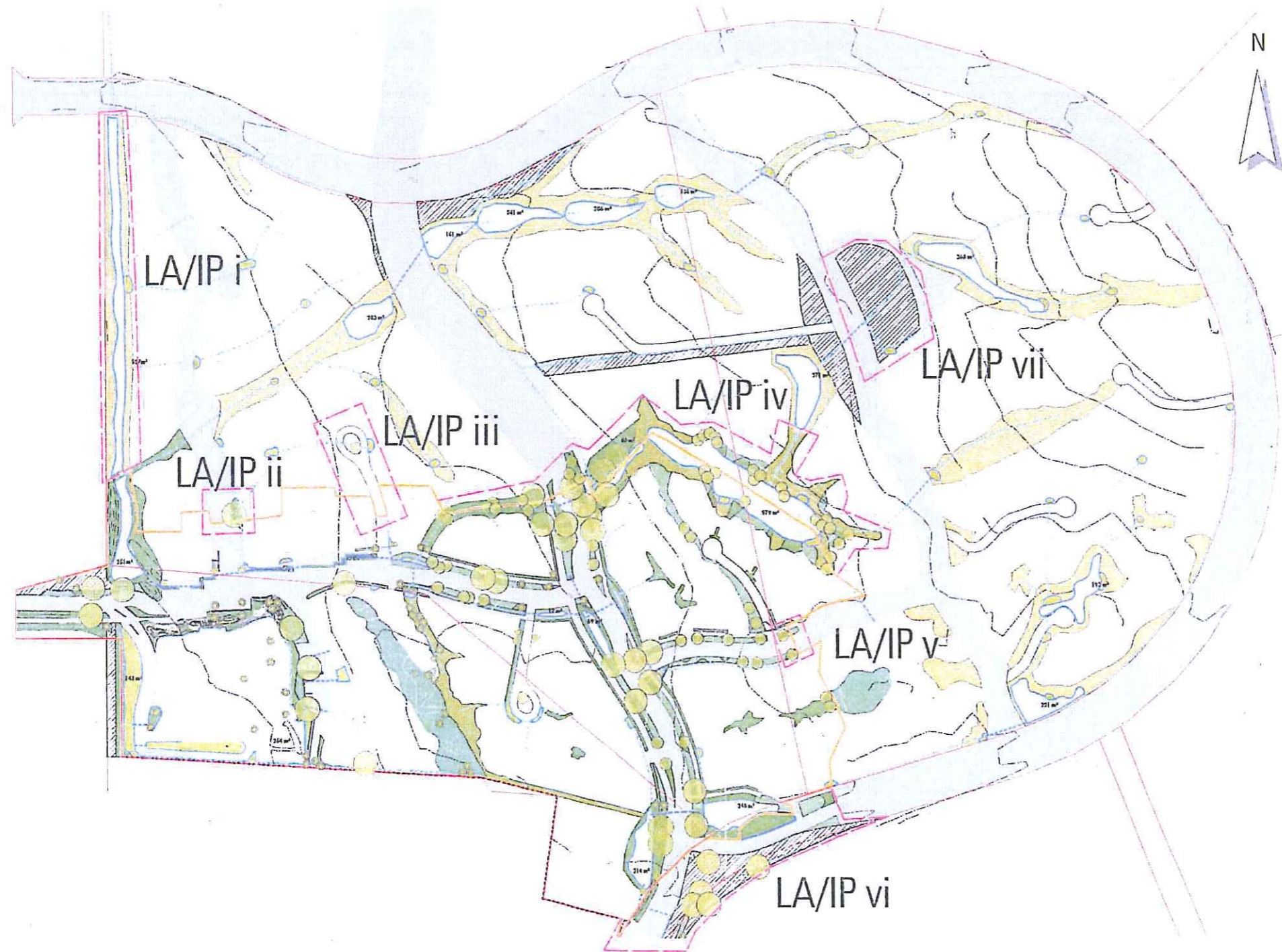
QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLANS: RM 090895

14/9/10 Date

Initials

- key
-  road reserve
 -  public reserve
 -  landscape implementation outside stage one
 -  private green
 -  cluster specific landscape treatment
 -  reinforced grass
 -  lawn
 -  meadow
 -  tree
 -  earth mound
 -  rain garden
 -  stormwater conveyance system (informal)
 -  stormwater conveyance system (formal/channel)
 -  secondary & tertiary detention
 -  stormwater "crossing" (pipe, ford, culvert, etc)
 -  wall
 -  stage one property boundary
 -  contours major (0.5m interval)
 -  contours minor



note:

all plans to be read in conjunction with report:

- a) urban + landscape
- b) pdp report

refer to sheet 13 for stage 1 information + layout

- stormwater note:
- stormwater treatment areas must accommodate a set volume of water
 - stormwater areas are approximate
 - all dimensions and areas outside of stage one are indicative only and will be determined in future development stages









QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLANS: RM 090895

14/9/10 Date

[Signature] Initials

key

-  road reserve
-  public reserve
-  public walkway as per district plan
-  possible extension of walkway network
-  shared pedestrian & cycle path
-  stage one property boundary
-  kirimoko crescent legal boundary
-  sections - refer to sheet 9a

| road hierarchy | | | |
|----------------|----------------|-----------------------|----------------------|
| | | average reserve width | minimum formed width |
| A | connector road | 20m | 7m |
| B1 | local road | 18m | 7m |
| B2 | local road | 16-18m | 6m |
| B3 | local road | 12m | 5m |
| C1 | public street | 12m | 3.5m |
| C2 | public street | 10m | 3.5m |
| | public lane | 4-6m | 3.5m |

public reserve area

| | |
|------|--------------------|
| PR1 | 274m ² |
| PR2 | 319m ² |
| PR3 | 90m ² |
| PR4 | 457m ² |
| PR5 | 509m ² |
| PR6 | 207m ² |
| PR7 | 292m ² |
| PR8 | 951m ² |
| PR9 | 13m ² |
| PR10 | 1071m ² |

kirimoko overall area 119,070m²

district plan requirements

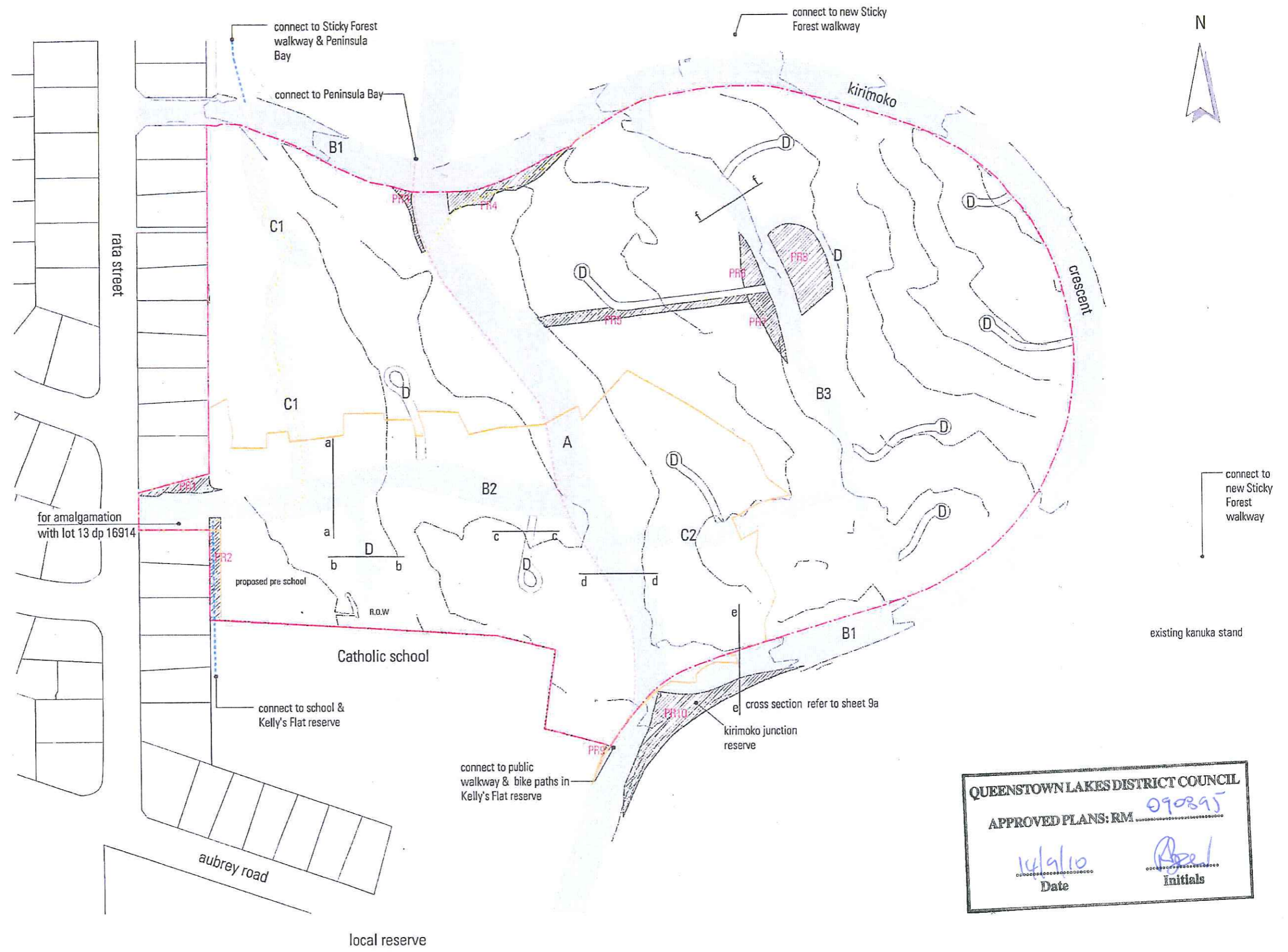
| | |
|--------------|----------------------------|
| road reserve | 21,405m ² |
| public green | 1,510 m ² |
| total | 22,915m² |

proposed structure plan

| | |
|-------------------|----------------------------|
| road reserve | 20,666m ² |
| public green area | 2,772m ² |
| total | 23,438m² |

proposed stage one

| | |
|--------------------------|----------------------------|
| overall area | 37,866m ² |
| road reserve | 11,340m ² |
| public green | 592 m ² |
| total public area | 11,932m² |



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key

- road reserve
- public reserve
- private green
- green gully GG
- hill HL
- kanuka KA
- urban living LV
- missing pine MP
- orchard OR
- catholic school extension
- pre school
- private green
- meadow
- in Management Company ownership
- stage one demarcation boundary
- kirimoko crescent legal boundary

area

| | |
|------------------------------------------|----------------------------|
| kirimoko overall area | 119,070m ² |
| road reserve open space | 23,438m ² |
| preschool (not part of this application) | 4161m ² |
| land in private ownership | 91,471m ² |
| land in management company ownership | 1773m ² |
| land available for private development | 89,698m ² |
| minimum lot size | approx. 300m ² |
| maximum lot size | approx. 1100m ² |

note:

all plans to be read in conjunction with report:
 a) urban + landscape
 b) pdp report

refer to sheet 13 for stage 1 information + layout

- stormwater note:**
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Initials

key

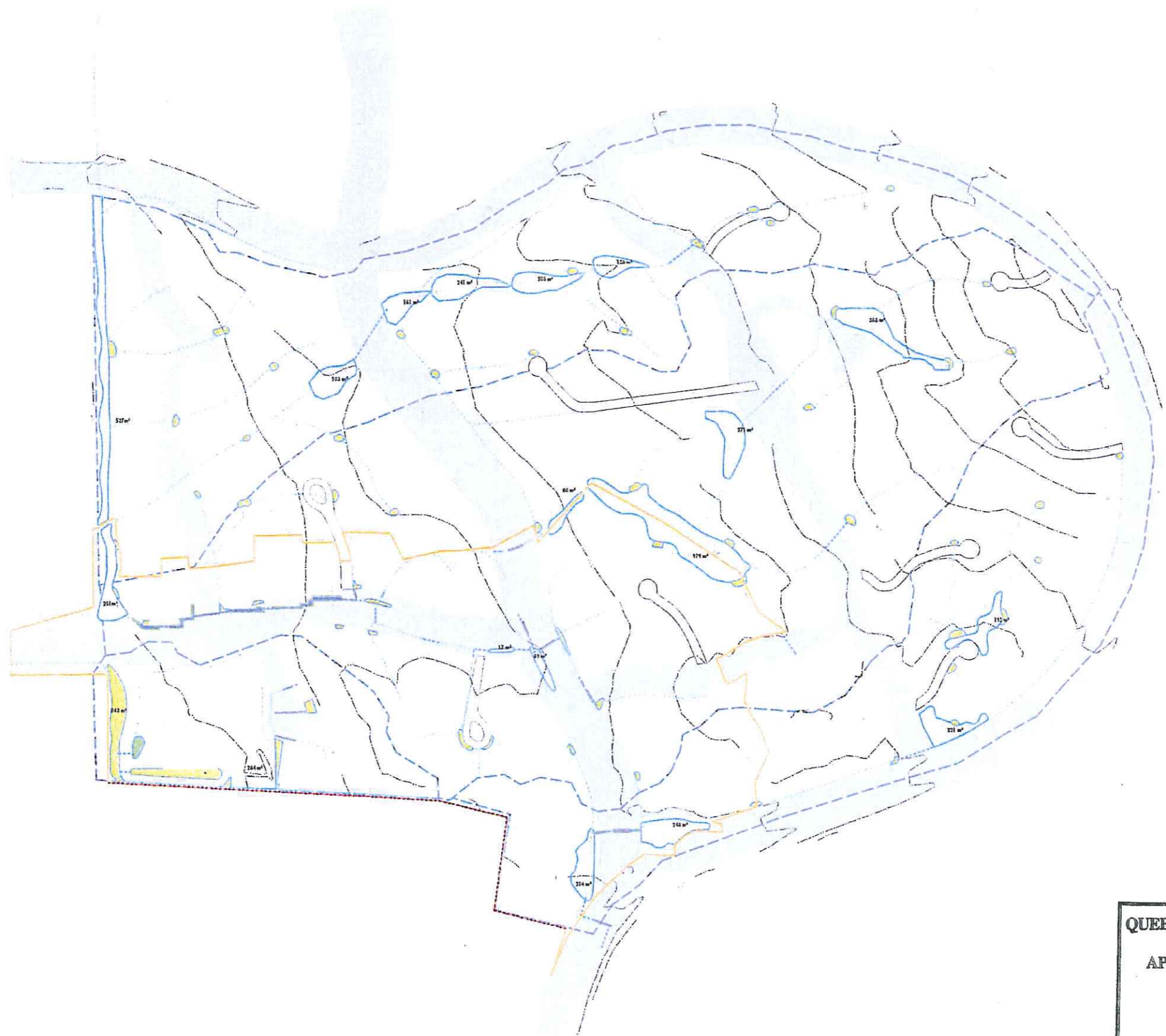
-  road reserve
-  catchment area
-  rain garden primary system
-  detention/soakage basin secondary & tertiary system
-  2 metre vegetated buffer zone
-  stormwater conveyance system (informal)
-  stormwater conveyance system (formal/channel)
-  stormwater "crossing" (pipe, ford, culvert, etc)
-  stage one legal boundary

conversion of rain garden volume to area

-  rain garden 4.2 m³ (6 m²)
-  rain garden 8.4 m³ (10 m²)
-  rain garden 12.6 m³ (15 m²)
-  rain garden 16.8 m³ (20 m²)

for specific technical details refer to Kirimoko Crescent : Proposed Stormwater Concept as prepared by Pattle Delamore Partners Ltd


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







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key

-  road reserve
-  public reserve
-  private green
-  hedge
-  structure
-  "wetland"
-  "dryland"
-  groundcover
-  "specialist"
-  reinforced grass
-  lawn
-  meadow
-  tree
-  earth mound
-  rain garden
-  stormwater conveyance system (informal)
-  stormwater conveyance system (formal/channel)
-  stormwater "crossing" (pipe, ford, culvert, etc)
-  second & tertiary detention
-  wall
-  stage one property boundary
-  contours major (0.5m interval)
-  contours minor

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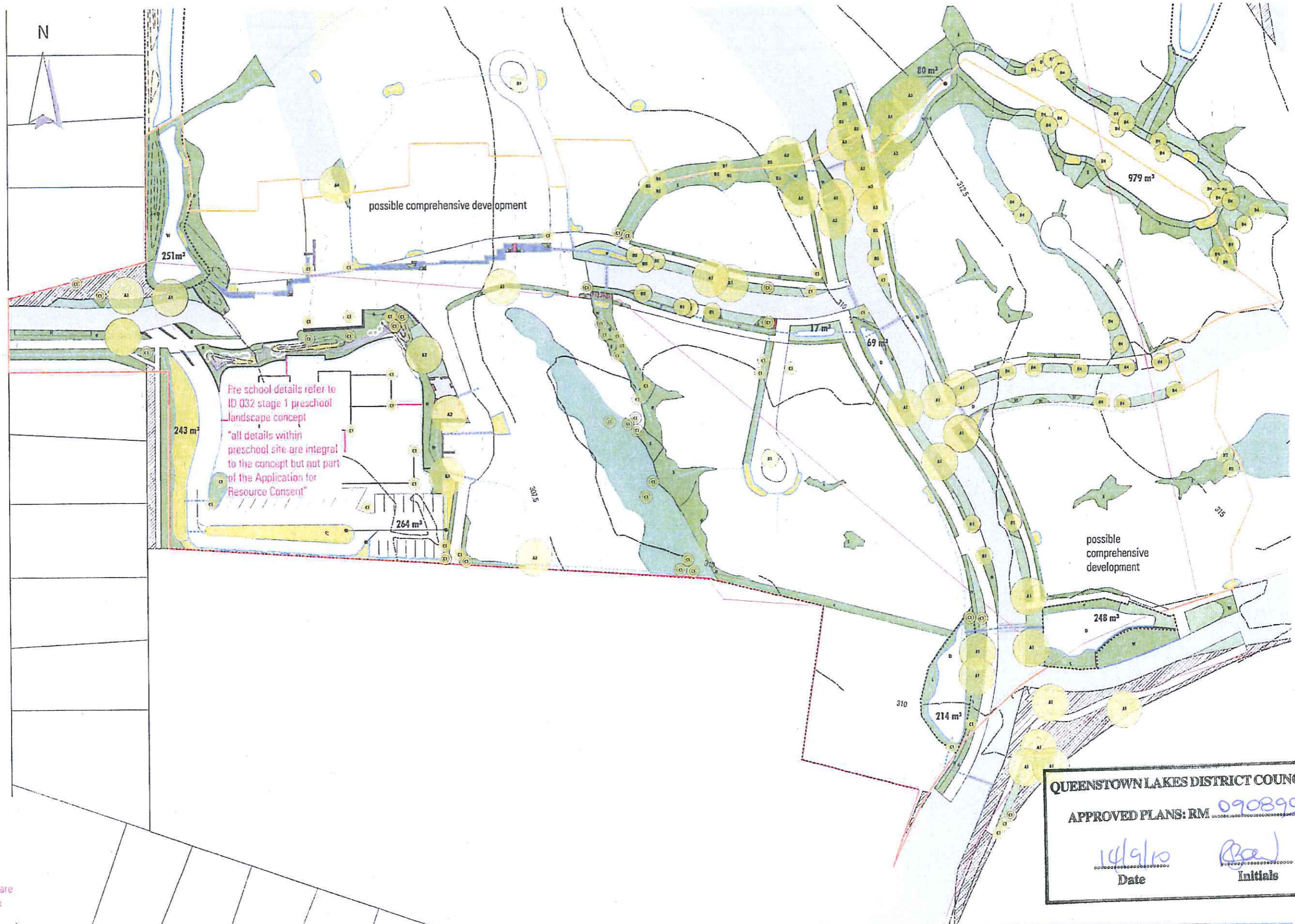
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key

- road reserve
- public reserve
- private green
- hedge
- structure
- "wetland"
- "dryland"
- groundcover
- "specialist"
- reinforced grass
- lawn
- meadow
- tree
- earth mound
- rain garden
- stormwater conveyance system (informal)
- stormwater conveyance system (formal/channel)
- stormwater "crossing" (pipe, ford, culvert, etc)
- paving
- second & tertiary detention
- bin
- seat
- wall
- lime chip
- lot boundary
- stage one demarcation boundary
- contours major (0.5m interval)
- contours minor



stormwater note

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