

- A **restricted discretionary** activity pursuant to Rule 7.5.3.4(vi) as the proposal does not comply with Site Standard 7.5.5.1(xvi)(2)(c) which states the maximum height of any fill shall not exceed 2 metres.
- A **non-complying** activity pursuant to Rule 20.2.2.5(i) relating to earthworks not associated with the construction of cycling or walking trails as provided for in Rule 20.2.2.2(ii).

Overall, the application is considered to be a **non-complying** activity.

The application was considered on a non-notified basis in terms of Section 93(1)(b) whereby the consent authority were satisfied that the adverse effects of the activity on the environment will be minor and in terms of Section 94(2) whereby no persons were, in the opinion of the consent authority considered to be adversely affected by the activity.

### **Decision**

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 be carried out in accordance with the plans (**stamped as "Approved Plans" on 19 February 2007**) and the application as submitted, with the exception of the amendments required by the following conditions of consent.

The approved plans are as follows:

*Paterson Pitts Ltd* "Peninsula Bay Preliminary Final Contours – Stage 2" Job No. W2742 dated 13 November 2006.

*Paterson Pitts Ltd* "Peninsula Bay Preliminary Cut Fill Areas – Stage 2" Job No. W2742 dated 13 November 2006.

*Paterson Pitts Ltd* "Peninsula Bay Design Cross Sections - Stage 2" Sections A-E, Job No. W2742 dated 15 January 2007.

- 2 That unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's own expense.
- 3 The consent holder shall pay to the Council an initial fee of \$240 for the costs associated with the monitoring of this resource consent in accordance with Section 35 of the Act.

#### Engineering Conditions

- 4 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.
- 5 Prior to the commencement of any works on the land being developed the consent holder shall provide detail of the final design of the earthworks to the Queenstown Lakes District Council for approval. The final design shall incorporate any applicable recommendations in the Royden Thompson Geological Assessment of Peninsula Bay, dated July 2003.
- 6 Prior to commencing any work on the site the consent holder shall provide the Council with the name and contact telephone number of the Principal Contractor and associated site manager who will be responsible for managing the site on a day to day basis and for implementing all site management measures.
- 7 The consent holder shall install a vehicle crossing at Rata Street, Minaret Ridge and/or Hunter Crescent prior to use by construction traffic accessing the site. All construction traffic shall use one of these access points to enter and exit the site. The minimum standard for this crossing

shall be a minimum compacted depth of 150mm AP40 metal. This crossing shall be upgraded in accordance with Council's standards, or removed, at the time dwellings are constructed on the site.

- 8 The consent holder shall install measures to control and or mitigate any dust, silt run-off and sedimentation as described in the application, and shall specifically include measures to ensure that all silt laden waters are kept on site. The site manager shall ensure that erosion and silt control remains effective at all times and accommodates the continually changing site topography resulting from the works. 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.
- 9 The consent holder shall provide Council with the name of a suitably qualified professional as defined in Section 1.4 of NZS4404:2004 who is to supervise the excavation procedure. This engineer shall continually assess the condition of the excavation and implement any design changes / additions if and when necessary.
- 10 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.
- 11 The loading and stockpiling of earth and other materials shall be confined to the subject site.
- 12 Prior to construction of any buildings on the site a Chartered Engineer experienced in soils investigations shall provide certification, in accordance with NZS 4431 for all areas of fill within the site on which buildings are to be founded.
- 13 Within four weeks of completing the earthworks the consent holder shall submit to Council as built plan of the fill. This plan shall be in terms of New Zealand Map grid 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 shall be recorded on the as built plan as "uncertified fill".
- 14 At the completion of the earthworks, all earth-worked areas shall be top-soiled and grassed or otherwise permanently stabilised within 6 weeks.
- 15 No earthworks, temporary or permanent, are to breach the boundaries of the site.
- 16 No more than 20,000m<sup>2</sup> of earth shall be exposed at any one time.
- 17 Upon completion of the earthworks, the consent holder shall complete the following:
  - a) The completion of all works detailed in Condition 4-14 above.
  - b) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
  - c) An engineer's design certificate/producer statement shall be submitted with regards to any permanent retaining walls on site.

#### Review

- 18 Within ten working days of each anniversary of the date of this decision the Council may, in accordance with Sections 128 and 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) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
- (b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
- (c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.

#### Advice Note

The Council may elect to exercise its functions and duties through the employment of independent consultants.

#### **Reasons for the Decision**

##### Proposal

Land use consent is sought to undertake earthworks at Peninsula Bay. The proposal involves approximately 282,000m<sup>3</sup> of earthworks, comprising a topsoil volume of 57,000m<sup>3</sup>, a cut volume of 125,000m<sup>3</sup> and a fill volume of 100,000m<sup>3</sup>. The maximum cut depth is proposed to be approximately six metres, and the maximum fill depth is approximately 5.5 metres.

The earthworks are proposed to be undertaken over a two month period and will be undertaken concurrently with the earthworks approved in association with subdivision consent RM060959.

The earthworks are proposed to create final ground contours for future subdivision, including preliminary formation of new roads and the shaping of future allotments.

A site management plan by Paterson Pitts Partners (Wanaka) Limited has been submitted as part of the application.

##### Site and Locality

Resource consent RM060929 was granted on 2 February 2007 for an Outline Development Master Plan. The purpose of the Outline Development Master Plan is to ensure that Peninsula Bay is developed comprehensively and cohesively - including aspects such as roading, subdivision layout, pedestrian links and public access, location and visibility of future dwellings.

Subsequently resource consent RM060959 was granted on 7 February 2007 to undertake stages 1-3 of the subdivision of Peninsula Bay, to create 112 residential allotments. This application included a significant amount of earthworks in southern third of the site.

The location of the proposed earthworks is in the central section of the Peninsula Bay site, south of the Central Melt Channel and north of subdivision stages 1-3 approved through resource consent RM060959.

The following site description is taken from Environment Court decision C010/2005 and relates to the entire Peninsula Bay site:

*"The site is roughly rectangular in shape, and has an area of 75.484 hectares. It is located on the Beacon Point Peninsula, immediately north of a residential area served by Rata Street and Hunter Crescent; and east of another residential area known as Penrith Park. To the north, the site abuts a recreation reserve, which in turn abuts Lake Wanaka. The adjoining land to the east is exotic forest, and to the south-east, pasture.*

*The southern boundary of the site is about 2.3 kilometres from the Wanaka Town Centre. The western boundary of the site is about 700 to 800 metres from Lake Wanaka, and northern boundary is about 120 metres from the lake edge.*

*The site is generally rolling, with shallow gullies, rounded ridges and a predominantly westerly aspect. The northern boundary is near the top of a steep scarp which drops to the lake. The eastern boundary is about 130 to 300 metres from a ridge.*

*The average level of the lake is about 279 metres above sea level. The highest point on the site is about 360 metres above sea level, and the lowest point about 305 metres above sea level.*

*Most of the site has a slope pattern that ranges from 1 in 7 to flatter than 1 in 20, but there are areas near the eastern boundary, the south-western end and north-eastern end that slope between 1 in 7 to 1 in 3. The escarpment down to the lake beyond the northern end of the site is generally steeper than 1 in 3.*

*In prehistoric times the site was overrun by glacial advances which left morainic deposits, more recently about 23,000 (fn2 The Mt Iron Advance) and 18,000 (fn3 The Hawea Advance) years ago. The younger (Hawea) moraine generally lies between the 300- and 360- metre contour lines on the site.*

*The vegetation of the site is mainly exotic pasture grasses, and there are scattered stands kanuka and matagouri mainly at the northern end of the site and along parts of the eastern boundary. There are also pockets of kanuka in gullies and patches elsewhere on the site.*

*The site is visible to varying degrees from parts of Lake Wanaka, and from parts of West Wanaka, including the Millenium Walkway along the western shore, and residential areas to the west and south of the site. More particularly, the northern part of the site is visible from the lake, and the elevated slopes near the eastern boundary are visible from the west and south, as well as from parts of the lake.*

*Some people cross the south-eastern corner of the site to gain access to walking and cycle tracks in the adjacent plantation, and others use cycles on tracks through the kanuka at the northern end. The owner has acquiesced in that, but the site is private property and there is no public right of access over it. There is a popular walking path through the lakeside reserve to the north of the site."*

#### Effects on the Environment

##### *Hazards*

A geological assessment by Royden Thompson (dated July 2003) identified the Central Melt Channel as susceptible to ponding. The proposed earthworks are not considered to exacerbate the potential ponding in this area however it is considered appropriate to require the final design of the earthworks to take account of the geological assessment. This has been ensured through a condition of consent.

##### *Character and Amenity*

The proposed earthworks will significantly alter the natural landform of Peninsula Bay, which currently exhibits a number of natural undulations, small gullies and spurs. The proposed earthworks generally seek to flatten the site, by placing fill in gullies and excavating to remove small mounds and spurs.

The rezoning of the site as Low Density Residential provided for a complete change in character of the site, with the adverse visual effects of development partially offset by the creation of the Open Space Zone to be vested in the Council as a recreation reserve.

In general the proposed earthworks are not considered to be of a scale or design that will increase the visibility of development when viewed from external vantage points. The proposed earthworks will result in a consistent and coherent landform with relatively level sites, thus creating the potential to reduce additional earthworks by future lot owners.

A small proportion of the proposed earthworks are located within the Open Space Zone, which is a non complying activity in the Partially Operative District Plan. The proposed earthworks on the southern fringe of the Central Melt Channel are required to ensure those lots located immediately to the south of the Central Melt Channel have a higher ground level than the reserve, due to the potential for ponding in this area. The earthworks within this area are minor in scale and are not considered to give rise to adverse effects on landscape values associated with the Central Melt Channel. No significant vegetation will be affected.

Earthworks are also proposed within the Open Space Zone adjacent to the western boundary of the Low Density Residential zone. The applicant has advised that these earthworks are required in order to install the main trunk stormwater line that is proposed to run along the length of the western Open Space Zone. These earthworks are also minor in scale and will not create adverse visual effects, with the exception of the earthworks stage.

In summary, the adverse effects of the proposed earthworks in terms of character and amenity are considered to be no more than minor.

#### *Traffic Generation*

Access to the Peninsula Bay site is via Rata Street, Minaret Ridge or Hunter Crescent. It is considered appropriate to require a vehicle crossing to be installed for construction traffic to enter the site and this has been ensured through a condition of consent.

All excavated material is expected to be utilised within the site and therefore heavy vehicle movements are not expected to be high. For this reason a traffic management plan is not considered necessary. CivicCorp's Engineer has recommended a condition of consent requiring heavy vehicles to be parked on the site to ensure the safety and efficiency of the surrounding roading network is not adversely affected.

#### *Dust*

The subject site is relatively exposed to the prevailing north-westerly wind and consequently adequate dust control measures are vital to ensure adjacent properties are not adversely affected. Dust control measures proposed in the application include water sprinkling, hydro-seeding and revegetation. The most effective dust avoidance measure is to limit the area of exposed earth, and CivicCorp's Engineer has recommended that no greater than 20,000m<sup>2</sup> of earth is exposed at any one time. This has been ensured through a condition of consent and is considered necessary to ensure nuisance effects caused by dust can be adequately controlled.

Water is proposed to be sourced via the Council's reticulated water network, and permission for this has been obtained by the Council's Water Utilities Manager. The applicant has advised that k-lines and water carts will be employed to suppress dust.

Hydro-seeding and revegetation are considered to be more long-term mitigation measures and should be employed as soon as possible following excavation. In combination with the restriction on the area of exposed earth discussed above,

#### *Silt/Sedimentation Run-off*

The applicant has proposed to adopt the site management and construction controls contained within the "Guidelines for Land Disturbing Activities in the Auckland Region" produced by the Auckland Regional Council. These guidelines recommend the use of silt fences, sediment ponds and diversion ponds to control silt and sediment run-off.

Catchment areas and sedimentation ponds have not been specifically proposed within this application but have been designed for the earthworks associated with Stages 1-3 of subdivision, approved through resource consent RM060959. CivicCorp's Engineer is satisfied that subject to installation of appropriate site management controls to prevent silt laden waters escaping the site, the adverse effects in terms of runoff will be minor. This has been ensured through conditions of consent.

### *Proximity to Adjacent Properties*

The proposal complies with the provisions of the Partially Operative District Plan in terms of proximity of cut and fill to the site boundary, therefore no adverse effects on the stability of neighbouring properties is anticipated. The closest adjacent properties to the subject site are those located at the eastern edge of the Penrith Park area. Given that the prevailing wind will blow any uncontrolled dust away from these properties, it is considered that dust effects can be adequately mitigated such that adverse effects on adjacent properties are no more than minor.

### Objectives and Policies

Having considered the proposal in terms of the objectives and policies contained in Part 7 (Residential Areas) and Part 20 (Open Space – Landscape Protection) of the District Plan, it is considered that the proposed land use is not contrary to any provision and, therefore, it is not inappropriate to grant consent for the application as proposed.

### Assessment Matters

The most relevant assessment matters pertaining to earthworks are contained in Part 7 (Residential Areas) of the Partially Operative District Plan and are discussed below:

1. *Environmental Protection Measures*
  - (a) *Whether and to what extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on site.*
  - (b) *Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects.*
  - (c) *Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.*
  - (d) *Where earthworks are proposed on a site with a gradient >18.5 degrees (1 in 3) whether a geotechnical report has been supplied to assess the stability of the earthworks.*
  - (e) *Whether appropriate measures to control dust emissions are proposed.*
  - (f) *Whether any groundwater is likely to be affected, and any mitigation measures are proposed to deal with any effects.*
2. *Effects on Landscape and Visual Amenity Values*
  - (a) *Whether the scale and location of any cut and fill will adversely affect:*
    - *The visual quality and amenity values of the landscape;*
    - *The natural landform of any ridgeline or visually prominent areas;*
    - *The visual amenity values of surrounding sites.*
  - (b) *Whether the earthworks will take into account the sensitivity of the landscape.*
  - (c) *The potential for cumulative effects on the natural form of existing landscapes.*
  - (d) *The proposed rehabilitation of the site.*
3. *Effects on adjacent sites.*
  - (a) *Whether the earthworks will adversely affect the stability of neighbouring sites.*
  - (b) *Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.*
  - (c) *Whether cut, fill and retaining are done in accordance with engineering standards.*
4. *General amenity values.*
  - (a) *Whether the removal of soil to or from the site will affect surrounding roads, and neighbourhood through the deposition of sediment, particularly where access to the site is gained from residential areas.*
  - (b) *Whether the activity will generate noise, vibration and dust effects, which could detract from the amenity values of the surrounding area.*

(c) *Whether natural ground levels will be altered.*

5. *Impacts on sites of cultural heritage.*

- (a) *Whether the subject land contains Waahi Tapu or Waahi Taoka, or is adjacent to a Statutory Acknowledgement Area, and whether tangata whenua have been notified.*
- (b) *Whether the subject land contains a recorded archeological site, and whether the NZ Historic Places Trust has been notified.*

The proposed earthworks have been considered in relation to the assessment matters above, and are considered to be generally consistent with the relevant assessment matters subject to the implementation of suitable site management measures as required by conditions of consent.

**Conditions**

Conditions have been imposed to ensure adequate site management measures are implemented to avoid or mitigate nuisance effects. Conditions also require the presence of suitably qualified professionals to supervise the implementation of site management procedures, excavations and any retaining measures.

**Other Matters**

*Local Government Act 2002: Development Contributions*

In granting this resource consent reference was made to Part 8 Subpart 5 Schedule 13 of the Local Government Act 2002 and the Council's Policy on Development Contributions contained in Long Term Council Community Plan (adopted by the Council on 25 June 2004).

This proposal is not considered a "Development" in terms of the Local Government Act 2002 as it will not generate a demand for network infrastructure and reserves and community facilities.

For the forgoing reasons a Development Contribution is not required.

**Administrative Matters**

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 no later than 15 working days from the date this decision is received.

You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

Please contact the Council when the conditions have been met or if you have any queries with regard to the monitoring of your consent.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of Section 125 of the Resource Management Act 1991.

If you have any enquiries please contact Kirsty Lake on phone (03) 443 0006.

Prepared by  
**CIVICCORP**

Reviewed by  
**CIVICCORP**

Kirsty Lake  
**PLANNER**

Stewart Fletcher  
**PRINCIPAL: RESOURCE CONSENTS (WANAKA)**



File: RM070362 Variation to RM061167  
Valuation Number: 2905100201

8 May 2007

Peninsula Bay Joint Venture  
C/- Paterson Pitts Partners Ltd  
PO Box 283  
WANAKA 9343

Attention: Mike Botting

Dear Mike

**DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL**  
**RESOURCE MANAGEMENT ACT 1991**  
**PENINSULA BAY JOINT VENTURE - RM070362**

We refer to your application for a variation under Section 127 of the Resource Management Act 1991 to vary Conditions 1 and 16 of resource consent RM061167 in order to reduce the restriction on the area of earthworks able to be undertaken at one time.

The original RM061167 application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 21 February 2007. This decision was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 7 May 2007, and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

The subject site is located at Outlet Road, Wanaka and is legally described as Lot 1 Deposited Plan 302196, contained within Certificate of Title 8603.

The site is zoned Low Density Residential under the Partially Operative District Plan and the proposed activity requires:

- A **discretionary** activity consent in accordance with Section 127(3)(a) of the Resource Management Act 1991 which specifies a variation to a resource consent shall be processed as if the application was for a discretionary activity.

In accordance with Section 127 of the Resource Management Act 1991 the application was considered under Sections 88 to 121 of the Act. On this basis the application was considered on a non-notified basis in terms of Sections 93 & 94 of the Act because the adverse effect on the environment of the activity for which consent is sought was considered to be minor and no parties were considered to be adversely affected by proposed variation.

## Decision

The variation to consent is granted pursuant to Section 127 of the Act, by amending Condition 1 and 16 as follows:

1. That the development be carried out in accordance with the plans (**stamped as "Approved Plans" on 19 February 2007**) and the application as submitted, with the exception of resource consent RM061167 and the plans (**stamped as "Approved Plans" on 7 May 2007**) and the amendments required by the following conditions of consent.

The approved plans are as follows:

*Paterson Pitts Ltd "Peninsula Bay Preliminary Final Contours – Stage 2" Job No. W2742 dated 13 November 2006.*

*Paterson Pitts Ltd "Peninsula Bay Preliminary Cut Fill Areas – Stage 2" Job No. W2742 dated 13 November 2006.*

*Paterson Pitts Ltd "Peninsula Bay Design Cross Sections - Stage 2" Sections A-E, Job No. W2742 dated 15 January 2007.*

16. No more than 70,000m<sup>2</sup> of earth shall be exposed at any one time and earthwork activities shall be carried out in accordance with Paterson Pitts report "Site Management Plan – Dust Control" dated April 2007. If the specific dust control measures contained in Paterson Pitts report "Site Management Plan – Dust Control" are found to be ineffective, the area of exposed earth shall be scaled back to an area which can be controlled to the satisfaction of Council.

## Advice Note

- (i) The Council may elect to exercise its functions and duties through the employment of independent consultants.
- (ii) All other conditions of RM061167 shall continue to apply.

## Reasons for the Decision

### Proposal

A variation to resource consent RM061167 - *to undertake 282,000m<sup>2</sup> of earthworks* - is sought to vary Condition 1 and 16 in order to reduce the restriction on the area of earthworks able to be undertaken at one time.

Condition 16 of resource consent RM061167 restricts the area of earth that is permitted to be exposed at any one time to 20,000m<sup>2</sup>. The applicant believes this condition is too restrictive in that a 2ha area is too small to carry out bulk earthworks on this scale. The applicant considers that restricting the imposition of condition 16 will increase the time frame for the earthworks from 5 weeks to approximately 5 months.

The application includes an amended site management report specifically tailored to control dust. It states that over 11ha could be controlled; however, the application proposes a maximum of 7ha only.

Varying Condition 16 by default alters the approved plan therefore requiring a variation of Condition 1.

The following site description is taken from Environment Court decision C010/2005 and relates to the entire Peninsula Bay site:

*"The site is roughly rectangular in shape, and has an area of 75.484 hectares. It is located on the Beacon Point Peninsula, immediately north of a residential area served by Rata Street and Hunter Crescent; and east of another residential area known as Penrith Park. To the north, the site abuts a recreation reserve, which in turn abuts Lake Wanaka. The adjoining land to the east is exotic forest, and to the south-east, pasture.*

*The southern boundary of the site is about 2.3 kilometres from the Wanaka Town Centre. The western boundary of the site is about 700 to 800 metres from Lake Wanaka, and northern boundary is about 120 metres from the lake edge.*

*The site is generally rolling, with shallow gullies, rounded ridges and a predominantly westerly aspect. The northern boundary is near the top of a steep scarp which drops to the lake. The eastern boundary is about 130 to 300 metres from a ridge.*

*The average level of the lake is about 279 metres above sea level. The highest point on the site is about 360 metres above sea level, and the lowest point about 305 metres above sea level.*

*Most of the site has a slope pattern that ranges from 1 in 7 to flatter than 1 in 20, but there are areas near the eastern boundary, the south-western end and north-eastern end that slope between 1 in 7 to 1 in 3. The escarpment down to the lake beyond the northern end of the site is generally steeper than 1 in 3.*

*In prehistoric times the site was overrun by glacial advances which left morainic deposits, more recently about 23,000 (fn2 The Mt Iron Advance) and 18,000 (fn3 The Hawea Advance) years ago. The younger (Hawea) moraine generally lies between the 300- and 360- metre contour lines on the site.*

*The vegetation of the site is mainly exotic pasture grasses, and there are scattered stands kanuka and matagouri mainly at the northern end of the site and along parts of the eastern boundary. There are also pockets of kanuka in gullies and patches elsewhere on the site.*

*The site is visible to varying degrees from parts of Lake Wanaka, and from parts of West Wanaka, including the Millenium Walkway along the western shore, and residential areas to the west and south of the site. More particularly, the northern part of the site is visible from the lake, and the elevated slopes near the eastern boundary are visible from the west and south, as well as from parts of the lake.*

*Some people cross the south-eastern corner of the site to gain access to walking and cycle tracks in the adjacent plantation, and others use cycles on tracks through the kanuka at the northern end. The owner has acquiesced in that, but the site is private property and there is no public right of access over it. There is a popular walking path through the lakeside reserve to the north of the site."*

The earthworks approved by resource consent RM061167 is currently being undertaken in the central section of the Peninsula Bay site, south of the Central Melt Channel and north of subdivision stages 1-3 approved through resource consent RM060959.

#### The Application

Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows:

*The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent).*

The applicant seeks consent to vary Condition 1 and 16 of resource consent RM061167.

The variation seeks to provide for change to the following condition:

1. *That the development be carried out in accordance with the plans (stamped as "Approved Plans" on 19 February 2007) and the application as submitted, with the exception of the amendments required by the following conditions of consent.*

*The approved plans are as follows:*

*Paterson Pitts Ltd "Peninsula Bay Preliminary Final Contours – Stage 2" Job No. W2742 dated 13 November 2006.*

*Paterson Pitts Ltd "Peninsula Bay Preliminary Cut Fill Areas – Stage 2" Job No. W2742 dated 13 November 2006.*

*Paterson Pitts Ltd "Peninsula Bay Design Cross Sections - Stage 2" Sections A-E, Job No. W2742 dated 15 January 2007.*

16. *No more than 20,000m<sup>2</sup> of earth shall be exposed at any one time.*

In particular, consent is sought to reduce the restriction on the area of earthworks able to be undertaken at one time.

#### Consideration of Effects

Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows;

- 3) *Sections 88 to 121 shall apply, with all the necessary modifications, as if-*
  - a) *the application were an application for a resource consent for a discretionary activity; and*
  - b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and effects of the change or cancellation respectively.*
- 4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who-*
  - a) *made a submission on the original application; and*
  - b) *may be affected by the change or cancellation.*

#### Effects on the Environment

CivicCorp's Engineer Malika Rose has assessed the variation application and has visited the subject site with the applicant's consultants and contractors to discuss the restriction. Mrs Rose agrees with the applicant that there is not a practical way to approach the earthworks without double handling and having a significant effect on the length of the project if the 2ha restriction remains in place.

Nevertheless, Mrs Rose raises a concern in regards to dust control and makes the following comments:

*I drove around the site and viewed the dust mitigation in progress for the 1<sup>st</sup> stage as there had been some major issues relating to dust nuisance from this site. It was explained that the work had commenced prior to the 'K' Line irrigation system being fully operable. This was not now the case and indeed I have not been aware of any complaints regarding dust for over a month. The first stage comprises an area of some 25Ha and the contractors are proving that they are currently managing this area satisfactorily.*

*It is my opinion that if the remaining work required on the site is undertaken in accordance with the Site Management Plan – Dust Control by Paterson Pitts Partners dated April 2007 and in accordance with the staging plan, we could amend condition 16 in line with that proposed by the application. I believe that the contractors have shown that they now have a good understanding of the nature of the site. Given that the largest area that will be open at any one time will be no more than 7.0Ha, the staging proposed allows for sensible cut and fill opportunities to reduce open faces and stockpiles, it is my opinion that nuisances can be satisfactorily mitigated.*

*We also have the ability under the proposed wording of the amended condition to reduce the area should problems arise, though I do not believe that we will need to exercise this power.*

On this basis, it is considered that the potential adverse nuisance effects from this variation to resource consent RM061167 will be less than minor.

#### Affected Parties

No parties are considered adversely affected by the proposed variation

#### Objectives and Policies

Having considered the proposal in terms of the objectives and policies contained in Part 7 Residential Areas of the Partially Operative District Plan, it is considered that the proposed land use is not contrary to any provision and, therefore, it is not inappropriate to grant consent for the application as proposed.

#### Conclusion:

Having considered the relevant objectives and policies of the Partially Operative District Plan, and the relevant provisions of the Resource Management Act 1991, it has been found that the variation as sought will not result in more than minor adverse effects on the environment. Accordingly, it is deemed appropriate to amend Condition 1 and 16 as follows:

1. That the development be carried out in accordance with the plans (**stamped as "Approved Plans" on 19 February 2007**) and the application as submitted, with the exception of resource consent RM061167 and the plans (stamped as "Approved Plans" on 7 May 2007) and the amendments required by the following conditions of consent.

The approved plans are as follows:

*Paterson Pitts Ltd "Peninsula Bay Preliminary Final Contours – Stage 2" Job No. W2742 dated 13 November 2006.*

*Paterson Pitts Ltd "Peninsula Bay Preliminary Cut Fill Areas – Stage 2" Job No. W2742 dated 13 November 2006.*

*Paterson Pitts Ltd "Peninsula Bay Design Cross Sections - Stage 2" Sections A-E, Job No. W2742 dated 15 January 2007.*

16. No more than 270,000m<sup>2</sup> of earth shall be exposed at any one time and earthwork activities shall be carried out in accordance with Paterson Pitts report "Site Management Plan – Dust Control" dated April 2007. If the specific dust control measures contained in Paterson Pitts report "Site Management Plan – Dust Control" are found to be ineffective, the area of exposed earth shall be scaled back to an area which can be controlled to the satisfaction of Council.

#### **Other Matters**

*Local Government Act 2002: Development Contributions*

In granting this resource consent reference was made to Part 8 Subpart 5 Schedule 13 of the Local Government Act 2002 and the Council's Policy on Development Contributions contained in Long Term Council Community Plan (adopted by the Council on 25 June 2004).

This proposal is not considered a "Development" in terms of the Local Government Act 2002 as it will not generate a demand for network infrastructure and reserves & community facilities.

For the forgoing reasons a Development Contribution is not required.

#### **Administrative Matters**

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 not later than 15 working days from the date this decision is received.

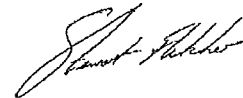
You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

Please contact the Council when the conditions have been met or if you have any queries with regard to the monitoring of your consent.

If you have any enquiries please contact Tim Walsh on phone (03) 443 0122.

Prepared by  
**CIVICCORP**

Reviewed and Approved by  
**CIVICCORP**



Tim Walsh  
**PLANNER**

Stewart Fletcher  
**PRINCIPAL: RESOURCE CONSENTS (WANAKA)**

File: RM070757 var to RM060959  
Valuation Number: 2905100201

3 October 2007

Peninsula Bay Joint Venture  
C/- Paterson Pitts Partners (Wanaka) Limited  
PO Box 283  
WANAKA 9343

Attention: Mike Botting

Dear Sir,

**DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL**  
**RESOURCE MANAGEMENT ACT 1991**  
**PENINSULA BAY JOINT VENTURE – RM070757**

We refer to your request for a variation to conditions pursuant to Section 127 of the Resource Management Act 1991 to change Conditions 1, 5(i), 9, 31 and 32 of resource consent RM060959.

Resource consent RM060959 was granted subdivision consent to subdivide a property into 112 residential allotments and a balance lot on 7 February 2007 under delegated authority.

This variation to the original subdivision consent RM060959 seeks to alter the staging of the subdivision, change the vesting of a portion of the Open Space Zone from Recreation Reserve to Local Purpose Reserve, and remove a public car parking area. The application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 2 October 2007. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

The subject site is located at Peninsula Bay, Wanaka, and is legally described as Lot 1 Deposited Plan 302196 contained in Certificate of Title 8603.

The site is zoned Low Density Residential and Open Space (Landscape Protection) under the Partially Operative District Plan and the proposal requires resource consent for the following reasons:

- A **discretionary** activity consent in accordance with Section 127(3)(a) of the Resource Management Act 1991, which specifies a variation to a resource consent shall be processed as if the application was for a discretionary activity.

The application was considered on a non-notified basis in terms of Section 93(1)(b) whereby the consent authority were satisfied that the adverse effects of the activity on the environment will be

minor and in terms of Section 94(2) whereby no persons were, in the opinion of the consent authority considered to be adversely affected by the activity.

### Decision

The variation to Conditions 1, 5(i), 9, 31 and 32 is GRANTED pursuant to Section 127 of the Resource Management Act 1991 such that Condition 1, 5(i), 9, 31 and 32 shall be amended and shall now read as follows:

- 1 That the development be carried out in accordance with the plans (Paterson Pitts Ltd "Proposed Subdivision Peninsula Bay Stages 1-3" Rev B dated 25/10/2006 stamped as **"Approved Plans" on 7 February 2007**) and the application as submitted, with the exception of resource consent RM070757 and the plans (stamped as "Approved Plans" on 1 October 2007) and with exception of the amendments required by the following conditions of consent.
- 5 Prior to the commencement of any works on the land being subdivided and prior to the Council signing the Title Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall provide to the Queenstown Lakes District Council for review, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (3), to detail the following engineering works required:
  - i) The construction of the Open Space Zone Carpark 1 shall be designed in accordance with Table 1 Appendix 7 of the Partially Operative District Plan.
- 9 This subdivision may be staged. For the purposes of issuing approvals under Sections 223 and 224(c) of the Resource Management Act 1991, the conditions of this consent shall be applied only to the extent that they are relevant to each particular stage proposed. This consent may be progressed in the following stages:
  - a) Stage 1a – Lots 1, 2, 13-18, 21-61, 131-140, 160-165, 319-322, Lot 801 (to be vested as Road), Lot 703 (to be vested as Local Purpose Reserve) & Lots 601-609 which are to be amalgamated to the adjacent land.
  - b) Stage 1b - Lots 62-69, Lot 721 (to be vested as Recreation Reserve) & Lot 802 (to be vested as Road).
  - c) Stage 1c - Lots 3-12, 19, 20, 76-82, 90-103, 129, 130, Lot 701-702 & 720 (to be vested as Local Purpose Reserve) & Lot 803 (to be vested as Road).
- 31 The vesting of Lots 701, 702 and 703 as Local Purpose (Access) Reserves, Lot 720 as Local Purpose (Drainage) Reserve and Lot 721 as recreation reserves shall be undertaken in accordance with the conditions of the resolutions of Council adopted on 24 November 2006 and 31 August 2007.
- 32 The final design of the batter slopes surrounding car park 1 shall be approved by the Council at the conclusion of earthworks to form the car parking areas. Batter slopes shall be formed to fit with the undulating topography of the adjacent landform.

### Advice Note

- (i) All other conditions of resource consent RM060959 granted on 7 February 2007 shall continue to apply.
- (ii) The Council may elect to exercise its functions and duties through the employment of independent consultants.



## Reasons for the Decision

### *Original Consent*

The original resource consent RM060959 provided for the creation of 112 residential allotments and one balance lot, to be undertaken in three stages.

### *Site Description and Locality*

The following site description is taken from Environment Court decision C010/2005:

*"The site is roughly rectangular in shape, and has an area of 75.484 hectares. It is located on the Beacon Point Peninsula, immediately north of a residential area served by Rata Street and Hunter Crescent; and east of another residential area known as Penrith Park. To the north, the site abuts a recreation reserve, which in turn abuts Lake Wanaka. The adjoining land to the east is exotic forest, and to the south-east, pasture.*

*The southern boundary of the site is about 2.3 kilometres from the Wanaka Town Centre. The western boundary of the site is about 700 to 800 metres from Lake Wanaka, and northern boundary is about 120 metres from the lake edge.*

*The site is generally rolling, with shallow gullies, rounded ridges and a predominantly westerly aspect. The northern boundary is near the top of a steep scarp which drops to the lake. The eastern boundary is about 130 to 300 metres from a ridge.*

*The average level of the lake is about 279 metres above sea level. The highest point on the site is about 360 metres above sea level, and the lowest point about 305 metres above sea level.*

*Most of the site has a slope pattern that ranges from 1 in 7 to flatter than 1 in 20, but there are areas near the eastern boundary, the south-western end and north-eastern end that slope between 1 in 7 to 1 in 3. The escarpment down to the lake beyond the northern end of the site is generally steeper than 1 in 3.*

*In prehistoric times the site was overrun by glacial advances which left morainic deposits, more recently about 23,000 (fn2 The Mt Iron Advance) and 18,000 (fn3 The Hawea Advance) years ago. The younger (Hawea) moraine generally lies between the 300- and 360- metre contour lines on the site.*

*The vegetation of the site is mainly exotic pasture grasses, and there are scattered stands kanuka and matagouri mainly at the northern end of the site and along parts of the eastern boundary. There are also pockets of kanuka in gullies and patches elsewhere on the site.*

*The site is visible to varying degrees from parts of Lake Wanaka, and from parts of West Wanaka, including the Millenium Walkway along the western shore, and residential areas to the west and south of the site. More particularly, the northern part of the site is visible from the lake, and the elevated slopes near the eastern boundary are visible from the west and south, as well as from parts of the lake.*

*Some people cross the south-eastern corner of the site to gain access to walking and cycle tracks in the adjacent plantation, and others use cycles on tracks through the kanuka at the northern end. The owner has acquiesced in that, but the site is private property and there is no public right of access over it. There is a popular walking path through the lakeside reserve to the north of the site."*

Since the approval of the Outline Development Master Plan RM060929, subdivision consent RM060959 and earthworks consent RM061176, the site has undergone significant earthworks to generally smooth out the natural undulations and construct the roading and service network. The site currently has the appearance of a construction zone with a significant area of exposed earth and a number of heavy vehicles on site.

### *The Application*

Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows:

*The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent).*

The applicant seeks consent to vary Conditions 1, 5(i), 9, 31 and 32 of resource consent RM060959, to provide for the following changes:

- Altered staging of the subdivision to logically follow the service layout;
- Vest the south-western portion of the Open Space Zone as Local Purpose (Drainage) Reserve rather than Recreation Reserve to allow for various stormwater treatment devices; and
- Remove the public car park in the south-western corner of the site and add additional car parks to the main through road.

### *Consideration of Effects*

Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows;

- (3) *Sections 88 to 121 shall apply, with all the necessary modifications, as if-*
- (a) *the application were an application for a resource consent for a discretionary activity; and*
  - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who-*
- (a) *made a submission on the original application; and*
  - (b) *may be affected by the change or cancellation.*

In considering the effects of the variation to consent, due regard is given to the effects permitted by the granting of the original resource consent RM060959. Where the variation is not going to result in adverse effects any further than those which have been consented to, the effects are considered to be less than minor.

### *Effects on the Environment*

#### Infrastructure

Final engineering design of stormwater treatment and disposal methods to service the subdivision has identified that additional stormwater treatment measures are required. The proposal therefore provides for improved stormwater treatment which will have a positive benefit for the quality of water being discharged into Lake Wanaka via the Council's reticulated system.

The proposed alterations to the staging plan for the subdivision are required to more logically reflect the service layout. No adverse effects are anticipated as a result of the amended staging plan.

#### People and Built Form

The proposed stormwater treatment measures include grass swales and a dry pond. These measures will not detract from the existing character of the Open Space Zone located along the eastern boundary of the site, and will not detract from public access opportunities as provided for in the original resource consent RM060959.

The Council (in whom the land is to be vested) has approved the reclassification of this portion of the Open Space Zone from recreation reserve to local purpose reserve (drainage). The Council has accepted the gifting of part of the Open Space Zone as reserve subject to the preparation and implementation of a landscape plan for the stormwater ponds and swales, to the satisfaction of the Council's Parks Manager. This landscaping requirement will ensure that the effects of the reclassification and change in land use are de minimus.

#### Traffic Generation and Vehicle Movements

The original Outline Development Master Plan as approved through RM060929 provided for four car parking areas to access the Open Space Zone, to be vested in Council as recreation reserve. As discussed above, following final engineering design for subdivision consent RM060959 it was identified that various stormwater quality treatment devices were required, including grass swales and a dry pond.

These stormwater treatment measures are proposed to be located in the south-western corner of the site, being a topographical low point. This area was originally identified for a public car park (car park 2) to provide access to the Open Space Zone. Due to site restrictions there is not enough room for the car park and the proposed stormwater treatment measures, and therefore the car park is proposed to be deleted. Indented car parks are proposed in close proximity to the original car park.

It is considered that the three remaining car parking areas will provide satisfactory parking and access to the Open Space Zone to be vested in Council as public reserve. The area of reserve subject to the proposed stormwater treatment measures is relatively small in size and is likely to be the least visited portion of the Open Space Zone, compared with portions of Open Space Zone located along the northern and eastern boundaries of the site that are more elevated and provide links through to the lakeshore and the adjacent Sticky Forest.

On-street car parking is proposed immediately adjacent to the site of car park 2 are considered to be satisfactory. This may result in some additional traffic movements outside of Lots 1 and 2, however as these lot are currently owned by the applicant adverse effects on these lots can be disregarded. Condition 32 of RM060959 needs to be amended to reflect the removal of car park 2.

In summary, no adverse effects in terms of car parking and vehicle movements are anticipated.

#### *Conclusion*

Having considered the relevant objectives and policies of the Partially Operative District Plan, and the relevant provisions of the Resource Management Act 1991, it has been found that the variation as sought will not result in more than minor adverse effects on the environment. Accordingly, it is deemed appropriate to amend Conditions 1, 5(i), 9, 31 and 32 as follows:

- 1 That the development be carried out in accordance with the plans (Paterson Pitts Ltd "Proposed Subdivision Peninsula Bay Stages 1-3" Rev B dated 25/10/2006 stamped as **"Approved Plans" on 7 February 2007**) and the application as submitted, with the exception of resource consent RM070757 and the plans (stamped as "Approved Plans" on 1 October 2007) and with exception of the amendments required by the following conditions of consent.
- 5 Prior to the commencement of any works on the land being subdivided and prior to the Council signing the Title Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall provide to the Queenstown Lakes District Council for review, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (3), to detail the following engineering works required:
  - i) The construction of the Open Space Zone Car parks 1 and 2 shall be designed in accordance with Table 1 Appendix 7 of the Partially Operative District Plan.
- 9 This subdivision may be staged. For the purposes of issuing approvals under Sections 223 and 224(c) of the Resource Management Act 1991, the conditions of this consent shall be applied

only to the extent that they are relevant to each particular stage proposed. This consent may be progressed in the following stages:

- a) Stage 1a – Lots 1, 2, ~~42-47, 21-25, 28-36, 39-47, 319, 13-18, 21-61, 131-140, 160-165, 319-322, Lot 801~~ (to be vested as Road), Lot 703 (to be vested as Local Purpose Reserve) & Lots 601-609 which are to be amalgamated to the adjacent land.
  - b) Stage 2 1b - ~~Lots 3-11, 18-20, 26, 27, 37, 76-82, 90-103, 129-133, 136, 137, 140, Lots 702 and 720~~ (to be vested as Reserve) & ~~Lots 802 & 803~~ (to be vested as Road) Lots 62-69, Lot 721 (to be vested as Recreation Reserve) & Lot 802 (to be vested as Road).
  - c) Stage 3 1c - ~~Lots 3-11, 18-20, 26, 27, 37, 76-82, 90-103, 129-133, 136, 137, 140, Lots 702 and 720~~ (to be vested as Reserve) & ~~Lots 802 & 803~~ (to be vested as Road) Lots 3-12, 19, 20, 76-82, 90-103, 129, 130, Lot 701-702 & 720 (to be vested as Local Purpose Reserve) & Lot 803 (to be vested as Road).
- 31 The vesting of Lots 702 and 703 as Local Purpose (Access) Reserves, ~~Lots 720 and 721 as recreation reserves~~ as Local Purpose (Drainage) Reserve and Lot 721 as Recreation Reserve shall be undertaken in accordance with the conditions of the resolutions of Council adopted on 24 November 2006 and 31 August 2007.
- 32 The final design of the batter slopes surrounding car parks 1 ~~and 2~~ shall be approved by the Council at the conclusion of earthworks to form the car parking areas. Batter slopes shall be formed to fit with the undulating topography of the adjacent landform.

#### Other Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 not later than 15 working days from the date this decision is received.

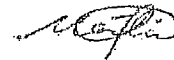
If you have any enquiries please contact Kirsty Lake on phone (03) 443-0006.

Prepared by  
**LAKES ENVIRONMENTAL**



Kirsty Lake  
**PLANNER**

Reviewed by  
**LAKES ENVIRONMENTAL**



Christian Martin  
**PLANNING TEAM LEADER (WANAKA)**

File: RM070884 var to RM060929  
Valuation: 2905100201



3 October 2007

Peninsula Bay Joint Venture  
C/- Paterson Pitts Partners Limited  
PO Box 283  
WANAKA 9343

Attention: Mike Botting

Dear Sir

**DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL**

**RESOURCE MANAGEMENT ACT 1991**

**PENINSULA BAY JOINT VENTURE – RM070884**

We refer to your request for a variation to conditions pursuant to Section 127 of the Resource Management Act 1991 to vary Conditions 1 and 2(d) of land use consent RM060929.

Resource consent RM060929 granted land use on 2 February 2007 for an Outline Development Master Plan for Peninsula Bay. The variation now sought seeks change the classification of land to vest in Council, and remove a public car park within the Open Space Zone.

The variation application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 2 October 2007. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

The subject site is located at Peninsula Bay, Wanaka and is legally described as Lot 1 Deposited Plan 302196 held in Certificate of Title 8603.

The site is zoned Low Density Residential and Open Space Zone in the Partially Operative District Plan and the proposal requires resource consent for the following reasons:

- A **discretionary** activity consent in accordance with Section 127(3)(a) of the Resource Management Act 1991, which specifies a variation to a resource consent shall be processed as if the application was for a discretionary activity.

The application was considered on a non-notified basis in terms of Section 93(1)(b) whereby the consent authority were satisfied that the adverse effects of the activity on the environment will be minor and in terms of Section 94(2) whereby no persons were, in the opinion of the consent authority considered to be adversely affected by the activity.

## Decision

The variation to Conditions 1 and 2(d) of land use RM060929 is GRANTED pursuant to Section 127 of the Resource Management Act 1991 such that Conditions 1 and 2(d) shall be amended and Condition 2(g) added to read as follows:

1. That future development within Peninsula Bay be carried out in accordance with the application and outline development master plan as submitted (**stamped as "Approved Plans" on 1 February 2007**), and, in particular, in accordance with the following Appendices of the application, and with the exception of resource consent RM070884 and the plans (**stamped as "Approved Plans" on 1 October 2007**) and with the exception of the amendments required by the following conditions of consent.
  - a) Appendix D – Outline Development Master Plan, Revision B, dated as received on 20 September 2007.
2. That future development within Peninsula Bay be carried out in accordance with the application as submitted (**stamped as "Approved Plans" on 1 February 2007**), and in 'general' accordance with the following Appendices of the application, with the exception of resource consent RM070884 and the plans (**stamped as "Approved Plans" on 1 October 2007**) and with the exception of the amendments required by the following conditions of consent.
  - d) Appendix I – Landscaping of Car Parking Areas, Revision B, dated as received on 20 September 2007.
  - g) Paterson Pitts Partners "Peninsula Bay Proposed Recreational and Local Purpose Reserves to Vest in QLDC" Revision E, dated 13/10/06.

## Advice Note

- (i) All other conditions of resource consent RM060929 shall continue to apply.
- (ii) The Council may elect to exercise its functions and duties through the employment of independent consultants.

## Reasons for the Decision

### Consent History

The original resource consent RM060929 granted land use consent for an Outline Development Master Plan for development within Peninsula Bay. This included the identification of 318 residential allotments and a large area of Open Space zoned land to be vested in Council as reserve land. The purpose of the Outline Development Master Plan is to ensure that Peninsula Bay is developed comprehensively and cohesively - including aspects such as roading, subdivision layout, pedestrian links and public access, location and visibility of future dwellings.

Following the approval of the Outline Development Master Plan, subdivision consent was granted on 7 February 2007 to undertake Stage 1 of the Peninsula Bay subdivision to create 112 residential allotments. This application included a significant amount of earthworks in the southern third of the site.

Resource consents RM061176, RM070362 and RM070693 were then granted to allow the developer to undertake earthworks in the northern two-thirds of the site.

### Site Description and Locality

The following site description is taken from Environment Court decision C010/2005:

*"The site is roughly rectangular in shape, and has an area of 75.484 hectares. It is located on the Beacon Point Peninsula, immediately north of a residential area served by Fata Street and Hunter Crescent; and east of another residential area known as Penrith Park. To the north, the site abuts a recreation reserve, which in turn abuts Lake Wanaka. The adjoining land to the east is exotic forest, and to the south-east, pasture.*

*The southern boundary of the site is about 2.3 kilometres from the Wanaka Town Centre. The western boundary of the site is about 700 to 800 metres from Lake Wanaka, and northern boundary is about 120 metres from the lake edge.*

*The site is generally rolling, with shallow gullies, rounded ridges and a predominantly westerly aspect. The northern boundary is near the top of a steep scarp which drops to the lake. The eastern boundary is about 130 to 300 metres from a ridge.*

*The average level of the lake is about 279 metres above sea level. The highest point on the site is about 360 metres above sea level, and the lowest point about 305 metres above sea level.*

*Most of the site has a slope pattern that ranges from 1 in 7 to flatter than 1 in 20, but there are areas near the eastern boundary, the south-western end and north-eastern end that slope between 1 in 7 to 1 in 3. The escarpment down to the lake beyond the northern end of the site is generally steeper than 1 in 3.*

*In prehistoric times the site was overrun by glacial advances which left morainic deposits, more recently about 23,000 (fn2 The Mt Iron Advance) and 18,000 (fn3 The Hawea Advance) years ago. The younger (Hawea) moraine generally lies between the 300- and 360- metre contour lines on the site.*

*The vegetation of the site is mainly exotic pasture grasses, and there are scattered stands kanuka and matagouri mainly at the northern end of the site and along parts of the eastern boundary. There are also pockets of kanuka in gullies and patches elsewhere on the site.*

*The site is visible to varying degrees from parts of Lake Wanaka, and from parts of West Wanaka, including the Millenium Walkway along the western shore, and residential areas to the west and south of the site. More particularly, the northern part of the site is visible from the lake, and the elevated slopes near the eastern boundary are visible from the west and south, as well as from parts of the lake.*

*Some people cross the south-eastern corner of the site to gain access to walking and cycle tracks in the adjacent plantation, and others use cycles on tracks through the kanuka at the northern end. The owner has acquiesced in that, but the site is private property and there is no public right of access over it. There is a popular walking path through the lakeside reserve to the north of the site."*

*The appearance of the site has been significantly altered through works associated with subdivision consent RM060959 and subsequent earthworks consents.*

#### *The Application*

*Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows:*

*The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent).*

*The applicant seeks to vary Conditions 1 and 2(d) of resource consent RM060929 to remove a public car park from the Open Space Zone, and change the classification of a portion of land to vest in Council.*

### *Consideration of Effects*

Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows;

- (3) *Sections 88 to 121 shall apply, with all the necessary modifications, as if-*
  - (a) *the application were an application for a resource consent for a discretionary activity; and*
  - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who-*
  - (a) *made a submission on the original application; and*
  - (b) *may be affected by the change or cancellation.*

In considering the effects of the variation to consent, due regard is given to the effects permitted by the granting of the original resource consents RM060929. Where the variation is not going to result in adverse effects any further than those which have been consented to, the effects are considered to be less than minor.

### *Effects on the Environment*

#### Stormwater

Final engineering design of stormwater treatment and disposal methods to service the subdivision has identified that additional stormwater treatment measures are required. The proposal therefore provides for improved stormwater treatment which will have a positive benefit for the quality of water being discharged into Lake Wanaka via the Council's reticulated system.

#### People and Built Form

The deletion of car park 2 is not considered to give rise to adverse effects on people and built form. This portion of the Open Space Zone will still have full public access and will be landscaped appropriately.

With regards to the reserve classification, the change from recreation reserve to local purpose reserve (drainage) will not affect public access or have any adverse affect on the landscape character of this portion of the Open Space Zone. The Council has accepted this change in classification of the reserve to vest.

#### Traffic Generation and Vehicle Movements

The original Outline Development Master Plan as approved through RM060929 provided for four car parks to access the Open Space Zone, to be vested in Council as recreation reserve. As discussed above, following final engineering design it was identified that various stormwater quality treatment devices were required, including grass swales and a dry pond.

These stormwater treatment measures are proposed to be located in the south-western corner of the site, being a topographical low point. This area was originally identified for a public car park to provide access to the Open Space Zone. Due to site restrictions there is not enough room for the car park and the proposed stormwater treatment measures, and therefore the car park is proposed to be deleted. Indented car parks are proposed in close proximity to the original car park.

It is considered that the three remaining public car parks will provide satisfactory parking and access to the Open Space Zone to be vested in Council as public reserve. The area of reserve subject to the proposed stormwater treatment measures is relatively small in size and is likely to be the least visited portion of the Open Space Zone, compared with portions of Open Space Zone located along the northern and eastern boundaries of the site that are more elevated and provide links through to the lakeshore and the adjacent Sticky Forest.



On-street car parking proposed immediately adjacent to the site of car park 2 are considered to be satisfactory. This may result in some additional traffic movements outside of Lots 1 and 2, however as these lot are currently owned by the applicant adverse effects on these lots can be disregarded.

In summary, no adverse effects in terms of car parking and vehicle movements are anticipated.

#### *Affected Persons*

No persons are considered to be adversely affected by the proposed variation.

#### *Conclusion to Variation*

It is considered that amending Conditions 1 and 2(d) can be undertaken without adverse effects. Having considered the relevant objectives and policies of the Partially Operative District Plan, and the relevant provisions of the Resource Management Act 1991, it has been found that the variation as sought will not result in more than minor adverse effects on the environment. Accordingly, it is deemed appropriate to amend Conditions 1 and 2(d) of land use consent RM060929 and add Condition 2(g) as follows:

1. That future development within Peninsula Bay be carried out in accordance with the application and outline development master plan as submitted (**stamped as "Approved Plans" on 1 February 2007**), and, in particular, in accordance with the following Appendices of the application, with the exception of resource consent RM070884 and the plans (stamped as "Approved Plans" on 1 October 2007) and with the exception of the amendments required by the following conditions of consent.
  - a) Appendix D – Outline Development Master Plan, Revision B, dated as received on 20 September 2007.
2. That future development within Peninsula Bay be carried out in accordance with the application as submitted (**stamped as "Approved Plans" on 1 February 2007**), and in 'general' accordance with the following Appendices of the application, with the exception of resource consent RM070884 and the plans (stamped as "Approved Plans" on 1 October 2007) and with the exception of the amendments required by the following conditions of consent.
  - d) Appendix I – Landscaping of Car Parking Areas, Revision B, dated as received on 20 September 2007.
  - g) Paterson, Pitts Partners "Peninsula Bay Proposed Recreational and Local Purpose Reserves to Vest in QLDC" Revision E, dated 13/10/06.

#### **Other Matters**

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 not later than 15 working days from the date this decision is received.

You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

If you have any enquiries please contact Kirsty Lake on phone (03) 443 0006.

Prepared by  
**LAKES ENVIRONMENTAL**

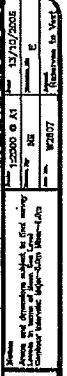


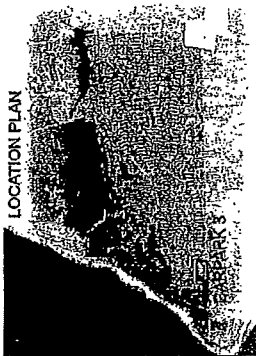
Kirsty Lake  
**PLANNER**

Reviewed by  
**LAKES ENVIRONMENTAL**



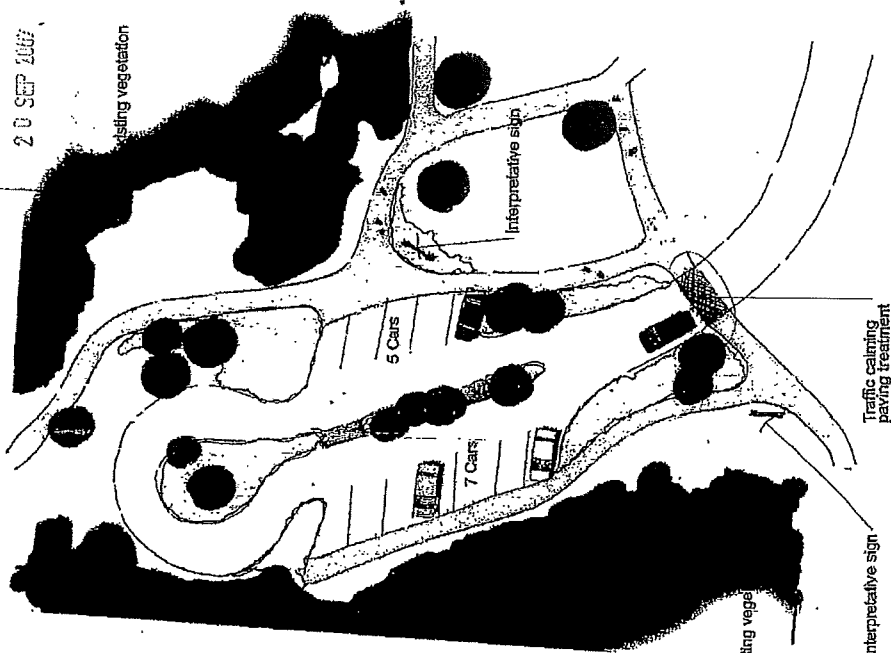
Christian Martin  
**PLANNING TEAM LEADER (WANAKA)**



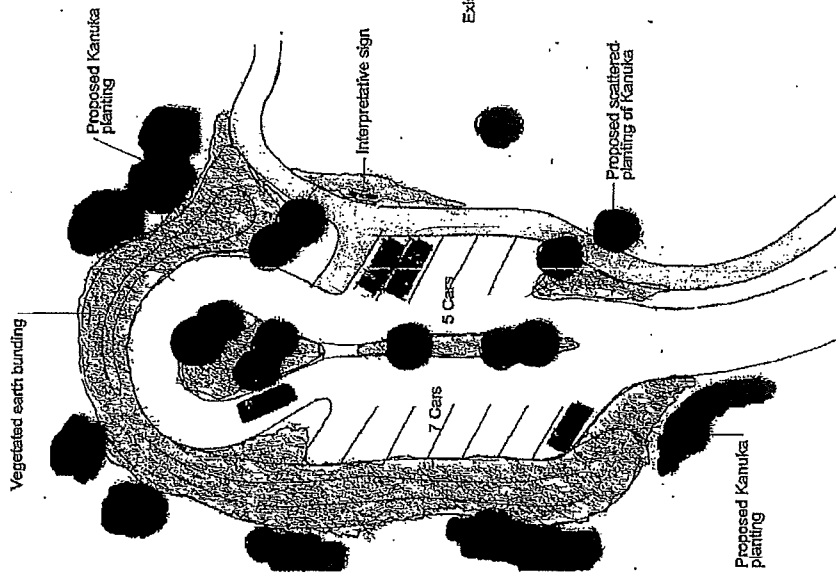


LOCATION PLAN

20 SEP 2007



PLAN OF CARPARK 3  
Scale: 1:200 (A1) 1:400 (A3)



PLAN OF CARPARK 4  
Scale: 1:200 (A1) 1:400 (A3)

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLANE: EM 07-0834

21/07/07 Date

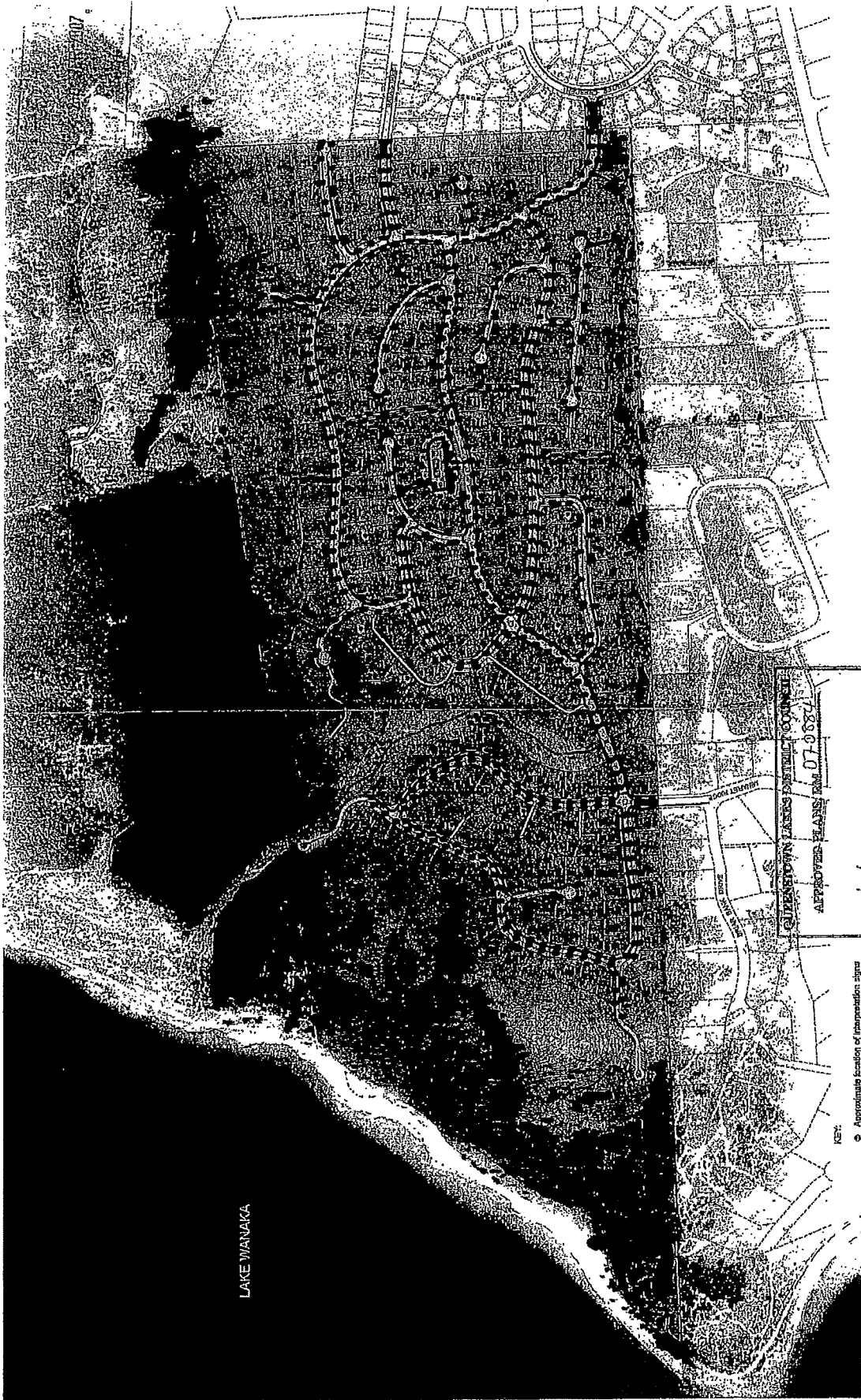
KC Initials

**INFINITY**  
RESIDENT GROUP

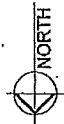
# Peninsula Bay Carpark plans

Peninsula B - Scale: 1:200 (A1) 1:400 (A3) Date: 22 September 2008  
Contact: ned.woodward@infinitymall.co.nz \* © Brian Marshall Limited 2008

REVISION 1 B



1:2500  
 • Approximate location of transportation signs  
 • Subdivisible lots



0 25 50 75 100m

INFINITY

2/12/07  
 Date  
 K/L  
 Initials  
 APPROVED PLANS NO. 07-0374  
 QUEENSTOWN LAKES DISTRICT COUNCIL

# Peninsula Bay Masterplan

Subject to final approval of the Queenstown  
 Lakes District Council and subject to survey.  
 Revision N • Scale: 1:2500 (A3) 1:5000 (A3) Date: 18 October 2008  
 Contact: matt.lane@infinity.co.nz • © Infinity Limited 2008

REVISION B

File: RM070796  
Valuation Number: 2905100201

23 October 2007

Peninsula Village Limited & Wanaka Bay Limited  
C/- Paterson Pitts Partners (Wanaka) Limited  
PO Box 283  
WANAKA 9343

Dear Sir/Madam

**DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL**

**RESOURCE MANAGEMENT ACT 1991**

**PENINSULA VILLAGE & WANAKA BAY LIMITED – RM070796**

We refer to your application for land use consent under Section 88 of the Resource Management Act 1991 to undertake earthworks within the Open Space Zone at Peninsula Bay. The application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 19 October 2007. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

The subject site is located at Peninsula Bay, Wanaka and is legally described as Lot 1 Deposited Plan 302196 held in Certificate of Title 8603.

Under the Partially Operative District Plan the site is zoned Low Density Residential and Open Space Zone (Landscape Protection) and the proposed activity requires:

- A **non complying** activity resource consent pursuant to Rule 20.2.2.5(i) relating to earthworks located in the Open Space Zone.

Overall, the proposal was considered as a **non-complying** activity.

The application was considered on a non-notified basis in terms of Section 93(1)(b) whereby the consent authority were satisfied that the adverse effects of the activity on the environment will be minor and in terms of Section 94(2) whereby no persons were, in the opinion of the consent authority considered to be adversely affected by the activity.

**Decision**

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 be carried out in accordance with the plans (Paterson Pitts Partners "Peninsula Village Limited & Wanaka Bay Limited – Stage 2 Earthworks Cut Fill Areas" Sheet No. 104, Rev G, dated 29/8/07 – **stamped as "Approved Plans" on 19 October 2007**) and the application as submitted, with the exception of the amendments required by the following conditions of consent.
- 2 That unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's own expense.
- 3 The consent holder shall pay to the Council an initial fee of \$240 for the costs associated with the monitoring of this resource consent in accordance with Section 35 of the Act.

### Site Management

- 4 The consent holder shall install measures to control and or mitigate any dust, silt run-off and sedimentation that may occur. These measures shall remain in place for the duration of the project, including outside of normal working hours.
- 5 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.
- 6 At the completion of the earthworks all earth-worked areas shall be top-soiled and grassed within one week.
- 7 No earthworks, temporary or permanent, are to breach the boundaries of the site.
- 8 Upon completion of the earthworks, the consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

### Advice Note

- (i) The Council may elect to exercise its functions and duties through the employment of independent consultants.
- (ii) All conditions imposed via resource consents RM060959, RM061176, RM070362 and RM070796 shall continue to apply.

### **Reasons for the Decision**

#### Consent History

The rezoning of Peninsula Bay from Rural General to Low Density Residential was first considered in 2001 when Variation 15 to the Proposed District Plan was notified for submission. Variation 15 proposed to create a special zone over Peninsula Bay with core areas of the site rezoned for Low Density Residential purposes and fringe locations designated for rural residential living.

The Environment Court rejected Variation 15 in its entirety, based on the following key issues:

- Adverse effects on landscape and visual amenity values, particularly at the northern and eastern fringes;
- The lack of demonstrated need for residential sections that Variation 15 would have enabled;
- Adverse effects on the natural character of Lake Wanaka and its margins; and
- Inconsistency with policies calling for compact urban form and urban consolidation.

Variation 25 was subsequently developed, proposing a change in zoning from Rural General to Low Density Residential and Open Space zoning. The boundaries were amended to remove sensitive areas from residential zoning and an Outline Development Master Plan approval process was included in the Partially Operative District Plan.

Variation 25 became fully operative in November 2006.

An Outline Development Master Plan for development of Peninsula Bay was granted on 2 February 2007 (RM060929). Consent to subdivide the southern third of the site into residential sections was subsequently granted on 7 February 2007 (RM060959). Earthworks were included as part of the subdivision consent.

A further application was then lodged to undertake earthworks in the central portion of the site, via resource consent RM061176 and variation RM070362. The majority of these earthworks have been completed. Most recently, resource consent RM070693 granted earthworks consent to undertake earthworks in the northernmost portion of the site, including some earthworks within the Open Space Zone.

### Proposal

Resource consent applications RM061176 and variation RM070362 did not expressly provide for earthworks within the Open Space Zone. Retrospective land use consent is now sought to undertake earthworks within the Open Space Zone at Peninsula Bay, within the central portion of the site.

The earthworks that have been undertaken are:

- An area of cut and fill near the western boundary of the Peninsula Bay Low Density Residential Zone. These earthworks are partially required for stormwater control purposes.
- Approximately 16,889m<sup>3</sup> of fill has been used to fill part of a gully and divert stormwater run-off away from Lots 74, 75, 167 and 168
- Temporary haul roads were constructed to provide truck access to the gully discussed above. This prompted restorative earthworks to reinstate natural contours.
- During periods of high rainfall in June and August 2007, the Central Melt Channel was inundated with soil and water run-off from adjacent earthworks. The western half of the Central Melt Channel was cleaned out, and the run-off material stockpiled within the northern half of the Central Melt Channel. This stockpile is to be utilised elsewhere on the site. The Central Melt Channel requires additional modification to cope with future run-off and enhanced stormwater management.

The earthworks within the Open Space Zone have a total volume of 38730m<sup>3</sup>, being 13398m<sup>3</sup> of cut material and 25332m<sup>3</sup> of fill, over an approximate area of 3.5905 hectares.

### Site and Locality

The area of land subject to this proposal is located approximately in the central third of the site.

The following site description is taken from Environment Court decision C010/2005 and relates to the entire Peninsula Bay site:

*"The site is roughly rectangular in shape, and has an area of 75.484 hectares. It is located on the Beacon Point Peninsula, immediately north of a residential area served by Rata Street and Hunter Crescent; and east of another residential area known as Penrith Park. To the north, the site abuts a recreation reserve, which in turn abuts Lake Wanaka. The adjoining land to the east is exotic forest, and to the south-east, pasture."*



*The southern boundary of the site is about 2.3 kilometres from the Wanaka Town Centre. The western boundary of the site is about 700 to 800 metres from Lake Wanaka, and northern boundary is about 120 metres from the lake edge.*

*The site is generally rolling, with shallow gullies, rounded ridges and a predominantly westerly aspect. The northern boundary is near the top of a steep scarp which drops to the lake. The eastern boundary is about 130 to 300 metres from a ridge.*

*The average level of the lake is about 279 metres above sea level. The highest point on the site is about 360 metres above sea level, and the lowest point about 305 metres above sea level.*

*Most of the site has a slope pattern that ranges from 1 in 7 to flatter than 1 in 20, but there are areas near the eastern boundary, the south-western end and north-eastern end that slope between 1 in 7 to 1 in 3. The escarpment down to the lake beyond the northern end of the site is generally steeper than 1 in 3.*

*In prehistoric times the site was overrun by glacial advances which left morainic deposits, more recently about 23,000 (fn2 The Mt Iron Advance) and 18,000 (fn3 The Hawea Advance) years ago. The younger (Hawea) moraine generally lies between the 300- and 360- metre contour lines on the site.*

*The vegetation of the site is mainly exotic pasture grasses, and there are scattered stands kanuka and matagouri mainly at the northern end of the site and along parts of the eastern boundary. There are also pockets of kanuka in gullies and patches elsewhere on the site.*

*The site is visible to varying degrees from parts of Lake Wanaka, and from parts of West Wanaka, including the Millenium Walkway along the western shore, and residential areas to the west and south of the site. More particularly, the northern part of the site is visible from the lake, and the elevated slopes near the eastern boundary are visible from the west and south, as well as from parts of the lake.*

*Some people cross the south-eastern corner of the site to gain access to walking and cycle tracks in the adjacent plantation, and others use cycles on tracks through the kanuka at the northern end. The owner has acquiesced in that, but the site is private property and there is no public right of access over it. There is a popular walking path through the lakeside reserve to the north of the site."*

*The site has been significantly modified in the southern two thirds of the site. Construction of Stage 1 of the subdivision (in accordance with RM060959) is well underway, with underground services currently being installed. Earthworks in accordance with RM061176 have been substantially completed, and earthworks approved through RM070693 are underway.*

#### Effects on the Environment

##### *Stormwater*

*The earthworks within the Open Space Zone located within the Central Melt Channel, and along the eastern boundary of the site are required for ongoing stormwater treatment and control measures.*

*In particular, the eastern boundary of the site includes a number of small gullies that channel stormwater from the more elevated adjacent property through the Open Space Zone to the Low Density Residential zoned portion of Peninsula Bay. Since commencing work within Peninsula Bay it became apparent that more comprehensive stormwater diversion was required around these gullies.*

*The same reasoning applies to earthworks within the Central Melt Channel. This area has historically been a collection point for stormwater flows, which have been exacerbated by recent heavy rain events and increased runoff from adjacent areas that have been exposed by recent earthworks. Thus, earthworks within this area are required to remove sedimentation that has accumulated there following heavy rainfall events, and install more permanent stormwater treatment and control measures to service the Peninsula Bay subdivision.*

The intention of Variation 25 was for the Central Melt Channel to be incorporated into the site as both a stormwater control area and protected natural feature. The proposed earthworks within the Central Melt Channel are therefore considered to be both necessary and appropriate to mitigate stormwater requirements for the Low Density Residential zone within Peninsula Bay, and avoid adverse runoff effects.

The effects of earthworks within this area on character and amenity values are discussed below.

#### Landscape Character and Visual Amenity

The proposed earthworks within the Open Space Zone are not considered to give rise to adverse effects on landscape character and amenity values.

A Lakes Environmental landscape architect has assessed the proposal, and concludes:

*"I consider that the finished gradient of the batters (as observed during my site visit) are consistent with the gradient of the existing topography and maintains the gently undulating character of this portion of the moraine terrace. The finished form of the earthworks area will also ensure that passive and recreational activities are not affected by the earthworks.*

*Furthermore, over time much of the earthworks subject to this application will be obscured from the surrounding landscape by residential development."*

The site inspection confirmed that the earth-worked areas along the eastern boundary of the site appear seamless with the surrounding topography, and when re-grassed will not be discernible from adjacent landforms. Re-grassing has been imposed as a condition of consent to maintain the visual amenity of the site.

On site inspection, earthworks were continuing within the Central Melt Channel, as approved through RM070693. Proposed finished contours for this area indicate that the gully will retain its natural topography and proposed landscaping measures will ensure this area will continue to be appreciated for its natural values.

Overall, the adverse effects on landscape character and amenity values are considered to be less than minor, and no persons are considered to be adversely affected.

#### Nuisance

The vast majority of the earthworks proposed in this application have been completed. Earthworks within the Open Space Zone along the western boundary of the site have been re-grassed to prevent dust nuisance. The Central Melt Channel currently holds a significant volume of stormwater from recent heavy rain, and further works are proposed within this area to enhance stormwater treatment and control measures. The final contours will include a dry pond, to be incorporated as a landscape feature with additional planting and walking trails.

A Lakes Environmental Engineer has assessed the proposal and concludes that:

*"I am satisfied that the work has been carried out in an appropriate manner and in accordance with the conditions placed on RM061176 and variation RM070362.*

It is considered appropriate to reinforce some of the site management requirements as conditions of consent on this application, to ensure any adverse effects from those earth-worked areas that remain exposed are mitigated appropriately.

#### Objectives and Policies

The most relevant objective and policies to this proposal are contained in Part 20 (Open Space Zone), and are set out below:

### **Open Space Zone - Objective 1:**

*To protect and maintain natural ecological values and the open appearance of the Open Space Zone.*

#### **Policies:**

- 1.2 *By protecting, and where appropriate enhancing, ecological values and indigenous vegetation.*
- 1.3 *By protecting the open appearance of the zone.*

As discussed in the assessment of environmental effects above, the proposed changes to the existing topography within the Open Space Zone are not considered to compromise the open and natural appearance of the Open Space Zone. Ecological values and indigenous vegetation will be maintained.

### **Other Matters**

#### **Local Government Act 2002: Development Contributions**

In granting this resource consent reference was made to Part 8 Subpart 5 Schedule 13 of the Local Government Act 2002 and the Council's Policy on Development Contributions contained in Long Term Council Community Plan (adopted by the Council on 25 June 2004).

This proposal is not considered a "Development" in terms of the Local Government Act 2002 as it will not generate a demand for network infrastructure and reserves and community facilities.

For the forgoing reasons a Development Contribution is not required.

### **Administrative Matters**

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 no later than 15 working days from the date this decision is received.

You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

Please contact the Council when the conditions have been met or if you have any queries with regard to the monitoring of your consent.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of Section 125 of the Resource Management Act 1991.

If you have any enquiries please contact Kirsty Lake on phone (03) 443 0006.

Prepared by  
**LAKES ENVIRONMENTAL**



Kirsty Lake  
**PLANNER**

Reviewed by  
**LAKES ENVIRONMENTAL**



Christian Martin  
**PLANNING TEAM LEADER (WANAKA)**

File: RM080025 Variation to RM060929 and RM070884  
Valuation Number: 2905100201

13 February 2008

Peninsula Bay Joint Venture  
C/- Paterson Pitts Wanaka Ltd  
PO Box 283  
WANAKA 9343

Attention: Mike Botting

Dear Sir

**DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL**

**RESOURCE MANAGEMENT ACT 1991**

**PENINSULA BAY JOINT VENTURE – RM080025**

We refer to your application for a variation under Section 127 of the Resource Management Act 1991 to vary Conditions 2(a) and 4 of resource consent RM060929 and to vary Conditions 1 and 2(g) of RM070884 relating to a change in the location of Local Purpose Reserve Accessways 706 and 710, and the reassignments of 9 allotments to be marked as subdividable lots.

The original RM060929 and RM070884 applications were considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 2 February 2007 and 3 October 2007 respectively. This decision was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 12 February 2008, and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

The subject site is located at Peninsula Bay, Wanaka and is legally described as Lot 1 Deposited Plan 385632 contained in Certificate of Title 342834.

The site is zoned Low Density Residential and Open Space Zone in the Partially Operative District Plan and the proposed variation requires:

- 1 A **discretionary** activity consent pursuant to Section 127(3)(a) of the Resource Management Act 1991, which deems any application to change or cancel consent conditions to be a discretionary activity.

Overall, the proposal was considered as a **discretionary** activity.

The application was considered on a non-notified basis in terms of Section 93(1)(b) whereby the consent authority were satisfied that the adverse effects of the activity on the environment will be minor and in terms of Section 94(2) whereby no persons were, in the opinion of the consent authority considered to be adversely affected by the activity.

## Decision

The variation to Conditions 2(a) and 4 of resource consent RM060929 and Conditions 1 and 2(g) of RM070884 is GRANTED pursuant to Section 127 of the Resource Management Act 1991, such that Conditions 2(a) and 4 of resource consent RM060929 and Conditions 1 and 2(g) of RM070884 shall be amended to read as follows:

Resource consent RM060929:

2. That future development within Peninsula Bay be carried out in accordance with the plans **stamped as "Approved Plans" dated 1 February 2007** and in 'general' accordance with the following Appendices of the application with the exception of resource consent RM080025 and the plans **(stamped as "Approved Plans" dated 12 February 2008)** and the exception of the amendments required by the following conditions of consent.
  - a) Appendix E – Indicative Subdivision Plan – Concept 1r
4. At the time a subdivision application is lodged to undertake the subdivision indicated on the Peninsula Bay Outline Development Master Plan and approved by resource consent RM060929, the consent holder will offer a consent notice to be registered on each resulting Certificate of Title in accordance with Section 221 of the Act. The consent notice shall be imposed to achieve the following outcomes:
  - a) On the lots identified below only one residential unit shall be constructed and there shall be no further subdivision:
 

Lots 2-13, 19-23, 26-31, 33-42, 45-49, 51, 55-57, 70-81, 83-89, 91, 93-115, 117-129, 131-148, 150-153, 156-161, 163-166, 168, 176-181, 183-218, 220-227, 229-297, 299, 301-318 inclusive.
  - b) Lots identified on the Outline Development Master Plan as being capable of further subdivision (indicated by a blue dot) can be further subdivided into a maximum of two lots, with each resultant lot restricted to a maximum density of one residential unit. This provision relates to the following lots:
 

Lots 17, 52, 58, 116, 149, 154, 155, 162, 167, 169, 170-175, 182, 219, 228, 298 and 300.

Note: A residential unit is defined in the Partially Operative District Plan (2007) as a residential activity which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.

Resource Consent RM070884:

1. That future development within Peninsula Bay be carried out in accordance with the application and outline development master plan as submitted **(stamped as "Approved Plans" on 1 February 2007)**, and, in particular, in accordance with the following Appendices of the application, and with the exception of resource consent RM070884 and RM080025 and the plans **(stamped as "Approved Plans" on 12 February 2008)** and with the exception of the amendments required by the following conditions of consent.
  - a) Appendix D – Outline Development Master Plan, Revision 1r, dated as received on 7 February 2008.
2. That future development within Peninsula Bay be carried out in accordance with the application as submitted **(stamped as "Approved Plans" on 1 February 2007)**, and in 'general' accordance with the following Appendices of the application, with the exception of resource consent RM070884 **and RM080025 and the plans (stamped as "Approved Plans"**

on 12 February 2008) and with the exception of the amendments required by the following conditions of consent.

- g) Paterson Pitts Partners "Peninsula Bay Proposed Recreational and Local Purpose Reserves to Vest in QLDC" Revision F, dated 13/10/06.

Advice note

- All other conditions of RM060929 and RM070884 shall continue to apply.
- The Council may elect to exercise its functions and duties through the employment of independent consultants.

**Reasons for the Decision as per s94 comments**

*Site Background*

Resource consent RM060929 was granted on the 2<sup>nd</sup> of February 2007 for an Outline Development Master Plan. The purpose of the Outline Development Master Plan is to ensure that Peninsula Bay is developed comprehensively and cohesively – including aspects such as roading, subdivision layout, pedestrian links and public access, location and visibility of future dwellings.

Subsequently, resource consent RM060959 was granted on the 7<sup>th</sup> of February 2007 to undertake stages 1-3 of the subdivision of Peninsula Bay, to create 112 residential allotments. This application included a significant amount of earthworks in the southern third of the site.

Resource consents RM061176, RM070362 and RM070693 were then granted to allow the developer to undertake earthworks in the northern two-thirds of the site.

As described above, variation (RM070884) to Conditions 1 and 2(d) of resource consent RM060929 and the addition of Condition 2(g) was granted on the 3<sup>rd</sup> of October 2007. The variation sought to remove a public car park located in the Open Space Zone, and vest an area of land as Local Purpose Reserve (Drainage) instead of Recreation Reserve.

*Site Description and Locality*

The following site description is taken from Environment Court decision C010/2005:

*"The site is roughly rectangular in shape, and has an area of 75.484 hectares. It is located on the Beacon Point Peninsula, immediately north of a residential area served by Rata Street and Hunter Crescent; and east of another residential area known as Penrith Park. To the north, the site abuts a recreation reserve, which in turn abuts Lake Wanaka. The adjoining land to the east is exotic forest, and to the south-east, pasture.*

*The southern boundary of the site is about 2.3 kilometres from the Wanaka Town Centre. The western boundary of the site is about 700 to 800 metres from Lake Wanaka, and northern boundary is about 120 metres from the lake edge.*

*The site is generally rolling, with shallow gullies, rounded ridges and a predominantly westerly aspect. The northern boundary is near the top of a steep scarp which drops to the lake. The eastern boundary is about 130 to 300 metres from a ridge.*

*The average level of the lake is about 279 metres above sea level. The highest point on the site is about 360 metres above sea level, and the lowest point about 305 metres above sea level.*

*Most of the site has a slope pattern that ranges from 1 in 7 to flatter than 1 in 20, but there are areas near the eastern boundary, the south-western end and north-eastern end that slope between 1 in 7 to 1 in 3. The escarpment down to the lake beyond the northern end of the site is generally steeper than 1 in 3.*

*In prehistoric times the site was overrun by glacial advances which left morainic deposits, more recently about 23,000 (fn2 The Mt Iron Advance) and 18,000 (fn3 The Hawea Advance) years ago. The younger (Hawea) moraine generally lies between the 300- and 360- metre contour lines on the site.*

*The vegetation of the site is mainly exotic pasture grasses, and there are scattered stands kanuka and matagouri mainly at the northern end of the site and along parts of the eastern boundary. There are also pockets of kanuka in gullies and patches elsewhere on the site.*

*The site is visible to varying degrees from parts of Lake Wanaka, and from parts of West Wanaka, including the Millenium Walkway along the western shore, and residential areas to the west and south of the site. More particularly, the northern part of the site is visible from the lake, and the elevated slopes near the eastern boundary are visible from the west and south, as well as from parts of the lake.*

*Some people cross the south-eastern corner of the site to gain access to walking and cycle tracks in the adjacent plantation, and others use cycles on tracks through the kanuka at the northern end. The owner has acquiesced in that, but the site is private property and there is no public right of access over it. There is a popular walking path through the lakeside reserve to the north of the site."*

The appearance of the site has been significantly altered through works associated with subdivision consent RM060959 and subsequent earthworks consents.

#### *The Application*

Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows;

- 1) *The holder of a resource consent may apply to a consent holder for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent).*

The applicant seeks to vary Condition 2(a) and 4 of RM060929 and Conditions 1 and 2(g) of RM070884 in order to change the location of two Local Purpose Reserve Accesses and to change the allocation of allotments which have the potential for further subdivision.

It is proposed that the location of two Local Purpose Reserve Accesses be changed in response to the outcome of the detailed engineering design which has accounted for the overland stormwater flow paths. The Applicant has stated that the proposed changes are as follows:

- *Accessway 706 located between Proposed Lots 167 and 168, has been shifted one section to the north to be located between Proposed Lots 168 and 169. Significantly less earthworks were required to provide the required overland flow path from the upstream catchments in this location.*
- *Accessway 710 has been moved from between Proposed Lots 87 and 222 to between Lots 86 and 87. This provides an overland flowpath from the road low point servicing these lots.*

The Outline Development Master Plan approved by RM070884 identified residential allotments which would have the future potential to be subdivided and specifically included the following lots: 86, 89, 112, 117, 151, 183, 226, 254 and 291. It is proposed that these specific lots be revised to ensure that each lot has an area of 1400m<sup>2</sup> or more in order that any future subdivision will achieve complying 700m<sup>2</sup> lots. The proposed replacement lots will be as follows: 154, 167, 169, 170, 171, 172, 173, 182 and 298.

#### *Consideration of Effects*

Section 127 of the Resource Management Act provides for a resource consent to be varied as follows;

- "(3) Sections 88 to 121 shall apply, with all necessary modifications, as if –
- (a) the application were an application for a resource consent for a discretionary activity; and
  - (b) the references to a resource consent and to the activity were references only to the change or cancellation of a condition and effects of the change or cancellation respectively.
- (4) For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who –
- (a) made a submission on the original application; and
  - (b) may be affected by the change or cancellation."

In considering the effects of the variation to consent, due regard is given to the effects permitted by the granting of the original resource consents RM060929 and RM070884. Where the variation is not going to result in adverse effects any further than those which have been consented to, the effects are considered to be less than minor.

#### Effects on the Environment

##### Stormwater

Upon the completion of the detailed engineering design it has been revealed that two Local Purpose Reserve Accessways will need to be relocated in order to account for the overland stormwater flow paths. The change in location of these Local Purpose Reserve Access Ways 706 and 710 is insignificant as each Access Way will only be moved one lot over.

Therefore it is considered that the proposal will have a de minimus on stormwater control.

##### People and Built Form

The reassignment of allotments that will have future subdivision capability is not considered to give rise to adverse effects on people and built form. It is considered that this change will actually have a lesser effect as all of the identified allotments will have an area of 1400m<sup>2</sup> or more in order that any future subdivision will achieve complying 700m<sup>2</sup> lots. Nine of the original approved allotments had a site area of less than 1400m<sup>2</sup>. There is to be no change to the number of subdividable lots to that approved by consent RM060929.

As Council will be taking over the ownership and maintenance of reserves within the Peninsula Bay development, the applicant has undertaken consultation with the Council Parks Manager. The results of consultation are that the Council Parks Manager has provided approval for the relocation of the two Local Purpose Reserve Accesses numbered 706 and 710. Both access ways will continue to provide walking and mountain bike track access from the residential areas to the main trails located within the Open Space Zone of Peninsula Bay.

Therefore it is considered that the proposal will have a less than minor effect on people and built form.

##### Affected Parties

No parties are considered adversely affected by the proposed variation.

##### Objectives and Policies

Resource consent RM060929 and RM070884 was assessed and concluded not to be contrary to the relevant objectives and policies contained in the Partially Operative District Plan. The variation proposed as part of resource consent RM080025 has also been assessed as consistent with the relevant provisions of the plan. It is therefore considered appropriate to amend Conditions 2(a) and 4 of RM060929 and Conditions 1 and 2(g) of RM070884 as outlined above.



## Conclusion

Having considered the actual and potential effects resulting, the relevant objectives and policies of the Partially Operative District Plan, and the relevant provisions of the Resource Management Act 1991, it is considered that it is appropriate to vary Conditions 2(a) and 4 of resource consent RM060929 and Conditions 1 and 2(g) of RM070884 so that these conditions read as follows (deleted text struck through, added text in bold):

Resource consent RM060929:

- 2 That future development within Peninsula Bay be carried out in accordance with the application as submitted (**stamped as "Approved Plans" on 1 February 2007**) and in 'general' accordance with the following Appendices of the application with the exception of resource consent RM080025 and the plans (**stamped as "Approved Plans" dated 11 February 2008**) following Appendices of the application, with the exception of the amendments required by the following conditions of consent.

e) Appendix E – Indicative Subdivision Plan – **Concept 1r**

*Note: The Outline Development Master Plan is essentially a living document. Any amendments or additions to the above appendices will require approval from the Council. Where a significant deviation is made from what has been approved as part of this decision, a variation to the conditions of this consent may be required.*

- 4 At the time a subdivision application is lodged to undertake the subdivision indicated on the Peninsula Bay Outline Development Master Plan and approved by resource consent RM060929, the consent holder will offer a consent notice to be registered on each resulting Certificate of Title in accordance with Section 221 of the Act. The consent notice shall be imposed to achieve the following outcomes:

- a) On the lots identified below only one residential unit shall be constructed and there shall be no further subdivision:

*Lots 2-13, 19-23, 26-31, 33-42, 45-49, 51, 55-57, 70-81, ~~83-85, 87-88, 83-89, 91, 93-111, 113-115, 93-115, 118-129, 117-129, 131-148, 150, 152-154, 150-153, 156-161, 163-173, 163-166, 168, 176-182, 176-181, 184-218, 183-218, 220-225, 227, 220-227, 229-253, 255-290, 292-299, 229-297, 299, 301-318~~ inclusive.*

- b) Lots identified on the Outline Development Master Plan as being capable of further subdivision (indicated by a blue dot) can be further subdivided into a maximum of two lots, with each resultant lot restricted to a maximum density of one residential unit. This provision relates to the following lots:

*Lots 17, 52, 58, ~~86, 89, 112, 116, 147, 149, 154, 155, 162, 167, 169, 174, 175, 170-175, 182, 183, 219, 226, 228, 254, 294, 298~~ and 300.*

*Note: A residential unit is defined in the Partially Operative District Plan (2007) as a residential activity which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.*

Resource consent RM070884:

1. That future development within Peninsula Bay be carried out in accordance with the application and outline development master plan as submitted (**stamped as "Approved Plans" on 1 February 2007**), and, in particular, in accordance with the following Appendices of the application, and with the exception of resource consent RM070884 and the plans (**stamped as "Approved Plans" on 1 October 2007**) and RM080025 and the plans

*(stamped as "Approved Plans" on 12 February 2008) and with the exception of the amendments required by the following conditions of consent.*

- a) *Appendix D – Outline Development Master Plan, Revision B, dated as received on 20 September 2007 Revision 1r, dated as received on 7 February 2008.*
- 2. That future development within Peninsula Bay be carried out in accordance with the application as submitted **(stamped as "Approved Plans" on 1 February 2007)**, and in 'general' accordance with the following Appendices of the application, with the exception of resource consent RM070884 ~~and the plans (stamped as "Approved Plans" on 1 October 2007) and RM080025 and the plans (stamped as "Approved Plans" on 12 February 2008)~~ and with the exception of the amendments required by the following conditions of consent.
  - h) Paterson Pitts Partners "Peninsula Bay Proposed Recreational and Local Purpose Reserves to Vest in QLDC" Revision E F, dated 13/10/06.

### **Other Matters**

#### *Local Government Act 2002: Development Contributions*

In granting this resource consent reference was made to Part 8 Subpart 5 Schedule 13 of the Local Government Act 2002 and the Council's Policy on Development Contributions contained in Long Term Council Community Plan (adopted by the Council on 25 June 2004).

This proposal is not considered a "Development" in terms of the Local Government Act 2002 as it will not generate a demand for network infrastructure and reserves and community facilities. The Outline Development Master Plan will not in itself result in any physical development of the subject site and will therefore not generate any demands on Council's infrastructure. Accordingly, no development contribution is required. The consent holder is advised that development contributions may be payable at the time subdivision consent is issued.

### **Administrative Matters**

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 not later than 15 working days from the date this decision is received.

You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

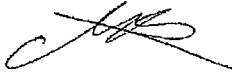
This resource consent is not a consent to build under the Building Act 1991. A consent under this Act must be obtained before construction can begin.

Please contact the Council when the conditions have been met or if you have any queries with regard to the monitoring of your consent.

If you have any enquiries please contact Melanie Rountree on phone (03) 443-0127.

Prepared by  
**LAKES ENVIRONMENTAL LTD**

Reviewed by  
**LAKES ENVIRONMENTAL LTD**



Melanie Rountree  
**PLANNER**



Kirsty Lake  
**PLANNER**

File: RM080440 var to RM060929  
Valuation: 2905100201

17 April 2008

Peninsula Bay Joint Venture  
C/- Paterson Pitts Partners Limited  
PO Box 283  
WANAKA 9343

Attention: Mike Botting

Dear Sir

**DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL**

**RESOURCE MANAGEMENT ACT 1991**

**PENINSULA BAY JOINT VENTURE – RM080440**

We refer to your request for a variation to conditions pursuant to Section 127 of the Resource Management Act 1991 to vary Conditions 1, 2(a) and 4 of land use consent RM060929 and associated variations RM070884 and RM080025.

Resource consent RM060929 granted land use on 2 February 2007 for an Outline Development Master Plan for Peninsula Bay. The Outline Development Master Plan has subsequently been varied by resource consents RM070884 and RM080025. The variation now sought seeks to amend the size of Lots 88 and 89, vary the access arrangements to Lots 170-174 and relocate a subdivisible 'dot' from Lot 154 to Lot 89.

The variation application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 16 April 2008. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

The subject site is located at Peninsula Bay, Wanaka and is legally described as Lot 1 Deposited Plan 302196 held in Certificate of Title 8603.

The site is zoned Low Density Residential and Open Space Zone in the Partially Operative District Plan and the proposal requires resource consent for the following reasons:

- A **discretionary** activity consent in accordance with Section 127(3)(a) of the Resource Management Act 1991, which specifies a variation to a resource consent shall be processed as if the application was for a discretionary activity.

The application was considered on a non-notified basis in terms of Section 93(1)(b) whereby the consent authority were satisfied that the adverse effects of the activity on the environment will be minor and in terms of Section 94(2) whereby no persons were, in the opinion of the consent authority considered to be adversely affected by the activity.

## Decision

The variation to Conditions 1, 2(a) and 4 of land use consent RM060929 and associated variations RM070884 and RM080025 is GRANTED pursuant to Section 127 of the Resource Management Act 1991 such that Conditions 1, 2(a) and 4 shall be amended as follows:

1. That future development within Peninsula Bay be carried out in accordance with the application and outline development master plan as submitted (**stamped as "Approved Plans" on 1 February 2007**), and, in particular, in accordance with the following Appendices of the application, with the exception of resource consents RM070884, RM080025 and RM080440 and the plans (**stamped as "Approved Plans" on 14 April 2008**) and with the exception of the amendments required by the following conditions of consent.
  - a) Appendix D – Outline Development Master Plan, Revision 1s, dated 1 April 2008.
2. That future development within Peninsula Bay be carried out in accordance with the application as submitted (**stamped as "Approved Plans" on 1 February 2007**), and in 'general' accordance with the following Appendices of the application, with the exception of resource consents RM070884, RM080025 and RM080440 and with the exception of the amendments required by the following conditions of consent.
  - a) Appendix E – Indicative Subdivision Plan – Concept 1s, dated 1 April 2008 and stamped as "Approved Plans" on 14 April 2008.
4. At the time a subdivision application is lodged to undertake the subdivision indicated on the Peninsula Bay Outline Development Master Plan and approved by resource consent RM060929, the consent holder will offer a consent notice to be registered on each resulting Certificate of Title in accordance with section 221 of the Act. The consent notice shall be imposed to achieve the following outcomes:
  - a) On the lots identified below only one residential unit shall be constructed and there shall be no further subdivision:

Lots 2-13, 19-23, 26-31, 33-42, 45-49, 51, 55-57, 70-81, 83-88, 91, 93-115, 117-129, 131-148, 150-154, 156-161, 163-166, 168, 176-181, 183-218, 220-227, 229-297, 299, 301-318 inclusive.
  - b) Lots identified on the Outline Development Master Plan as being capable of further subdivision (indicated by a blue dot) can be further subdivided into a maximum of two lots, with each resultant lot restricted to a maximum density of one residential unit. This provision relates to the following lots:

Lots 17, 52, 58, 89, 116, 149, 155, 162, 167, 169, 170-175, 182, 219, 228, 298 and 300.

Note: A residential unit is defined in the Partially Operative District Plan (2007) as a residential activity which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.

## Advice Note

- (i) All other conditions of resource consents RM060929, RM070884 and RM080025 shall continue to apply. A complete list of conditions is attached as Appendix 1 to this decision.
- (ii) The Council may elect to exercise its functions and duties through the employment of independent consultants.

## Reasons for the Decision

### *Consent History*

Resource consent RM060929 was granted on 2 February 2007 for an Outline Development Master Plan. The purpose of the Outline Development Master Plan (ODMP) is to ensure that Peninsula Bay is developed comprehensively and cohesively - including aspects such as roading, subdivision layout, pedestrian links and public access, location and visibility of future dwellings. The ODMP was varied by RM070884 and RM080025 as described above.

Subsequently resource consent RM060959 was granted on 7 February 2007 to undertake stages 1-3 of the subdivision of Peninsula Bay, to create 112 residential allotments. This application included a significant amount of earthworks in the southern third of the site.

Resource consents RM061176, RM070362 and RM070693 were then granted to allow the developer to undertake earthworks in the northern two-thirds of the site.

Resource consent RM080100 is currently being processed by the Council to subdivide the remainder of the site that was not included in subdivision consent RM060959.

### *Site Description and Locality*

The following site description is taken from Environment Court decision C010/2005:

*"The site is roughly rectangular in shape, and has an area of 75.484 hectares. It is located on the Beacon Point Peninsula, immediately north of a residential area served by Rata Street and Hunter Crescent; and east of another residential area known as Penrith Park. To the north, the site abuts a recreation reserve, which in turn abuts Lake Wanaka. The adjoining land to the east is exotic forest, and to the south-east, pasture.*

*The southern boundary of the site is about 2.3 kilometres from the Wanaka Town Centre. The western boundary of the site is about 700 to 800 metres from Lake Wanaka, and northern boundary is about 120 metres from the lake edge.*

*The site is generally rolling, with shallow gullies, rounded ridges and a predominantly westerly aspect. The northern boundary is near the top of a steep scarp which drops to the lake. The eastern boundary is about 130 to 300 metres from a ridge.*

*The average level of the lake is about 279 metres above sea level. The highest point on the site is about 360 metres above sea level, and the lowest point about 305 metres above sea level.*

*Most of the site has a slope pattern that ranges from 1 in 7 to flatter than 1 in 20, but there are areas near the eastern boundary, the south-western end and north-eastern end that slope between 1 in 7 to 1 in 3. The escarpment down to the lake beyond the northern end of the site is generally steeper than 1 in 3.*

*In prehistoric times the site was overrun by glacial advances which left morainic deposits, more recently about 23,000 (fn2 The Mt Iron Advance) and 18,000 (fn3 The Hawea Advance) years ago. The younger (Hawea) moraine generally lies between the 300- and 360- metre contour lines on the site.*

*The vegetation of the site is mainly exotic pasture grasses, and there are scattered stands kanuka and matagouri mainly at the northern end of the site and along parts of the eastern boundary. There are also pockets of kanuka in gullies and patches elsewhere on the site.*

*The site is visible to varying degrees from parts of Lake Wanaka, and from parts of West Wanaka, including the Millenium Walkway along the western shore, and residential areas to the west and south of the site. More particularly, the northern part of the site is visible from the lake, and the elevated slopes near the eastern boundary are visible from the west and south, as well as from parts of the lake.*

*Some people cross the south-eastern corner of the site to gain access to walking and cycle tracks in the adjacent plantation, and others use cycles on tracks through the kanuka at the northern end. The owner has acquiesced in that, but the site is private property and there is no public right of access over it. There is a popular walking path through the lakeside reserve to the north of the site."*

The appearance of the site has been significantly altered through works associated with subdivision consent RM060959 and subsequent earthworks consents.

#### *The Application*

Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows:

*The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent).*

The applicant seeks to vary Conditions 1, 2(a) and 4 of resource consent RM060929 and associated variations RM070884 and RM080025 to amend the lot size of Lots 88 and 89, to vary the access layout to Lots 170-174, and relocate a subdivisible 'dot' from Lot 154 to Lot 89.

#### *Consideration of Effects*

Section 127 of the Resource Management Act 1991 provides for a resource consent to be varied as follows;

- (3) *Sections 88 to 121 shall apply, with all the necessary modifications, as if-*
  - (a) *the application were an application for a resource consent for a discretionary activity; and*
  - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who-*
  - (a) *made a submission on the original application; and*
  - (b) *may be affected by the change or cancellation.*

In considering the effects of the variation to consent, due regard is given to the effects permitted by the granting of the original resource consent RM060929. Where the variation is not going to result in adverse effects any further than those which have been consented to, the effects are considered to be less than minor.

#### *Effects on the Environment*

##### *Stormwater*

The amended access arrangements to Lots 170-174 provide for improved overland flow paths, particularly in the vicinity of Lot 174. No adverse effects in terms of infrastructure are expected as a result of the amendment.

##### *People and Built Form*

The relocation of a subdivisible 'dot' will have no impact on people and built form, as an increase in residential density will not occur as a result. As subdivision consent to create Lot 89 is yet to be granted, the adjoining sites are currently owned by the applicant and no other parties are considered to be adversely affected by allowing Lot 89 to subdivide into two lots in the future.

### Access

The amendment to the access layout to Lots 170-174 has been amended to allow for a turning area at the end of the access lot adjacent to Lot 172, and an additional turning area has also been provided part way down the access adjacent to Lot 174. The turning areas have been designed to improve the access arrangements to these lots, taking into account their ability to subdivide in the future. Lakes Environmental's Engineer has advised that the revised access arrangements are acceptable.

The change in lot area of Lots 88 and 89 will have no adverse effect, as both lots significantly exceed the minimum lot size for the zone.

### Affected Persons

No persons are considered to be adversely affected by the proposed variation. The original consent RM060929 and subsequent variations were processed on a non-notified basis, with the only written approvals being from the Council in relation to the vesting of reserves. The Council is not considered to be adversely affected by the proposed change in conditions.

### Conclusion to Variation

Having considered the relevant objectives and policies of the Partially Operative District Plan, and the relevant provisions of the Resource Management Act 1991, it has been found that the variation as sought will not result in more than minor adverse effects on the environment, and without adversely affecting any party. Accordingly, it is deemed appropriate to amend Conditions 1, 2(a) and 4 of land use consent RM060929 and associated variations RM070884 and RM080025 to read as follows (insertion underlined, deletion struck-through):

1. That future development within Peninsula Bay be carried out in accordance with the application and outline development master plan as submitted (**stamped as "Approved Plans" on 1 February 2007**), and, in particular, in accordance with the following Appendices of the application, with the exception of resource consents RM070884, RM080025 and RM080440 and the plans (**stamped as "Approved Plans" on 12 February 2008** ~~11 April 2008~~) and with the exception of the amendments required by the following conditions of consent.
  - a) Appendix D – Outline Development Master Plan, ~~Revision 1r, dated as received on 7 February 2008~~; Revision 1s, dated 1 April 2008
2. That future development within Peninsula Bay be carried out in accordance with the plans (**stamped as "Approved Plans" on 1 February 2007**), and in 'general' accordance with the following Appendices of the application, with the exception of resource consents RM070884, RM080025 and RM080440 and with the exception of the amendments required by the following conditions of consent.
  - a) Appendix E – Indicative Subdivision Plan – ~~Concept-1r~~ Concept 1s, dated 1 April 2008 and stamped as "Approved Plans" on 11 April 2008.
4. At the time a subdivision application is lodged to undertake the subdivision indicated on the Peninsula Bay Outline Development Master Plan and approved by resource consent RM060929, the consent holder will offer a consent notice to be registered on each resulting Certificate of Title in accordance with section 221 of the Act. The consent notice shall be imposed to achieve the following outcomes:
  - a) On the lots identified below only one residential unit shall be constructed and there shall be no further subdivision:  
  
Lots 2-13, 19-23, 26-31, 33-42, 45-49, 51, 55-57, 70-81, ~~83-88~~ 89, 91, 93-115, 117-129, 131-148, ~~150-154~~ 154, 156-161, 163-166, 168, 176-181, 183-218, 220-227, 229-297, 299, 301-318 inclusive.



- b) Lots identified on the Outline Development Master Plan as being capable of further subdivision (indicated by a blue dot) can be further subdivided into a maximum of two lots, with each resultant lot restricted to a maximum density of one residential unit. This provision relates to the following lots:

Lots 17, 52, 58, 89, 116, 149, 454, 155, 162, 167, 169, 170-175, 182, 219, 228, 298 and 300.

*Note: A residential unit is defined in the Partially Operative District Plan (2007) as a residential activity which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.*

#### **Other Matters**

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 not later than 15 working days from the date this decision is received.

You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

If you have any enquiries please contact Kirsty Huxford on phone (03) 443 0006.

Prepared by  
**LAKES ENVIRONMENTAL**

Reviewed by  
**LAKES ENVIRONMENTAL**

Kirsty Huxford  
**PLANNER**

Christian Martin  
**PLANNING TEAM LEADER (WANAKA)**

**Appendix 1 – Conditions of Consent for RM060929 as varied by RM070884, RM080025 and RM080440**

- 1 That future development within Peninsula Bay be carried out in accordance with the application and outline development master plan as submitted (**stamped as “Approved Plans” on 1 February 2007**), and, in particular, in accordance with the following Appendices of the application, with the exception of resource consents RM070884, RM080025 and RM080440 and the plans (**stamped as “Approved Plans” on 14 April 2008**) and with the exception of the amendments required by the following conditions of consent.

a) Appendix D – Outline Development Master Plan, Revision 1s, dated 1 April 2008.

Note: The Outline Development Master Plan is essentially a living document. Any amendments or additions to the above appendix will require a further assessment in accordance with the provisions of the Plan. Accordingly, any such amendments or additions will require an application for a variation to the conditions of this consent to be made, pursuant to section 127 of the Act.

- 2 That future development within Peninsula Bay be carried out in accordance with the application as submitted (**stamped as “Approved Plans” on 1 February 2007**), and in 'general' accordance with the following Appendices of the application, with the exception of resource consents RM070884, RM080025 and RM080440 and with the exception of the amendments required by the following conditions of consent.

a) Appendix E – Indicative Subdivision Plan – Concept 1s, dated 1 April 2008 and stamped as “Approved Plans” on 14 April 2008.

b) Appendix G – Typical Streetscape Drawings

c) Appendix H – Landscaping of Road Reserves

d) Appendix I – Landscaping of Car Parking Areas, Revision B, dated as received on 20 September 2007.

e) Appendix K – Landscape Treatment of Lower Reserve Walkway

f) Appendix L – Landscape Treatment of Walkway Reserve

g) Paterson Pitts Partners “Peninsula Bay Proposed Recreational and Local Purpose Reserves to Vest in QLDC” Revision F, dated 13/10/06

Note: The Outline Development Master Plan is essentially a living document. Any amendments or additions to the above appendices will require approval from the Council. Where a significant deviation is made from what has been approved as part of this decision, a variation to the conditions of this consent may be required.

- 3 That unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's own expense.

Density of Development

- 4 At the time a subdivision application is lodged to undertake the subdivision indicated on the Peninsula Bay Outline Development Master Plan and approved by resource consent RM060929, the consent holder will offer a consent notice to be registered on each resulting Certificate of Title in accordance with section 221 of the Act. The consent notice shall be imposed to achieve the following outcomes:

a) On the lots identified below only one residential unit shall be constructed and there shall be no further subdivision: