

**BEFORE THE EXPERT CONSENTING PANEL
CONCERNING SILVERLIGHT STUDIOS WANAKA**

IN THE MATTER of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 and the deliberations and final decision of the Expert Consenting Panel appointed under Clauses 2, 3, and 4 of Schedule 5 of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 (FTCA) to consider an application for resource consent by Silverlight Studios Limited for on-site accommodation ancillary to Silverlight Studios film production operations

Expert Consenting Panel:	Heather Ash (Chair) Jan Caunter (Member) Karen Coutts (Member) Rob van Voorthuysen (Member)
Comments received under Clause 17(4) of Schedule 6 to the FTCA:	9 December 2021
Details of any hearing if held under Clause 21 of Schedule 6 of the FTCA	No hearing was held
Date of Hearing if held:	Nil
Date of Decision:	18 February 2022
Date of Issue:	18 February 2022

**RECORD OF DECISION OF THE EXPERT CONSENTING PANEL
UNDER CLAUSE 37 SCHEDULE 6 OF THE FTCA**

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Part A: Executive Summary

- [1] On 8 December 2021 Silverlight Studios Limited (SSL or Applicant) was granted consent (FTC000027) under the Covid-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) to construct and operate a film studios complex (Film Studios Project) including film location sets, buildings for post-production facilities, film school, screening theatre, film exhibition centre and supporting facilities along with associated infrastructure for the film studio complex near Wanaka.
- [2] SSL sought a referral (FTC000054) from the Minister for the Environment to an expert panel under the FTCA to provide worker, film student and visitor accommodation within certain buildings constructed as part of the Film Studios Project outlined above (the Accommodation Project). The Minister accepted that the purpose of the FTCA would be met by the Accommodation Project. On 26 October 2021, Schedule 10A was inserted into the FTCA (the referral order) by clause 4 of the Covid-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No. 13) 2021, in order to give effect to the Minister's decision to refer the Accommodation Project to an expert consenting panel under section 24 of the FTCA. We have been appointed as the Panel to determine the application (the Panel).
- [3] The Accommodation Project was lodged with the Environmental Protection Agency (EPA) on 29 October 2021. The proposal sought a land use consent to provide on-site accommodation as an activity ancillary to Silverlight Studios film production operations. The resource consent application form refers to "*the provision of worker and visitor accommodation ancillary to film studio activities*".
- [4] Given the close relationship of this application with the original Film Studios Project (FTC000027), the Panel invited comment from the same adjacent parties, as well as community groups, as for that original Film Studios Project.
- [5] The Panel partly grants the applications for land use consent required from the Queenstown Lakes District Council (QLDC) and the combined land use and discharge consent from the Otago Regional Council (ORC), subject to the consent conditions set out in Annexure A of this Decision. The QLDC land use consent is granted for an unlimited duration whereas the ORC consent is granted for a duration of 15 years.¹
- [6] The Panel does not grant the part of the application relating to the use of the buildings for visitor accommodation. We have concluded that visitor accommodation is not appropriate as part of the Film Studios Project. The basis for the Panel's determination is addressed in detail in Sections E.9 and F.1.3 of this Decision.

¹ The ORC consent included in Annexure A is a combined land use and discharge consent and so it is limited to a maximum term of 35 years. The Project staging set out in condition 53 of FTC000027 spans 11 years, so we consider that a 15-year duration for the ORC consent is appropriate and observe that it provides some limited flexibility should the proposed construction timetable suffer from delays.

Part B: Introduction and Procedure

B.1 Introduction to the Accommodation Project

- [7] The scope of the Accommodation Project, as described in the referral order is to:
- (a) fit out and operate approximately 300 residential units, within buildings constructed as part of the original Film Studios Project, as accommodation for:
 - film cast members, film crew members (including post-production crew members), other workers at the film studio complex, and students of the film school at that complex; and
 - (b) visitors, but only to the extent that the residential units are not required for those cast members, crew members, other workers, or students; and
 - (c) construct or install infrastructure that is associated with the residential units (for example, car parking, access for walking and transport, and infrastructure for three waters services).
- [8] The accommodation will be provided within the Venice, Paris and New York precincts and will be contained within buildings for which consent has already been obtained under FTC000027. The floor plans for the Venice, Paris and New York precincts approved under FTC000027 included areas shown as Vacant Future Use TBC. It is within that floor space that the accommodation will be provided. An updated set of floor plans relabelling those floor areas as Accommodation was attached as Appendix 4 to the Accommodation Project application documents.
- [9] SSL's intention is to provide accommodation for between 20 to 30% of the SSL workforce and students/trainees on the site in a mix of studio, one bed, two bed and three bed apartments. A breakdown of how these units might be distributed was attached as Appendix 5 to the Accommodation Project application documents. The breakdown was 51 studio apartments, 144 one-bedroom apartments, 92 two-bedroom apartments and nine three-bedroom apartments equating to 314 bedrooms overall. The duration of each individual's stay in the accommodation will vary from person to person and between productions and/or study options.
- [10] SSL propose that when the on-site accommodation is not occupied by cast, crew or students it may be made available for short stay visitor accommodation in the more traditional sense.
- [11] The staging of the Venice, Paris and New York precincts was detailed in Condition 53 of the land use consent for FTC000027 as follows:

Stage	Description
6	Construction of Venice
8	Construction of Paris
9	Construction of New York

- [12] We understand that the staging numbers relate to the number of years after site

preparation works are intended to commence in October or November 2022, that being Stage 1. We understand from the application documents that a 'stage' generally coincides with a calendar year post-construction commencement with Stage 1 (or Phase) 1 being 2022.²

- [13] Consequently, based on the consented staging for the overall Project, the accommodation will be provided in years 6, 8 and 9 of the Accommodation Project or 2027, 2029 and we presume 2030 respectively.

B.2 Lodging of the Applications (Section 15(1)(a), 2(b), (3) and Clause 2 Schedule 6 of the FTCA)

- [14] On 29 October 2021 SSL lodged with the EPA the application for resource consents for the Accommodation Project.

B.3 EPA Determination (Clause 3 of Schedule 6 of the FTCA)

- [15] On 5 November 2021 the EPA issued its decision about compliance with Clause 3(1) of Schedule 6 of the FTCA.

B.4 Expert Consenting Panel Provisions and Procedures

- [16] This Expert Consenting Panel (Panel) was appointed on 8 November 2021 to consider the SSL application.

- [17] The role of any expert Panel appointed under the FTCA has been described by the Panel Convener³ (Convener) in the decision on the Matawii Water Storage Reservoir at Kaikohe dated 27 October 2020, which was a listed project (Matawii Decision). At paragraph [12] of that decision the Convener stated:

“Because this decision is the first to issue under this legislation, we will describe in more detail than will be necessary in subsequent decisions, the workings of the Act in processing listed projects.”

- [18] The Panel respectfully adopts the description set out (mainly) at paragraphs [12] to [43] of the Matawii Decision noting the discussion regarding referred projects such as this one in Part C: Legal Context of this Decision.

B.5 Outline of Panel Meetings

- [19] The Panel records the following matters pursuant to Schedule 6. The Panel met:
- a) 15 November 2021 (Zoom Meeting)
 - b) 13 December 2021 (Zoom Meeting)
 - c) 20 January 2022 (Zoom Meeting)
 - d) 2 February 2022 (Zoom Meeting)

- [20] The Panel did not conduct a site visit having already done so as part of the

² See paragraphs 5.2 and 6.1.1 Table 1 of the AEE for FTC000027, Appendix 18 – Transport Assessment and more particularly Table 8 in Appendix 10 – Silverlight Studios Accommodation Transport Assessment of the Accommodation Project's AEE.

³ His Honour Judge Newhook, appointed by the Minister under clause 2 of Schedule 5 to the Act.

process for consenting FTC000027.

B.6 Requests for Information made to Applicant and Regional and District Councils Pursuant to Clause 25(1)(a) of Schedule 6

[21] The Panel sought the following information from the Applicant in a letter dated 13 December 2021:

1. What if any measures are proposed to encourage the occupants of the proposed accommodation units to use modes of transport that would have the overall effect of reducing greenhouse gas emissions associated with travel to and from the site?
2. Does SSL intend to provide bicycle storage or electric car charging facilities in association with the proposed accommodation units?
3. Does SSL propose to provide a shuttle bus service for the use of occupants of the proposed accommodation units to travel into the Wanaka town centre and to return to the SSL site from the Wanaka town centre?
4. Would SSL accept a condition of consent requiring the consent holder to instal on-site solar electricity generation panels (photovoltaics) on the Sound Stage buildings?
5. The AEE states at paragraph 9.17 that:
 - i. "The accommodation use of those buildings may add further activity within the application site but is likely to reduce vehicle movements to and from the site. The buildings within which the accommodation will be provided are well contained within the site and overall, it is considered that the use of those buildings for accommodation purposes will not result in discernible adverse effects on amenity values beyond those that have been addressed through the first fast-track resource consent application."
 - ii. A similar point is made at paragraph 15.10 of the AEE.
6. Please explain in more detail the possible "further activity within the application site" and the "changes to the activities undertaken on-site which could potentially result in additional adverse effects over and above those assessed as part of FTC000027".
7. Appendix 17 does not provide the level of assessment required to support many statements in Section 15 of the AEE. Please provide a detailed acoustic assessment of the potential noise effects of the Project on residential and rural neighbours in the vicinity of the site and how any adverse noise effects would be avoided, remedied or mitigated. This assessment should include:
 - a. daytime and night-time activities of the proposed accommodation unit users, including social functions on any part of the Project site and any proposed restrictions on the use of parts of the Project site to protect residential neighbours' rural amenity;
 - b. cumulative noise effects on residential neighbours arising from the use of the accommodation units and conference/ function/ theatre facilities and night-time filming consented through FTC000027;
 - c. any potential noise effects on accommodation unit users of conference/ function/ theatre facilities and night-time filming activities consented through FTC000027.
8. Page 39 of the AEE sets out the proposed approach to the stages of construction of the accommodation and the likely workforce involved. As a Project Manager has now been appointed by the applicant and the construction staging has changed, please

advise of any changes to section 11 and Table 4 of the AEE in light of that revised information.

9. Please advise the extent to which the financial viability of the overall Silverlight Studios project is dependent on the provision of visitor accommodation within the Venice, Paris and New York precincts of the Silverlight Studios site.
10. Please advise if Silverlight Studios is still a s.274 party to the Environment Court appeal *Corbridge Estates Limited Partnerships v QLDC* [ENV-2021-CHC-038].
11. If Silverlight Studios is still a s.274 party to the above appeal, please advise the rationale for that given the approval of FTC000027.

[22] The Panel sought the following information from the ORC (abridged) in a letter dated 13 December 2021:

- (a) Assuming that RP:WFO Rule 14.5.2.1 applies to the earthworks required to construct the Venice, Paris or New York precincts and noting that rule to be a restricted discretionary activity rule, what if any conditions would be required to manage those earthworks over and above the conditions imposed on FTC000027; and
- (b) With regard to Rule 14.5.2.1 matters of discretion (e) and (f) would the Panel be correct to assume that matter (e) would not occasion the imposition of additional conditions of consent as the only watercourses on the site are the Criffel Irrigation race and the existing self-contained irrigation pond which has no natural surface outlet; and matter (f) would not occasion the imposition of additional conditions of consent as the comments of Ngāi Tahu on the Accommodation Proposal did not express any concerns and Ngāi Tahu seek the granting of consent.

[23] The Panel sought the following information from the QLDC in a letter dated 13 December 2021:

- (a) Please provide an update (progress to date and timing of any future actions advised by the Environment Court) of the appeal *Corbridge Estates Limited Partnerships v QLDC* [ENV-2021-CHC-038].

[24] We discuss the various responses in Part E of this decision.

[25] As discussed in Part B.9 below the Panel invited comments on its draft conditions.

B.7 Invitations to Comment on Referred Project (Clauses 17-19 of Schedule 6 of the FTCA)

[26] Clause 17(1) directs that a panel must not give public or limited notification of a consent application. Clause 17(2) directs instead that a panel must within a certain timeframe invite written comments on the application from the persons and groups listed in subclauses (4) to (8).

[27] On 18 November 2021 the Panel invited comments on the Accommodation Project from parties listed in Clause 17(6) and 17(7) of Schedule 6.

[28] On 18 November 2021 the Panel invited comments on the Accommodation Project from parties listed in Clause 17(8) of Schedule 6.

[29] In accordance with Clause 18(1) of Schedule 6, responses were required by 9 December 2021.

- [30] All comments received were sent to SSL as Applicant in accordance with Clause 18(5) of Schedule 6 and the Panel received a response from the Applicant on 15 December 2021.
- [31] The comments received from parties listed in Clause 17 of Schedule 6 have all been considered by the Panel, along with the response from the Applicant. These parties are listed in Annexure 2 to this decision.
- [32] We note that one page of comments was provided by F M A Taylor from Riverrun and received by the EPA on 10 December 2021. Due to those comments being sent to the incorrect EPA mailbox the Panel was not provided with a copy of them until 8 February 2022. We have carefully reviewed Ms Taylor's document and note that it does not raise matters that are specific to the Accommodation Project. The matters raised relate to a 'no development buffer' around the Film Studios Project site and protection of an existing shelterbelt that borders the Riverrun property. We considered those matters in our FTC000027 Decision on the Film Studios Project.

B.8 Reports to Panel

- [33] Under Clause 25(1) of Schedule 6 a panel may commission a report on a relevant issue. We did not seek any additional advice or reports.

B.9 Conditions Applying to Resource Consents

- [34] Under Schedule 6, Clause 35 a panel may grant a resource consent subject to the conditions it considers appropriate.
- [35] Before granting a resource consent Schedule 6, Clause 36 requires a panel to provide a copy of the draft conditions to:
- a) The consent applicant or requiring authority; and
 - b) Every person or group that provided a response to an invitation given under Schedule 6, Clause 17(2).
- [36] The Panel issued its draft conditions on 20 January 2022, providing 28 January 2022 as the date by which any comments on the draft conditions were to be received by the EPA. We received comments on the draft conditions from five parties.⁴
- [37] Schedule 6, Clause 36(5) requires that a panel must have regard to all comments received in relation to the draft conditions. As discussed in Parts E and F of this Decision we have considered all comments received on our draft conditions and where appropriate have amended those conditions accordingly.

B.10 The existing environment

- [38] The existing environment pertaining to the first Film Studios Project was described in the AEE and summarised in our Decision on FTC000027. We do

⁴ Due to our late receipt of the one page of initial comments lodged by F M A Taylor, she was not provided with our draft conditions.

not repeat that here as it is of little relevance due to the fact that the proposed accommodation will be contained within already consented buildings in the Venice, Paris and New York precincts. Those consented buildings now form part of the 'existing environment'.

- [39] There are several 'existing environment' matters relevant to our assessment of the Accommodation Project, namely that the site is:
- (a) located approximately 6.8 km east of the Wanaka Town Centre on the northern side of State Highway 6 (the Wanaka-Luggate Highway) and between the State Highway in the south and the Clutha River/Mata-au to the north;
 - (b) located approximately 500m to the west of the Wanaka airport; and
 - (c) abutted on three sides by a number of existing rural residential dwellings, albeit those dwellings are situated some distance from the Venice, Paris and New York precincts.

B.11 Statutory applications and approval needed

- [40] We note that, as set out in section 6 of the AEE, the Accommodation Project requires a discretionary activity land use consent under the QLDC Operative District Plan (QLDC OPD) and Proposed District Plan (QLDC PDP).

B.12 Project application documentation

- [41] The Accommodation Project comprised an application for resource consent, including an AEE supported by 18 appendices. In addition, SSL resubmitted 12 technical appendices that were provided as part of the first Film Studios Project's AEE.

Part C: Legal Context

C.1 FTCA requirements

- [42] The FTCA makes provision for both listed projects and referred projects. As noted at [2] above, the SSL application is a referred project.
- [43] The panel appointed to consider the comprehensive care retirement village at Kohimarama discussed the legal framework for considering referred projects in some detail in section C of their decision dated 12 May 2021 (**Kohimarama Decision**). We respectfully adopt that analysis, but highlight some relevant aspects of the framework below.
- [44] Section 12(2) of the FTCA provides, in the case of referred projects, that the process for obtaining a consent under Schedule 6 to the FTCA applies in place of the process under the RMA.
- [45] Clauses 31 and 32 of Schedule 6 set out the key requirements, when considering resource consent applications for referred projects.
- [46] Subclauses (1) and (3) of clause 31 relevantly set out matters to which a Panel must have regard.
- [47] Subclauses 31(4) to (6) set out matters which the Panel may or must disregard.

- [48] The Panel has carefully reviewed the ‘other matters relevant to decisions’ set out in subclauses (7) to (12) of clause 31. In terms of subclause (7), the application describes the Accommodation Project as a discretionary activity. The Panel agrees and has assessed it on that basis.
- [49] Clause 32 prescribes ‘further matters relevant to considering consent applications for referred projects’.
- [50] Clause 35 provides that the Panel may grant a resource consent subject to the conditions it considers appropriate, and sections 108 and 108A to 112 of the RMA apply to any conditions imposed.
- [51] As addressed in our earlier Decision FTC000027, the Panel noted the discussion in the Northbrook Wanaka Retirement Village decision regarding legal advice sought by that Panel in relation to conditions to be attached to resource consents under the FTCA.⁵
- [52] This Panel has carefully considered that advice in its assessment of the conditions to be attached to this consent.

C.2 Planning framework

- [53] The list below outlines the statutory instruments the Panel is obliged to have regard to by Clause 29(2) and Clause 31(1)(c) of Schedule 6 for the resource consents:
- (a) National environmental standards.
 - (b) Regulations made under the Resource Management Act 1991.
 - (c) National policy statements.
 - (d) New Zealand Coastal Policy Statement.
 - (e) Regional policy statement or proposed regional policy statement.
 - (f) Plan or proposed plan.
 - (g) Planning documents recognised by a relevant iwi authority and lodged with a local authority.
- [54] We assess the Accommodation Project against the relevant documents in Part F of this Decision.

Part D: Mana Whenua

- [55] The FTCA includes expectations to engage with relevant iwi authorities and hapū in relation to the proposed works and determine interests held. The Panel received comments from Te Rūnanga o Ngāi Tahu (Te Rūnanga), the statutorily recognised tribal body of the Ngāi Tahu whānui (as provided by section 15 of the Te Rūnanga o Ngāi Tahu Act 1996 (TRONT Act)).

- [56] In their comments Te Rūnanga advised:

Due to the relationship of the accommodation element to the film studio development, and reliance on a number of reports previously submitted as part of the film studios application, Te Rūnanga has no additional comments on the application itself.

⁵ Paragraphs 50 and 51 of the Decision on FTC000027.

- [57] Te Rūnanga noted that the conditions and advice note contained in SSL's draft recommended provided for an ongoing legal relationship between the two applications [FTC000027 and FTC000054] which was supported. Te Rūnanga concluded their comments by advising that the decision they sought was for the application [FTC000054] to be granted.
- [58] In response to our invitation to comment on draft conditions, Te Rūnanga advised that they had no further comment to make.
- [59] In light of the above we do not discuss mana whenua issues any further in this Decision. We have however, as will be evident from Parts E and G of this Decision, retained and strengthened the SSL recommended conditions that were supported by Te Rūnanga.

Part E: Any actual and potential effects on the environment of allowing the activity (Clause 31(1)(a) of Schedule 6)

- [60] In this section of our Decision, we address potential adverse effects of the Accommodation Project based on the Application Documents and the comments received from the parties invited to comment under Schedule 6 Clause 17, the Applicant's response to those comments and other correspondence received from the Applicant. We then discuss the conditions that we find are required to be imposed on the resource consents to appropriately manage those effects. In doing so we have had regard to the Applicant's comments on our draft conditions.
- [61] When discussing the conditions imposed, we highlight any measure proposed or agreed to by the Applicant, to ensure positive effects on the environment to offset or compensate for any adverse effects (Schedule 6, Clause 31(1)(b)).

E.1 Visual Amenity

E.1.1 Potential effects

- [62] The application did not include a visual amenity assessment and instead relied on the assessments provided with the FTC000027 application. The landscape character and landscape effects of the buildings in which the accommodation is to be located were addressed in the FTC000027 decision and are not repeated here.
- [63] The AEE noted the location of the accommodation within the various Film Studios Project precincts and the possible effects on visual amenity as follows:
- (a) The accommodation within the Venice precinct is generally located at the eastern end of the precinct, facing onto the lake. It will be screened by existing landform and vegetation with existing and proposed shelter belts, earthworks and mitigatory planting providing screening when viewed from adjoining properties to the east at a distance of approximately 1.3km or more.
 - (b) The accommodation within the Paris precinct is generally located at the southern edge of the precinct and does not benefit from screening from intervening buildings. It is in a more elevated position than the Venice accommodation. However, its location was not expected to cause adverse effects on most residential neighbours given the existing topography and

existing and proposed planting and bunding, to be undertaken under FTC000027, which would screen it from properties to the south-west, south and south-east, and State Highway 6. The AEE acknowledged the potential for some visibility of this part of the development from the Turner property, given the elevated position of that dwelling. The Applicant was willing to accept the provision of a reasonable contribution to additional planting on that property if that was something that property owner would like to explore.

(c) The accommodation within the New York precinct is proposed at the northern edge of that precinct and, like the Paris precinct, is also more elevated than the Venice precinct. It will also benefit from the existing topography and existing and proposed planting and bunding to be undertaken under FTC000027. This will also be visible from the Turner property. The same offer of planting mitigation was made in relation to this accommodation precinct.

[64] The AEE otherwise referred to various parts of the landscape assessment undertaken for the FTC000027 application and the potential visual effects on various properties.

[65] The noise and lighting effects are addressed in sections E.3 and E.4 of this decision.

E.1.2 Comments received

[66] Comments raised a number of issues about possible effects from the proposed accommodation, but these related more to noise impacts or the use of the facilities for visitor accommodation. Those effects are addressed elsewhere in this decision.

[67] Comments from QLDC and Roberts Family Trust noted that the proposed accommodation would be within the Film Studios Project buildings already approved. Roberts Family Trust referred to the importance of the landscape mitigation proposed by Anne Steven in the FTC000027 process and included within those conditions and noted the importance of the Applicant taking those requirements seriously and completing them in a timely and neighbourly fashion. The Applicant confirmed those commitments in its response to the comments from Roberts Family Trust.⁶

E.1.3 Conditions imposed

[68] We addressed landscape and visual amenity effects and imposed conditions through our FTC000027 decision. As the accommodation is proposed within Film Studios Project buildings approved through FTC000027, we do not consider any further conditions are necessary to address visual amenity effects. We did not receive any comments from the Turners to the Applicant's offer to undertake additional planting on their property. Accordingly, we have not imposed such a condition.

⁶ Applicant response to late comment dated 23 December 2021

- [69] On the basis of the conditions attached, we find that potential effects of the Accommodation Project on visual amenity will be no more than minor.

E.2 Transportation

E.2.1 Potential effects

- [70] The AEE for the Accommodation Project included an assessment of effects on traffic movements and transportation related matters along with an additional traffic assessment in Appendix 10, Silverlight Studios Accommodation Transportation Assessment.
- [71] The AEE noted that providing on-site accommodation for cast and crew was likely to reduce the number of day-to-day vehicle movements to and from the site as a daily commute would not occur for up to 30% of the projected Film Studios Project's workforce, and access around the site would be by foot, bicycle, scooter or golf cart.
- [72] The Applicant noted that the provision of visitor accommodation, at certain times in between productions, would likely result in a greater number of vehicle movements to and from the site than when cast and crew occupy the accommodation however, there would likely be some overlap in vehicle movement which could reduce the potential increase of vehicle movements.
- [73] The AEE concluded that the provision of accommodation was not likely to result in a change to the level of day-to-day traffic and vehicle movement to an extent that would be noticeable or cause an adverse effect on adjoining properties.
- [74] The Transportation Assessment in Appendix 10 considered the vehicle movements associated with worker accommodation and then also assessed a worst-case traffic generation scenario. Specifically, visitor accommodation instead of worker accommodation even though this would likely be a hypothetical scenario.
- [75] That Assessment found that the proposed vehicle movements associated with accommodation, in addition to those related to the wider film production and tourism activities, would mean an appropriate level of service at the site access could be maintained. This was based on the analysis of likely traffic generation and distribution to and from the west and east of the site and the impact on levels of service for the right turn exit from the site onto State Highway 6.
- [76] The traffic assessment concluded that the effects of the proposed accommodation on the safety and efficiency of the State Highway would be managed through the proposed conditions of consent for FTC000027, including the requirement for an initial upgrade of the site access, and then a roundabout just prior to Stage 8 traffic being generated.
- [77] We note that the Accommodation Project Transportation Assessment appeared to contain a reasonably fundamental error insofar as it assumed 200 separate units and 200 beds.⁷ From our reading of Appendix 5 to the AEE there are in fact

⁷ Appendix 10, page 1/2 of 6.

250 separate units and at least 314 beds (conservatively assuming only one bed is to be provided in a Studio unit). We considered whether we should request the Applicant to address this error to see if it affected the recommended timing for the upgrading of the main site entrance to a roundabout.

- [78] However, our understanding of the Transportation Assessment is that the provision of worker and film student accommodation within the Venice, Paris and New York precincts and the associated on and off-site vehicle movements arising from the accommodation did not materially affect the existing entrance configuration's level of service.
- [79] As will be evident from section E.9 of this Decision, we have found against providing for short term visitor accommodation for reasons unrelated to vehicle movements to and from the Film Studios Project site. Had we found in favour of that aspect of the Accommodation Project we would have either required the Transportation Assessment to be revised or we would have imposed the alternative approach recommended in that Assessment, which was to only permit the worker and film student accommodation to be used for standard visitor accommodation once the roundabout was constructed.⁸
- [80] Given our findings in section E.9, we did not need to avail ourselves of either of those options.

E.2.2 Comments received

- [81] The Panel received a number of comments from parties in relation to traffic.
- [82] QLDC considered that the proposal had the potential to generate adverse traffic effects on State Highway 6, particularly if being used for visitor accommodation other than for cast and crew. QLDC noted that this would be contingent on peak traffic associated with the various activities on the site and that it had not undertaken a technical peer review of the Traffic Assessment.
- [83] The Minister for Climate Change noted that the referral order required an integrated traffic assessment that included options for reducing greenhouse gas emissions associated with travel to and from the site – such as bicycle storage, electric charging facilities and shuttle services with Wanaka town centre. The Minister suggested that the Panel request further information from the Applicant, which is outlined in Part B.6 of this Decision and the Applicant's response is described below.
- [84] The New Zealand Infrastructure Commission supported the proposed worker accommodation however they sought adequate financial contributions from the Applicant for any required local network infrastructure upgrades. They also requested that the Applicant be required to enter into a road maintenance agreement with the local council (or appropriate Road Controlling Authority) prior to construction for any roads expected to have an increase in traffic volume from construction activity.
- [85] Waka Kotahi noted the traffic assessment in Appendix 10 of the application

⁸ Appendix 10, page 6 of 6.

concluded that the traffic effects at the site access were little different for worker as opposed to visitor accommodation, and that the Accommodation Project would not require a change in the timing for the proposed upgrading of the site access, including the roundabout.

- [86] Waka Kotahi supported the component of the application for worker accommodation, but not visitor accommodation. This is addressed by the Panel in Part E.9 of this Decision.
- [87] Waka Kotahi supported the Travel Management Plan implemented as part of FTC 000027, however it considered that if visitor accommodation was granted it would undermine the intent of the Travel Management Plan and make the site more car-centric.
- [88] This would be in contrast to staff staying on-site with less trips, which could be coordinated through the use of the shuttle or shared transport.
- [89] In particular Waka Kotahi noted the importance of recommendations from the Climate Change Commission, through the Government's draft Emission Reduction Plan, and that having worker accommodation only would reduce the vehicle kilometres travelled as outlined in the Government Policy Statement on Land Transport 2021.
- [90] Waka Kotahi confirmed its support for the traffic related conditions of the Panel's Decision on FTC000027, specifically Conditions 116, 117, 120 and 121 of the land use consent and the proposed staging set out in Condition 53 of that consent.
- [91] The Applicant responded to these comments addressing each one separately. With regard to QLDC the Applicant noted that the traffic effects of the proposal on the safety and efficiency of the roading network could be managed through appropriately timed and designed upgrades, and that Waka Kotahi accepted the transport assessment in terms of vehicle movements associated with the development.
- [92] In relation to the Minister for Climate Change the Applicant referred to Condition 127 of FTC000027 which requires the implementation of a Travel Management Plan to address issues the Minister raised, as well as the Applicant's response to the Schedule 6 Clause 25 request for information from the EPA regarding electric vehicle charging and bicycles.
- [93] In relation to the New Zealand Infrastructure Commission the Applicant confirmed that the conditions of FTC000027, particularly Condition 133, adequately addressed the need for maintenance and repairs on the public road network that may arise during construction.
- [94] With regard to Waka Kotahi, the Applicant acknowledged the general support for the worker accommodation proposal. In terms of travel management, the Applicant noted that visitors who stayed on-site were likely to visit the site anyway, and that visitors to Queenstown Lakes District generally travel around the district, including by private vehicle. The Traffic Management Plan required by FTC000027 would also apply to the accommodation proposal and shuttle buses

would be available to visitors regardless of whether they were accommodated on-site or off-site.

- [95] The Applicant's response to Waka Kotahi's concerns about visitor accommodation is discussed in Part E.9 of this Decision.

E.2.3 Conditions imposed

- [96] We note that the conditions attached to the land use consent for FTC000027 included considerable detail regarding traffic management and managing the potential effects of the proposal, including upgrades to the access.
- [97] In relation to this Accommodation Project, we imposed a new Condition 21 requiring that the Travel Management Plan required by Conditions 127 and 128 of the consent for FTC000027 be updated prior to the occupation of any of the accommodation units, in order to address the transportation needs of people to be accommodated as outlined in Condition 15.
- [98] A condition was also added requiring that the consent holder provide on-site bicycle storage and e-bicycle charging facilities for at least 50 bicycles, as well as charging facilities for electric vehicles.
- [99] Waka Kotahi advised they had no comments on the draft conditions. We received no other comments on traffic conditions from either the Applicant or any other party in response to an invitation to comment under Schedule 6 Clause 36.
- [100] On the basis of the conditions attached, apart from the matter of visitor accommodation which we discuss in section E.9 of this Decision, we find that potential transportation effects of the Accommodation Project will be no more than minor.

E.3 Noise

E.3.1 Potential effects

- [101] Appendix 17 of the AEE comprised a brief noise assessment from Marshall Day, which addressed the adverse effects of aircraft noise on the proposed accommodation and protection from noise sources within the Film Studios Project such as filming, sound stages and general activities. The noise assessment provided for FTC000027 noted the requirement for sound stage insulation for each of the sound stages and from adjacent on-stage activities and also addressed the effects of noise from mechanical ventilation. These matters were addressed in the FTC000027 consent conditions.
- [102] The AEE acknowledged that the proposed accommodation would result in changes to the activities undertaken on-site which "*could potentially result in additional adverse effects over and above those assessed as part of FTC000027*".⁹ However, the potential noise effect was not then clearly identified and a detailed assessment undertaken. The AEE noted a potential increase in noise levels outside of the times that the day-to-day operations and/ or outdoor

⁹ Accommodation Project AEE paragraph 15.10.

filming would occur. It also noted the separation distances and intervening topography, buildings and vegetation between the proposed accommodation and adjoining residential properties.

- [103] The AEE noted the likely reduction on traffic generation resulting from cast and crew staying on-site. Otherwise, much of the AEE focused on the intended use of the accommodation for visitor accommodation when the accommodation was not required for filming activity. It was anticipated that the visitor accommodation would lead to more traffic generation to and from the site than might otherwise occur when the accommodation would be occupied for cast and crew

E.3.2 Comments received

- [104] QAC was concerned that the accommodation could give rise to reverse sensitivity effects, which would have the potential to significantly constrain airport operations. It noted that residential activity and visitor accommodation were considered activities sensitive to aircraft noise (ASAN). While those proposed activities would sit outside the airport's Outer Control Boundary (OCB), aircraft noise and its associated effects do not stop at the OCB.
- [105] QAC sought an additional condition be added, requiring that prior to the occupation of any accommodation, the consent holder must, in consultation with QAC, develop a complaints procedure for addressing any complaints relating to aircraft noise from operations at Wanaka Airport.
- [106] QAC supported the Applicant's proposed condition stating that the accommodation units would be held in one ownership and would not be subdivided into individual units or otherwise. QAC also asked that the Applicant's proposed conditions be amended to provide that any accommodation provided on-site be designed to achieve an Indoor Design Sound Level of 40dB Ldn within any critical listening environment (as defined in the QLDC District Plan).
- [107] The New Zealand Infrastructure Commission raised concerns about reverse sensitivity effects on Wanaka Airport, which we address in section E.5 of this decision.
- [108] QLDC commented that the application should have included more information about the potential noise effects in relation to surrounding rural activities and consideration given to how any adverse effects could be mitigated.
- [109] Roberts Family Trust was concerned that the accommodation would increase noise, most particularly traffic and domestic noise, and would extend the noise window well past operating times. It was also concerned that this Accommodation Project would result in housing development outside of the existing development area on-site, with the potential for more applications for buildings. Roberts Family Trust referred to the light pink and pink areas forming part of FTC000027, as proposed by Anne Steven's Landscape Report, and wanted assurance that these areas would remain a no development zone. Overall, the Trust considered the Accommodation Project would compound the impacts of the Film Studios Project. It noted SSL had a responsibility to ensure all consent conditions imposed were adhered to completely and in a timely

responsible fashion.

- [110] In response, the Applicant made these comments:
- a) It accepted QAC's recommended condition requiring the establishment of a procedure to address any complaints from occupants of the accommodation in relation to aircraft noise from operations at Wanaka Airport.
 - b) It accepted QAC's condition amendment specifying the accommodation must achieve an indoor design sound level of 40dB Ldn.
 - c) In response to QLDC, it referred to the additional noise assessment requested by the Panel through the RFI dated 13 December 2021 and noted that as FTC000027 had been approved, the accommodation could not be provided in the absence of the Film Studios Project buildings. The Applicant noted that sound stages and production offices would be constructed first, followed by the precincts which would contain the accommodation. The accommodation and Film Studios Project and activities were therefore inextricably linked.¹⁰
 - d) In response to the Roberts Family Trust, the Applicant considered the noise and amenity effects of the accommodation could be appropriately managed so as to not be significant or inappropriate within or beyond the boundaries of the site. It also confirmed it does and will continue to take the conditions of FTC000027 seriously, noting that compliance with that consent "*will be vital to the implementation of the consent in a timely and efficient manner and to ensure that ongoing activities are not compromised.*"¹¹ It considered that the FTC000027 conditions would adequately mitigate effects of the whole development on the Roberts property and did not consider any further restrictions on the site were necessary.

E.3.3 Additional Noise Assessment

- [111] In light of the comments received, we requested the Applicant provide an additional noise assessment providing an explanation of the possible further activity within the application site and the possible adverse effects that might arise from the accommodation, along with the provision of a detailed assessment of the noise effects on residential and rural neighbours. Marshall Day's further assessment was received on 23 December 2021.
- [112] It was Marshall Day's understanding that the proposed accommodation was intended primarily to be used by cast, crew and supporting staff working on-site. When it was not being used for these purposes, it would be used for visitor accommodation. The site would be under the control of one operator.
- [113] The proposed accommodation would require mechanical plant for temperature control, ventilation and servicing. The assessment of that activity was included in the FTC000027 assessment and the conditions imposed through that decision were considered appropriate. Service vehicles were not anticipated to result in

¹⁰ Applicant response to comments dated 15 December 2021, paragraph 7.6

¹¹ Applicant further response to comments (Roberts Family Trust) dated 23 December 2021

any increased adverse effect as they would be servicing the whole site. Activities occurring within the accommodation buildings would, in Marshall Day's view, result in a negligible effect, if that.

[114] Marshall Day noted that other activities such as noise associated with retail, tourist and hospitality facilities on the site were assessed through the FTC000027 consent process. These would typically be undertaken indoors. The presence of on-site accommodation was not expected to have much impact on noise levels from hospitality functions at night. Any small increase would be offset by reduced traffic resulting from workers living on the site.

[115] Marshall Day considered the impact of social functions on any part of the site warranted additional consideration, but noted there was a lack of information to assess the full range of possibilities and locations likely to be used. They said:

"The matter of social functions on any part of the proposed site does warrant additional consideration. At present we lack the information required to assess the full range of possible social functions and locations that may be considered likely to be used. Social functions such as group picnics, a community fete or similar gathering are unlikely to require significant setbacks or control to meet an appropriate daytime noise standard. In addition, the Proposed District Plan makes provision for a small number of events to occur as of right with certain restrictions. On the other hand, a large-scale function with amplified music and alcohol would require careful consideration as to where this should occur and the way it is operated."

[116] While small daytime functions may not generate adverse effects, a large-scale function with amplified music and alcohol would require careful consideration as to where it should occur and the way in which it is operated. Marshall Day's solution was to rely on the Noise Management Plan (NMP) required under the conditions of the land use consent for FTC000027.

[117] Marshall Day's additional assessment also addressed any cumulative effect arising from the night-time filming and accommodation facilities. It remained of the view that outdoor filming should be controlled under the proposed NMP. It did not consider there would be any likelihood of adverse effects on accommodation users from the conference/ function/ theatre facilities and night-time filming. The accommodation was internal to the site and would be under the control of the developer, who would have a vested interest in striking an acceptable balance between these different parts of the site operations.

E.3.4 Conditions imposed

[118] We have included the consent conditions requested by QAC and accepted by the Applicant and also include the Applicant's proposed condition that the accommodation units will be held in one ownership.

[119] We understand the point made by Roberts Family Trust about the importance of the light pink and pink areas shown on Appendix 2 to the land use consent for FTC000027. Indeed, the imposition of those light pink and pink areas through the FTC000027 decision was fundamental to the FTC000027 decision made. As discussed in other parts of this decision, the Panel has refused that part of this application seeking visitor accommodation. Regardless, our concern is that the

use of the accommodation by cast, crew and support staff is likely to result in outdoor social activities such as parties, barbeques and other social gatherings. It would not be appropriate to allow unlimited use of the entire site for that activity. Those effects were not assessed by Marshall Day. We applied the same approach in imposing draft Condition 25 (now Condition 26), ensuring no social activities/ functions related to the accommodation units may be undertaken in these areas.

- [120] The Applicant commented on draft Condition 25. The Applicant's planner commented that draft Condition 25 as it was initially worded could be taken to apply to large scale on-site social functions more generally and as such would impose restrictions on a development that has already been consented and was not the subject of the Accommodation Project application. Counsel for the Applicant submitted that the condition was highly uncertain and was not effects based. Counsel also submitted that the condition was unlawful in that it went beyond what was otherwise permitted in the District Plan, considering that Temporary Events potentially anticipate gatherings of up to 500 people, subject to permitted standards such as noise and waste management.
- [121] We do not accept that draft Condition 25 was unlawful. The application of the permitted baseline referred to by Counsel is a discretionary element of the Panel's decision-making. As set out in s104(2) of the RMA " ...a consent authority *may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*" We have elected not to disregard the potential adverse effects that might arise from large-scale on-site social functions that may involve amplified music and the consumption of alcohol in the sensitive areas identified in draft Condition 25.
- [122] However, taking on board the comments of the Applicant's planner, we have amended draft Condition 25 (now Condition 26) to limit it to social functions involving employees, contractors, students, or associated personnel who are permitted to use the accommodation units under Condition 15.
- [123] We received no other comments on noise conditions from either the Applicant or any other party in response to an invitation to comment under Schedule 6, Clause 36.
- [124] On the basis of the conditions attached, we find that potential noise effects of the Accommodation Project will be no more than minor.

E.4 Lighting

E.4.1 Potential effects

- [125] The AEE for the Accommodation Project relied on the assessment of effects in the AEE and in Appendix 9 Lighting and Electrical Demand Assessment of the original Film Studios Project application. We addressed the potential effects of lighting thoroughly in our decision on FTC000027.
- [126] The AEE stated that the lighting effects from the use of the buildings for accommodation were likely to result in the interiors being illuminated at times when on-site activities would not usually be in operation. It also stated that the

internally illuminated accommodation spaces were not likely to be visible from the primary outlook of adjacent landowners and proposed additional planting (on the landowner properties) should the landowners want it.

- [127] The Applicant acknowledged that the proposal had the potential to result in visible light for longer durations which could reduce the feeling of remoteness in the wider rural environment.
- [128] The Applicant confirmed that the lighting would comply with the relevant standards and would be managed in order that there would be no noticeable changes in terms of light emissions or light spill or glare beyond the site boundaries.
- [129] The Applicant also relied on the fact that the buildings in which the accommodation would be located are well screened from beyond the boundaries of the site by the existing topography and existing and proposed shelter and boundary planting.

E.4.2 Comments received

- [130] There were no comments received in relation to lighting from the parties invited to comment by the Panel under Schedule 6, Clause 17(2). Accordingly, the Applicant did not address lighting specifically in its response to comments from the parties, however the Panel notes that any potential additional lighting effects on the Wanaka airport can be adequately addressed by conditions in both the original Film Studios Project application and this Accommodation Project application.
- [131] For completeness, we note that we received no comments on lighting conditions from either the Applicant or any other party in response to an invitation to comment under Schedule 6, Clause 36.
- [132] On the basis of the conditions attached, we find that potential lighting effects of the Accommodation Project will be no more than minor.

E.5 Wanaka Airport

E.5.1 Potential effects

- [133] The AEE noted the Applicant had consulted with QAC before submitting both the Accommodation Project and FTC000027 with the EPA and that discussions had been ongoing since FTC000027 was lodged. In response to QAC's concerns about reverse sensitivity effects, the Applicant produced Appendix 18 to the AEE which showed that the Venice, Paris and New York precincts are set back 694m, 806m and 1034m respectively from the Wanaka Airport Outer Control Boundary (OCB) when measured from their closest points.
- [134] Marshall Day produced an additional brief assessment (Appendix 17) addressing the potential for adverse effects from aircraft noise and associated reverse sensitivity effects (refer to section E.3 of this decision). That assessment noted that all noise sensitive buildings are located well outside the OCB and that the accommodation will be appropriately insulated and ventilated such that effects of noise both within the application site and generated by aircraft from Wanaka

Airport would be suitably mitigated.

- [135] The potential noise and lighting effects on Wanaka Airport are addressed in sections E.3 and E.4 of this decision.

E.5.2 Comments received

- [136] QAC noted that the application for accommodation had the potential to give rise to reverse sensitivity effects, which could significantly constrain airport operations. Both residential accommodation and visitor accommodation were considered 'activities sensitive to aircraft noise' (ASAN). QAC was concerned that locating an ASAN in close proximity to the airport's OCB could constrain the ongoing operation, management and potential development of Wanaka Airport unless measures were employed to manage aircraft effects.
- [137] The New Zealand Infrastructure Commission also raised potential reverse sensitivity effects on Wanaka Airport and noted these could be mitigated through stipulating appropriate building performance standards in consent conditions.
- [138] Heritage New Zealand sought an amendment to an advice note to reflect the overlap of this proposal with decision FTC000027.

E.5.3 Conditions imposed

- [139] QAC commented on various conditions that were proposed by the Applicant as part of their AEE. The QAC comments and amendments to conditions that they sought were accepted by the Applicant. We address this in more detail in section E.3 of our decision.
- [140] The conditions include requirements for building construction.
- [141] In response to the comments from Heritage New Zealand, our draft conditions included a requirement that the construction of buildings within the Venice, Paris and New York precincts must be undertaken in accordance with the conditions of the consent granted for FTC000027 including but not limited to all conditions relating to project staging and engineering acceptance, hours of operation, lighting, signage, construction and operational noise, archaeology, transportation and landscaping.
- [142] We received no comments on Wanaka Airport related conditions from either the Applicant or any other party in response to an invitation to comment under Schedule 6, Clause 36.
- [143] On the basis of the conditions imposed, we find potential adverse effects of the Accommodation Project on Wanaka Airport and aviation activities associated with it will be no more than minor.

E.6 Services

E.6.1 Potential effects

- [144] The AEE advised that:
- (a) The proposed accommodation will be serviced as part of the wider development [FTC000027] with domestic water supply and wastewater

disposal being provided by connections to QLDC' reticulated infrastructure;¹²

- (b) Electricity, telecommunications and stormwater treatment and disposal will be provided as part of the wider development;¹³ and
- (c) It has been confirmed by the relevant infrastructure providers that there is capacity to service the development, including the proposed accommodation element, or that any necessary servicing upgrades can be made at the Applicant's expense.¹⁴

E.6.2 Comments received

- [145] The Minister for Climate Change queried whether or not SSL intended to provide bicycle storage or electric car charging facilities in association with the proposed accommodation units. The Minister also suggested that the Applicant's stated intention to generate energy from solar panels should be further enforced by way of an explicit condition of consent.
- [146] Accordingly, we asked SSL if they:
- (a) intended to provide bicycle storage or electric car charging facilities in association with the proposed accommodation units; and
 - (b) would accept a condition of consent requiring the consent holder to instal on-site solar electricity generation panels (photovoltaics) on the Sound Stage buildings.
- [147] In response SSL advised that they intended to provide bicycle storage and EV charging (including charging facilities for electric bicycles). They also advised that they would accept a condition of consent requiring the installation of PV panels on the Sound Stage buildings as a means of providing electricity to the accommodation units as well as the wider development.
- [148] The Infrastructure Commission noted the potential impact the SSL proposal would have on local network infrastructure and requested that adequate contributions were sought from the Applicant to cover required upgrades. In response SSL noted¹⁵ that development contributions will be payable to QLDC as the Accommodation Project is progressed and will account for the proposed accommodation use. Those contributions will be in addition to any necessary service upgrades that are required to enable connections to QLDC's water supply and wastewater reticulation which will be at SSL's expense. We note that adequately addresses the Commission's concerns.
- [149] Corbridge Estates Limited Partnership (CELP) questioned the available potable water supply and firefighting supply. In response SSL noted that the Six Waters Report prepared by CGW for FTC000027 included confirmation from QLDC that, in principle, the SSL development (including the on-site accommodation) could be serviced by way of a connection to QLDC's reticulation. SSL went on to note

¹² AEE, paragraph 2.9.

¹³ AEE, paragraph 2.10.

¹⁴ AEE, paragraph 12.22.

¹⁵ COVID-19 Recovery (Fast-Track Consenting) Act 2020 - Silverlight Studios Accommodation - Response to Comments, paragraph 11.3.

that modelling will be required to determine any necessary upgrades to the existing infrastructure however they had agreed that the modelling and any associated upgrades would be at SSL's expense. SSL therefore considered that a suitable domestic water supply will be achievable. We agree and note that QLDC has not advised otherwise.

E.6.3 Conditions imposed

- [150] We did not impose any draft conditions specifically relating to servicing as we considered the conditions contained in the FTC000027 to be adequate. We did however impose conditions relating to bicycle storage and EV charging facilities and the provision of solar panels as outlined above.
- [151] We received no comments on servicing conditions from either the Applicant or any other party in response to an invitation to comment under Schedule 6, Clause 36.
- [152] On the basis of the conditions attached to FTC000027 and this decision, we find that potential effects relating to servicing will be no more than minor.

E.7 Construction effects

E.7.1 Potential effects

- [153] The potential adverse effects likely to arise during construction of the overall Film Studios Project were thoroughly addressed in our decision on FTC000027. In that regard we note that the AEE¹⁶ stated "*The proposed conditions of consent for FTC000027 are comprehensive and address matters including earthworks, servicing, access, building construction, lighting, noise and landscaping. The proposed accommodation will be provided within buildings consented under FTC000027 and subject to the conditions of that consent*".
- [154] As the proposed accommodation units will be located within consented buildings located within the Venice, Paris and New York precincts, we generally agree with the Applicant's statement quoted above, other than with regard to noise, as discussed in section E.3 of this Decision.

E.7.2 Comments received

- [155] In its comments on the application the ORC suggested that a residential earthworks consent might be required under Regional Plan: Water for Otago (RP:WFO) Rule 14.5.2.1. SSL considered that such a consent was not necessary as the Accommodation Project involved the internal fitout and use of buildings already consented under FTC000027 and did not include any additional earthworks.¹⁷ Nevertheless, out of an abundance of caution we have decided to issue a regional land use consent under Rule 14.5.2.1.¹⁸
- [156] Noting that rule to be a restricted discretionary activity we asked (under Clause

¹⁶ Paragraph 14.2

¹⁷ COVID-19 Recovery (Fast-Track Consenting) Act 2020 - Silverlight Studios Accommodation - Response to Comments, paragraph 2.1.

¹⁸ ORC noted that Rule 14.5.2.1 is a 'dual provision' and triggers both a regional land use consent under section 9(2) RMA and a discharge consent under s15 RMA. We have accordingly issued both consents.

25 of Schedule 6) the ORC to advise what, if any, additional earthworks related to conditions of consent were required over and above those already contained in the QLDC landuse consent for FTC000027.

- [157] ORC advised that it considered that the conditions imposed on FTC000027, in particular conditions 23, 90-98, 105 and 108 were generally suitable in the context of the current proposal to mitigate adverse effects from the use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, as the proposal does not involve any additional works not previously considered. Overall, ORC was satisfied that the abovementioned conditions, as imposed on FTC000027 were generally adequate to manage effects associated with earthworks for residential development considered under PC8 to the Regional Plan: Water for Otago.¹⁹
- [158] In answer to our query, ORC also advised that matter for discretion (e) of Rule 14.5.2.1 did not trigger the requirement to impose additional conditions as the irrigation race and existing self-contained irrigation pond is not likely to contain any significant natural or human use values that may be adversely affected by the proposal as it pertains to earthworks for residential development. ORC deferred to comments from Te Rūnanga in regards to the effects on Ngāi Tahu cultural and spiritual beliefs, values and uses. We discussed that latter matter in Part D of this Decision.
- [159] We received no comments on the draft conditions that we imposed on the regional land use consent from either ORC, the Applicant or any other party invited to comment under Schedule 6, Clause 36.

E.7.3 Conditions imposed

- [160] We did not impose any conditions directly relating to construction effects, having concluded that the conditions already imposed on the land use consent for FTC000027 were sufficient. We did however cross-refer to some general engineering conditions within the land use consent for FTC000027 and included 'procedural' requirements for final site plans, 'as-built' plans and completion certificates to be provided to QLDC.
- [161] In response to our draft conditions Heritage New Zealand advised that they supported draft Condition 5 requiring that the works be undertaken "*in accordance with the conditions of the consent granted for FTC000027 including ...archaeology*". QLDC sought that draft Condition 18 (now Condition 19) was amended to refer to 'QLDC's Resource Consents Manager' and that the wording 'prior to uplifting building consent for accommodation units within buildings' be amended to read 'prior to construction of the buildings containing the accommodation units' in draft Conditions 22 to 26 (now Conditions 23 to 27). We made the amendments sought by QLDC. Other than that, QLDC did not recommend any additional conditions.
- [162] The Applicant commented that draft Condition 12 (now Condition 13) did not

¹⁹ ORC Response to EPA on Silverlight Studios Accommodation application (undated).

specify what the pre-commencement meeting was intended to achieve, and it was unclear why it must be held 15 working days prior to the commencement of construction of the accommodation units. We note that draft Condition 12 simply mirrored Condition 16 of the land use consent for FTC000027. We imposed draft Condition 12 for the sake of consistency. However, to address the Applicant's concerns we have added in a purpose for the meeting being "*to discuss the means by which the consent holder intends to comply with the conditions of this consent*".

- [163] We received no other comments on construction related conditions from either the Applicant or any other party in response to an invitation to comment under Schedule 6, Clause 36.
- [164] On the basis of the conditions attached to this decision, we find that potential effects relating to construction will be no more than minor.

E.8 Worker and Film Student Accommodation

E.8.1 Potential effects

- [165] In our FTC000027 decision, we discussed in detail the economic effects of the Film Studios Project and the impact of its development on housing within the district. The economic assessments lodged as part of FTC000027 included a statement of positive and negative effects of the Film Studios Project and its potential impact on the housing market. In particular, the assessments noted that:²⁰

"Silverlight Studios Limited (SSL) are seeking approval to provide sufficient on-site dwelling capacity to cater for 20-30% of the estimated long term average on-site workforce (cast and crew). It is proposed to provide accommodation in 250 to 300 apartments of varying size and configuration.....Based on an estimated long term average workforce of 1,200 made up of cast and crew, this would cater for up to 26% of workers (assuming single occupancy of each and all bedrooms)."

- [166] The remainder of that particular assessment focused on worker accommodation. We sought legal advice on the need for us to consider housing affordability in our assessment and sought independent advice from a special advisor, Simon Harris, on economics and the provision of housing. Mr Harris' report to the Panel did not agree with many of the Applicant's assessments.
- [167] We therefore directed expert conferencing to occur. The result of that expert conferencing was recorded in a Joint Witness Statement (JWS) dated 29 November 2021. Many of the disagreements remained between the experts. The JWS provided an updated construction schedule, which indicated a more costly build and assumed a longer construction period. The expected workforce numbers were also updated.²¹ The discussion between the experts and recorded in detail in the JWS focused on the types of workers likely to be required, workers' likely housing demands given their work type and how that demand could be accommodated. The JWS included sections specifically addressing housing the

²⁰ Market Economics memorandum to Scott Edgar dated 20 August 2021

²¹ JWS dated 29 November 2021, paragraphs 4.1-4.4, 4.18-4.19

construction workforce and the SSL / main lessee workforce.

- [168] Having reviewed the JWS and all other assessments, we concluded that the Film Studios Project would have an adverse effect on housing within the district. Our decision recorded that aspects of the Accommodation Project now before us were relied on by economic advisors to the Panel, but that the Accommodation Project would be considered in a separate decision.²²
- [169] We record that the proposed provision of on-site worker accommodation was critical to the granting of the FTC000027 consent. After lengthy consideration, we were satisfied that the provision of on-site worker accommodation would assist in resolving some housing issues raised by the Film Studios Project and would play a key role in mitigating adverse housing effects.
- [170] However, through the JWS, it became apparent that any proposal to accommodate construction and some operational workers in the on-site apartments was not feasible given the revised construction schedule and Project staging. We were not satisfied on the evidence that the Applicant had a plan for the housing of on-site construction and operational workers in the medium term.
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- [171] We therefore imposed a condition²⁴ requiring the Applicant to establish and operate a Housing Department (or similar) that will (in summary):
- (a) Provide temporary on-site accommodation for at least 50 non-local construction workers and consent holder and site lessee operation personnel prior to the commencement of any construction works²⁵;
 - (b) Locate any on-site temporary accommodation outside the Wanaka Airport Outer Control Boundary and in an area that will be visually screened from neighbouring properties following the implementation of the LSVP;
 - (c) Ensure that any temporary accommodation provided complies with the sound insulation requirements stated in the FTC000027 conditions;
 - (d) Seek to procure and utilise a range of existing commercial and residential, accommodation for additional construction workers and consent holder and site lessee operational personnel prior to the commencement of any construction works; and
 - (e) Engage the existing resident workforce population of Wanaka and those within a commutable distance where possible.
- [172] The Accommodation Project (FTC000054) falls outside those requirements and, given the revised staging, will not be implemented until Stages 6, 8 and 9. That staging is fixed through condition 53 of FTC000027.
- [173] In describing the proposed activity for this FTC000054 application, the AEE

²² Decision FTC000027 paragraph 8

²³ Decision FTC000027 paragraphs 457 and 458

²⁴ Decision FTC000027, Condition 211

²⁵ Decision FTC000027 paragraph 526 noted there was an option for the Applicant to provide temporary accommodation in self-serviced caravans or other similar accommodation. This was not specified in the relevant condition.

stated:²⁶

“It has become increasingly apparent that some on-site accommodation would be necessary in order that a proportion of the cast and crew engaged at the studios and students attending the film school can be housed on-site and the potential effects on the wider accommodation market can be reduced.”

- [174] The AEE noted the Accommodation Project is likely to result in increased demand for rental accommodation within a market already experiencing high demand. SSL’s answer is to “*accommodate a proportion of the on-site staff and students within the development.*”²⁷ The AEE then stated the application also includes the use of the accommodation for visitor accommodation when it is not being used by cast, crew or students. The AEE noted the accommodation of cast and crew would be the priority. The visitor accommodation issue is addressed in section E.9 of this decision.
- [175] The detail of the proposed accommodation is set out in section B.1 of our decision.

E.8.2 Comments received

- [176] Some comments raised general concerns about the effects of workers being located in the proposed accommodation. These related to amenity effects and effects on Wanaka Airport. We have addressed visual effects, noise effects and the effects on Wanaka Airport in sections E.1, E.3 and E.5 of our decision and have included conditions addressing those matters.

E.8.3 Conditions imposed

- [177] Our draft conditions contained conditions relating to accommodation unit ownership and occupation.
- [178] We received no comments on conditions relating directly to the provision of worker and film student accommodation from either the Applicant or any other party in response to an invitation to comment under Schedule 6, Clause 36.
- [179] As noted elsewhere in this decision, the Accommodation Project may relieve pressure on the existing Wanaka accommodation market and provide some positive benefit. The provision of on-site accommodation for workers and film students will remove the need for a considerable proportion of staff to have to find accommodation elsewhere.
- [180] To address concerns from parties that the accommodation units might somehow be constructed in the absence of the wider Film Studios Project proceeding, we have imposed Condition 6 which makes it clear that the consent for FTC000054 may only be exercised if, and only if, the land use consent for FTC000027 is exercised and buildings located within the Venice, Paris and New York precincts of the Silverlight Studios site are constructed as authorised by the land use consent for FTC000027.

²⁶ AEE paragraph 2.1

²⁷ AEE paragraph 2.2

- [181] On the basis of the conditions imposed, we find that any adverse effects from the provision of worker and film student accommodation in the apartment units proposed for the Venice, Paris and New York precincts of the Silverlight Studios site can be appropriately avoided or managed so that the potential effects of worker and film student accommodation will be no more than minor.

E.9 Visitor Accommodation

E.9.1 Potential effects

- [182] The AEE described the Accommodation Project and proposed that when the on-site accommodation was not occupied by cast, crew or students “*it may be made available for visitor accommodation in the more traditional sense (i.e. short stay accommodation for visitors to the District that are not engaged in film production or film school activities). The accommodation of cast and crew will however be the priority.*”²⁸
- [183] The AEE noted²⁹ that while the priority and focus of the on-site accommodation was for cast and crew, the proposal sought visitor accommodation at times “*when it is not required or not fully occupied*” by on-site staff or students/trainees. This would help smooth out potential fluctuations in occupancy as a result of variations to the film production cycle and mitigate the financial risk of having on-site accommodation unoccupied “*due to production cycles or unforeseen circumstances*” and would help support the viability of the development and therefore the economic benefits to the District.
- [184] The AEE then stated “*That being said the master lease development model (which will encourage the lease holder to maximise the productive use of the studios) and the ability of the studios to accommodate concurrent or overlapping film projects is likely to mean that the accommodation will be available for visitors infrequently, if at all.*”³⁰
- [185] In Section 15 of the AEE relating to the assessment of effects on the environment, the Applicant acknowledged that the proposed accommodation would result in changes to the activities undertaken on-site which could potentially result in adverse effects over and above those assessed as part of FTC000027. In the discussion of traffic and vehicle movements resulting from the proposal, the Applicant stated that visitor accommodation use would be rare and was intended to mitigate the risk of unoccupied accommodation if a production was postponed or other such unforeseen circumstances arose.³¹
- [186] Appendix 10 to the AEE titled Accommodation Traffic Assessment provided a detailed assessment of traffic and vehicle movements and we addressed that in section E.2 of this Decision. The traffic assessment acknowledged the timing of construction (and occupation) of the worker accommodation at present is likely to occur between 2024 and 2026 and noted that the greatest demand in the early

²⁸ AEE, paragraph 2.7

²⁹ AEE, paragraphs 11.5-11.7

³⁰ AEE, paragraph 11.7

³¹ AEE, paragraph 15.14

construction stages would be worker accommodation, as there were no reasons for visitors to stay with nothing to see on-site. There were also health and safety requirements for accommodating visitors on an active construction site.

- [187] The Panel sought clarification from the Applicant in a Schedule 6, Clause 25 request regarding the extent to which the financial viability of the overall Film Studios Project was dependent on the provision of visitor accommodation within the Venice, Paris and New York precincts of the Silverlight Studios Site.
- [188] The Applicant responded by stating clearly that the financial viability of the wider Film Studios Project was not reliant on the proposed accommodation units being used as visitor accommodation. They stated:³²

“The financial viability of the wider Silverlight Studios project is not reliant on the accommodation being used as visitor accommodation. The ability to use the accommodation as visitor accommodation will however ensure a more efficient use of resources, enable diversification and economic resilience within the site and will reduce risk for investors and/or production companies such that, in unforeseen circumstances where film production may be halted (due to availability of lead talent for example) and the accommodation would otherwise sit empty.”

- [189] However, in their planner’s comments on the Panel’s draft conditions the Applicant revised their position stating that:

“While the visitor accommodation use is secondary to the worker accommodation function, it is an integral part of the viability and success of the proposal, and was specifically listed in the Silverlight Studios’ amended referral order.”

- [190] The planner went on to state:

“The construction of up to 300 high end apartments adds a significant cost to the overall project. Silverlight Studios is working with investors to fund the construction of the development. The potential for the accommodation units to sit empty, or not at full capacity, for an extended period of time will present a significant risk to investors. It is possible that, without the ability to let the accommodation units as visitor accommodation, the accommodation element may be seen by investors as too risky a proposition.”³³

E.9.2 Comments received

- [191] The Panel received a number of comments from parties regarding the provision of visitor accommodation at times when worker accommodation was not required. These comments fell into two categories – adjacent landowners/community groups and the QLDC/Waka Kotahi.
- [192] R Hall/High Society Exports Limited did not consider that the site was suitable for accommodation (type of accommodation not specified) and was concerned at the potential for residential sprawl from Wanaka, given the current residential spread from Wanaka to satellite areas such as Albert Town, Hawea, Luggate and Cardrona providing sufficient potential accommodation space.
- [193] QAC made some comments specific to Wanaka Airport, which we addressed in

³² Letter from Edgar Planning dated 23 December 2021, paragraph 7.1

³³ Letter from Edgar Planning dated 28 January 2022.

section E.5 of this Decision.

- [194] Mt Barker Residents Association was concerned about the Accommodation Project's potential for significant tourism related activities, which were required to make the Film Studios Project viable, putting pressure on the Upper Clutha housing situation which would permanently, fundamentally and detrimentally change the nature of the region. It requested that all tourism related activities be prohibited and that any accommodation facilities approved to be built on the site only be used to facilitate the core creative activities originally described, specifically film and TV production and associated education and training.
- [195] The Roberts Family Trust acknowledged that the accommodation units would be in existing buildings authorised by FTC000027, but was concerned about additional traffic and domestic noise extending well beyond authorised operating times. Visual and noise matters are addressed in sections E.1 and E.3 respectively of this Decision. The Roberts Family Trust was also concerned that if the Accommodation Project was approved, there would be further applications for housing or building outside the existing proposed development area on the Film Studios Project site. They wanted to "*stop any building sprawl*" on the site.
- [196] QLDC was concerned that the provision of short-term visitor accommodation was unlikely to provide a significant benefit for the District in regard to wider housing supply. In addition, should a large number of visitors stay on the Film Studios Project site, rather than within the Wanaka Town Centre, there was a risk of money being spent at facilities located on the SSL site rather than benefiting the wider community, as outlined in the Economic Impact Assessment. However, QLDC acknowledged the overall positive effects of the Application. The Panel understands QLDC's comments to have been made on the basis of its understanding that worker accommodation was the primary purpose of the Accommodation Project and on statements made by the Applicant in its application that visitor accommodation would only be a small and rare or infrequent component of the overall activity. In that regard, we note QLDC's comments that if the Film Studios Project was not approved, it would not support a standalone application for visitor accommodation because of potential adverse effects on landscape character, rural amenity and traffic, given the proposed scale of the visitor accommodation.
- [197] QLDC also raised a concern about visitor accommodation and the strategic and policy framework of the statutory planning documents. We discuss that matter in section F.1.3 of this Decision, concluding that the provisions of the QLDC PDP weigh against the provision of visitor accommodation on the Film Studios Project site.
- [198] QLDC also referred to the new Queenstown Lakes Spatial Plan which seeks to consolidate Wanaka growth by using the Cardrona River as a natural boundary, noting that while it is not a statutory document the Spatial Plan had been developed to manage long term growth across the District.
- [199] Waka Kotahi considered the strategic planning implications of the Accommodation Project, which included matters other than the direct traffic

effects of the proposal (which are addressed in section E.2 of this Decision). Waka Kotahi did not support the proposed use of the accommodation by tourists and other visitors when not in use by workers.

- [200] Waka Kotahi considered that visitor accommodation, which was unrelated to film production and associated activities, could change the character of the large scale film project style activity to more of a mixed urban area and/or tourist/visitor resort style development.
- [201] Waka Kotahi observed that the Film Studios Project site is located in the Rural zone outside the Wanaka Urban Growth Boundary and if it became urban in nature it would be inconsistent with the outcomes anticipated in the recently adopted Queenstown Lakes Spatial Plan. If this was to occur it would be considered a poor planning outcome, resulting in ribbon development along SH6 as well as urban sprawl from Wanaka east towards Luggate.
- [202] We note that the Film Studios Project is now consented and in our decision on that application (FTC000027) we found that it amounted to urban development. We noted that the Film Studios Project was unique and unprecedented, certainly in terms of its nature, scale and intended visually unobtrusive rural setting, and that while we found it was contrary to the QLDC PDP's Urban Growth Boundary provisions, we did not consider it would be appropriate to decline the Project solely on the basis of those QLDC PDP policies, given the employment and economic stimulus the Film Studios Project would bring to the Otago region and beyond.³⁴ Consequently, insofar as the Film Studios Project might be considered to be urban development, that will occur regardless of our decision on this Accommodation Project if the Film Studio Project proceeds. Having said that, we discuss this point further in section F.1.3 of this Decision where we conclude that enabling visitor accommodation would be inconsistent with the Strategic chapter of the QLDC PDP.
- [203] Waka Kotahi were also concerned that allowing tourist/visitor accommodation or resort style development on the Film Studios Project site had the potential to create a precedent for other tourist/visitor accommodation facilities wanting to establish in the wider area outside the Wanaka Urban Growth Boundary. We discuss the matter of precedent further below.
- [204] The Applicant responded to the comments from the parties.³⁵ In response to R Hall/High Society Imports Limited, SSL confirmed that the primary function of the proposed accommodation was for the on-site workforce and it would be separate and distinct from nearby urban areas. It would also support the activities consented under FTC000027 and help mitigate potential effects on the wider housing market.
- [205] In response to the Mount Barker Residents Association, SSL confirmed that the primary function of the proposal was to accommodate up to 30% of the projected 1,200 on-site cast and crew. The secondary use for visitor accommodation was

³⁴ Decision FTC000027 paragraphs 565-568

³⁵ Letter from Edgar Planning dated 15 December 2021

intended to enable efficient use of the apartments, if and when there were lulls in film production schedules, noting the significant investment required to provide the apartments.

- [206] SSL referred to Strategic Objective 3.2.1 of the QLDC PDP relating to a prosperous, resilient and equitable economy in the District and the socio-economic benefits of “*well designed and appropriately located visitor industry places, facilities and services*” across the District. SSL inferred that the visitor accommodation was an integral part of achieving this objective. We do not share that view, as discussed in section F.1.3 of this Decision.
- [207] SSL stated that “*while the wider [film] studios development is not reliant on the occasional visitor accommodation use of the proposed apartments, the ability to use the accommodation in that manner will diversify economic activities on-site and further enhance the resilience of the development as a whole*”.
- [208] SSL added that it was expected “*that “the occasional use” of the accommodation as visitor accommodation would contribute to the availability of visitor accommodation in the wider District, potentially alleviating peak summer/winter tourism demand*”.
- [209] SSL responded to the Roberts Family Trust by referring to the noise and amenity concerns as addressed by the Panel in sections E.1 Visual Amenity and E.3 Noise of the Decision on FTC000027. SSL considered that the FTC000027 conditions would adequately mitigate the effects of the development as a whole on the Roberts property and the wider area. The Panel notes that the Applicant did not respond to the Roberts’ concerns about future development outside the existing development areas on the site and that the Applicant did not differentiate any specific effects from visitor accommodation use.
- [210] In response to QLDC concerns about visitors remaining solely on the Film Studios Project site (given the intended provision of hospitality facilities on that site), rather than spending money across the wider District, SSL considered that visitors would be unlikely to remain solely on-site and would travel around the District, spending money as they went with no noticeable adverse effect on the wider economy in terms of tourism spend off-site from the occasional visitor accommodation use.
- [211] In response to Waka Kotahi, SSL confirmed that visitor accommodation was not the primary use and would only become available for visitors occasionally, given that the primary lessee would want to maximise the productivity of the lease and keep film and television productions reasonably constant.
- [212] In relation to Waka Kotahi’s concern about creating resort style development on the site and the precedent for other tourism accommodation wanting to establish in the area, SSL considered that the unique nature of the Accommodation Project would set it apart and therefore not create a precedent.

E.9.3 Conditions imposed

- [213] The Panel’s draft conditions included Condition 13 relating to the accommodation units being in one ownership and Condition 14 limiting the availability of

accommodation units to people employed in construction and use of the project site (FTC000027) for film/television productions and ancillary support activities as well as related educational/training activities. Visitor accommodation was not provided for in the Panel's draft conditions.

- [214] As we note in section G.2 of this Decision, we only received comments from five parties in response to the opportunity to comment on conditions provided by Schedule 6, Clause 36. SSL was the only party to comment on draft Condition 14, providing both legal submissions³⁶ and comments from planner Scott Edgar.³⁷
- [215] Counsel for SSL submitted that the wording of draft Condition 14 that set a requirement that only people employed in construction and use of the SSL Project (and for specified activities) could utilise the accommodation units was problematic for SSL because of the narrow meaning of the word 'employed' which "*effectively limited other appropriate principle [sic] accommodation users, such as contractors, family / other support personnel to workers, and students.*" Counsel suggested that the phrase "*employees, contractors, students, or associated personal (sic)*" be used instead of the word "*employed*". We find that to be appropriate and have amended what was draft Condition 14 (now Condition 15) accordingly.
- [216] Counsel also proposed an additional clause for draft Condition 14 which we understand was intended to ensure that the accommodation units are available for principal use as worker accommodation.³⁸ The new Condition 14(c) would read:

"Where there is no demonstrable need for accommodation units to be provided for the needs specified in 14(a) and (b), any surplus accommodation units may be made available as visitor accommodation. 'Demonstrable need' in this condition may be confirmed by way of the Consent Holder keeping a worker accommodation register, to be provided upon request, to the Queenstown Lakes District Council."

- [217] Counsel's more substantive comments related to draft Condition 14 precluding the use of the accommodation units for ancillary visitor accommodation. Counsel's comments included:

"Limiting visitor accommodation of the available units when there is no demand for worker accommodation (be it because of seasonal effects, project demands, or other accommodation sources being more suitable / available) presents a wastage of available resources and an unsustainable business / investment model."

"The ability to use vacant accommodation units only in the circumstance of there being no 'need' for onsite worker use does not change the nature of the proposal from 'large scale [as suggested by Waka Kotahi in their initial comments] special employment' to 'a mixed urban area'. The ability for visitors to use empty units, already constructed, simply allows an already built resource to ensure it remains commercially viable and protected through diversification."

"While visitor accommodation is not necessarily 'anticipated' in the District Plan Rural

³⁶ From SSL counsel Maree Baker-Galloway and Rosie Hill.

³⁷ Both counsel and Mr Edgar also commented on draft Condition 25 which we discuss in section E.7.3 of this Decision.

³⁸ Letter from Anderson Lloyd dated 28 January 2022, paragraph 8.

Zone, nor is a major film studio complex. This proposal as a whole is unique in all respects. Ancillary use of available and constructed units only under certain circumstances, does not make the proposal any less consistent with District Plan outcomes, other than potentially easing the load on a stretched Upper Clutha housing market, which currently supports residential visitor accommodation uses.”

[218] Regarding the third comment listed above, as noted previously, in section F.1.3 of this Decision we conclude that the proposal to provide visitor accommodation is inconsistent with both the QLDC PDP Rural zone and Strategic chapter provisions.

[219] Counsel also addressed the matter of precedent, which was of concern to Waka Kotahi, commenting that (abridged by us):

“The concept of precedent is that earlier decisions provide an expectation of like treatment, not an absolute entitlement. This is in the context of where there are the same or similar factual matrices under consideration. It is difficult to imagine that a similar scale proposal could occur within the area, proposed under the FTCA, and with a similar fact matrix, and the equivalent ‘demonstrable and significant benefits in terms of employment and economic stimulus for the Otago region and beyond, as the SSL proposal’. Allowing ancillary visitor accommodation, while ensuring that availability and affordability of accommodation and housing in the District is mitigated, cannot set a precedent concern beyond that which has already been created through the broader proposal being approved.”

[220] We accept that because it is categorised as a discretionary activity under the QLDC PDP, coupled with the unique nature of the wider Film Studios Project (which we concluded was the case in our decision on FTC000027), granting consent for the Accommodation Project would not necessarily set a precedent that could be relied on by other proponents of visitor accommodation in the Rural zone.

[221] Regarding potential adverse effects of the Accommodation Project on traffic and transport,³⁹ counsel commented that:

“The QLDC comment notes that no traffic / transport peer review has been undertaken, and the Waka Kotahi comment confirms that it agrees with the SSL traffic assessment conclusions, including that: ‘there is little difference in terms of traffic effects at the site access between using the proposed accommodation for worker and/or visitor accommodation.’”

[222] We accept that to be the case subject to our discussion in section E.2.3 of this Decision.

[223] Counsel surmised that the Panel's concern with visitor accommodation must therefore have related to ensuring that the accommodation units were available for principle [sic] use as worker accommodation. Counsel advised that SSL remained committed to ensuring that outcome was achieved, and in ensuring that the proposal as a whole minimised any adverse effects on available

³⁹ Counsel for SSL also noted that demands on services are not a relevant adverse effect. We agree (see section E.6 of this Decision). We also accept that there will be no potential visual amenity effects (see section E.1 of this Decision). However, we do not accept counsel for SSL's comment that adverse effects on residential amenity are not relevant. We consider there are potential adverse noise effects and have imposed conditions accordingly (see section E.3 of this Decision)..

accommodation and the housing market in the District. To that end counsel offered a third limb to draft Condition 14 which we set out above.

- [224] The Panel has carefully considered the Applicant's proposed Condition 14(c), however it does not believe that the wording is sufficiently certain, especially with regard to establishing 'demonstrable need'. Nor does it resolve the Panel's fundamental concerns regarding potential adverse effects on the Wanaka Town Centre that we address below.
- [225] Counsel also referred to s108AA of the RMA, suggesting that because there were no environmental effects associated with ancillary visitor accommodation use, draft Condition 14 was unlawful in the absence of SSL's agreement to it. However, as we briefly noted in section C.1 of this Decision, legal advice provided on the Northbrook Wanaka Retirement Village FTCA application is relevant. In essence that advice was that s108AA is specifically excluded from Schedule 6, Clause 35 of the FTCA.
- [226] Schedule 6, Clause 35(3) of the FTCA states:
- "Sections 108, 108A to 112, and 220 of the Resource Management Act 1991 apply to conditions imposed under subclause (2), subject to all necessary modifications, including the following:*
- (a) *a reference to a consent authority must read as a reference to a panel; and*
- (b) *a reference to services or works must be read as a reference to any activities related to the project that is the subject of the consent application."*
- [227] Section 108AA, referred to by counsel for SSL, follows section 108 and precedes section 108A of the RMA. It is not therefore included within the provisions "Sections 108, 108A to 112" that are referred to in Schedule 6, clause 35(3) of the FTCA.
- [228] As also noted in the legal advice provided on the Northbrook Wanaka Retirement Village FTCA application, that exclusion is coupled with a wide discretion provided to expert consenting panels by way of Schedule 6, Clause 35(2) of the FTCA to "...grant a resource consent subject to the conditions it considers appropriate."
- [229] Consequently, it appears that expert consenting panels have a wider discretion to impose conditions than is envisaged by the RMA, and that neither the need for landowner (or applicant) agreement to, nor a direct connection to environmental effects of an application, are critical to achieving the dual purposes of the FTCA.
- [230] We do not accept that draft Condition 14 would be unlawful.
- [231] Counsel also stated that "SSL sought clarification in respect of the nature of concerns of the Expert Consenting Panel (ECP) relating to use of the accommodation units for ancillary visitor accommodation", referencing the letter to the Panel from Edgar Planning Limited dated 25 January 2022, and going on to say "Unfortunately, no formal response was received in respect of the issues raised in that correspondence". The Applicant's planner also stated in his comments on the Panel's draft conditions "In the absence of commentary from the Panel regarding their position on the visitor accommodation element it is

unclear why it has been excluded from [draft] Condition 14.”

- [232] The Panel wishes to record that Edgar Planning Limited sent a letter to the Panel on 25 January 2022 seeking “*further clarification of the Panel’s position in relation to the use of visitor accommodation...*” and stating that “*it would be helpful to understand the specific concerns that the Panel may have regarding the visitor accommodation use.*”
- [233] The Panel is bound by the statutory process outlined in the FTCA. That process is very clear and prescriptive. It provides for the Applicant to comment on any responses from the persons invited to comment under Schedule 6, Clause 17(6) and 17(7), which it did. The process also provides the Applicant with an opportunity to comment on the draft conditions, which it also did. The opportunity to respond to draft conditions is also provided to all parties who responded to the invitation to comment.
- [234] The FTCA process does not provide for the Panel to go back to an applicant as was requested by SSL’s planner on 25 January 2022. Schedule 6, Clause 37 sets out the statutory requirements for the issuing of the Panel’s final decision. There is no provision in the FTCA for a draft decision, or draft reasons, to be provided to any party ahead of the issue of the final decision. The Panel considers that it was required to follow the statutory process as it understood it to be, in fairness to all parties involved in the SSL application.

E.9.4 Panel’s Findings

- [235] The Panel has carefully considered the details of the Accommodation Project and its accommodation units as described in the AEE (including the Appendices), the original application FTC000027 and its conditions as granted by this Panel, and all comments and correspondence from parties and the Applicant.
- [236] As discussed in section E.8 of this Decision, the granting of consent for the Film Studios Project (FTC000027) was reliant on the provision of on-site construction worker accommodation, particularly during the initial construction phase, but also long term film and TV production worker and film student accommodation as proposed in this Accommodation Project. The Panel noted that when it was considering the FTC000027 application and the potential worker accommodation component of the Project outlined in that application, including the economic assessment, there was bare mention of visitor accommodation.⁴⁰ We were advised of the visitor accommodation component of previous resource consents granted for the subject site and the zoning of the District Plan. We note that the economic assessment provided with the Accommodation Project referred only to worker accommodation.⁴¹
- [237] The Panel notes that there is no support from Waka Kotahi for the visitor

⁴⁰ The Joint Witness Statement prepared by the economists through the FTC000027 process noted Mr Edgar’s brief comment in conferencing that while the Applicant had not applied for it through FTC000027, SSL was seeking the ability to use any surplus apartments for visitor accommodation. Refer FTC000027 Joint Witness Statement dated 29 November 2021, paragraph 4.56.

⁴¹ Neither Appendix 14 (Silverlight Studios Accommodation Economic Impact Assessment) lodged with the Accommodation Project application, nor Appendix 16 (Economic Impact Assessment) lodged with the Film Studio Project application and cross referenced through the Accommodation Project application, included a specific visitor accommodation assessment.

accommodation component of the application. QLDC provided limited support. However, both Waka Kotahi and QLDC fully support worker accommodation on the Film Studios Project site.

- [238] The main reason for Waka Kotahi and QLDC's opposition is that strategically the provision of visitor accommodation is inconsistent with the outcomes anticipated for the Rural zone and the recently adopted Queenstown Lakes Spatial Plan. Visitor accommodation would be unrelated to the primary use of the site, in direct contrast to film production worker and film student accommodation. As noted above, in section F.1.3 of this Decision we conclude that enabling visitor accommodation would be inconsistent with the QLDC PDP. Mount Barker Residents Association and R H Hall were also concerned about the strategic implications associated with such a level of accommodation in a rural zone and potential urban spread.
- [239] The Panel has noted earlier in this Decision the inconsistent references in the AEE and its accompanying appendices regarding the potential number of apartments that will be provided by the Accommodation Project. We have elected to rely on Appendix 5 of the Accommodation Project documents which references approximately 250 apartments and 314 bedrooms. In saying that, rather confusingly the latest letter from SSL's planner stated that there would be 300 high end apartments, which is inconsistent with the material presented in the Applicant's Appendix 5, but which reflects the wording of the Referral Order referenced in paragraph 7 of this Decision.
- [240] We note that visitor accommodation frequently has more than one person to a room and quite often one would expect there to be two persons to such a room. If there were two people in each of the 314 bedrooms then there could be 628 visitors domiciled in the Accommodation Project if there was a lull in film production activities.
- [241] We also note that hospitality and retail is enabled by the consent for the Film Studios Project. This was referenced in the Film Studios Project's application as catering for both workers and tourists visiting the site. Restaurants, cafes and bars in the theme of the precincts of Venice, Paris and New York will allow a range of hospitality options. A variety of retail is also authorised by that consent.
- [242] In the context of the Film Studios Project application the Panel did not impose any conditions restricting the amount or range of either hospitality or retail. However, if it was required to cater for up to 628 visitors, then the resultant on-site hospitality and retail could be significant, resembling a resort style activity.
- [243] To provide a non-fanciful example that elucidates the Panel's concerns, if visitor accommodation became available over a ski season, say during the period July to October, then small and large groups could utilise the visitor accommodation. Similarly, the summer holiday season could attract a wide range of visitors. If in addition to accommodation, hospitality, conference rooms and retail was provided on-site there would be no reason for visitors to leave the site to utilise the Wanaka Town Centre and surrounding towns. The SSL site would potentially become a destination in itself, with a high degree of self-sufficiency, functioning like a resort.

That would be in marked contrast to the film production and educational character of the site that was considered appropriate and approved as part of the Film Studios Project.

- [244] The Panel has had regard to Mr Edgar's reference to high end apartments. High end apartments would likely be particularly attractive to visitors and act as a drawcard in their own right, which reinforces the Panel's concern about the potential for the overall character of the Film Studios site to move away from that which was considered appropriate under the FTC000027 consenting process.
- [245] Mr Edgar was concerned that given the construction cost of such apartments, having the potential for them to sit empty, or not at full capacity for an extended period of time (if visitor accommodation is not allowed) would present a significant risk to investors, possibly seen by investors as too risky a proposition.
- [246] The Panel records that it understands that under the RMA and the FTCA it is not able to take into account the financial viability of an application or its attraction or otherwise to investors. The role of the Panel is to impose conditions of consent that avoid, remedy or mitigate potential adverse effects in the context of the relevant statutory instruments and as otherwise provided by the legislation. If those conditions result in financial difficulty for the Applicant, then it is up to the Applicant to decide whether or not to proceed with the proposal and in what form. However, the Panel notes the relevance of Part 2 of the RMA and the purpose of the FTCA and discusses these in Part H and section E.11 of this Decision respectively.
- [247] As discussed by the Panel in E.9.2 above, QLDC raised a concern about the impact of visitor accommodation on the Wanaka Town Centre and the wider community should large numbers of visitors stay on the SSL site, with the risk of money being spent on the subject site rather than in the Wanaka area. QLDC did acknowledge that the overall positive economic effects (based on the Economic Impact Assessment) are likely to significantly outweigh any potential negative effects. However the Panel notes that this comment was in the context of the available application documentation which repeatedly emphasised how 'occasionally' the visitor accommodation would actually be used and an Economic Impact Assessment which did not specifically address the economic effects of visitor accommodation.
- [248] The Panel did not have any evidence before it from the Applicant regarding the effects of the proposed visitor accommodation on Wanaka Town Centre and the existing visitor accommodation and hospitality facilities in Wanaka and the surrounding Upper Clutha area, including Hawea and Cromwell. The economic assessment provided with the Application, as Appendix 14, related solely to worker accommodation.
- [249] The Panel considers that visitor accommodation, which the Applicant stated as integral to the Accommodation Project, potentially changes the nature, focus and character of the Film Studios Project. We were somewhat concerned by the Applicant's late pivot away from the initial proposition regarding only the occasional or rare use of the worker accommodation for visitors, to a position

where visitor accommodation is now said to be an “*integral part of the viability and success of the proposal*”. This is akin to widening the scope of the Accommodation Project application, without actually applying to do so.

- [250] In particular it appears to the Panel that the Applicant envisages having film studio worker and student accommodation occurring concurrently with visitor accommodation. The Applicant’s planner stated in response to the Panel’s draft conditions “*there is likely to be surplus accommodation available when [film] projects are in the pre and post production phases, even if multiple projects are overlapping those phases*”. He stated clearly that “*rather than leaving accommodation empty it is proposed to let any surplus accommodation as short term visitor accommodation*”. It is clear to us that the Applicant is concerned that some or all of the accommodation units could be empty for periods of time, or at least not be consistently occupied at full capacity. By suggesting that would be resolved by letting the vacant accommodation units to visitors the Applicant has, in our view, departed from the original concept which involved only ‘occasional’ or ‘rare’ use of the worker and student accommodation by short term visitors.
- [251] The Panel’s view is that the effect that a large visitor accommodation facility could have on the economic viability of the Wanaka Town Centre in particular, as well as the towns in the vicinity of the Upper Clutha area, is potentially significant. Having up to 628 visitors domiciled on the Film Studios site (with its own hospitality and retail facilities) and not in existing town centre accommodation could have detrimental effects on the existing town centre facilities and activities, particularly the Wanaka Town Centre which QLDC regards as the hub of one of New Zealand’s premier alpine visitor resorts.
- [252] The Panel’s decision on FTC00027 was based on the unique nature of a major film studio and associated film education facility and the economic benefit that would bring. That Decision did not contemplate the provision of up to 314 or so visitor accommodation bedrooms as that was not before the Panel as part of that application. We understood the apartment references relied on by SSL’s expert, Ms Hampson, were premised on worker accommodation as that was the focus of the assessment. We agree with Waka Kotahi that enabling that level of residential / visitor accommodation units as part of this Accommodation Project would be inappropriate and contrary to the scheme of the relevant statutory documents as discussed in detail in F.1.3.
- [253] The Panel does not consider that the visitor accommodation would be consistent with the intended nature and character of the consented Film Studios Project. As discussed in section E.8 of this Decision, the Panel considers it appropriate to enable worker and student accommodation which is complementary to the overall Film Studios Project.
- [254] Consequently, for the reasons set out above and in section F.1.3 of this Decision, the Panel finds that it would not be appropriate to enable the visitor accommodation proposed by the Applicant.

E.10 Management Plans

E.10.1 Potential effects

- [255] The land use consent issued for the overall Film Studios Project (FTC000027) included an extensive list of management plans to be certified by QLDC, ORC or both.
- [256] We did not see any need to impose a requirement for additional management plans. Nor did we consider that the requirements of those management plans needed any amendments or additions, other than as outlined in E.10.3 below.

E.10.2 Comments received

- [257] None of the relevant parties invited to comment under clauses 17(4) and 17(6) of Schedule 6 suggested any additional management plans.
- [258] Waka Kotahi NZTA commented on the Travel Management Plan and we addressed that in section E.2 of this decision. ORC raised the issue of an earthworks consent under RP:WFO Rule 14.5.2.1 and the associated need for an Erosion and Sediment Control Plan. We discussed that in section E.7 of this decision and note that the Erosion and Sediment Control Plan (ESCP) required under the land use consent for FTC000027 is to be certified by both QLDC and ORC. ORC has confirmed that no additional conditions are required to manage effects associated with earthworks for residential development considered under PC8 to the RP:WFO.

E.10.3 Conditions imposed

- [259] In response to comments received, on our draft conditions we required:
- (a) The Travel Management Plan that is to be prepared under Conditions 127 and 128 of the land use consent for FTC000027 must be updated prior to the occupation of any accommodation units within the Venice, Paris or New York precincts in order to take into account the transportation needs of people accommodated on-site; and
 - (b) That prior to uplifting building consent for accommodation units within buildings located in the Venice, Paris or New York precincts, the consent holder must engage a suitably qualified and experienced practitioner to review and amend the Noise Management Plan (NMP) required under Condition 143 of the land use consent for FTC000027 to address large-scale on-site social functions, including those that may have amplified music and the consumption of alcohol.
- [260] We received no comments on management plan conditions from either the Applicant or any other party in response to an invitation to comment under Schedule 6 Clause 36.

E.11 Positive Effects

E.11.1 Potential effects

- [261] There is an interrelationship between the assessment of the Accommodation Project in terms of overall positive effects and the assessment required under

section 19 of the FTCA, namely whether the Accommodation Project helps to achieve the purpose of the Act. That purpose – set out in section 4 – “*is to urgently promote employment to support New Zealand’s recovery from the economic and social impacts of Covid-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources*”.

[262] The AEE stated that:⁴²

“The proposed accommodation is largely a response to the identified potential economic cost of the Silverlight Studios project, being a local increase in property and/or rental prices as a result in increased accommodation demand generated by the workforce attracted to the district.”

“The proposed accommodation will address the only economic costs identified in relation to the Silverlight Studios development (being the potential for a short term increase in property and/or rental prices in the Wanaka Ward as a result of increased demand in the accommodation market).”

[263] We agree that the provision of worker and film student accommodation within the Film Studios Project site is a positive effect insofar as it assists with mitigating the potential adverse effect on property and/or rental prices identified by the Applicant. Doing so will also assist with continuing to promote the sustainable management of the physical resource that comprises the Wanaka (and surrounding) permanent housing and rental property stock. We find that to be consistent with the purpose of the FTCA.

E.11.2 Comments received

[264] No party invited to comment under Schedule 6, Clause 17 identified positive effects directly related to the Accommodation Project. QLDC referred to the positive effects that it identified for the wider Film Studios Project and to the economic assessment undertaken for that previous Project.

E.11.3 Conditions imposed

[265] We did not impose any conditions relating to positive effects.

E.12 Overall finding on effects

[266] In the Part E sections above we identified and assessed what we considered to be the actual and potential effects on the environment of allowing the Accommodation Project to proceed. We also identified any conditions of consent that we considered were necessary to appropriately avoid, remedy or mitigate potential adverse effects of that Project.

[267] For the reasons stated in section E.9 of this Decision, we concluded that it would be inappropriate to enable visitor accommodation in the Venice, Paris and New York Precincts.

[268] We discuss relevant QLDC District Plan policy direction relevant to that matter in

⁴² Paragraphs 15.49 and 20.4.

section F.1.3 of this Decision.

Part F: Other statutory requirements

[269] We now consider other statutory requirements specified in the FTCA.

F.1 Any relevant provisions of certain statutory documents (Clauses 29(2), 31 and 32)

[270] The proposed accommodation will be contained within consented buildings and so there are few statutory documents that are relevant to our assessment. These are addressed below.

F.1.1 National Policy Statement Urban Development 2020 (NPSUD)

[271] The NPSUD was addressed in paragraphs 12.13 to 12.34 of the AEE.

[272] As QLDC is a Tier 2 local authority NPSUD applies to 'planning decisions' that affect an 'urban environment'. The term 'urban environment' is defined in the NPSUD as follows:

urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

(a) is, or is intended to be, predominantly urban in character; and

(b) is, or is intended to be, part of a housing and labour market of at least 10,000 people

[273] In our decision on the first Film Studios Project (FTC00027) we determined that Project met the definition of 'urban environment'.

[274] Much of the NPSUD is directed to the actions of local authorities, in this case the QLDC. Following the Environment Court's findings in *Eden – Epsom and others v Auckland Council*⁴³, we are of the view that for 'planning decisions' such as the one required for this application, only Objectives 2 and 5⁴⁴ and Policies 1 and 6 are relevant.

[275] SSL did not address Objective 2 which is:

Planning decisions improve housing affordability by supporting competitive land and development markets.

[276] The Accommodation Project is consistent with Objective 2 insofar as it may relieve pressure on the existing worker accommodation market.

[277] The AEE concluded that the Accommodation Project was consistent with Objective 5 and relevant parts of Policy 1 and we agree insofar as the worker and film student accommodation is concerned. In particular we consider that the proposal will enable a variety of accommodation; have good accessibility for all people between that accommodation and jobs, community services, natural spaces, and open spaces, including by way of public or active transport (NPSUD Policies 1(a) and (c)).

⁴³ [2021] NZEnvC 082

⁴⁴ Objective 6 and Policy 8 relate specifically to local authority decisions so are not relevant here.

- [278] The AEE concluded⁴⁵ that the proposal was inconsistent with Policy 6 insofar as “the RMA planning documents that give effect to the NPS do not provide for built form consistent with that proposed under FTC000027 ...” We agree but do not find that weighs against the proposal given that it will otherwise have minor to negligible effects on the environment as discussed in section E.11 of this Decision.
- [279] We find that having regard to the NPSUD does not weigh against a grant of consent to worker and film student accommodation.

F.1.2 Regional Policy Statement for Otago

- [280] We understand that as of 15 March 2021 the former Regional Policy Statement for Otago 1998 has been completely revoked and the Partially Operative Otago Regional Policy Statement 2019 (RPS 2019) now comprises the operative Regional Policy Statement for Otago. On 26 June 2021 the ORC notified the new proposed Otago Regional Policy Statement (Proposed RPS 2021). Both the 2019 and 2021 documents are relevant here.
- [281] A detailed assessment of the proposal against the objectives and policies of the operative RPS 2019 and the Proposed RPS 2021 was attached as Appendix 15 to the AEE. The Applicant concluded that in overall terms the proposal was generally consistent with the provisions of both documents. Having considered the relevant provisions ourselves we agree that the proposal is ‘generally consistent’ with the RPS 2019 and the Proposed RPS 2021. Consequently, having regard to those documents does not weigh against a grant of consent.

F.1.3 Queenstown Lakes District Plans

- [282] The AEE addressed the QLDC OPD and QLDC PDP in various places in section 15⁴⁶ and also in Appendix 16.
- [283] The Applicant’s overall conclusion in Appendix 16 was that:
- “Having assessed the proposed accommodation against the relevant objectives and policies of the Proposed District Plan it is considered that, overall, the proposal is generally consistent with those provisions and while there is some inconsistency with provisions relating to urban development being located within UGBs or avoided in rural areas it is considered that the proposal is not contrary to the provisions of the Proposed District Plan.”*
- [284] In its comments on the Accommodation Project QLDC reiterated its earlier comments on FTC000027 which were that:
- (a) the unique scale and comprehensive nature of the proposal means that it is one that is not easily catered for by either the QLDC ODP or QLDC PDP zoning and provisions. The large scale and commercial nature of the proposed development is not anticipated within the rural zone and has the potential to adversely affect the amenity, landscape values and the rural character within the surrounding environment; and

⁴⁵ Paragraph 12.27.

⁴⁶ Titled ‘Assessment of the activity’s effects on the environment (Clause 9(4))’.

- (b) the proposal was considered contrary to the Objectives and Policies which sought to avoid urban development outside of the Urban Growth Boundaries or within the rural areas of the Upper Clutha Basin.

[285] However, QLDC went on to conclude that:

“In general, it is considered that the accommodation activity is unlikely to result in significant issues over and above those anticipated through the wider Silverlight Studios proposal (if approved) i.e. the accommodation will be a small component of the larger activity, will be ancillary and complimentary to the main activities on the site, and is proposed within buildings already proposed as part of this larger proposal.”

[286] We note QLDC’s presumption that the accommodation activity would be a small component of the overall Film Studios Project. We discussed that matter in section E.9 of this Decision where we concluded that the potential magnitude of visitor accommodation was not small scale.

[287] In our Decision on FTC000027 we found that the overall Film Studios Project was contrary to Policies 3.3.15, 4.2.1.3, 4.2.1.4 and 4.2.2.21 which seek to avoid urban development outside of the Urban Growth Boundaries (UGBs) or within the rural areas of the Upper Clutha Basin.

[288] In that Decision we recorded that on the face of it ‘having regard’ to the QLDC PDP’s Urban Growth Boundaries policies might suggest that consent should be declined. However, that was in the context of the FTC000027 application being a non-complying activity. As outlined in section B.11 of this decision, the Accommodation Project is a discretionary activity and so the RMA s104D ‘gateways’ discussed in our FTC000027 Decision are not relevant here.

[289] We consider that the Accommodation Project, insofar as it seeks to provide onsite accommodation for film production workers and film students, is complementary to the Film Studios Project which we found to be unique and unprecedented, certainly in terms of its nature, scale and intended visually unobtrusive rural setting. Indeed, allowing film production worker and film student accommodation to be provided within the Venice, Paris and New York precincts will assist with mitigating potential adverse effects of the Film Studios Project on housing and rental accommodation that were identified and discussed in our Decision on FTC000027.

[290] We maintain the finding set out in our Decision on FTC000027 that the QLDC PDP’s Urban Growth Boundaries policies are primarily intended to constrain more routine residential urban growth or urban sprawl, such as might otherwise occur at the periphery of the existing Wanaka or Hawea townships.

[291] Given that consent has been granted for the original Film Studios Project it now forms part of the existing environment. The Accommodation Project will be located entirely within that ‘existing environment’ and so we find it would be inappropriate to decline SSL’s proposal to provide onsite accommodation for workers and film students solely on the basis of the QLDC PDP’s Urban Growth Boundaries policies. Doing so would be contrary to the purpose of the FTCA which is to “ ... *urgently promote employment to support New Zealand’s recovery*

from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources.”

- [292] In saying that we note that in terms of the sustainable management of natural and physical resources, the provision of on-site worker and film student accommodation can be managed (subject to the imposition of appropriate conditions of consent) such that its effects on the environment (including those relating to amenity, landscape values and the rural character within the surrounding environment) will be negligible to minor.
- [293] However, as is evident from our assessment in section E.9 of this Decision, our findings outlined above do not extend to the intended use of the proposed accommodation units for short term visitor accommodation.
- [294] We note that under Rule 21.4.15 of Chapter 21 Rural of the QLDC PDP, Visitor Accommodation⁴⁷ is a discretionary activity that is not allowed as of right. In that regard we generally accept the advice from the QLDC that was contained in their initial comments on the application, namely:
- “The policy framework in the Operative District Plan does not specifically provide for visitor accommodation as a primary activity. The policy framework in the Proposed District Plan [PDP] provides for the establishment of activities such as small-scale visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.”*
- [295] The relevant policy provision referred to by QLDC is contained in Chapter 21 Rural of the QLDC PDP and it is:
- 21.2.9.3 Provide for the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.*
- [296] Regarding the QLDC comment quoted above, we note that the actual wording in Policy 21.2.9.3 does not refer to ‘small-scale visitor accommodation’, but to ‘visitor accommodation’ generally. As defined in the QLDC PDP that means “*the use of land or buildings to provide accommodation for paying guests where the length of stay for any guest is less than 90 nights*” with no limitation on visitor numbers and includes a wide range of services or facilities that are directly associated with, and ancillary to, the visitor accommodation.
- [297] We are cognisant that visitor accommodation, as envisaged by the QLDC PDP, clearly extends beyond the mere provision of accommodation units and bedrooms and carries with it a bundle of other potential effects.
- [298] Turning to the detail of Policy 21.2.9.3, in our decision on FTC000027 we were satisfied that, subject to the mitigation required by conditions that we imposed, the overall effects of the wider Film Studios Project on landscape values and indigenous biodiversity would be no more than minor. However, the SSL proposal

⁴⁷ As defined in the QLDC PDP.

to utilise the proposed accommodation units for short term visitor accommodation would not be located within what might commonly be considered a ‘farm’, although we acknowledge that a significant proportion (around 266 hectares or 80%⁴⁸) of the 322 hectare Film Studios Project site will “*continue to be managed as open rural land by grazing or cropping*”⁴⁹ which is clearly a type of farming use, albeit that some of that farmed area will be used for outdoor filming activities from time to time. Overall, we find that the visitor accommodation component of the Accommodation Project is inconsistent with Policy 21.2.9.3.

- [299] Our assessment of the comments lodged by Waka Kotahi is that, from a strategic planning perspective, traffic arising from the proposed visitor accommodation could potentially diminish the safe and efficient operation of the roading network, primarily as a result of it “... *resulting in ribbon development along SH6 as well as urban sprawl from Wanaka east towards Luggate*”.⁵⁰ Relevantly, in his comments lodged under Schedule 6, Clause 36, the Applicant’s planner conceded that SSL’s overall proposal, which now includes accommodation units, will be urban in nature and it will be perceived as sprawl or ribbon development along the State Highway.⁵¹
- [300] With regard to the strategic planning matters that we understand were of concern to Waka Kotahi, Strategic Policy 3.3.1 in Chapter 3 Strategic Direction of the QLDC PDP reads:
- “Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District’s urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone.”*
- [301] We note that the Accommodation Project is not located within the Wanaka town centre. Nor is the Film Studios Project site an ‘urban area’ as such, although we concluded in our decision on FTC000027 that it did meet the QLDC PDP definition of ‘urban development’, even though the underlying zone remained Rural. As outlined above, we consider that allowing visitor accommodation to be provided within the Film Studios Project site would be inconsistent with the policies of the relevant underlying zone which is Rural. We find that the Accommodation Project is therefore also inconsistent with Strategic Direction Policy 3.3.1.
- [302] In section E.9 of this Decision, we discussed the potential adverse effects of allowing visitor accommodation within the Film Studios Project site on the owners and occupiers of hospitality and visitor accommodation facilities located within the Wanaka town centre (and potentially on similar facilities in Hawea, Cromwell and other nearby town centres).
- [303] Relevantly, Chapter 3 of the QLDC PDP titled Strategic Direction addresses the role and importance of town centres. The purpose of that chapter includes⁵²

⁴⁸ Based on 55.5ha of proposed overall site earthworks. AEE, Appendix 15 – Geotechnical Assessment, Appendix A

⁴⁹ AEE Appendix 12 – Landscape and Visual Effects Assessment, paragraph 6.

⁵⁰ Waka Kotahi initial comments.

⁵¹ Letter from Edgar Planning dated 28 January 2022, page 4 of 6.

⁵² Purpose 3.1.c

ensuring the sustainable management of “*vibrant and compact town centres*”, identifying “*strong and robust town centres*” as a strategic issue for the District.⁵³ As part of an Objective to achieve “*The development of a prosperous, resilient and equitable economy in the District*”, the QLDC PDP includes recognition that “*The Queenstown and Wanaka town centres are the hubs of New Zealand’s premier alpine visitor resorts and the District’s economy.*”⁵⁴

[304] Strategic Direction Policies 3.3.3, 3.3.4 and 3.3.11 more explicitly expand on these matters and they state:

3.3.3 *Provide a planning framework for the Queenstown and Wanaka town centres that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths.*

3.3.4 *Avoid new commercial zoning of land that is likely to undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District’s economic activity.*

3.3.11 *Avoid commercial rezoning that is likely to undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil.*

[305] The clear thrust of these provisions⁵⁵ is to ensure that the Wanaka town centre continues to be the economic, commercial, civic and cultural hub of the Upper Clutha area. We are particularly mindful of the direction to decision-makers imparted by Policy 3.3.4 which is to avoid undermining the Wanaka town centre’s role in that regard. Our understanding is that Policy 3.3.11 imparts the same imperative to decision-makers in relation to other nearby town centres, including Hawea and Cromwell.

[306] At a more specific level, Chapter 13 of the QLDC PDP deals directly with the Wanaka Town Centre. That chapter reinforces that the Wanaka town centre should remain the principal focus for commercial, administrative, cultural, entertainment and visitor activities in the Upper Clutha area.⁵⁶ It also recognises the important contribution that night time activity makes to the vibrancy and economic prosperity of the town centre.⁵⁷

[307] We are not satisfied that allowing visitor accommodation to proceed within the Film Studios Project site would enhance the Wanaka town centre (Policy 3.3.3) or avoid the adverse effects on that town centre that are addressed by Policies 3.3.4 and 3.3.11. Nor would it ensure that the Wanaka town centre remains the principal focus for commercial, administrative, cultural, entertainment and visitor activities as required by Objective 13.2.1; including the night time activity referred to in Objective 13.2.1.3.

⁵³ Strategic Issue 3.1A.a

⁵⁴ Strategic Objective 3.2.1 and sub-objective 3.2.1.2

⁵⁵ We acknowledge that the Accommodation Project is not “commercial zoning of land”, but we consider that the outcome resulting from the granting of FTC000027 is analogous to having such a zoning in place over the Film Studios Project’s 55.5 hectare development area..

⁵⁶ Objective 13.2.1

⁵⁷ Objective 13.2.1.3.

[308] We consider that the only means of achieving the QLDC PDP policy outcomes for the Wanaka town centre with any degree of certainty is to disallow (or avoid) visitor accommodation in the Film Studios Project site.

[309] Our overall finding is that having regard to the QLDC's OPD and PDP does not weigh against a grant of consent for worker and film student accommodation within the Venice, Paris and New York precincts, but it would be clearly inconsistent with the QLDC PDP to grant consent for visitor accommodation within those precincts.

F.2 Any matters impacted by Section 6(a) of this Act (Treaty of Waitangi)

[310] This matter has been addressed in the section of this Decision relating to Mana Whenua above.

F.3 Treaty Settlement obligations on local authorities or decision makers (Section 6(b) of the Act and Clauses 29(4) and 33(8) Schedule 6)

[311] This matter has been addressed in the section of this Decision relating to Mana Whenua above.

F.4 Disregarding certain effects under Clause 31(4) concerning certain permitted activities

[312] We have not disregarded any adverse effects on the environment permitted by a national environmental standard or rule in a regional or district plan.

F.5 Having no regard to matters of trade competition or effects of trade competition (Clause 31(5)(a))

[313] These matters have not arisen in this case.

F.6 Further matters relevant to considering consent applications for referred projects (Clause 32)

[314] We have considered RMA section 104 and 104B matters in other parts of this Decision, noting those matters are often mirrored by clauses in Schedule 6 of the FTCA. RMA sections 104A and 104C⁵⁸ are not relevant and nor is section 138A relating to coastal permits for dumping and incineration. To the extent that RMA sections 105 and 107 are potentially relevant they relate to the site's stormwater runoff which was fully addressed in the Decision on the Film Studios Project FTC000027.

Part G: Conditions

G.1 Applying to resource consents (Clause 35(2)) under this FTCA

[315] Schedule 6, Clause 35(2) states a panel may grant a resource consent subject to the conditions it considers appropriate.

G.2 Comments on draft conditions (Clause 36)

[316] The Panel reviewed the conditions proposed by the Applicant in Appendix 6 to the AEE. The Applicant originally proposed nine conditions for the QLDC land

⁵⁸ Controlled and restricted discretionary activities.

use resource consent. The Panel's draft conditions expanded the conditions to 29 to ensure that the effects of the proposal were appropriately managed and to provide clarity and certainty to the Applicant and the QLDC who will be required to administer the consent.

[317] As required by Schedule 6, Clause 36, we issued those draft conditions on the resource consents on 20 January 2022 to the Applicant and those parties who had earlier provided comments on the Accommodation Project in response to our Schedule 6, Clause 17 invitations. We received comments from:

- Heritage New Zealand Pouhere Taonga;
- Queenstown Lakes District Council;
- Silverlight Studios Limited (the Applicant);
- Te Rūnanga o Ngāi Tahu; and
- Waka Kotahi New Zealand Transport Agency.

[318] As set out in Part E of this Decision we considered these comments when finalising the consent conditions.

[319] In each of the sub-parts of Section E we discussed conditions that were added or amended in response to comments received. Where relevant, we also discussed comments suggesting amendments that we have not actioned because we did not consider them to be either appropriate or necessary.

[320] The conditions we have imposed are set out in Annexure A.

Part H: Part 2 Resource Management Act 1991

[321] Section 12(10) of the FCTA provides:

(10) The provisions of the Resource Management Act 1991 otherwise apply, to the extent that they are relevant and with any necessary modifications, to a referred project...

[322] Also of relevance is Schedule 6, Clause 31(1) which provides:

(1) When considering a consent application in relation to a referred project, and any comments received in response to an invitation given under clause 17(3), a panel must, subject to Part 2 of the Resource Management Act 1991 and the purpose of this Act, have regard to... [emphasis supplied]

[323] We note that Schedule 6, Clause 9(1)(g)(i) provides that every consent application for a referred project must include an assessment of the activity against Part 2 of the RMA.

[324] The Applicant assessed Part 2 of the RMA matters in section 9.0 of the AEE. We are satisfied that the Applicant's assessment adequately addresses Part 2 matters insofar as they are relevant to the Accommodation Project.

[325] The one exception to that relates to visitor accommodation, which we discussed in sections E.9 and F.1.3 of this Decision. In that regard we consider that providing for visitor accommodation within the Film Studios Project site would not enable the owners and occupiers of hospitality and visitor accommodation facilities located within the Wanaka town centre (and potentially similar facilities in Hawea, Cromwell and other nearby town centres) to continue to provide for

their social and economic well-being to the same degree⁵⁹ that they currently enjoy. That would not be an efficient use of those hospitality and visitor accommodation physical resources and nor would it enhance the amenity values of those facilities.

[326] The Panel acknowledges the comments from both the Applicant's counsel and planner that SSL sees visitor accommodation as an efficient use of an existing resource, specifically the worker accommodation units, when there is a surplus of worker accommodation at certain phases of film projects.⁶⁰ The Panel accepts that is a relevant matter under section 7(b) of Part 2, however that does not outweigh the Panel's concerns regarding the proposed visitor accommodation that we have outlined throughout this Decision.

[327] We also acknowledge that the purpose of the FTCA includes "... *to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources*". Importantly in our view, the imperative relating to certainty of investment is not unqualified. It is to be achieved while continuing to promote the sustainable management of natural and physical resources. The Wanaka Town Centre (and the town centres of other nearby urban areas) is clearly a physical resource. So, to the extent that denying the short term visitor aspects of the Accommodation Project might detract from the certainty of ongoing investment in the Film Studios Project, as now appears to be the position of the Applicant, we find that does not outweigh the imperative to continue the sustainable management of the Wanaka Town Centre.

Part I: Final decision of Panel (Clause 37 and 38)

I.1 The consent granted and conditions imposed.

[328] A land use consent from Queenstown Lakes District Council and a combined land use and discharge consent from Otago Regional Council are granted subject to the conditions set out in Annexure A to this Decision.

[329] As required by Clause 38 of Schedule 6 to the FTCA, we refer to Clause 45 Schedule 6 which provides a 15-day period for appeal after the persons entitled to appeal (listed in Clause 44) are notified of this Decision.



Heather Ash (Chair)



Jan Caunter (Member)



Karen Coutts (Member)



Rob van Voorthuysen (Member)

⁵⁹ Putting to one side any short-term effects of Covid-19 related travel and overseas visitor restrictions.

⁶⁰ Letter from Edgar Planning dated 15 December 2021, section 10.1; and letter from Edgar Planning dated 28 January 2022, page 2 of 6.

Annexure A – Consent Conditions

Annexure B: Summary of Comments Received from Parties Invited to Comment on the Silverlight Studios Accommodation Application