



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	J Kerwin
RM reference:	RM140835
Location:	2455 Gibbston Highway, Gibbston
Proposal:	To establish a residential building platform and to undertake associated earthworks and landscaping.
Type of Consent:	Land use
Legal Description:	Lot 13 DP 341475 held in Computer Freehold Register 170663
Zoning:	Gibbston Character Zone
Activity Status:	Discretionary
Notification:	Publicly notified
Commissioner:	Commissioner T D Nugent
Date Issued:	11 November 2015
Decision:	Consent granted with conditions

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the Queenstown Lakes
District Plan

AND

IN THE MATTER of a Resource Consent
Application by J Kerwin at
2455 Gibbston Highway,
Gibbston – RM140835

DECISION OF COMMISSIONER DENIS NUGENT

Introduction

1. Mr Kerwin seeks land use consent to establish a residential building platform and undertake associated earthworks at 2455 Gibbston Highway, Gibbston Valley. Although three submissions were received on the application, by the time of the hearing two of these had been withdrawn and replaced with notices of written approval. The remaining submission supported the application.
2. Pursuant to section 34A of the Act I have been delegated the Council's powers to hear and determine this application.

Hearing and Site Visit

3. I undertook a site visit accompanied by Ms Standish and the applicant on Friday 18 September 2015. Their input was limited to answering my factual questions such as identifying the site boundaries.
4. The application was heard on Monday 21 September 2015 in Queenstown.

Appearances

5. For the Applicant:
 - Mr A Ray – Counsel
 - Mr N Geddes – Planning Consultant
 - Mr J Nutting – Landscape Architect
 - Mr J Kerwin and Ms M Kerwin were available to answer questions

6. For the Council:

- Ms A Standish – Reporting Planner
- Ms J Fyfe – Team Leader, Planning
- Mr R Denney – Consultant Landscape Architect
- Ms R Beer – Committee Secretary

Adjournment to Receive Additional Material

7. The hearing was adjourned to enable the Applicant to lodge landscaping and planting plans and to attempt to agree a set of proposed conditions with the Council officers. I set a timetable for lodgement of the plans and proposed conditions with the opportunity for the Council officers to comment on them, and for the Applicant to reply to any such comments. It was anticipated that I would be able to deal with this information on the papers.

The Application

8. The Applicant seeks consent to establish a residential building platform ('RBP') on Lot 13 DP 341475 held in Computer Freehold Register 170663 (Otago). This site contains 8.2085 ha and is located on the north side of the Gibbston Highway (State Highway 6 or SH6) near the eastern end of the Gibbston Valley.

9. As notified, the RBP was to have an area of 1,000m². Post notification this had been reduced to 420m²¹. I understood that a design had been finalised for the building to be erected on the RBP, and that a building consent had been issued (subject to consent for the RBP being obtained). Mr Geddes attached a plan to his evidence² which showed a RBP stated to be 360m² although dimensioned as 324m². I understood from Mr Geddes that this identified area was the location of the building proposed and the heights shown in the corners would be the finished heights of the top of the building at that point, with the peak of the ridgeline being 1.2 m higher than those points.

10. The earthworks to establish a flat area to contain the RBP cover an area of some 945m². The RBP would be oriented with its long axis running slightly east of north to slightly west of south, and would be located in the south-eastern corner of the earthworked area.

¹ Section 42A Report and Mr Ray Opening Submissions
² Proposed Earthworks on Lot 13 DP 341475 Job No. 11363 Drawing No. 003

11. The area of works proposed is approximately 140 m from SH6 and some 70 m from the eastern boundary of the site. This places the RBP in the north-eastern quadrant of the site.
12. The earthworks to create the platform would entail 370m³ of cut and 122m³ of fill to create a flattish area sloping gently to the north with an average RL of 316.5 masl. The top of the ridgeline of the proposed house (maximum) would be RL 322.1 masl.
13. To the south and east of the RBP the Applicant proposed the creation of an earthworked and planted mound. This would have a maximum height (south of the RBP) of RL 323.48 masl, lowering to RL 322.48 masl adjacent to the southeast corner of the RBP. The maximum height of the eastern part of the mound would be RL 318.45 masl. Some existing mounding has occurred in this location as a permitted activity and I understood the additional mounding would require some 978 m³ of fill.
14. Mr Geddes's plan also identified a further 50m³ of cut would be required to form a driveway from the existing easement running through the site.

Reasons Consent Required

15. The site is located in the Gibbston Character Zone in the Operative District Plan.
16. Ms Standish identified consent was required under the following provisions³:
 - *A restricted discretionary activity pursuant to Rule 5.7.3.3 as the proposal breaches site standard 5.7.5.1[iv](d) in regard to the volume of earthworks being in excess of 1,000m³.*
 - *A discretionary activity resource consent pursuant to Rule 5.7.3.3[i](b) for the proposed identification of a residential building platform of not less than 70m² in area and not greater than 1,000m² in area.*
17. On 30 June 2015 the Council issued its decisions on submissions on Plan Change 49 relating to earthworks. One appeal has been received and that only relates to rules applying to earthworks in the Rural General Zone. It is my understanding that provisions of section 86F of the Act mean that the rules in Change 49 relating to the Gibbston Character Zone must be treated as operative and the previous rules treated as inoperative. Thus, the earthworks are to be subject to the rules of Chapter 22 Earthworks. Under Rule 22.3.2.3 consent is

³ S.42A Report, Section 6.1

required as a restricted discretionary activity as the following standards are breached:

- a) Site Standard 22.3.3[i] Volume – as the proposal exceeds 1,000m³ of earthworks;
- b) Site Standard 22.3.3[ii](a)(ii) as the angle of batter proposed is 45 degrees on one side of the mound;
- c) Site Standard 22.3.3[ii](a)(iii) as the maximum height of fill will exceed 2 m.

18. My discretion under Rule 22.3.2.3 is restricted to -

- (i) *The nature and scale of the earthworks;*
- (ii) *Environmental protection measures;*
- (iii) *Remedial works and vegetation;*
- (iv) *The effects on landscape and visual amenity values;*
- (v) *The effects on land stability and flooding;*
- (vi) *The effects on water bodies;*
- (vii) *The effects on cultural and archaeological sites;*
- (viii) *Noise.*

19. I accept Ms Standish's advice that the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health is not applicable on this site.

20. Overall consent is required as a discretionary activity.

Relevant Statutory Provisions

21. The relevant provisions of section 104 are:

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—*
 - (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (b) *any relevant provisions of—*
 - ...
 - (v) *a regional policy statement or proposed regional policy statement:*

- (vi) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
- (2) *When forming an opinion for the purposes of subsection (1)(a), 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.*
- ...
- (3) *A consent authority must not,—*
 - (a) *when considering an application, have regard to—*
 - ...
 - (ii) *any effect on a person who has given written approval to the application:*
- ...

22. Under s.104B I may grant or refuse consent. If I grant consent I may impose conditions under s.108.

Relevant Regional Policy Statement Provisions

23. This was not referred to by either Mr Geddes or Ms Standish. I have reviewed the provisions of this RPS, particularly Chapters 5 and 9, and can find little that assists in assessing this proposal.

Proposed Regional Policy Statement

24. This has reached the stage where the summary of submissions has been notified. This contains policies concerning special amenity landscapes as distinct from outstanding natural landscapes (Policies 2.2.5 and 2.2.6). As the Gibbston Character Zone is such a landscape Policy 2.2.6 is particularly relevant. The weight I can attribute to that policy is low however.

Proposed District Plan

25. This was notified in August and submissions have not yet closed. Hence the contents of this document can also be given little weight. It is relevant, however, that the site is zoned Gibbston Character in this Plan also, and that the identification of a RBP remains a discretionary activity. Earthworks are controlled solely by Chapter 22 of the Operative District Plan. The objectives and policies and relevant assessment criteria are subtly different from those in the Operative

Plan. I will discuss the relevance of this when considering the provisions of the proposed Plan.

The Existing Environment

The Subject Site

26. As noted above, this site comprises some 8.2 ha on the north side of SH6. It is the easternmost site to the north of SH6 zoned Gibbston Character. Dr Read has described the site in detail in paragraphs 3.2, 3.3(a), 3.3(b)⁴ and 3.6 of her report dated 23 January 2015. I adopt that description.

Surrounding Environment

27. Adjoining the site to the north is Department of Conservation land bordering the Kawarau River. The river is in a deep gorge at this point and not visible to any great extent from the site.
28. South of SH6 the land comprises vineyards interspersed with houses up the lower slopes of Mount Rosa. Land immediately to the west north of SH6 is largely in pasture. At the time of my site visit a house was being erected on Lot 35, immediately adjoining the Applicant's site. Further west there is additional rural-residential type development with some vineyard planting.
29. Immediately to the east of this site is the Robentee land. This is zoned Rural General and it is accepted that site is within an Outstanding Natural Landscape (ONL). That site contains a dwelling and I was advised that a long term landscaping plan is being undertaken on the site. Further east is Nevis Bluff, which separates Gibbston Valley from Victoria Flats.
30. It is important to understand the route of SH6 around Nevis Bluff from the east, and thence to the south of this site to be able to understand the potential for visibility of the proposed RBP from SH6. Coming from the east as it crosses Victoria Flats SH6 is straight and flat before curving onto the edge of Nevis Bluff. Nevis Bluff comprises a steep bluff dropping down to the Kawarau River. The top of the bluff is some 200m above the river and SH6 sits on a bench cut into the bluff some 25-30 m above the river. The nature of the topography is such that Gibbston Valley only appears into view as one proceeds around Nevis Bluff, and in so passing, one moves from a natural environment dominated by the surrounding mountains to a more expansive and managed landscape. Thus, the

⁴ There are two paragraphs 3.3. I have denoted them as (a) and (b) to make it clear that both of them are relevant.

juxtaposition of development in the initial view one receives from SH6 on Nevis Bluff can impact on the landscape values.

31. After passing around the Bluff, SH6 curves to the southwest and thence to the west until, at the southeast corner of the Applicant's site, it turns to run as a straight flat highway to the northwest. There is a pull-off area toward the eastern end of Nevis Bluff but, with no-stopping signs and rockfall warnings, I doubt that it is used regularly by travellers. The road around Nevis Bluff has a 100 kph speed limit, with a recommended speed of 85 kph.
32. As one passes around the Bluff the house on the Robentee Trust property sits in the centre of the view. The building platform sought by the applicant would appear above that building, although further away.
33. Travelling from the west is quite a different experience. Proceeding along SH6 one is in a wide valley with the immediate views dominated by vineyards. Nevis Bluff forms the end of the valley and as one proceeds toward it the Bluff increasing dominates the view. The peripheral views of vineyards and pasture assume less and less importance as one nears the Bluff.

Legal Submissions and Evidence

Mr Ray

34. Mr Ray advised that the applicant had reduced the size of the building platform to 420m² in response to Dr Read's assessment and that the applicant had received a building consent for a dwelling to go on this platform if I were to grant resource consent. He noted that some earthworks had already occurred on site, including the creation of the platform and the creation of a low mound to the south of that platform.
35. It was Mr Ray's submission that the Gibbston Valley Special Character Zone seeks to enable a variety of development and that the zone contains specific assessment matters applicable to this zone and distinct from the Rural General Zone. He submitted the assessment criteria were not tests or standards the proposal was to be measured against. In particular he noted that there was not a requirement for buildings to be invisible from public places, nor reasonably difficult to see.
36. Mr Ray also submitted that the proposed District Plan appeared to be moving to a more liberal approach.

Mr Geddes

37. Mr Geddes is a resource management consultant based in Queenstown. He described the way in which the application had been amended so that a building on the RBP would be less visible. This involved increasing the height of the mounding, as well as the reduction in size of the RBP discussed by Mr Ray. He set out two conditions the applicant was volunteering to ensure the mounding and associated planting had the effects he expected.
38. In Mr Geddes' view the key matter for consideration was effects upon the landscape. He considered that a degree of domestication was anticipated in the zone, and that when that was considered in conjunction with the level of domestication of the landscape in the immediate vicinity of the site, the proposal would not degrade the appearance of the property, nor compromise the principles of the zone as a whole.
39. Mr Geddes discussed the potential visibility of the RBP from Nevis Bluff. He considered it would only be in view for a short period of time for someone travelling around the Bluff, and that it would be viewed in the context of the Gibbston Character Zone, rather than any ONL. He did accept that a viewer on the Bluff pull-off area would view the RBP in the context of an ONL, but that the RBP would not obstruct views to the ONL, nor would it compromise the open space qualities of the ONL.
40. Mr Geddes considered that the conditions volunteered by the applicant restricting further subdivision and requiring all buildings to be located within the RBP would protect rural amenities. He acknowledged that the proposed wall colour ('tussock') listed in a restrictive covenant would be inappropriate and accepted that a condition prohibiting the use of that colour would be appropriate.
41. Overall, relying on the landscape evidence of Mr Nutting, Mr Geddes considered the proposal was not inconsistent with the District Plan objectives and policies nor those of the proposed District Plan. He also considered the proposal consistent with the provisions in Part 2 of the Act.

Mr Nutting

42. Mr Nutting is a landscape architect based in Cromwell. He has been undertaking the landscaping work on the adjacent Robentee Trust property and therefore has an understanding of the ability of various plant species to provide adequate screening in this immediate environment.

43. Mr Nutting considered the proposed mounding was consistent with existing natural mounds on the site and did not consider it would look un-natural. He did not consider the proposal obstructed views of the ONL nor did he consider it would compromise the open space qualities attributed to the Gibbston Valley. He advised that *Olearia lineata dartonii* and *Hebe stricta* would be used as clump planting around and on the mound.
44. Photographs attached to Mr Nutting's evidence showed the views into the site from the east, the west and looking across the site from adjacent to the entranceway.

Mr Kerwin

45. Mr Kerwin addressed me briefly on the existing structure on the site. He advised that it comprised two 20-foot containers with a truss roof over the top, not fixed permanently to the ground. These were used for storage of the Kerwin's personal effects. He advised that they would be removed if or when a dwelling was built.

Ms Kerwin

46. Ms Kerwin did not present evidence as such, but she did produce a series of photographs she had taken both in the immediate vicinity and further west in Gibbston Valley.

Mr Denney

47. Dr Read had prepared the original landscape assessment report for the Council. That report was included in the s.42A report. Mr Denney had peer reviewed that assessment and he was present at the hearing to assist.
48. In his peer review Mr Denney had concluded that the proposed platform remained problematic, notwithstanding the staggered height control proposed and the smaller building. In the review he considered the house would be visible in the context of other buildings which would result in cumulative effects that would increase the level of domestication to a point that would be inappropriate in the context of both the Gibbston Valley and the adjoining ONL and ONF.
49. After hearing the applicant's case, Mr Denney remained concerned with the visibility of the proposal from Nevis Bluff. He considered the height of the proposed mounding would have an effect in itself. He noted that the curtilage area should not extend beyond the top of any mound.

Ms Standish

50. Ms Standish's report included an engineering assessment. She was satisfied, on the basis of that assessment, that the site could be adequately serviced and recommended appropriate conditions.
51. Based on the advice of Dr Read and Mr Denney, Ms Standish concluded in her report that the location of the proposed platform was inappropriate and that consent should be refused.
52. After hearing the applicant's case, Ms Standish considered that it remained unclear what level of mitigation was proposed.

Adjournment

53. It was apparent to me that the applicant's case was predicated on landscaping and mounding to largely hide built-form on the proposed RBP. However, the applicant did not provide clear evidence of the actual landscaping proposed and how that would mitigate landscape and visual effects. It appeared that the applicant was proposing that such details be finalised after consent was granted.
54. I advised that I was not prepared to make a decision based on mitigation of effects by landscaping and mounding without seeing clear evidence of the landscaping and mounding proposed, and what the likely outcome would be from the critical viewpoints. I adjourned the hearing to enable the applicant to prepare such material and provided a timetable for its receipt, comment by the Council officers, and for reply by Mr Ray.
55. As a result of this, I received:
 - a) A plan entitled *Proposed Earthworks on Lot 13 DP 341475*, Clark Fortune McDonald & Associates Job No. 11363 Drawing No. 003 Revision A 17 September 2015
 - b) *Mound Planting Plan*, Southern Landmarx Limited, Drawing No. slx10569, 30 September 2015
 - c) *Digital Illustration of Proposed Mounding* (before and after) dated 28 September 2015
 - d) *Memo on Notified Resource Consent* from Ms Standish dated 12 October 2015
 - e) An agreed draft set of conditions.

56. In her Memo Ms Standish noted her residual concern regarding the appropriateness of mounds of the scale proposed as it would amount to a significant change to the landscape in this location and would be inconsistent with the natural landforms in the area. She noted that the Digital Illustration did not include a building outline but considered it feasible that the mounding and planting proposed would screen the development. She confirmed that the Landscape Concept Plan dated 19 March 2015 showed the correct planting pattern for the poplar planting proposed south of the proposed RBP. She additionally stated that Mr Denney remained concerned with the potential effects of these trees on the ONL.

Revised Plans

57. After reviewing this material it was apparent that further clarifications were required in respect of the plans and the draft conditions. I issued a Minute on 22 October 2015 requesting these matters be clarified. On receipt of the revised plans on 28 October and Ms Standish's comments on them on 4 November it was apparent that the Poplar Relocation Plan required further clarification. This was finally received in a suitable state on 6 November 2015.

Principal Issues of Contention

58. The principal issue in contention was the potential effects of the development on the RBP and the mounding and screening proposed for mitigation purposes on the landscape values in the Gibbston Character zone and the adjacent land that comprised an Outstanding Natural Landscape. I did not understand there to be any disagreement concerning access or servicing or nature conservation values. Consequently, my consideration is focussed on assessment matters i, ii and iii in Section 5.8.2, and assessment matter iv in Section 22.4, in the ODP and the relevant objectives and policies from the ODP and the PDP.

Permitted Baseline

59. Ms Standish set out the activities that can occur as of right in this zone.⁵ I accept that list but do not agree with her conclusion that I should use my discretion to disregard the effects of those activities that are permitted. While buildings are not permitted, fencing, planting, cultivation and a limited level of earthworks are all permitted. Fencing, planting and viticulture can all have effects on landscape character, particularly in relation to a natural landscape. I consider it important to consider this proposal against those permitted effects.

⁵ Section 42A Report, Section 9.2.1

Effects on Gibbston Valley's Character (Section 5.8.2(i)(A))

60. This site adjoins an ONL on the east and northern boundaries. However, the visual effects of the proposal will not compromise the open character of that ONL land. The open space character of the land to the east is compromised by the building erected on the Robentee Trust and I was advised that mitigation mounding and planting for that building is a 10 year programme. I accept the evidence presented on behalf of the applicant that screening of development on the RBP by the revised mounding and planting would not adversely affect that character.
61. To the north of the site, the Kawarau River is located in a gorge well below the level of the applicant's land, and the mountains on the north side of the river rise steeply from it. While views to that area of the ONL as seen from SH6 may be interrupted by the mitigation mounding and planting, that in itself will not alter the open character of the ONL.
62. When considered in the context of the Gibbston Character Zone, the mounding, planting and RBP are consistent with the nature of the development that has occurred and is occurring in the Valley. It will not compromise the productive potential, amenity or character of the Valley.

Visibility of Development (Section 5.8.2(i)(B))

63. The proposal will have no effect on the viticultural character of the Valley as it is on the opposite side of SH6 from the nearest vineyards. While the site itself is highly visible from SH6, the mitigation mounding and planting will ensure that the Arcadian pastoral character of the Valley will not be diminished. The mounding and planting is not inconsistent with natural mounding occurring in the vicinity, so does not detract from the topography, notwithstanding that it will change the landforms on this site.

Rural Amenities (Section 5.8.2(i)(C))

64. I have discussed above the ability for views to be obtained over the site and that adequate visual access will remain. The proposal will not impact on viticultural activities and will not require urban type infrastructure. The landscaping proposed will appear more natural and less linear than some of the existing planting patterns in the Valley.

Form and Density of Development (Section 5.8.2(i)(D))

65. While there is the potential to use other locations on the site which would be screened by natural mounding, I accept Mr Geddes' evidence that those locations suffer from lack of adequate sunlight in winter. As it is, the proposal uses an existing joint access to locate a single dwelling on an 8.2 ha site. That is a less intense form of development than is occurring on adjacent land to the west.

Cumulative Effects of Development on the Landscape (Section 5.8.2(i)(E))

66. I am satisfied that, while there will be change to the landscape as a result of this proposal, it will not lead to further degradation or domestication of the landscape beyond the ability of the vicinity's ability to absorb change. This view is predicated upon the mitigation mounding and planting preceding any building on the RBP. This landscape cannot afford to have another dwelling awaiting 10 years of landscape work before the visual effects of it are satisfactorily mitigated.
67. I note that the draft conditions propose the registration of a covenant on the title limiting domestic activity to the curtilage identified as being behind the mound, and buildings limited to the RBP. While the applicant has not volunteered a "no subdivision" condition, the fact that such conditions can be removed or varied as a discretionary activity means they provide no greater constraint on subdivision than the District Plan rules.

State Highway 6 (Section 5.8.2(ii))

68. The mounding and planting will be visible from SH6, and within that some parts of a building on the RBP may be visible. The extent of such visibility will not be such as to adversely affect the rural character and vistas from the road, nor will it obstruct views to the surrounding ONL. The planting and mounding proposed are consistent with that in the immediate vicinity.

Buildings (Section 5.8.2(iii))

69. The building will not break the line of natural landforms, nor will it obscure natural features and vistas. It would not be visually obtrusive, will not cause a loss natural landscape pattern and will be located where the landscape can absorb some change. The materials to be used will ensure it visually recedes into the landscape and earthworks for access requirements will be minimal.

Effects on rural landscape and visual amenity values, including on Outstanding Natural Features and Outstanding Natural Landscapes (Section 22.4(iv))

70. Although Ms Standish and Mr Denney raised concerns with the scale of the mounding proposed, such scale is not inconsistent with the natural landforms located within the site and on adjoining sites. While the form of the mounding may differ from the natural landforms, by enclosing the RBP on two sides rather than being purely lineal, such distinction will not be obvious to an observer from public places, particularly SH6. Provided the mounding is adequately and quickly grassed following construction, and then planted in the manner proposed by Mr Nutting, I am satisfied that the visual and amenity effects of the earthworks would be minimal and little different from those of permitted farming or viticultural activities.

Provisions of the Operative District Plan

71. Ms Standish referred me to a number of objectives and policies in Sections 4.2, 4.11, 5.6 and 22. Having considered the proposal against the assessment criteria, I agree with Mr Geddes that it is not inconsistent with those objectives and policies. Indeed, when I consider the most apposite, Objective 1 and associated policies in Section 5.6 relating to Gibbston character, the way in which the building will be fitted into the landscape with mitigation screening and the retention of the remainder of the site for rural activities is consistent with the outcomes sought by them. I note in particular that Section 5.5.1(v) contains the following statement:

... some other areas/allotments may not offer the same potential (e.g. they may have poor thermal gradients, inadequate frost drainage or be of an unsuitable allotment size). There is the potential for the use of such sites ... for limited lifestyle or dwellings development – where the effects of these activities on primary production and landscape quality is not compromised.

72. I am satisfied that this proposal is such a circumstance.

Provisions of the Proposed District Plan

73. Again Ms Standish referred me to a number of objectives and policies from this Plan. In considering these I recognise that they only have limited weight given the early stage of the Plan process. I note that most of the provisions of Chapter 6 Landscape apply only to the Rural Zone. However, Policy 6.3.8.4 reads –

Provide a separate regulatory regime for the Gibbston Valley, identified as the Gibbston character Zone, in recognition of its contribution to tourism and viticulture while controlling the impact of buildings, earthworks and non-viticulture related activities on the wider environment.

74. In addition to that Policy, Objective 23.2.1 and associated policies are relevant. These are not opposed to dwellings as such, but seek that the location and development of dwellings be such as to avoid or mitigate adverse effects on the character of the Gibbston Valley. Such character includes the landscape values of the Valley both inside and outside of the Gibbston Character Zone.
75. I note that, although the rules do not yet have legal effect, they propose a similar regulatory regime and assessment criteria as the Operative Plan. The major difference is that once a RBP is consented, the erection of a dwelling is a permitted activity providing it complies with the standards in Table 2. Those standards would allow a residential building up to 8m in height. The agreed draft conditions propose a maximum height of 6m for the proposed building, and that is to be calculated from a fixed Reduced Level of 316.5 masl.
76. Having considered the provisions of the Proposed District Plan I am satisfied that this proposal represents appropriate development in the terms expressed by that Plan.

Overall Consideration

77. There are no relevant matters from section 6 of the Act to consider. The relevant matters in section 7, relating to amenity values, the quality of the environment, the efficient use of resources, and stewardship, have all been considered in the context of the Operative District Plan assessment criteria and objectives and policies. Overall, the appropriateness of the RBP in terms of all these matters relates to the adequacy of the mitigation landscaping and controls on the scale and form of development within it.
78. I am satisfied that if the landscape planting shown on the Mound Planting Plan and Poplar Relocation Plan provided by the applicant is undertaken prior to a dwelling being erected on the RBP, and that planting is retained, then the mitigation effects of the landscaping will be adequate given the scale limitations proposed by the applicant in the draft agreed conditions.
79. A set of conditions was provided by Ms Standish on 4 November 2015. Those incorporated a requirement that the landscaping be implemented prior to the construction of a dwelling on the RBP. Other than amending the titles of plans

referred to in those conditions, the only alteration I considered necessary was that the ongoing maintenance and retention of that landscaping should be incorporated in the covenant to be registered against the title so that obligation remained apparent to future owners of the property.

80. On that basis I consider the proposal meets the purpose of the Act and consent should be granted.

Decision

81. Pursuant to section 104B of the Resource Management Act 1991 consent is granted to J Kerwin to establish a residential building platform and undertake associated earthworks on Lot 13 DP 341475 held in Computer Freehold Register 170663 at 2455 Gibbston Highway, Gibbston Valley subject to the conditions set out in Appendix A.

Dated 11 November 2015

A handwritten signature in blue ink, appearing to read 'Nugent', is written in a cursive style.

Denis Nugent
Hearing Commissioner

APPENDIX A: RM140835 CONDITIONS

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - Southern Landmarx Ltd, "Mound Planting Plan", Drawing No. 10569, dated 30th September 2015.
 - Southern Landmarx Ltd, "Poplar Relocation Plan", Drawing No. 181015, Revision 1, dated 06 November 2015.
 - Clark Fortune McDonald and Associates, "Proposed Earthworks on Lot 13 DP 341475", Job No. 11363, Drawing No. 003, Revision A and dated 18.11.13.
 - Clark Fortune McDonald and Associates, "SH6 View Point Heights", Job No. 11363, Drawing No. 06 and dated 17.09.15.

stamped as approved on 11 November 2015, and the application as submitted, with the exception of the amendments required by the following conditions of consent.

- 2a. This consent must not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
- 2b. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991 and must pay to Council an initial fee of \$240. This initial fee has been set under section 36(1) of the Act.

Engineering Conditions

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

Hours of operation for earthworks, are limited to:

Monday to Saturday (inclusive): 8.00am to 6.00pm.

Sundays and Public Holidays: No Activity

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

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

5. The owner of the land being developed must provide a letter to the Principal Resource Management Engineer at Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this development and must confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.4 & 1.5 of NZS4404:2004 "Land Development and Subdivision Engineering", in relation to this development.
6. At least seven working days prior to work commencing on the remedial work of the vehicle crossing or undertaking any work within the State Highway road reserve, the consent holder must complete the following:
 - a) A Traffic Management Plan must be completed and submitted by the consent holder for written approval by the NZ Transport Agency's network management consultant (Opus International Consultants of Alexandra).
 - b) An agreement to work on the State Highway must be completed and submitted by the consent holder to the NZ Transport Agency's network management consultants (Opus International Consultants of Alexandra) at least seven working days before the work commences.

A copy of the written agreement and approved traffic management plan must be provided to Council prior to any further works commencing on the site or the State Highway road reserve.

Advice Note: conditions 6. a) and b) above have been volunteered by the applicant.

7. The consent holder must install measures to control and/or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with NZS 4404:2004 and 'A Guide to Earthworks in the Queenstown Lakes District' brochure, prepared by the Queenstown Lakes District Council. These measures must be implemented **prior** to the commencement of any earthworks on site and must remain in place for the duration of the project, until all exposed areas of earth are permanently stabilised.
8. Prior to any work commencing on the site, the consent holder must provide to the Principal Resource Management Engineer at Council for review and certification, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (1), to detail, but not limited to the following engineering works required:
 - a) The provision of a water supply to service the building platform in accordance with Council's standards. The building platform must be supplied with a minimum of 2,100 litres per day of potable water that can be treated to comply with the requirements of the Drinking Water Standard for New Zealand 2005.
 - b) The formation of right of way 'C' and provision of an access way to the building platform that complies with the guidelines provided for in Council's development standard NZS 4404:2004 with amendments as adopted by the Council in October 2005. The access must meet the following requirements:
 - i) The minimum formation standard must be 150mm compacted AP40 with a 3.5m minimum carriageway width.
 - ii) Passing bays/road widening must be provided within right of way 'C' at intervals not greater than 100m.
 - iii) Provision must be made for stormwater disposal from the carriageway.
 - iv) The design plan must demonstrate that an 8m ridged truck can enter and exit the site in one manoeuvre from right of way 'C' without any obstruction from fence lines or other features located adjacent to the carriageway. The minimum required turning radius must be 11m, to provide access for a fire appliance in accordance with SNZ PAS 4509:2008.
 - v) The design plans must demonstrate that an 8m ridged truck can turn into right of way 'E' (from right of way 'C') without any obstruction from fence lines or other features located adjacent to the carriageway. The minimum required turning radius must be 11m, to provide access for a fire appliance in accordance with SNZ PAS 4509:2008.

To be completed after construction of the mound and before construction of the dwelling

9. To ensure the mitigation mound is located to achieve the level of screening of the dwelling proposed in the application, the consent holder must employ an appropriately qualified surveyor at their expense who must certify to Council in writing that:
 - a) The completed mound has been constructed in the exact location and to the spot height levels identified on the approved plan "*Southern Landmarx Ltd, "Mound Planting Plan", Drawing No. 10569, dated 30th September 2015*".
 - b) The mound is formed (excluding vegetation) so that no more than 900mm of any part of any building constructed within the platform shall be visible from any point on SH6.

Landscaping

10. Prior to registration of the building platform and the construction of a dwelling in that building platform, all planting must be implemented as per the approved plan entitled "*Southern*

Landmarx Ltd, "Mound Planting Plan", Drawing No. 10569, dated 30th September 2015". Planting in accordance with this plan must be undertaken to achieve the following minimum requirements:

- a) A 50% mix of the specified Pb grades and revegetation grade plants must be implemented from the approved plant schedule;
 - b) The mound planting must be mulched, irrigated with a drip line irrigation system, and maintained as necessary to achieve rapid and healthy growth;
 - c) Prior to any building construction the plantings must be inspected by the Council to ensure that 90% of all plantings including the *Oleria dartonii* (Twiggy tree daisy) as shown of the approved "Mound Planting Plan" are in good health, are thriving, and are grown to a height and density to provide the intended visual mitigation of a building in the platform.
11. Annual monitoring over a five year period must be undertaken at the applicant's expense to ensure the revegetation of the mound is maintained in such a condition as to ensure that:
- a) 90% of all plantings are maintained in a health and thriving condition; and,
 - b) the planting facilitates the ongoing visual mitigation of the dwelling within the platform as viewed from State Highway 6.
12. If any tree or plant dies or becomes diseased it must be replaced within 12 months as per the "Mound Planting Plan".

New Building Platform to be registered

13. At the time the consent is given effect to, the consent holder must provide to Council a "Land Transfer Covenant Plan" showing the location of the approved building platform. The consent holder must register this "Land Transfer Covenant Plan" on Computer Freehold Register CFR 170663 and must execute all documentation required to register this plan. The costs of doing so must be borne by the consent holder.

Prior to the registration of the building platform on the Computer Freehold Register

14. Prior to the building platform being registered on the Computer Freehold Register, the consent holder must complete the following:
- a) The consent holder must provide "as-built" plans and information required to detail all engineering works completed in relation to or in association with this development to the Principal Resource Management Engineer at Council. This information must be formatted in accordance with Council's 'as-built' standards and must include all Roads (including right of ways) and Water reticulation (including private laterals and toby positions).
 - b) A digital plan showing the location of all building platforms as shown on the Land Transfer Plan must be submitted to the Principal Resource Management Engineer at Council. This plan must be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000).
 - c) The completion of all works detailed in Condition (5) – (9) above.
 - d) The consent holder must provide written confirmation from the Road Controlling Authority (New Zealand Transport Agency) that the following requirements have been met:
 - i) Crossing Point 83 (located towards the southern corner of Lot 13) must be permanently and physically closed, with the gates removed and the fence line reinstated in accordance with New Zealand Transport Agency standards.
 - ii) The access Crossing Place 83B (CP83B) must be upgraded to a New Zealand Transport Agency "Diagram C" access standard, with the adjacent fence line recessed back from the crossing point.

- e) The existing trees that have been planted within the State Highway road reserve must be relocated to the subject site in accordance with the *Poplar Relocation Plan*. No tree must be closer than 30 metres from the State highway boundary.
- f) Written confirmation or evidence must be provided from the electricity network supplier responsible for the area, that provision of an underground electricity supply has been made available (minimum supply of single phase 15kva capacity) to the building platform.
- g) All earthworked/exposed areas must be top-soiled and grassed/revegetated or otherwise permanently stabilised.
- h) The consent holder must remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
- i) All landscaping must be implemented as per Condition 10 above.

Ongoing Conditions/Covenants

15. At the time that the building platform is registered on the Computer Freehold Register for the site, the consent holder must register the following conditions as a covenant pursuant to Section 108(2)(d) of the Resource Management Act 1991 to be carried out at the time a dwelling is proposed:
- a) All future buildings must be contained within the Building Platform as shown as Covenant Area X as shown on Land Transfer Plan XXXXX.
 - b) The maximum height for the residential unit erected within the Building Platform shall be six metres and four metres from the Reduced Level 316.5masl as detailed on the plan entitled *Clark Fortune McDonald and Associates, "Proposed Earthworks on Lot 13 DP 341475", Job No. 11363, Drawing No. 003, Revision A and dated 18.11.13.*
 - c) The pitch of roofs on all buildings erected within the Building Platform must be between 22.5 degrees to 55 degrees. Flat roofs are only permitted as connections between structures and must not exceed 20% of the total roof area.
 - d) Roof cladding must be steel (corrugated or tray) cedar shingles, or slate or other such like materials.
 - e) Roof colours must comprise dark recessive hues and must be of low reflectivity less than 36%. All steel roofing must be painted or otherwise colour treated and must exclude zincalume, galfan and other similar matt finish and untreated iron products. Acceptable colour steel hues are limited to Ironsand, Grey Frairs, New Denim, Blue, Karaka Green (Resene NZ Colours). No other colour or reflectivity level is permitted.
 - f) External wall materials must be recessive timber, smooth plaster or stone. If smooth plaster is used then a dark resin must be added. The use of stone is restricted to local schist only. Wall colours must be natural and recessive (in material stated above) or in the range of browns, grey or natural greens. Walls must be continuous of one cladding from ground to roof.
 - g) Exterior joinery must be timber, steel or aluminium. Joinery colours (excepting timber) must match roofing, gutter and spouting colours.
 - h) All mitigation landscaping implemented in accordance with Condition 10 of RM140835 must be maintained in perpetuity and managed such that if any tree or plant should die or become diseased it must be replaced within 12 months as per the *"Mound Planting Plan"*.
 - i) Any boundary fencing must be standard post and wire only. All courtyard fencing must be in a material similar to housing, including plastered concrete, timber (to match house cladding) stone, or post and rail. No composite or corrugated iron fencing is permitted.

- j) All exterior lighting is restricted to the curtilage area and must be down lighting only. Lighting must not exceed 1m in height, except where attached to a building where it must not exceed 3m in height. There must be no light spill beyond the property boundary. External lighting must not be used to highlight or accentuate built forms, structural elements or any landscape features visible from beyond the property boundary.
- k) All domestic landscaping and structures including but not limited to clotheslines, outdoor seating areas, pergolas, amenity gardens, pools, and lawns must be confined to the curtilage area as shown on the plan: Clark Fortune McDonald and Associates, "Proposed Earthworks on Lot 13 DP 341475", Job No. 11363, Drawing No. 003, Revision A and dated 18.11.13.
- l) All stone structures must be constructed from local schist.
- m) No containers are permitted unless they are hidden from view from the State Highway.
- n) No clothesline on Lot 13 is to be visible from the State Highway.
- o) At the time a building is constructed the lot owners must engage a suitably qualified engineer to design the building foundations, as the building platform contains uncertified fill which may be susceptible to subsidence.
- p) At the time a dwelling is erected on the lot, the consent holder must engage a suitably experienced person as defined in sections 3.3 & 3.4 of AS/NZS 1547:2012 to design an onsite effluent disposal system in compliance with AS/NZS 1547:2012. The design must take into account the site and soils investigation report and recommendations by Hadley Consultants Ltd, dated 3/02/2015. The proposed wastewater system must be subject to Council written approval prior to implementation and must be installed prior to occupation of the dwelling.
- q) At the time that a dwelling is constructed on Lot 13 DP 341475, the consent holder must treat the domestic water supply by filtration and disinfection so that it complies with the Drinking Water Standards for New Zealand 2005 (revised 2008).

Advice note: A connection to the Gibbston Water scheme is to be provided as a backup for the Gibbston Irrigation scheme.

- r) Prior to the occupation of any dwelling on the lot, domestic water and firefighting storage must be provided. A minimum of 20,000 litres must be maintained at all times as a static firefighting reserve within a 30,000 litre tank. Alternatively, a 7,000 litre firefighting reserve is to be provided for each dwelling in association with a domestic sprinkler system installed to an approved standard. A firefighting connection in accordance with Appendix B - SNZ PAS 4509:2008 is to be located no further than 90 metres, but no closer than 6 metres, from any proposed building on the site. Where pressure at the connection point/coupling is less than 100kPa (a suction source - see Appendix B, SNZ PAS 4509:2008 section B2), a 100mm Suction Coupling (Female) complying with NZS 4505, is to be provided. Where pressure at the connection point/coupling is greater than 100kPa (a flooded source - see Appendix B, SNZ PAS 4509:2008 section B3), a 70mm Instantaneous Coupling (Female) complying with NZS 4505, is to be provided. Flooded and suction sources must be capable of providing a flow rate of 25 litres/sec at the connection point/coupling. The reserve capacities and flow rates stipulated above are relevant only for single family dwellings. In the event that the proposed dwellings provide for more than single family occupation then the consent holder should consult with the NZFS as larger capacities and flow rates may be required.

The Fire Service connection point/coupling must be located so that it is not compromised in the event of a fire.

The connection point/coupling must have a hardstand area adjacent to it that is suitable for parking a fire service appliance. The hardstand area must be located in the centre of a clear working space with a minimum width of 4.5 metres. Pavements or roadways providing access to the hardstand area must have a minimum formed width as required

by QLDC's standards for rural roads (as per NZS 4404:2004 with amendments adopted by QLDC in 2005). The roadway must be trafficable in all weathers and be capable of withstanding an axle load of 8.2 tonnes or have a load bearing capacity of no less than the public roadway serving the property, whichever is the lower. Access must be maintained at all times to the hardstand area.

Underground tanks or tanks that are partially buried (provided the top of the tank is no more than 1 metre above ground) may be accessed by an opening in the top of the tank whereby couplings are not required. A hardstand area adjacent to the tank is required in order to allow a fire service appliance to park on it and access to the hardstand area must be provided as above.

The Fire Service connection point/coupling/fire hydrant/tank must be located so that it is clearly visible and/or provided with appropriate signage to enable connection of a fire appliance.

Firefighting water supply may be provided by means other than the above if the written approval of the New Zealand Fire Service Operational Planning Officer for the Southern Fire Region is obtained for the proposed method.

The firefighting water supply tank and/or the sprinkler system must be installed prior to the occupation of the building.

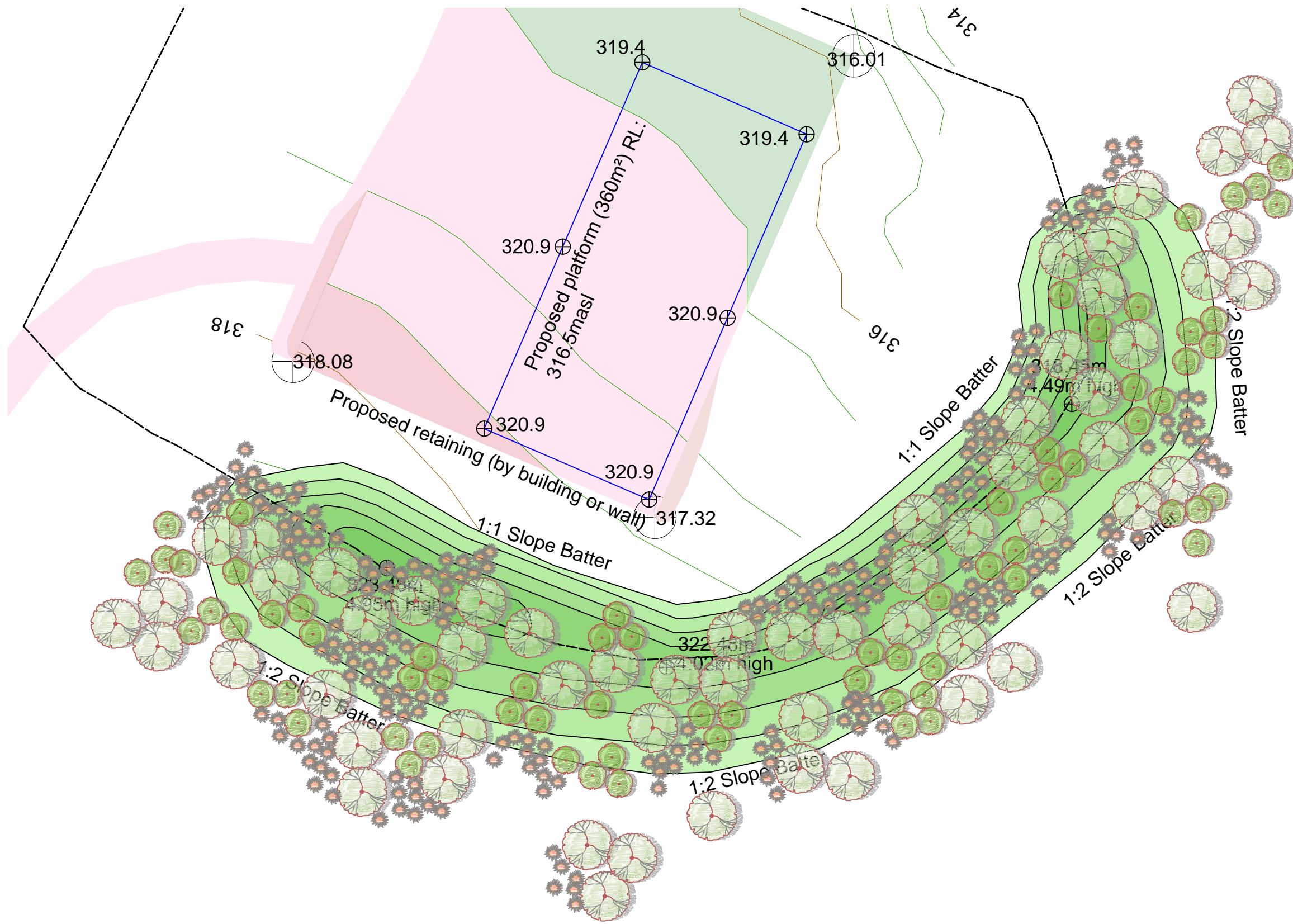
Advice Notes:

- The New Zealand Fire Service considers that often the best method to achieve compliance with SNZ PAS 4509:2008 is through the installation of a home sprinkler system in accordance with Fire Systems for Houses SNZ 4517:2010, in each new dwelling. Given that the proposed dwelling is approximately 18km from the nearest New Zealand Fire Service Fire Station the response times of the New Zealand **Volunteer** Fire Service in an emergency situation may be constrained. It is strongly encouraged that a home sprinkler system be installed in the new dwelling.
- A water tank 5m² in area and 2m in height or larger is considered a 'building' under the Operative District Plan. Therefore this 'building' will need to be located within the approved building platform.




QUEENSTOWN LAKES DISTRICT COUNCIL

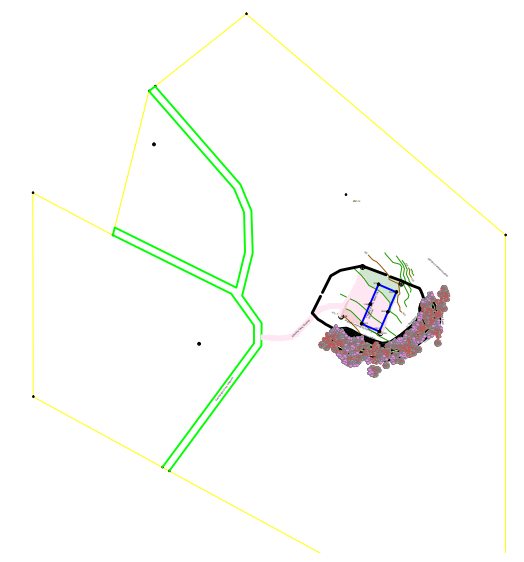
**APPROVED PLAN:
RM140835**

Wednesday, 11 November 2015



PLANT SCHEDULE

SHRUBS	BOTANICAL NAME / COMMON NAME	SIZE	QTY
	<i>Chionochloa rubra</i> / Red Tussock	Pb3	235
	<i>Hebe stricta</i> / Hebe	Pb5	70
	<i>Olearia dantonii</i> / Twiggy tree daisy	Pb2B	60



Site Location Plan Scale 1:5000 @A3 sheet



PLANT SCHEDULE

TREES	BOTANICAL NAME / COMMON NAME	CONT.	QTY.
	Populus Chiba Paatigata / Chiba Paatigata poplar	06	34

QUEENSTOWN LAKES DISTRICT COUNCIL

**APPROVED PLAN:
RM140835**

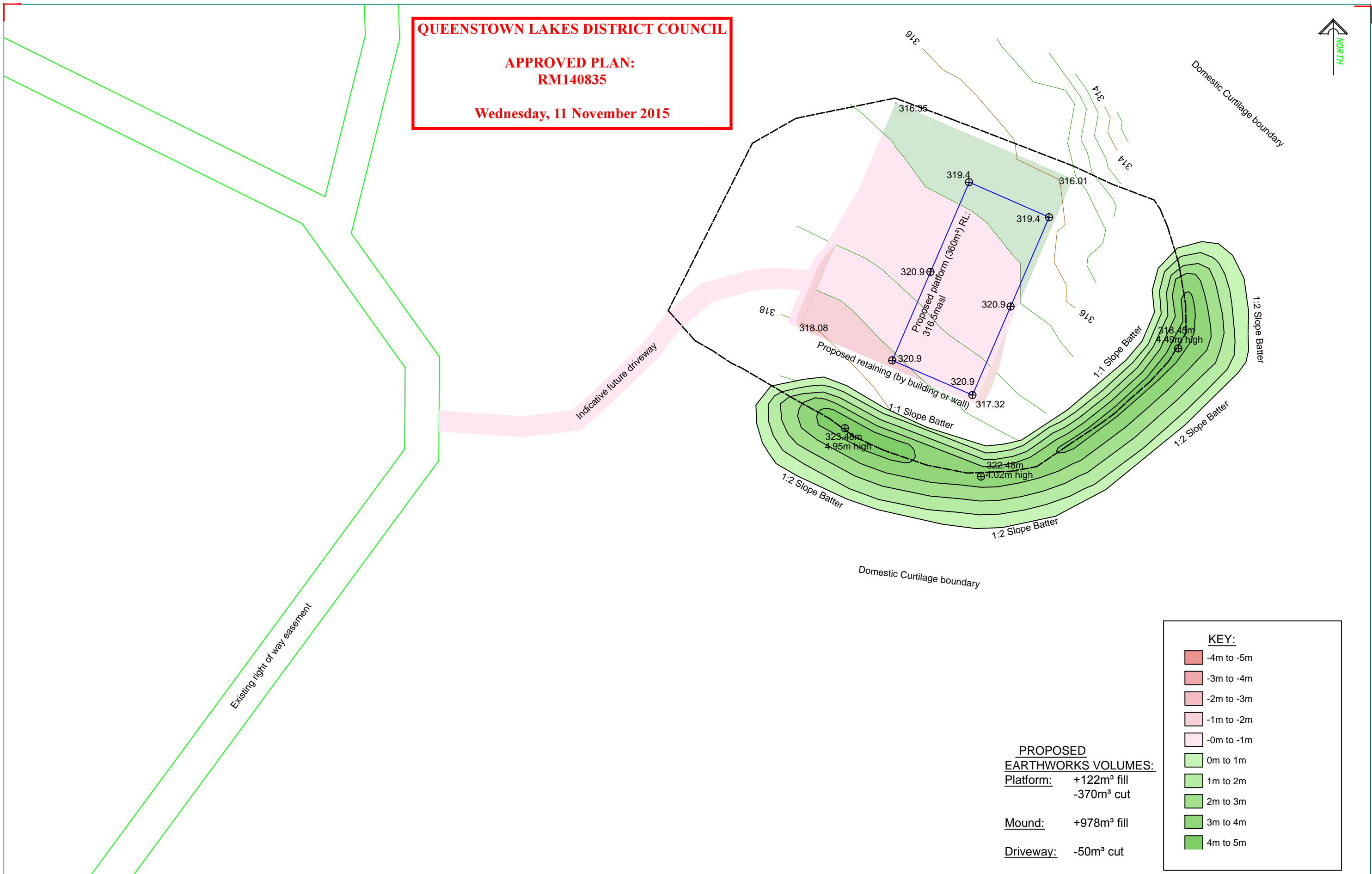
Wednesday, 11 November 2015



QUEENSTOWN LAKES DISTRICT COUNCIL

**APPROVED PLAN:
RM140835**

Wednesday, 11 November 2015



KEY:

- 4m to -5m
- 3m to -4m
- 2m to -3m
- 1m to -2m
- 0m to -1m
- 0m to 1m
- 1m to 2m
- 2m to 3m
- 3m to 4m
- 4m to 5m

PROPOSED EARTHWORKS VOLUMES:

Platform: +122m³ fill
-370m³ cut

Mound: +978m³ fill

Driveway: -50m³ cut

Shotover Design Limited trading as
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 21 Reece Crescent, P.O.Box 550, Wanaka
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 Shop 2, Otago House, 475 Moray Place, P.O. Box 5960
 Tel. (03)470-1582, Fax (03)470-1583, Email admin@cfma.co.nz

Rev.	Date	Revision Details	By
A	17.9.15	Amend mound	CRW

PROPOSED EARTHWORKS ON LOT 13 DP 341475

Client	ROCKET FAMILY TRUST	Surveyed	Signed	Date	18.11.13	Job No.	11363	Drawing No.	003
Drawn	ED	Signed		Date	18.11.13	Scale	1:250 @ A1 1:500 @ A3	Datum & Level	
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					18.11.13				Rev. A



QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM140835

Wednesday, 11 November 2015



ISSUED FOR REVIEW: 17.09.15

Shotover Design Limited trading as
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SH6 VIEW POINT HEIGHTS

Client	Surveyed	Signed	Date	Job No.	Drawing No.
ROCKET FAMILY TRUST	LR	Signed	16.09.15	11363	06
	Drawn	Signed	Date	Scale	
	LR		17.09.15	1:2000 @ A1	
	Designed	Signed	Date	Datum & Level	Rev.
				Mt Nic 2000 & MSL	-

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