



DECISION OF THE QUEENSTOWN-LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	Shotover Hamlet Investments Limited
RM reference:	RM150607
Location:	Corner Arthur's Point Road and Littles Road, Wakatipu Basin
Proposal:	Establishment of a 1000 square metre building platform, together with associated landscaping and earthworks
Type of Consent:	Land Use
Legal Description:	Part Section 3 Block XIX Shotover Survey District and Part Section 24 Block XIX Shotover Survey District, and Section 3 Survey Office Plan 22044 and Part Closed Road Block XIX Shotover Survey District, and Sections 23, 27, 29, 37 Survey Office Plan 328674, and Section 4 Survey Office Plan 416447, and a water race intersecting Part Section 24 Block XIX Shotover Survey District.
Zoning:	Rural General
Notification:	Publicly Notified
Commissioners:	Commissioner D Jane Taylor
Date:	13 May 2016
Decision:	The application is GRANTED with conditions

Decision following the hearing of an application for resource consent under the Resource Management Act 1991

Proposal

Shotover Hamlet Investments Limited has applied for resource consent to establish a 1,000 square metre residential building platform on a property located at the corner of Arthur's Point Road and Littles Road, Wakatipu Basin, and to undertake associated earthworks and landscaping.

Resource consent is **GRANTED** with conditions as attached.

Application number:	RM150607
Site address:	Corner Arthur's Point Road and Littles Road, Wakatipu Basin
Applicant:	Shotover Hamlet Investments Limited
Hearing commenced:	21 March 2016
Hearing panel:	Jane Taylor (Independent Commissioner)
Appearances:	<p><u>For the Applicant:</u> Ms Shelley Chadwick, Legal Counsel, Webb Farry, Lawyers, Dunedin Mr Sean Dent, Resource Management Planning Consultant Mr Steve Skelton, Landscape Architect Mr Greg Paterson, a Director of the Applicant</p> <p><u>For the Council:</u> Ms Hanna Afifi – Reporting Officer Ms Helen Mellsop – Consultant Landscape Architect Ms Mishka Banhidi, Planning Support Executive Assistant</p>
Hearing adjourned:	21 March 2016
Commissioner's site visit	21 March 2016
Hearing closed:	22 April 2016

Introduction

1. This decision is made on behalf of Queenstown Lakes District Council (“the Council”) by Independent Hearing Commissioner Jane Taylor, appointed and acting under delegated authority pursuant to sections 34 and 34A of the Resource Management Act 1991 (“the Act”).
2. This decision contains the findings on the application for resource consent and has been prepared in accordance with section 113 of the Act.

Summary of proposal

3. Shotover Hamlet Investments Limited (“the Applicant”) has applied for resource consent to establish a 1,000 square metre residential building platform and to undertake associated earthworks and landscaping at a property located on the corner of Arthur’s Point Road and Littles Road, Wakatipu Basin.
4. The legal description of the property is: Part Section 3 Block XIX Shotover Survey District and Part Section 24 Block XIX Shotover Survey District, and Section 3 Survey Office Plan 22044 and Part Closed Road Block XIX Shotover Survey District, and Sections 23, 27, 29, 37 Survey Office Plan 328674, and Section 4 Survey Office Plan 416447, and a water race intersecting Part Section 24 Block XIX Shotover Survey District. The site comprises 25.6 hectares in area. Full details of the proposal can be found in the application prepared by Mr Sean Dent of Southern Planning Group in Part 4 of the assessment of environment effects.
5. The property is currently zoned Rural General under the Operative District Plan (“the District Plan”). A Proposed District Plan was publically notified by Council on 26 August 2015. Under the Proposed District Plan the Rural Zone is made up of three landscape classifications, Outstanding Natural Landscapes (“ONL”), Outstanding Natural Features and Rural Landscape. In the Proposed District Plan the subject site forms part of an ONL. As the Proposed District Plan was notified prior to the hearing, it is necessary to consider the relevant objectives and policies (which are contained in Part 2 – *Strategy*, Chapter 6 – *Landscapes*, and Part 4 – *Rural Environment* and Chapter 21); however, given the very limited extent to which the Proposed District Plan has been exposed to testing and independent decision-making, only minimal weight can prima facie be given to these provisions.
6. The site has a relatively complex planning background dating back to 1999. Of particular relevance to this application is a decision of the Environment Court dated 23 May 2003 (C105/2002) which approved the establishment of a residential building platform on the subject site in a similar position to that proposed in this application. The Court also approved the subdivision of the property to create a 7,054 square metre allotment in the north-western corner bordering Littles Road. However, this resource consent was not given effect to and has subsequently lapsed. The relevant background is set out in detail at section 3 of the AEE.
7. The property is located on the southern flanks of Mt Dewar and overlooks the Shotover River. The only built form contained on the site is an existing hay barn. The majority of the site is covered in pastoral grasses and is intermittently used for stock grazing or for the production of baleage for agricultural purposes. Scrub exists within the confines of the stream banks, which are becoming infested with wilding conifers. The only substantial vegetative planting on the property includes a small

stand of semi-mature willows in the north-western corner of the site, some linear plantings of poplars along the northern boundary with Arthur's Point Road, and conifer hedgerows along Littles Road.

8. The receiving environment is described in detail at section 2.2 of the AEE. The subject site lies approximately 200 metres east of the Arthur's Point Rural Visitor Zone, which demonstrates a more urban character than the immediate receiving environment. The land use pattern from the boundary of the Rural Visitor Zone to the property (between Arthur's Point Road and the 400 metre contour) includes a number of rural dwellings on allotments ranging in size from approximately 0.6 hectares to 2.1 hectares in area. This land use pattern continues on the eastern side of Littles Road, albeit the allotment sizes are slightly larger, comprising up to 4.9 hectares in area. Importantly, below the 400 metre contour the topography on all of the surrounding rural allotments falls away to the south/south-west, and remains largely undeveloped.
9. The receiving environment has been described by the Environment Court and is known in landscape terms as the "Arthur's Point/Dalefield area".¹ The subject site comprises a significant part of what is considered to be an ONL by the Environment Court for its significance in terms of natural science factors, aesthetic values and expressiveness (legibility). In decision C3/2002, the Environment Court referred to a GNS Science report which stated:²

"The evacuated basin, and sequence of outwashed terraces complete with remnant moraines and kettle holes, between the Shotover River and the Malaghans/Dalefield Road intersection, is the best preserved, most easily accessible example of a glacier terminus in the Wakatipu Basin. The receiving environment displays a complex topography of moraines, kettle holes, rocky escarpment walls, terraces, landslides, streams and the Shotover River, many of these features being apparent on the subject site. The top of the steep escarpment to the east of the subject site, known as the Knob J Ridge is considered to define the edge of the Arthur's Point basin."

10. Importantly, the Arthur's Point basin is considered to be a landscape in its own right, defined to the east by the Knob J Ridge, to the south and west by the Shotover River, and to the north by the Mt Dewar and Coronet Ranges. Accordingly, it was generally accepted that the subject site is part of a very special landscape in geological terms, and that preserving the legibility of the Arthur's Point basin is, accordingly, highly desirable.
11. I visited the site and the environs prior to the hearing, accompanied by Ms Afifi. I am satisfied that I obtained a good understanding of the subject site and the receiving environment.
12. Prior to the issue of the Section 42A Report, the Applicant made a number of changes to the application to address issues raised in correspondence by the Reporting Officer. These are set out in a letter dated 11 November 2015 and summarised as follows:
 - The size and shape of the building platform was amended to better integrate the platform and any subsequent built development into the environment. The proposed residential building platform is now irregularly shaped to reflect the shape of the upper terrace it sits within, and additional earthworks have been

¹ Environment Court Decision C3/2002 dated 22 January 2002 at paragraph 1.

² Environment Court Decision C3/2002 at paragraph 10.

designed to ensure that the building will sit within and be partially hidden by the landform as it slopes up to Arthur's Point Road. A number of additional design controls were also proposed, the most important of which relates to building height restrictions.

- The proposed landscaping around the proposed building platform has been amended, particularly along the western edge. Additional landscaping and a curtilage area have been specified to address the concerns raised by Council's Landscape Architect. A revised site layout and planting plan, the "Littles Road Landscape Plan" (Ref 2532-SKO3 dated 6 November 2005) was formally lodged as part of the application.
 - As a result of the proposed change to the building platform, the earthworks required has increased from a maximum of 8,144 cubic metres to 10,104 cubic metres, inclusive of cut and fill. The Applicant has also proposed to place some of the cut waste above the proposed platform to create additional mounding, which is shown on the amended Littles Road Landscape Plan as described above.
13. At the hearing, the Applicant volunteered a number of important additional conditions to remedy and/or mitigate concerns raised in the Section 42A report, as follows:
- A Wilding Conifer Management Plan was proposed, to be included as an enduring condition of consent (by way of a consent notice condition).
 - No development is to be permitted on the building platform until the planting has been established and maintained for a period of 3 years, to ensure that good growth is achieved before any construction takes place.

Planning and assessment framework

14. The subject site is zoned Rural General under the District Plan. The purpose of the Rural General Zone is to manage activities so they can be carried out in a way that:
- protects and enhances nature conservation and landscape values;
 - sustains the life-supporting capacity of the soil and vegetation;
 - maintains acceptable living and working conditions and amenity for residents of and visitors to the zone; and
 - ensures a wide range of outdoor recreational opportunities remain viable within the zone.
15. Section 5.1 of the AEE sets out the resource consents required under the District Plan. These are summarised as follows:
- (i) Three restricted discretionary activity consents pursuant to Site Standard 5.3.5.1(viii) are required in relation to earthworks;
 - (ii) Two restricted discretionary activity consents pursuant to Rule 22.3.2.3(a) are required in relation to earthworks under Plan Change 49 which now has legal effect; and
 - (iii) A discretionary activity consent pursuant to Rule 5.3.3.3(i)(b) for the identification of a residential building platform between 70 square metres and 1,000 square metres in area.

16. Overall, the application was considered by both the Applicant's Planner and the Reporting Officer to require assessment as a **discretionary** activity.
17. In accordance with section 104(1)(b)(i) to (vi) of the Act, I have determined that there are no relevant national environmental standards, other regulations or national policy statements directly applicable to the proposed development. The evidence has established that the subject property is not a HAIL site and, accordingly, the National Environmental Standard for assessing and managing contaminants in soil and to protect human health does not apply.
18. The objectives and policies of the District Plan relevant to this application are contained within Part 4 (*District Wide Issues*) and Part 5 (*Rural Areas*). A number of assessment matters are also relevant to the application, which are in turn dependent on the landscape classification applicable. As the landscape classification was initially the subject of disagreement between the Applicant's landscape expert and Council's landscape expert, I will discuss this matter more fully in the assessment section of this decision.
19. The provisions of the Act relevant to the assessment of this application as a discretionary activity are sections 104, 104B, 108 and Part 2 of the Act. Section 108 empowers the Commission to impose conditions on a land use resource consent.

Notification, submissions and affected party approvals

20. The application was publically notified at the Applicant's request (by way of a letter dated 11 November 2015) on 18 November 2015. No submissions were received prior to the closing date of 16 December 2015.
21. Written approval was received from the following parties:
 - (i) Warwick Kerr, Alice Galloway and Albert Aloo Sons Trustee Company 2010 Limited, 18 Malaghans Road, Wakatipu Basin;
 - (ii) Perry Noyce, Lot 1 DP341799 and Lots 1 & 2 DP384465;
 - (iii) Littles Stream Limited, Lot 9 DP483357;
 - (iv) Milne Simpson, Sonja Sparrow and Webb Farry Trustee Services Limited, Lot 3 DP 24262; and
 - (v) Edward Cruickshank, Tonya Cruickshank and Webb Farry Trustee Services Limited, Lot 2 DP 335095.
22. Mr Robert Stewart, the owner and occupier of Lot 1 DP 16632 and Lot 3 DP477149 gave conditional written approval, subject to the inclusion of a condition of consent requiring the cessation of work if the requirements of clause 9 of Land Covenant 5661350.1 and its subsequent variation 5862537.1 are breached.
23. In her Section 42A Report, Ms Afifi noted that Council is not a party to the Land Covenant between the Applicant and Mr Stewart. She advised that compliance with a private land covenant is not a matter for Council to enforce should consent be granted. In order for the conditional written approval obtained from Mr Stewart to have effect, the Applicant must demonstrate that compliance with clause 9 of the

Land Covenant can be achieved, otherwise the effects on this party may not be disregarded in accordance with section 95D(e) of the Act. Following the evidence presented at the hearing and the Reporting Officer's reply, I am satisfied that the proposed development can achieve compliance with the private covenant; accordingly, the effects on the Stewart property may properly be disregarded.

24. Accordingly, any effects on the above parties have been disregarded in accordance with section 95D(e) of the Act.

Application information

25. The following information has been received and considered by the Commission in reaching this decision:
- (a) The application as notified on 18 November 2015 (which includes the amendments set out in the Applicant's letter dated 11 November 2005) titled "Resource Consent Application, Shotover Hamlet Investments Limited, Littles Road, Queenstown, August 2015" prepared by Southern Planning Group;
 - (b) The supporting information attached to the application, which included the assessment of environmental effects, site location plans, the Certificate of Title and legal encumbrances, CFMA topographical survey plan, past subdivision and platform planning approvals, site layout and planting plan, earthworks and access plans, Hadley Consultants Limited engineering report, Baxter Design Group landscape report and proposed conditions of consent;
 - (c) Interim decision of the Environment Court C105/2002 issued on 2 September 2002; Consent Order in relation to C105/2002 dated 23 May 2003; and Environment Court Decision C3/2002 issued 22 January 2002;
 - (d) A Section 42A Report dated 25 February 2016 prepared by the Reporting Officer, Ms Hanna Afifi, Senior Planner, Queenstown Lakes District Council ("the Section 42A Report");
 - (e) The Appendices to the Section 42A Report which included a Landscape Assessment Review Report dated 11 September 2015 prepared by Ms Helen Mellsop, Consultant Landscape Architect; an Addendum to the Landscape Assessment Review Report dated 1 December 2015 prepared by Ms Mellsop; and an Engineering Report dated 13 October 2015 prepared by Mr Alan Hopkins, Consulting Engineer.
26. The Council's Reporting Officer recommended that resource consent be refused pursuant to section 104 of the Act for the following reasons:
- (i) It is considered that the adverse effects of the proposed development have not been appropriately avoided, remedied or mitigated. In particular, the proposal will result in an inappropriate level of adverse effects on the ONL associated with cumulative effects on landscape character, as a result of additional domestication and loss of open character and legibility.

- (ii) The proposal is inconsistent with key objectives and policies of the District Plan which seek to enhance ONLs, protect them from inappropriate activities, and to ensure development is located in places that have the capacity to absorb the activities.
- (iii) The proposal does not promote the overall purpose of the Act.

Summary of the evidence heard

- 27. The Reporting Officer's Section 42A Report was circulated prior to the hearing and was taken as read.
- 28. Prior to the hearing, the Applicant pre-circulated a statement of evidence of Mr Sean Dent, a Planning Consultant based in Queenstown employed by Southern Planning Group, together with a brief of evidence of Mr Stephen Skelton, a Landscape Architect with Baxter Design Group Limited. The content of this evidence will be referred to during the course of my assessment as relevant to the key issues.

Evidence for the Applicant

- 29. Ms **Shelley Chadwick**, the Applicant's legal counsel, introduced the case for the Applicant. She described the property and the proposal in some detail, focusing in particular on the amendments that had been made to address the concerns raised by the Reporting Officer. She noted that a number of written approvals had been obtained from neighbouring landowners. With respect to the conditional approval given by Mr Robert Stewart, she submitted that as Mr Dent had confirmed in his evidence that the residential platform and any subsequent building will comply with the covenant, Mr Stewart's written approval must be given effect to. She also noted that no submissions had been received opposing the proposal.
- 30. Ms Chadwick discussed the activity status of the proposal, which she agreed was a discretionary activity. She then focused on the planning and consenting history of the site, noting that following the Environment Court hearing of the plan references to consider the appropriate landscape classification for this area of the Wakatipu Basin (C3/2002), the Court determined that the wider "Paterson" land; that is, the Applicant's 25.6 hectare property, was within an ONL. She noted that in the same decision, the Court was required to make provision for the Arthur's Point Residential Zone and the Arthur's Point Rural Visitor Zone.³ Figure 4 attached to the Court's decision contains the delineation of an area separating these zones from the larger ONL. The VAL line in Figure 4 was subsequently incorporated into the Queenstown Lakes District Planning Maps as Map 1 of Appendix 8a.
- 31. Ms Chadwick submitted that the line that is shown on Figure 4/Map 1 of Appendix 8a follows the line of the bottom of the terrace which runs along and below Arthur's Point and Malaghans Roads, and divides the upper area of the Applicant's property from the lower paddocks. She submitted that this is a logical and legible line within the landscape that provides an appropriate line of separation between the developing zones along the road corridor and the larger ONL of the Arthur's Point landscape. Accordingly, in her submission, the site of the proposed building platform is located in a small VAL area of the Applicant's property, with the ONL comprising the majority of the land below this terrace.

³ Environment Court Decision C3/2002 dated 22 January 2002 at paragraphs 39-43.

32. Ms Chadwick noted that at the time of the hearing of C3/2002, the Environment Court also heard the appeal of a resource consent authorising a subdivision of the subject land (C105/2002).⁴ The Court determined that the application for a three-lot subdivision should be refused but that a residential building platform could be established on the property on the upper terraces within the VAL line.⁵ The parties subsequently agreed that a residential building platform could be identified in the same general location that is the subject of the present application.
33. Ms Chadwick submitted that the present application essentially seeks resource consent to establish a building on the same site that was consented by the Environment Court.⁶ She noted that, unfortunately, the resource consent obtained through this “very long and difficult process” had lapsed due to the oversight of a consultant employed by the Applicant. Ms Chadwick emphasised that the Applicant *“now finds himself in a situation where the Council is now opposing a proposed development which mirrors a development that has previously been agreed to [by the Environment Court]”*.
34. Ms Chadwick then addressed the Reporting Officer’s assessment and, in particular, the landscape classification of ONL adopted by Council, which she submitted was inappropriate as a result of the Environment Court’s decisions and the District Plan maps. In her opinion, as a result of this “error” the Council Landscape expert’s evidence, which assessed the application against criteria relevant to an ONL, could not be relied on. Accordingly, she submitted that the evidence of Mr Dent and Mr Skelton must be preferred with respect to landscape matters. However, notwithstanding this submission, Ms Chadwick noted that both Mr Dent and Mr Skelton have offered further analysis in response to the Reporting Officer’s assessment as if the site was an ONL. Both of the applicant’s experts have determined that even if these criteria were to be applied, the level of existing development adjacent to and around the Applicant’s property means that the effects of the proposed development on the landscape would be no more than minor.
35. Importantly, Ms Chadwick submitted that the Applicant accepts that the area of the property below the proposed building platform is clearly ONL and that the efforts the Applicant has made to maintain the property, including the ongoing pastoral leasing of this area, have contributed to the openness and legibility of the landscape. She noted that the proposed planting that will screen any future residence will improve the legibility of the terrace line, as it separates the upper transitional zone from the open paddocks that form a part of the lower basin. Ms Chadwick also noted that the protections for ONL in the Proposed District Plan are strong and submitted that the Council *“can be confident that these protections will fully protect the open basin into the future. The Applicant’s conifer management plan will further promote the protection of this landscape”*.
36. Ms Chadwick outlined the statutory process with relation to consideration of applications under section 104, noting that the matters to be assessed in relation to this application are:
- Landscape effects, including mitigation measures through conditions;
 - Positive effects; and

⁴ Environment Court Decision C105/2002 dated 30 August 2002.

⁵ Environment Court Decision C105/2002 at paragraph 28.

⁶ in the C105/2002 Consent Order dated 23 May 2003.

- Provisions of the District Plan.
37. With respect to landscape character and visual amenity, Ms Chadwick submitted that the only point of contention between the experts was the effect of the proposal on openness and the cumulative effects of the proposed development. She noted that a number of conditions of consent have been offered to mitigate the landscape effects of the proposal including the substantial native planting (which must be fully established to screen development before building commences), the restriction of residential activity to within the residential platform (to be screened by the proposed planting) and the limitation of the height of any building to a maximum of 4.5 metres across 70 percent of the site. In addition, she noted that a range of restrictions on design options has been offered to ensure the future building will be recessive and not be prominent in views, as some of the neighbouring residences seem to be when the terrace area is viewed from the south.
 38. Ms Chadwick then described the positive effects of the application. In her submission the most significant positive effect is the facilitation of a viable economic use for this 25.6 hectare property, which has been incurring a loss for many years. She submitted that the property is too small to be a sustainable economic farming unit and that given the fragmentation of the adjoining land holdings, there is no ability for the property to be subsumed within a larger farming unit. In her opinion, the site is not likely to be suitable for any other economic use if it cannot be utilised for residential activity. She submitted that if consent was to be declined, *“it is quite likely that the costs of maintenance would mean that areas of the land would be left to degenerate and wilding conifers and gorse would become the predominant vegetation”*. However, if a residential building platform was to be consented as applied for, the lower paddocks below the terrace would continue to be used for pastoral activities (to preserve the views and amenity of the property from the residence), thus enabling the protection and enhancement of the present pastoral landscape.
 39. Ms Chadwick submitted that the offer of a condition to ensure ongoing weed management within the gullies in the lower area of the property is a significant positive effect, particularly with respect to the control of wilding tree species. Further, the establishment of a large area of native planting on the periphery of the residential building platform would be a further positive effect of the proposal. While this planting is proposed primarily to mitigate the visibility of any future residence, this *“substantial and attractive planting of native species”* would enhance the transitional area between the ONL of the lower terraces and the VAL to the north of the site.
 40. Ms Chadwick then addressed the objectives and policies of the District Plan, noting that the application is not a non-complying activity and therefore it is not necessary for the Applicant to demonstrate that the proposal is consistent with the relevant objectives and policies. She submitted that the proposal is appropriate in the context of the applicable objectives and policies of the District Plan, as the proposed residential platform is within an identifiable node of existing rural residential development and any effects would be confined within this defined area. The proposed development will not expand the existing node.
 41. In conclusion, Ms Chadwick submitted that the proposal represents a sustainable use and development of the property. In her submission, the expert evidence has established that the upper area of the property is within a VAL landscape and the Applicant has proposed a residential platform which responds respectfully to this environment. She noted that the mitigation measures are comprehensive and are

offered by a committed and responsible landowner. Further, she submitted that the proposal will *“ensure that the lower paddocks which form a part of the open basin will continue to be part of the pastoral landscape, and the Applicant has also offered a condition to ensure the ongoing management of wilding conifers, a substantial issue for the District.”* Overall, Ms Chadwick submitted that the proposal is appropriate and represents an efficient use and development of the property, to which consent should be granted.

42. Mr **Stephen Skelton**, landscape architect, elaborated on his written brief of evidence, noting that the subject site is *“part of a highly valued landscape”*. He explained that although his original assessment was based on the District Planning maps and the Environment Court’s decision in C3/2002, which shows the subject area as being part of a VAL, he had subsequently reassessed the site’s landscape character and provided an ONL assessment in response to Ms Mellsop’s assessment for Council.
43. Mr Skelton then addressed Ms Mellsop’s particular concerns with respect to the proposal’s domesticating effects and the effects on the landscape’s legibility and open character. I will refer to Mr Skelton’s evidence more fully in my assessment section of this decision, as relevant.
44. Mr **Sean Dent** expanded on his written brief of evidence in relation to the planning issues. He noted his agreement with the Reporting Officer with respect to the relevant effects that should be considered. He confirmed that in most part, his assessment aligns with that of Ms Afifi in that the potential adverse effects of the proposal in terms of traffic, natural hazards, infrastructure, servicing and earthworks, will not be significant. He explained that the only disagreement between his evidence and that of the Reporting Officer is with respect to the effects on persons, nature conservation values, visual amenity and landscape character.
45. Mr Dent considered that any adverse effects on persons and private views has been adequately mitigated through the significant amendments to the proposed building platform height, location and associated landscaping. Accordingly, he felt that any concerns in this respect had been adequately addressed.
46. With regard to nature conservation values, it was Mr Dent’s opinion, based on the evidence of Mr Skelton, that the proposal will not significantly extend or exacerbate the existing line of rural living development into the open landscape that comprises the highly valued sequence of outwash terraces complete with remnant moraines and kettle holes, which are considered important geological features. In his opinion, the proposal would be subservient to the wider landscape that contains all of these important features and that collectively comprises the Arthur’s Point basin.
47. Mr Dent noted that, in his opinion, the effects of the proposal on the landscape and visual amenity is the most critical issue for this application. He noted that the Reporting Officer had concluded that there would be a moderate level of cumulative adverse effect on the openness, legibility and natural character of the landscape, and that this magnitude of effect was considered inappropriate in an ONL. Although Mr Dent acknowledged that the proposal would result in the loss of a “small finger” of open pastoral land, in his opinion the proposal can be absorbed in this location with only minor effects, as it will result in a congruous rural living pattern along the Arthur’s Point/Malaghans Road corridor and a clear separation of this more domestic upper area from the clearly obvious pastoral and open natural character of the land below the terrace and further south. He noted that although Ms Mellsop had identified

concerns over the extent of visibility of the proposed platform and future development on the visual coherence and the integrity of the landscape, she has also acknowledged that once the proposed planting has matured, and provided that future buildings were appropriately recessive, a future dwelling would not be visually prominent from most public and private vantage points and would not dominate available views. In his opinion, given the presence of other rural living developments in relatively close proximity to the proposed development, there is unlikely to be any degradation of the natural character of available views to any more than a small extent.

48. Mr Dent considered that the Section 42A Report had overlooked the positive comments in Ms Mellsop's landscape report; however, as a result of Ms Mellsop's concerns, the Applicant has volunteered to defer any development within the building platform until such time as landscaping has had an opportunity to establish. Accordingly, a condition of consent has been proposed which specifies that no development shall occur on the approved platform until the approved landscaping has been established for a minimum of three years.
49. Mr Dent also noted that since receipt of the Section 42A Report, a wilding conifer management plan has been proposed as a further condition of consent, essentially as a form of environmental compensation. He also referred the Commission to proposed conditions 14(g) and 15(i) in Appendix C of his evidence in chief; noting that the intention of these conditions is *"to ensure the lower open part of the subject site retains its presently open natural character into the future"*.
50. Overall, Mr Dent disagreed with Ms Afifi's recommendation and remained of the opinion that the potential adverse effects of the proposal on landscape, visual amenity and openness would not be significant, subject to the inclusion of the proposed conditions of consent contained in Appendix C of his evidence.
51. In summary, Mr Dent considered that any that potential adverse effects are not significant that, overall, the proposal is appropriate.
52. Mr **Greg Paterson**, a director of the Applicant, gave a detailed submission as to the background to the present application, the challenging economics of developing the property due to the Court's assessment of the lower valley as ONL, the improvements that had taken place at the corner of Littles Road and Arthur's Point Road, and the ongoing maintenance of the property. He gave a very detailed description of the existing residential development surrounding the property, including that which has occurred since the Environment Court hearing. He emphasised that there is no alternative economic use of a property this size and confirmed that it was his intention to continue to farm the property if consent was granted for a residence. Importantly, Mr Paterson emphasised that the protection of the balance of the property (the lower terraces in the ONL) would be facilitated by the owner's desire to preserve their current views and outlook by maintaining the pastoral condition of the property below the residential building platform.
53. With respect to residential development that has occurred following the Environment Court's original consent in C105/2002, Mr Paterson noted that although a house had not been constructed, the building platform on the Cruickshank property had been consented at the time of the hearing. The only other consented development has been the residential building platform that had been granted by the Environment Court on this property but had subsequently lapsed. Mr Paterson also drew my

attention to Condition 10 of RM120007, which concerned a residential building platform to the south of the Knob J ridge, noting that as a result of this condition, a car park and 700 metre track (across the northern face of Knob J) had been constructed in a very sensitive area of land comprising a significant feature of the Arthur's Point basin, which he considered to have *"carved a scar across the bottom of a beautiful part of the ONL"*.

Council response

54. Ms Mellsop accepted that the conditions designed to ensure that the property was maintained in pastoral use and the future management of wilding conifers in perpetuity would go a long way to mitigating the adverse effects on open character and, in particular, the legibility of this important geological site. She noted that another positive effect would be the removal of the western red cedar, which would open up gaps to the ONL. However, overall she stood by her conclusion that the proposal would result in cumulative adverse effects that were unacceptable. In her opinion, the use of corten steel as a construction element in roofing should not be consented as this would be visually prominent, and she recommended that this be removed from the design specifications.
55. Ms Afifi also supported the changes to the application with respect to the wilding conifer management plan, the proposed curtilage controls and the establishment of landscaping around the building platform prior to any construction of a dwelling. She was satisfied that Mr Dent had addressed the matter of the written approval of Mr Stewart and that the Applicant has demonstrated that the private covenant can be complied with.
56. In Ms Afifi's opinion, the key issue was the landscape classification, in relation to which she had relied on the evidence of Ms Mellsop. In her opinion, this was consistent with the Environment Court's decisions and the findings of fact. Further, she considered that it was prudent to undertake the assessment as an ONL, as the lines on the map were not fixed but were subject to assessment in accordance with the principles contained in the District Plan in any particular case. However, she accepted that this was a grey area and that it was clear from previous decisions that landscape classification is not straightforward.
57. Overall, notwithstanding the additional mitigation offered by the Applicant, Ms Afifi was of the opinion that the cumulative effects would remain moderate and were inappropriate for an ONL in the Wakatipu Basin. Council must be satisfied that development will be reasonably difficult to see, which she considered had not been satisfactorily established in this case. Accordingly, she stood by her recommendation that consent should be refused.

Applicant's right of reply

58. Ms Chadwick advised that in terms of written approvals, the Applicant had been able to obtain two further written approvals from neighbours during the week of the hearing. She confirmed that written approvals have now been obtained from all neighbours except Richard and Katharine Macharg (Part Lot 1 DP335094) located on the eastern side of Littles Road on the corner with Malaghans Road, and Andrew Salek and Gregory Rotto (Lot 1 DP24262) immediately west of the Applicant's site. Ms Chadwick noted that the property owned by Mr Salek and Mr Rotto is subject to a private non-objection covenant (Covenant 7671868.1).

59. Ms Chadwick submitted that the effects of the development, including construction effects, on all adjoining neighbours who have provided written approval must be disregarded in determining this application. She noted that the agreement of almost all neighbouring parties and the absence of any submissions on the application is an indication of the community's expectation that a house would be built on this property, particularly in light of the previous consents that have been issued enabling building on the same part of the site.
60. Ms Chadwick then addressed the District Plan interpretation, submitting that the provisions of the plan must be clearly reflected in the analysis of the expert evidence relied on to determine this application. She submitted that the Council's Section 42A Report contained a fundamental error with respect to its assessment of the proposal against the landscape provisions of the District Plan, essentially as the District Plan maps show that the site is zoned Rural General and Map 1 of Appendix 8a shows a black line dividing the property, which Mr Dent had confirmed in his evidence recorded the division of an ONL from a VAL. According to this map, the proposed residential building platform is contained within the VAL. Ms Chadwick submitted that a member of public reading the plan would come to this conclusion and, accordingly, the plan must be taken as it would be read by any member of the public. As a result, the building platform should be assessed as occurring within a VAL.
61. With respect to the Reporting Officer's reply at the hearing that the lines on the District Plan maps could be readdressed and reclassified according to first principles, Ms Chadwick submitted that Ms Afifi had misunderstood the importance of applying the ONL/VAL line shown on the District Plan Map and had therefore "failed to appreciate the potential impact of her approach by relying on Ms Mellsop's landscape assessment". As a result, she submitted that the analysis of landscape issues in the Section 42A Report contained a "fundamental flaw" and must be set aside, and the evidence of Mr Dent preferred.
62. Ms Chadwick then addressed the previous Environment Court decisions, submitting that these decisions can be applied without conflict if the comments made by the Court are viewed at different times as relating to one or other of the two distinct types of landscape contained within the legal boundaries of the property. She submitted that the Court made it clear in Decision C3/2002 that the upper terrace area where the proposed building platform is sited is within a VAL (by reference to Figure 4). With respect to C105/2002, she interpreted the Court's decision as relating to the full property, as the subdivision proposal put forward in 2002 proposed three allotments across the whole of the property including the lower paddocks, which are part of the open Wakatipu Basin and are plainly within the ONL. Notwithstanding this, she submitted that the Court found that the upper terrace area was appropriate for development and that it had contemplated the establishment of two residential building platforms. She submitted that the present application is consistent with the Environment Court's finding in the "Stewart decision" (C105/2002).
63. Ms Chadwick then addressed the landscape effects, noting that Mr Skelton had emphasised that the proposal will fit within the existing pattern of development on the upper terraces running along Arthur's Point/Malaghans Road and that its location and the substantial native planting proposed will delineate between the two areas, one with pastoral and one with rural living landscape character. She noted the number of positive additional benefits proposed, including the protection of the proposed planting in perpetuity by a covenant, the establishment of planting prior to any development on the building site and the conifer management plan that has been

proposed to cover the entire property. Residential activities would be confined within the residential curtilage. She submitted that the Council's landscape consultant did not adequately consider the extent of these additional positive benefits, particularly the benefits that would be gained as a result of the ongoing conifer management plan. As a result, in her opinion, the overall assessment of the potential landscape effects set out in Mr Skelton's evidence should be preferred. Mr Skelton had confirmed that the landscape effects of any future building on the proposed residential platform will have no more than a low adverse effect on the landscape and visual amenity.

64. An amended set of proposed conditions were appended to Ms Chadwick's closing submissions. These included a condition requiring the removal of the western red cedar trees from the gate at the entrance to the building platform along the boundary to the base of the valley, as recommended by Ms Mellsop. A number of objectives had been incorporated into the conifer management plan required by Condition 14(g) (now Condition 14(j)) and a condition had been inserted to ensure that hours of operation for earthworks will be stipulated in Condition 10 and reduced on Saturdays.
65. Ms Chadwick then discussed the range of mitigation measures that had been proposed. She submitted that *"the suggestion by the Council Planner that pastoral management [is a] requirement takes the need for mitigation measures too far"*. In her opinion, the protections in the District Plan provide clear and ongoing restrictions on development within an ONL. In addition, she submitted that any such condition could be potentially frustrated if a third party could not be found who was interested in using the land for grazing or baleage. She submitted that the imposition of such a condition would be unreasonable and untenable.
66. I record at this point that I find Ms Chadwick's submission above to be not only surprising but completely inappropriate. Pastoral management has, from the outset, comprised an integral part of the application. Ms Chadwick's opening submissions expressly referred to the importance of retaining the balance of the property in pastoral land to protect the openness and legibility of the ONL, as referred to above. Mr Skelton's landscape evidence relied on the retention of the site as open pasture as an important mitigating factor in relation to openness and legibility, which was further relied on by Mr Dent in reaching his overall conclusion. Mr Dent emphasised the importance of the maintenance of the openness of the landscape and the related pastoral condition as a substantial positive effect of the application, which he had taken into account in his assessment.
67. Accordingly, the purported withdrawal of this condition, which was emphasised as an integral component of the Applicant's case in the oral argument at the hearing (including in response to questions by the Commissioner), would place the Applicant's entire evidence on landscape character at risk. As I set out in my assessment, I consider the retention of the property below the upper terrace and proposed building platform in open pasture, to maintain and protect the openness and legibility of this important geological site, to be instrumental to my decision to grant consent to this application. Accordingly, the proposed condition has been imposed as an essential component of the application in accordance with the importance and emphasis attributed to it, as advanced at the hearing by the experts appearing for the Applicant.

The principal issues in contention

68. A wide range of matters were traversed in the application, submissions, the Section 42A Report and supporting material, and during the hearing.
69. After analysis of the application and supporting evidence (including proposed mitigation measures and volunteered conditions), a full review of the Section 42A Report, consideration of the submissions and my site visit, I have determined that the proposed activity raises a number of issues that require consideration. The principal issues in contention are as follows:
 - (i) The landscape classification of the site of the proposed residential building platform and the location of the VAL/ONL boundary "line" on the property;
 - (ii) The extent to which the proposed development will have adverse effects on visual amenity and landscape character;
 - (iii) The extent to which the proposed development will have adverse effects on nature conservation values;
 - (iv) Whether the proposal will have an adverse effect on any neighbouring properties that have not given written approval; and
 - (v) The extent to which the positive effects of the application, including volunteered conditions, offset the adverse effects of the proposal, with particular respect to landscape character and nature conservation values; and

Main findings on the principal issues in contention

70. My main findings on the principal issues in contention, and the reasons for my findings are as follows.

Landscape classification

71. The Reporting Officer noted that the appropriate landscape classification to be applied is a key aspect of this application. The Applicant's AEE provided an assessment of the application on the basis that the proposed residential building platform was located within a VAL, with a component of the proposed earthworks (fill) within an ONL (Wakatipu Basin).
72. Council's Landscape Expert, Ms Mellsop, carried out an assessment of the appropriate landscape classification, in relation to which she examined the two relevant Environment Court decisions, C3/2002 and C105/2002, noting that there appear to be inconsistencies between and within the two decisions. Turning to the maps appended to the Court's decisions, Ms Mellsop concluded that the currently proposed platform location would be largely within a VAL as defined in Decision C3/2002, but partially on the boundary. Further, part of the proposed planting and driveway would be within the ONL. She also noted that the decision on the proposed subdivision for the Applicant's land (C105/2002), which was heard at the same time and by the same Court as C3/2002, assessed the whole proposal for the Applicant's land (including the building platform that is roughly in the same position as that currently proposed) against the assessment criteria for ONL (Wakatipu Basin).

73. As a result of these inconsistencies, together with the fact that the small isolated area of rural general land defined as VAL in Figure 4 of C3/2002 is almost certainly too small to be considered a landscape in its own right, Ms Mellsop considered it appropriate to undertake an assessment of the landscape classification using the process set out in Part 5 of the District Plan, which represents a “first principles” landscape analysis. In completing that assessment, Ms Mellsop concluded that in her professional opinion, the area is too small to be considered a landscape in its own right and must therefore form part of the wider ONL (Wakatipu Basin), albeit that the northern terrace of the site that contains the proposed building platform is more domesticated and has less natural character. As a consequence, Ms Mellsop assessed the proposal against the assessment criteria for ONL (Wakatipu Basin).
74. In formulating his evidence, Mr Skelton acknowledged that the subject site is part of a complex series of landforms, land covers and land uses which form a highly valued and frequented landscape within the Wakatipu Basin. In his assessment that accompanied the AEE, Mr Skelton applied the Environment Court’s C3/2002 decision, in particular Figure 4 from that decision, which shows the site of the proposed building platform to be within a very small area of VAL. He also relied on the landscape categorisation map subsequently adopted by Council, which is contained in Appendix 8A/Map 1 of the Queenstown Lakes District Planning Maps. He recorded his understanding that the Environment Court determined the subject site and the area of the application to be within a VAL, which he considered was clearly shown as a hard black line on Map 1 of Appendix 8A and also in Appendix 4 of the Environment Court’s decision in C3/2002. He noted that Ms Mellsop’s report was different to the Court’s assessment of the landscape category and that this also conflicted with the VAL line marked on the District Plan maps.
75. Notwithstanding this, Mr Skelton undertook a further analysis by determining the landscape boundaries of the Arthur’s Point basin landscape, which he noted placed the site within the receiving environment in terms of its visual catchment, landscape character and adherence to the Environment Court’s guidelines for what constitutes a “landscape”.⁷ Having completed his analysis as set out in paragraphs 14 and 15 of his evidence in chief, Mr Skelton recognised that the Applicant’s site is too small to be a landscape in its own right and acknowledged that the landscape should be considered as a whole. He noted that the Court’s line did not “connect the dots” between the ONL and VAL, which has resulted in an incongruous line across the Applicant’s property. This line does not link up with any other landscape category line, and has resulted in a VAL/ONL category boundary without a wider VAL to attach to it (which is an anomaly). Notwithstanding his very candid acknowledgement of this issue with respect to the interpretation of the maps, Mr Skelton considered that the subject land has more in common with the urban areas of Arthur’s Point than it has to the adjacent more open lands, as it is *“in the middle of a transitional rural living pattern”*. However, he acknowledged that it was inappropriate to look at landscape units within a larger landscape as separate, unrelated elements with disconnected values.
76. Mr Skelton then went on to describe the landscape qualities and character, and the *“site’s place within this landscape practically and without reference to any statutory considerations or categories”*.⁸ In my view, Mr Skelton’s analysis is extremely

⁷ Environment Court decisions C73/2002 & C2003/2004.

⁸ Paragraphs 18 to 27 of Mr Skelton’s evidence in chief.

thorough and complete, with respect to both the subject property and the receiving environment. In summary, Mr Skelton concluded as follows:

“The Arthur’s Point Basin is comprised of several outstanding features including the Shotover River Canyon, Sugarloaf, Knob J, Mt Dewar and Bowen Peak. Urban development has occurred within and around these features which detracts somewhat from the legibility and naturalness. Much of the valley floor is residential in character while the walls which enclose the Arthur’s Point basin are dramatic and outstanding. The open pastoral lands south of the subject site add to the appreciation of these features. The more residential and urban character of Arthur’s Point Village dissipates from west to east along the Arthur’s Point Road corridor as the large scale visitor accommodation and associated activities gives way to a more rural living character near the Littles Road junction. Continuing east, eventually the rural living character gives way to a wide open landscape with very limited development. I consider this transition to be the overlapping edge of the Arthur’s Point/Malaghans Valley landscape.”

77. Mr Skelton then carried out an assessment of the landscape category using the amended Pigeon Bay criteria at paragraphs 28 to 36 of his evidence in chief. He concluded that the Arthur’s Point Basin landscape is part of an ONL; however, *“there are landscape units within the ONL which are not outstanding, specifically the urban areas of Arthur’s Point and the rural living development along the Arthur’s Point Road corridor. However, these developments do not affect the landscape’s quality to a point where it’s vast outstanding scale, form and natural character is significantly diminished.”*
78. At paragraphs 37 to 39 of his evidence in chief, Mr Skelton examines the impact of the existing residential development on the landscape, noting that only areas zoned rural are subject to a landscape classification. In his view, this notion restricts an holistic understanding of the landscape, assessing it as “standalone” while virtually ignoring the presence of a residential or urban zoning within it. He noted that in the case of the Arthur’s Point Basin, residential and urban development has taken place near the heart of the landscape. He considers the scale of the landscape units which make this landscape outstanding are so large that a significantly denser Arthur’s Point urban area would still have very little effect on the outstanding character of the basin.
79. Mr Skelton concluded that the subject proposal would place a residential building within a portion of land which has *“transitional rural living character”*. This rural living character exists on the south-facing slopes adjacent to the Arthur’s Point/Malaghans Road corridor, and nine dwellings exist within this strip of land. Although most dwellings are well screened by mature vegetation, their existing residential character is apparent. Mr Skelton noted that this rural living development has taken place at a geological and vegetative transition zone between the forest slopes of Mt Dewar and the open, pastoral lands which lead down towards the Shotover River and Big Beach. In his opinion, it is also part of, and in effect creates a transitional character, between the denser urban areas of Arthur’s Point village to the west and the more rural areas of the Wakatipu Basin to the east and south.
80. Following his well-reasoned and very articulate description of the landscape within which the subject property forms part, Mr Skelton assessed the proposal against the ONL (Wakatipu Basin) assessment matters in response to Ms Mellsop’s categorisation. He noted that Ms Mellsop had expressed her opinion that the proposal’s effects would generally be low, with the exception of two areas where she

considered the effects of the proposal would be “*moderate or moderate to low*”. These are the level of adverse effects on openness and the cumulative effects of development on the landscape.

81. Having considered the evidence of both landscape experts, I have formed the view that the entire subject property is part of an ONL (Wakatipu Basin) for the reasons very articulately expressed by both Ms Mellsop and Mr Skelton, although it is plain that the site of the proposed building platform is within a transitional rural living area that is clearly identifiable from both photographs of the area and from my site visit. In reaching this conclusion, I have also had regard to the Environment Court’s determination of landscape classification in C3/2002, which endorsed an holistic “big picture” approach to classification, not one based on “landscape units”.⁹
82. I acknowledge Ms Chadwick’s submission that the Environment Court appears to have included the site of the residential building platform in a VAL landscape on the maps that accompanied both of the relevant decisions. However, in Decision C3/2002 the Court expressly found at paragraph [37] that:

“The Paterson land is not within a VAL for these reasons:

- (1) It is too small to be a VAL or indeed a landscape at all: even if the Coronet Park Flats are added to it, they do not comprise a landscape;*
- (2) The Paterson land is part of a larger landscape – the “Arthur’s Point Basin”;*
- (3) As Ms Kidson states, the Paterson land is surrounded by ONL on three sides;*
- (4) The valley floor is only pastoral in a working sense;*
- (5) A ‘landscape unit’ almost by definition cannot be ‘a landscape’.*”

The “Paterson land” referred to by the Court is the subject site of this application and the Court’s description of the landscape is entirely consistent with the first principles analysis carried out by Ms Mellsop and Mr Skelton (in his evidence in chief).

83. Paragraph [37] is, however, *prima facie* inconsistent with paragraph [40] of the same decision, where the Court states:

“We attach as Figure ‘4’ a copy of the relevant part of the relevant Planning Map on which we have, for the avoidance of doubt, marked the inside line of the ONL as we find it to be. The point at which the ONL intersects with Littles Road should be five metres south-east of the large conifer on the edge of Littles Road.”

84. I note that the line in Figure 4 does run through what was described as the Paterson land (equivalent to the current application property) and positions the site of the proposed building platform within a VAL. This in turn corresponds to the Planning Maps contained in the District Plan.
85. In conclusion, the evidence of Ms Mellsop and Mr Skelton (from first principles) has established that the site is located within the ONL (Wakatipu Basin). However, there is plainly an inconsistency between the Court’s assessment in C3/2002 (and in

⁹ Environment Court Decision C3/2002 at [32] to [37].

particular Figure 4 of that decision) and the District Plan maps, which show the site of the proposed building platform to be within a very small VAL portion of the property. As a matter of fairness, I accept Ms Chadwick's submission that an applicant should be entitled to rely on the District Plan maps (which were prepared as a result of the Environment Court's decision in C3/2002) in preparing any application. However, given the Court's very clear reference to the Paterson property as an ONL in paragraph [37] of C3/2002, the intention of which is unambiguous, this specific finding would, in my view, override any blunt lines drawn on a map. I note also that the analysis in C105/2002 considered the objectives and policies relating to ONL (Wakatipu Basin) in reaching its decision on the previous application.

86. Accordingly, I have determined that the whole of the property is located within the ONL (Wakatipu Basin) in accordance with the expert evidence and the Court's very specific guidance. Having concluded this, from the very detailed assessment of the landscape carried out by Mr Skelton in his evidence in chief, it is apparent that the location of the proposed building platform is within a part of the site that exhibits very low-end ONL characteristics. Accordingly, I accept Mr Skelton's evidence that the site is part of a rural living landscape unit associated with the urban areas of Arthur's Point Village and contained within the larger ONL of the Arthur's Point Basin landscape.

Effect on the visibility of development and landscape character

87. Both Ms Mellsop and Mr Skelton carried out very detailed assessments of the effects of the proposal on visibility and landscape character in accordance with the assessment matters contained at Section 5.4.2.2(i) – *Outstanding Natural Landscapes (Wakatipu Basin) and Outstanding Natural Features/Districtwide*. These assessment matters must be considered in light of two further guiding principles. First, that the criteria are to be stringently applied to the effect that successful applications for resource consent will be exceptional cases. Secondly, vegetation which was either planted after or self-seeded and less than one metre in height at 28 September 2002 shall not be considered as beneficial or as part of the permitted baseline (subject to various exceptions). Having considered the expert landscape evidence on all of the assessment matters, it is plain that the criteria most relevant to the assessment of this application are the effects on openness of the landscape, the cumulative effects of development on the landscape and positive effects.
88. With respect to the openness of the landscape, Ms Mellsop concluded that the proposed development is within a broadly visible expanse of open landscape and would have small to moderate adverse effects on the open space values of the ONL, as well as moderate cumulative adverse effects on openness, legibility and natural character. Mr Skelton, however, appears to have applied a more finely grained analysis, concluding that the building platform will occupy a portion of land which at present forms a high, solitary finger of an open, pastoral landscape. In his opinion, the openness of this land is screened from public views to the north and east, and is only truly experienced from further south along Littles Road. He considered that the vastness of the open landscape will continue to provide a very high degree of openness and the loss of a very small portion of open land (in the position of the proposed building platform) would have a low adverse effect on the open character of the wider landscape.
89. With respect to legibility and cumulative effects, both Ms Mellsop and Mr Skelton agreed that the existing rural living development along the Arthur's Point/Malaghans

Road corridor has domesticated this part of the ONL. Both experts considered that the proposed building platform will fill a gap in the pattern of development. Their difference of opinion was with respect to the degree of adverse effects that “filling the gap” will have on the openness, legibility and natural character of the surrounding land. In this respect, I accept Mr Skelton’s evidence that the proposal will, in fact, create a more legible landscape pattern across the land. While it will result in the loss of a small portion of open pastoral land, it will extend the forested pattern of the Mt Dewar slopes to the edge of a distinct terrace. I agree that the proposal will see the infill of an existing landscape pattern, which will assist to create a clear separation of the more domestic character to the north (in the rural living transitional area) from the pastoral landscape character that comprises the majority of the subject site.

90. I accept Ms Mellsop’s evidence that the loss of openness of the pastoral land as a result of the proposed development will have an adverse effect on landscape character to some degree. However, due to the visual mitigation that surrounds the northern and eastern boundaries of the site, the appreciation of the landscape’s openness will only be affected when viewed from Little’s Road. I accept Mr Skelton’s evidence that while there will be cumulative adverse effects associated with the proposal, these are low and that overall, the proposed development, which I have interpreted to include the conditions relating to the retention of the remainder of the property in pasture land, together with the wilding conifer control plan, will allow the landscape pattern to be read more legibly. As such, the proposal will not affect the legibility of the terrace face immediately south of the proposed building platform. On the contrary, I accept that it will appear more legible in terms of defining the transitional space between Mt Dewar and the flatter, open lands of the valley floor.
91. I record that my conclusion with respect to openness and legibility has been very heavily influenced by the volunteered condition of consent relating to the retention of the remainder of the property as pasture land, together with the eradication of wilding conifers, which was relied on in the expert evidence. This was an integral component of both the Applicant’s landscape and planning assessments. There was general agreement that the site is part of a highly valued landscape, and that the preservation of the legibility of the very unique geological features is of fundamental concern.
92. There was one additional point of unresolved disagreement between the Applicant’s experts and Council’s experts in relation to the proposed design controls and in particular the suitability of corten steel as a roofing material within the proposed building platform. I accept Ms Mellsop’s evidence that because corten steel oxidises to a rusty orange colour it is inappropriate for use in an ONL landscape generally, notwithstanding that the location of the proposed building platform is in a less sensitive part of this environment. I am concerned particularly with the visibility from Little’s Road, which all of the experts agreed would be prominent to some degree, notwithstanding the extensive planting proposed.

The effect on nature conservation values

93. Ms Afifi noted that the subject site has not been identified as having any significant indigenous vegetation or fauna, and that the proposed development areas have been modified and are currently in a pastoral state. However, the consented development under RM990674 (Environment Court decision C105/2002) included volunteered conditions with respect to the identification of a wetland protection zone. Accordingly, Ms Afifi was of the opinion that there is no evidence to conclude that the site is devoid of any nature conservation values.

94. There is very clear evidence that the site is located within the geologically significant Arthur's Point Basin, which has been described as one of the best examples of a well-preserved ice evacuated basin in New Zealand. I accept Ms Afifi's evidence that any proposal for development of this site must consider, with a view to avoiding, remedying or mitigating, any potential adverse impacts on this important natural feature.
95. Ms Afifi considered that given consent for a residential building platform was previously granted by the Environment Court in the approximate location of the proposed development (where this natural feature was considered), it could be presumed that the proposal would be unlikely to result in inappropriate adverse effects in the context of nature conservation values. However, she noted that the present application does not include positive effects (or environmental compensation) to the extent volunteered under RM990674, which included the identification and protection of a wetland protection zone and a covenant against future development on the land below the building platform, together with a restriction to pastoral use for grazing (excluding grazing by cattle). Accordingly, the two applications are not identical and the current proposal falls to be assessed on its merits insofar as the effects on nature conservation values are concerned.
96. It is apparent from the maps and plans attached to the Environment Court's Consent Order that the location of the proposed building platform does not fall within the wetland area that was to be identified and protected under the previous resource consent. The Applicant has not volunteered a covenant against future development; however, prior to the lodging of the closing submissions, had agreed to the imposition of a condition to ensure that the land would remain in pasture, which the Applicant's own evidence established would greatly assist to maintain and protect this natural feature.
97. It is my view that in the absence of appropriate conditions (such as those in C105/2002) that would adequately protect the unique geological features of the property, adverse effects on the nature conservation values of the site would most likely result. I have come to this view based on the Environment Court's analysis of the effects of development on the ice-evacuated basin and the evidence before me. Accordingly, I have concluded that there remains a significant risk of inappropriate adverse effects on nature conservation values as a result of this development.

Effects on persons

98. In her Section 42A Report, Ms Afifi concluded that potentially affected parties included neighbouring residential properties that have not provided written approval and which gain views into or over the subject site. Since Ms Afifi's report was prepared, two further written approvals have been received, as set out in Ms Chadwick's closing submissions. Notwithstanding that not all written approvals had been received, Ms Afifi concluded that given the location of the remaining neighbouring properties, local topography and the proposed mitigation, visibility of future development within the building platform "*will be somewhat restricted*". She noted that no submissions had been received from these property owners and, accordingly, whether or not there are potential adverse effects cannot be confirmed.
99. Overall, having considered the current status of written approvals and the lack of any submissions from the two remaining neighbours, I have concluded that any adverse effects on the visibility of the proposed development from neighbouring properties will

be insignificant. Any effects on private views have, in my view, been addressed by the landscaping conditions that form part of this consent.

Positive effects

100. In Ms Afifi's view, the positive effects of the development are insufficient in scale to outweigh the adverse cumulative effects on landscape character. I note that since the Section 42A Report was issued, the Applicant has volunteered a further condition offering to control wilding conifers on the site in perpetuity, which is essentially a form of environmental compensation.
101. I accept Ms Chadwick's submission, supported by Mr Dent's evidence, that the application will enable an economic use of this property by providing for a future residential building in the District, which currently has a significant housing shortage. A related positive effect is (as conveyed at the hearing by Mr Paterson), the Applicant will have an incentive to maintain the balance of the property in open pastoral land to preserve their own outlook, and in doing so, to maintain the landscape character, openness and the legibility of the unique geological formations. In my assessment, this is a significant advantage and one that is at risk (based on Mr Paterson's evidence with respect to the costs of maintaining the property) if a residential building platform is not permitted in an appropriate location on the site. At 25.6 hectares, the site is of a significant size, although I accept that as a farming unit it is uneconomic and is unlikely to be suitable for any other economic use if it cannot be used for residential activity. This positive effect was clearly articulated by Ms Chadwick (based on the evidence of Mr Dent and Mr Skelton) as follows:

"If a residential building platform is consented as applied for, the lower paddocks below the terrace can continue to be used for pastoral activities, thus enabling the protection and enhancement of the present pastoral landscape."

102. At the hearing, this outcome was supported by a relevant condition of consent ensuring that the balance of the land would be maintained in pastoral use. In my opinion, this is a significant positive effect of the application.
103. I also accept that the establishment of the native planting on the periphery of the residential building platform is a further positive effect of the proposal, albeit that the planting has been proposed primarily to mitigate the visibility of any future residence. Notwithstanding this, the substantial planting of native species will enhance the transitional boundary between the "rural lifestyle" terrace to the north and the highly valued ONL to the south of the property. I concur with Mr Dent that preservation of the open pastoral character of the lower part of the site south of the proposed building platform is important, based on past landscape assessments.
104. In my assessment, the volunteered condition in relation to ongoing weed management within the gullies and lower area of the property is a significant positive effect of the proposal. I accept the evidence for the Applicant that the open nature of the lower area of the property could be compromised if management of wilding conifer invasion did not continue in perpetuity. Mr Dent's evidence was that the site and surrounding landscape have been compromised by the growth and spread of wilding trees during the last 17 years, as demonstrated by a series of photographs taken for previous consents. It was apparent from my site visit that there are many young wilding species establishing on the Applicant's site, both in the gully on the lower southern part of the site and also on the hill slopes to the west of the proposed

platform. I concur with Mr Dent that the continued growth of these trees will eventually have significant adverse effects on the presently open pastoral characteristics of the site.

105. In summary, I accept that the ongoing management and control of wilding conifers on the lower part of the site will have a material positive effect on the quality of the landscape and, accordingly, have given significant weight to the volunteered condition that the grant of consent be subject to a wilding conifer control plan to be submitted to Council for approval. As Ms Chadwick has submitted, without the proposal put forward by the Applicant, the ability to ensure this lower area within the open basin will be maintained (in the same way it has been to date) may eventually be lost.

Section 104 of the Act

106. Section 104(1) sets out the matters that must be addressed in making a decision as to whether to grant or refuse consent.
107. With respect to section 104(1)(a), I have concluded that the proposal will have moderate adverse effects on the landscape character of the site and, potentially, on nature conservation values. However, offsetting these adverse effects are the positive effects of the application, as discussed above, which include the addition of a substantial area of native planting, a wilding conifer management plan, the retention of the site in pastoral use and the facilitation of an economic use of the land, which will enable the property to be maintained in its current state.
108. I accept that residential use of the upper terrace area will facilitate the maintenance of the lower open landscape in a way that enhances the openness and legibility of the geomorphological features that are of significant value and, at the same time, views of the wider landscape from a variety of public places.
109. The District Plan anticipates that development within an ONL area will be inappropriate in almost all locations in the zone, particularly within the Wakatipu Basin or the inner Upper Clutha area. This property is situated in an important ONL (Wakatipu Basin), notwithstanding that the part of the site in which the proposed residential building platform is to be located is more characteristic of a rural living transitional area. However, the balance of the site below the terrace in which the residential building platform is to be located is a very high quality ONL landscape. Consent to this application, which locates development in a part of the site where it can more readily be absorbed, will assist to ensure that the very important and unique landscape character of the ONL that comprises the majority of the property is protected and maintained in perpetuity.
110. While the Applicant has not volunteered a covenant to limit any future development, it is my view that this is unnecessary. Given the very strict rules that apply to development in ONL (Wakatipu Basin) under the current rules and assessment criteria in the District Plan, and the similar protections contained in the Proposed District Plan, any further development is highly unlikely to be considered appropriate unless it takes place in the rural living transition area to the north of the property (as consented in Decision C105/2002). The provisions of the existing District Plan and the Proposed District Plan are therefore, in my opinion, more than adequate to protect this property from any inappropriate development on the balance of the land in future.

111. Accordingly, although this is a very finely balanced decision, I have concluded that the adverse effects of the proposal have been offset by the positive effects of the proposal to the extent that a grant of consent, subject to the imposition of the conditions that were considered and discussed at the hearing, is appropriate. In short, a net conservation benefit will ensue as a result of this proposal.
112. Section 104(1)(b) requires an assessment of the proposal against the relevant objectives and policies of the relevant planning instruments. Both Mr Dent and Ms Afifi have carried out very comprehensive assessments of the proposal against the relevant objectives and policies of both the District Plan and the Proposed District Plan, which have been of enormous assistance. Ms Afifi considered that, making an overall assessment and putting greater emphasis on the policies and objectives that are more specific to the proposal, the proposal does not advance the objectives and policies for the zone and the ONL (Wakatipu Basin). In particular, she concluded that the proposal will result in moderate cumulative adverse effects on the openness, legibility and natural character of the ONL (Wakatipu Basin) and that these effects have not been avoided. She was of the view that the proposal does not include components that would protect naturalness or enhance amenity values of views from public places and public roads, nor does the proposal include a component which adequately addresses the protection and enhancement of the naturalness of the landscape.
113. Mr Dent concluded that the proposal is generally consistent with the objectives and policies of the District Plan in assessing the effects on an ONL (Wakatipu Basin). He concluded that as the development will occur within a transitional area of the landscape that does not exhibit the traditional characteristics of an ONL, the proposal will not have adverse effects on landscape values, natural character and visual amenity that are more than minor. Although the proposed building platform and anticipated future development will be reasonably difficult to see from most locations, Mr Dent accepted that this is not the case from the southern end of Littles Road. However, in the context of the receiving environment and existing levels of residential development, it was his opinion that *“achieving such a high threshold of protection is not as essential as is the case in the majority of ONL landscapes”*. He acknowledged that while there will be a minor cumulative adverse effect resulting from the proposed development, this will be outweighed by the additional and ongoing protection afforded to the maintenance of the openness of the majority of the subject site through the removal of the wilding conifers and retention of the land as pasture.
114. Mr Dent drew my attention to Policy 6.3.1.3 of the proposed landscape chapter in the Proposed District Plan, which states:

“That subdivision and development proposals located within the Outstanding Natural Landscape, or any Outstanding Natural Feature, be assessed against the assessment matters in provisions 21.7.1 and 21.7.3 because subdivision and development is inappropriate in almost all locations, meaning successful applications will be exceptional cases.”

Mr Dent noted that this policy aligns with Assessment Matter 5.4.2.2(i) of the Operative District Plan. I accept Mr Dent's evidence that the proposal is unique and exceptional given the existing environment that adjoins the subject property. The upper end of the site is clustered amongst rural living development and the replication of this scenario in an ONL, with the same level of visibility and net conservation benefit, is highly unlikely. Accordingly, I concur with Mr Dent that the granting of

consent will not result in an adverse precedent effect. However, Mr Dent acknowledged that the proposal is not consistent with Policy 3, Outstanding Natural Landscapes under Section 4.3 - *Districtwide Landscape and Visual Amenity* because of its visibility from Littles Road in particular. In his opinion, this inconsistency is not significant when consideration is given to the existing environment and pattern of rural living development, the proposed design controls, landscaping and restrictions on timing for future development that are now proposed. I am inclined to accept Mr Dent's evidence in this respect.

115. On balance, I am inclined to accept Mr Dent's evidence in relation to the most relevant objectives and policies, noting that Ms Afifi did not have the benefit of the proposed wilding conifer management plan proposal at the time of her Section 42A Report assessment. Again, this is a very finely balanced conclusion and is influenced by the existing character of the environment in which the proposed building platform is to be located and the importance of protecting and maintaining the natural character, openness and legibility of the remainder of the property. I accept that the location of the proposed building platform will appear as part of the upper "rural lifestyle landscape character" terrace and that the eventual level of domestication will have a low adverse effect in terms of landscape values in this location, particularly with respect to the openness and legibility of the highly valued ONL to the south of the upper terrace.
116. In summary, based on the evidence of Mr Dent as discussed in some detail above, the conditions subsequently volunteered by the Applicant (after receipt of Ms Afifi's Section 42A Report) have, in my view, adequately remedied or mitigated Ms Afifi's concerns, although as I have noted above, this is a very finely balanced determination. In particular, the volunteering of a wilding conifer management plan, together with the retention of the more valuable part of the ONL as open pastoral landscape, is of significant importance.
117. In terms of section 104(1)(c), I consider the previous Environment Court decisions to be a relevant other matter with respect to this application. Although the conditions of consent are not identical, the Environment Court in C105/2002 did grant consent to a residential building platform in approximately the same location as that of the current application. Arguably, the design controls that are applicable to the current proposal, which will ensure that any built form is appropriate for the site, will result in a better environmental outcome than the previously consented building platform. Further, the proposed conditions of consent with relation to the wilding conifer management plan, the extensive indigenous plantings and the retention of the lower part of the slope in pasture, will achieve a similar outcome to that envisaged by Environment Court for the balance of the site. It is relevant that there has been very little change to the receiving environment in terms of consented development since the Environment Court decision in C105/2002 was issued, notwithstanding that this was nearly 13 years ago.
118. It is also relevant that the Environment Court assessed the application in C105/2002 as being part of an ONL landscape. Accordingly, while the application is not entirely consistent with that before the Environment Court in 2002, the Court's ultimate decision, as reflected in the Consent Order, generally supports a grant of consent to this application, notwithstanding that if this decision was to be appealed, the Court would carry out a de novo assessment based on the evidence before it.

Part 2 of the Act

119. The purpose of the Act is to promote the sustainable management of natural and physical resources. The assessment under section 104(1) above is subject to Part 2 of the Act. I have found that the proposed development will enable the social and economic well-being of the Applicant by providing an economic use for this relatively large area of land, and will enable the balance of the ONL to be maintained in perpetuity.
120. Mr Dent addressed Part 2 matters in his evidence in chief at section 7. I concur with his evidence that the proposal will adequately avoid, remedy or mitigate the adverse effects of the proposed development on landscape and visual amenity through the appropriate siting of the platform, design and planning controls, and ongoing protection of the expanse of open natural landscape that presently exists through the control of wilding conifers and the maintenance of the land as open pasture. This will ensure that the visual amenity and landscape character of the natural and physical resources, and in particular the unique geomorphological features, are maintained for the benefit of future generations.
121. Mr Dent identified that section 6(b) of the Act, which is concerned with the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development, is highly relevant. He considered that the proposal represents an appropriate use of the site, particularly when consideration is given to the proposed design controls, planting and the wider context of the receiving environment immediately adjacent to the proposed development area. I am satisfied that the proposed building platform has been located in a part of the site that can absorb this development. Further, the proposal will facilitate the maintenance of the lower terraces that require the greatest degree of protection through retaining the current pastoral land use and removing and managing the re-infestation of wilding trees that could otherwise significantly degrade the open landscape character of the lower paddocks. Accordingly, in my opinion the proposal has a net conservation benefit as it will, on the whole, protect this highly valued ONL from inappropriate subdivision use or development.
122. When making a decision an overall broad judgment based on a weighting of the factors contained within Part 2 is required to be undertaken, recognising the hierarchy of considerations within Part 2. Any decision-making process should focus on the avoidance, remediation or mitigation of adverse effects in order to promote sustainable management. Having considered the matters in Part 2, and in particular section 6(b), I have concluded that the proposed development achieves the purpose of the Act.

Decision

123. In exercising my delegation under sections 34 and 34A of the Act, and having regard to the matters discussed above under sections 104 and Part 2 of the Act, I have determined that consent to the discretionary application for development located at the corner of Arthur's Point Road and Littles Road, Wakatipu Basin, be **granted** for the reasons given above and subject to the conditions set out below.
124. With respect to the imposition of conditions under section 108, it should be noted that a condition has been imposed to ensure that the balance of the site is to be managed as open pastoral land (Condition 15(c)). For the reasons given above, this condition

is necessary to ensure the maintenance of the landscape character of the ONL and to ensure that the nature conservation values, and in particular the unique and highly valued geological features of significant value, are protected to the greatest extent possible.

RM150607 Shotover Hamlet Investments Limited Conditions of Consent

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - 'Patterson – Littles Road - Site Layout and Planting' – Reference 2532-SK03
 - 'Patterson – Littles Road Landscape Plan' – Reference 2532 – SK02
 - 'Patterson – Littles Road Proposed Earthworks', Drawing No. 2, Rev A
 - 'Littles Road Proposed Earthworks Driveway – Long Section' Drawing No 04 Rev-
 - 'Littles Road Proposed Earthworks Building Platform – Long Section' – Drawing No. 04, Rev A
 - 'Littles Road Proposed Earthworks Driveway – Typical Cross Sections', Drawing No. 4 Rev-
 - 'Patterson – Littles Road – Earthworks Location', Reference 2532

stamped as approved on 13 May 2016

and the application as submitted, with the exception of the amendments required by the following conditions of consent.

- 2a. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
- 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 shall pay to Council an initial fee of \$240. This initial fee has been set under section 36(1) of the Act.
3. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any subdivision consent.

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

4. The owner of the land being developed shall 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 shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.7 & 1.8 of QLDC's Land Development and Subdivision Code of Practice, in relation to this development.
5. At least 7 days prior to commencing excavations, the consent holder shall provide the Principal Resource Management Engineer at Council with the name of a suitably qualified professional as defined in Section 1.7.1 of QLDC's Land Development and Subdivision Code of Practice and who shall supervise the fill procedure and ensure compliance with NZS 4431:1989 (if required). This engineer shall continually assess the condition of the fill procedure.
6. Prior to any work commencing on the site, the consent holder shall 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 (3), to detail the following engineering works required:

- a) The provision of a water supply to service the building platform in terms of Council's standards and connection policy. This supply shall be from the existing Council network on Arthurs Point Road and shall include an Acuflo CM2000 toby valve and restrictor to limit the supply to a maximum 2,100 litres/day. The costs of the connection shall be borne by the consent holder.
- b) The provision of a vehicle crossing to the lot from Littles Road to be in terms of Diagram 2, Appendix 7 of the District Plan. This shall 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. Provision shall be made to continue any roadside drainage.
- c) The provision of an access way to the building platform that complies with the guidelines provided for in QLDC's Land Development and Subdivision Code of Practice. The access shall have a minimum formation standard of 150mm compacted AP40 with a 3.5m minimum carriageway width. Provision shall be made for stormwater disposal from the carriageway.
- d) The provision of Design Certificates for all engineering works associated with this subdivision/development submitted by a suitably qualified design professional (for clarification this shall include Water and Access). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.
- e) The consent holder shall install measures to control and/or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with QLDC's Land Development and Subdivision Code of Practice and '*A Guide to Earthworks in the Queenstown Lakes District*' brochure, prepared by the Queenstown Lakes District Council. These measures shall be implemented **prior** to the commencement of any earthworks on site and shall remain in place for the duration of the project, until all exposed areas of earth are permanently stabilised.

To be monitored throughout earthworks

7. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at his/her expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.
8. No earthworks, temporary or permanent, are to breach the boundaries of the site.
9. The consent holder shall implement, to the satisfaction of Council's Engineers, suitable measures to prevent deposition of any earth on surrounding streets by trucks moving fill and other materials to and from the site. In the event that any material is deposited on the streets, the consent holder shall take immediate action at their expense, to clean the streets. The loading of earth and other materials shall be confined to the subject site.
10. Hours of operation for earthworks shall be:
 - Monday to Friday (inclusive): 8.00am to 6.00pm
 - Saturday: 8.00am to 12:00pm; and
 - Sundays and Public Holidays: No Activity

In addition, no heavy vehicles are to enter or exit the site, and no machinery shall start up or operate earlier than 8.00am. All activity on the site is to cease by 6.00pm, Monday to Friday and 12:00 noon on Saturdays.

Accidental Discovery Protocol

11. If the consent holder:

- a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder shall without delay:
 - (i) notify Council, Tangata whenua and Heritage New Zealand Pouhere Taonga and in the case of skeletal remains, the New Zealand Police.
 - (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by the Heritage New Zealand Pouhere Taonga and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

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

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

Site work may only recommence following consultation with Council.

On completion of earthworks

12. On completion of the earthworks, the consent holder shall complete the following:

- a) All earthworked areas shall be top-soiled and grassed or otherwise permanently stabilised.
- b) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

Registration of Building Platform on the Computer Freehold Register

13. At the time the consent is given effect to, the consent holder shall provide a "Land Transfer Covenant Plan" showing the location of the following areas:

- The approved building platform
- The approved curtilage area.
- The area of the platform (700m²) where building height is limited to 4.5m from an RL of 426masl
- The area of the platform (300m²) where building height is limited to 6.5m from an RL of 426masl

The consent holder shall register this "Land Transfer Covenant Plan" on Computer Freehold Register and shall execute all documentation required to register this plan. The costs of doing so are to be borne by the consent holder.

NB. All areas are shown on the Site Layout and Planting Plan stamped as approved under Condition 1.

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 in accordance with Condition 13 above, the consent holder shall complete the following:

- a) The consent holder shall provide an "as-built" plan for the power, telecommunication, and water (lateral and toby position) association with this building platform to the Principal Resource Management Engineer at Council. This information shall be formatted in accordance with Council's 'as-built' standards.
- b) A digital plan showing the location of all building platforms as shown on the survey plan / Land Transfer Plan shall be submitted to the Principal Resource Management Engineer at Council. This plan shall be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.
- c) The completion of all works detailed in Condition (6) above.
- d) The consent holder shall provide a geotechnical completion report and a Schedule 2A "Statement of professional opinion as to suitability of land for building construction" in accordance with Section 2.6.1 of the QLDC Land Development and Subdivision Code of Practice that has been prepared by suitably qualified Geo-professional as defined in Section 1.2.2 and demonstrates to Council that the proposed building platform is suitable for building development. In the event that the site conditions within the building platform are only found to be suitable for building construction subject to certain mitigation measures and/or remedial works being carried out, then a suitably qualified and experienced professional shall submit to the Council for review and approval full details of such works. The consent holder shall be responsible for implementing all necessary mitigation measures and/or remedial works required to prepare the land for building construction.

A covenant shall be registered on the relevant Computer Freehold Register if the Schedule 2A statement indicates that building construction would only be suitable if certain mitigation measures and/or remedial works were carried out at the time of construction. The covenant condition shall require that, prior to any construction work (other than work associated with geotechnical investigation), the owner at the time being shall submit to Council for certification, plans prepared by a suitably qualified engineer detailing the proposed mitigation measures and/or remedial works AND require the owner to implement all such measures prior to occupation of any building.

A covenant shall be registered on the relevant Computer Freehold Register the Schedule 2A statement indicates that no building construction would be suitable within the any part of the building platform. The covenant condition shall refer to the Schedule 2A statement and record that no residential development may be undertaken on the relevant part of the building platform.

- e) Written confirmation shall 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.
- f) Written confirmation shall be provided from the telecommunications network supplier responsible for the area that provision of underground telephone services has been made available to the building platform.
- g) The submission of Completion Certificates from both the Contractor and Approved Engineer for all engineering works completed in relation to or in association with the registration of this platform (for clarification this shall include Water and Access). The

certificates shall be in the format of a Producer Statement, or the QLDC's Land Development and Subdivision Code of Practice Schedule 1B and 1C Certificate.

- h) Implementation of the landscaping detailed on the plans entitled, 'Patterson – Littles Road - Site Layout and Planting' and 'Patterson – Littles Road Landscape Plan' (stamped as approved under Condition 1) within the first available planting season following completion of the earthworks authorised by this consent. The landscaping shall be subsequently irrigated for at least 3 years and maintained in perpetuity. Should any tree or plant die or become diseased it shall be replaced in the next available planting season.
- i) All tree specimens of western red cedar planting along the eastern boundary of the site with Littles Road shall be removed.
- j) The submission of a Wilding Tree Control Plan to the Planning Manager at Queenstown Lakes District Council for approval. The Plan shall achieve the following objectives:
 - Outline a programme for the complete removal of all wilding trees (including all *Pinus* species, Douglas Fir, Larch, Sycamore and Silver birch) on the subject site within three years of the grant of consent.
 - Specify the methodologies to be used in order to achieve removal of wilding trees within the three-year time frame.
 - Outline the ongoing management of wilding tree re-infestation from external seed sources, including but not limited to:
 - Biennial assessment of the subject site for the establishment of wilding tree seedlings;
 - Methodology for the on-going removal/control of wilding tree seedlings;
 - Biennial reporting to Council on the management actions undertaken in the previous two years.

Ongoing Conditions/Covenants

15. At the time that the building platform is registered on the Computer Freehold Register for the site, the consent holder shall 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, including water tanks, shall be contained within the Residential Building Platform as shown as Covenant Area X as shown on Land Transfer Plan XXXXX.
 - b) No buildings shall be constructed within the Residential Building Platform until the landscaping and mounding detailed on the plans entitled, 'Patterson – Littles Road - Site Layout and Planting' and 'Patterson – Littles Road Landscape Plan' (stamped as approved under Condition 1 of RM150607 and implemented under Condition 14(h) of RM150607) has been established for a minimum period of three years from the date the implementation of the landscaping was completed.
 - c) All domestic activities shall be restricted to the curtilage area as shown as Covenant Area X as shown on Land Transfer Plan XXXXX, which is to reflect that detailed on the curtilage area defined in the plan titled "Patterson - Littles Road – Site Layout and Planting 2532-SK03" (stamped as approved under Condition 1 of RM150607). This includes, but is not restricted to: domestic gardens and associated structures including pergolas, glasshouses and tunnel houses, that do not meet the definition of a building; vehicle parking and turning areas; washing lines; and large play equipment such as trampolines.
 - d) The balance of the site outside the Residential Building Platform and curtilage area (identified as Covenant Areas X and X shown on Land Transfer Plan XXXXX respectively) is to be managed as open pastoral or cropping land. Natural regeneration or restoration of endemic vegetation is permitted within the gully system leading down to the Shotover River. No grazing by cattle is to be permitted.

- e) The Council water supply provided to the building platform on the lot shall be limited to a maximum of 2,100 litres per day. This limit shall be ensured by way of a private restrictor placed on the supply line.
- f) At the time a dwelling is erected on the lot, the owner for the time being shall engage a suitably qualified professional as defined in Section 1.7.2 of QLDC's Land Development and Subdivision Code of Practice to design a stormwater disposal system that is to provide stormwater disposal from all impervious areas within the site. The proposed stormwater system shall be subject to the review of Council prior to implementation.
- g) At the time a dwelling is erected on the lot, the owner for the time being shall 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 shall take into account the site and soils investigation report and recommendations by Hadley Consultants Ltd – *Shotover Hamlet Investments Feasibility of Utility Services and Infrastructure* report dated 27th July 2015. The proposed wastewater system shall be subject to Council review prior to implementation and shall be installed prior to occupation of the dwelling.
- h) Prior to the occupation of any dwelling on the lot, domestic water and fire fighting storage is to be provided. A minimum of 20,000 litres shall be maintained at all times as a static fire fighting reserve within a 30,000 litre tank. Alternatively, a 7,000 litre fire fighting reserve is to be provided for each dwelling in association with a domestic sprinkler system installed to an approved standard. A fire fighting 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 shall have a hardstand area adjacent to it that is suitable for parking a fire service appliance. The hardstand area shall 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 QLDC's Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any subdivision consent). The roadway shall 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 shall be maintained at all times to the hardstand area.

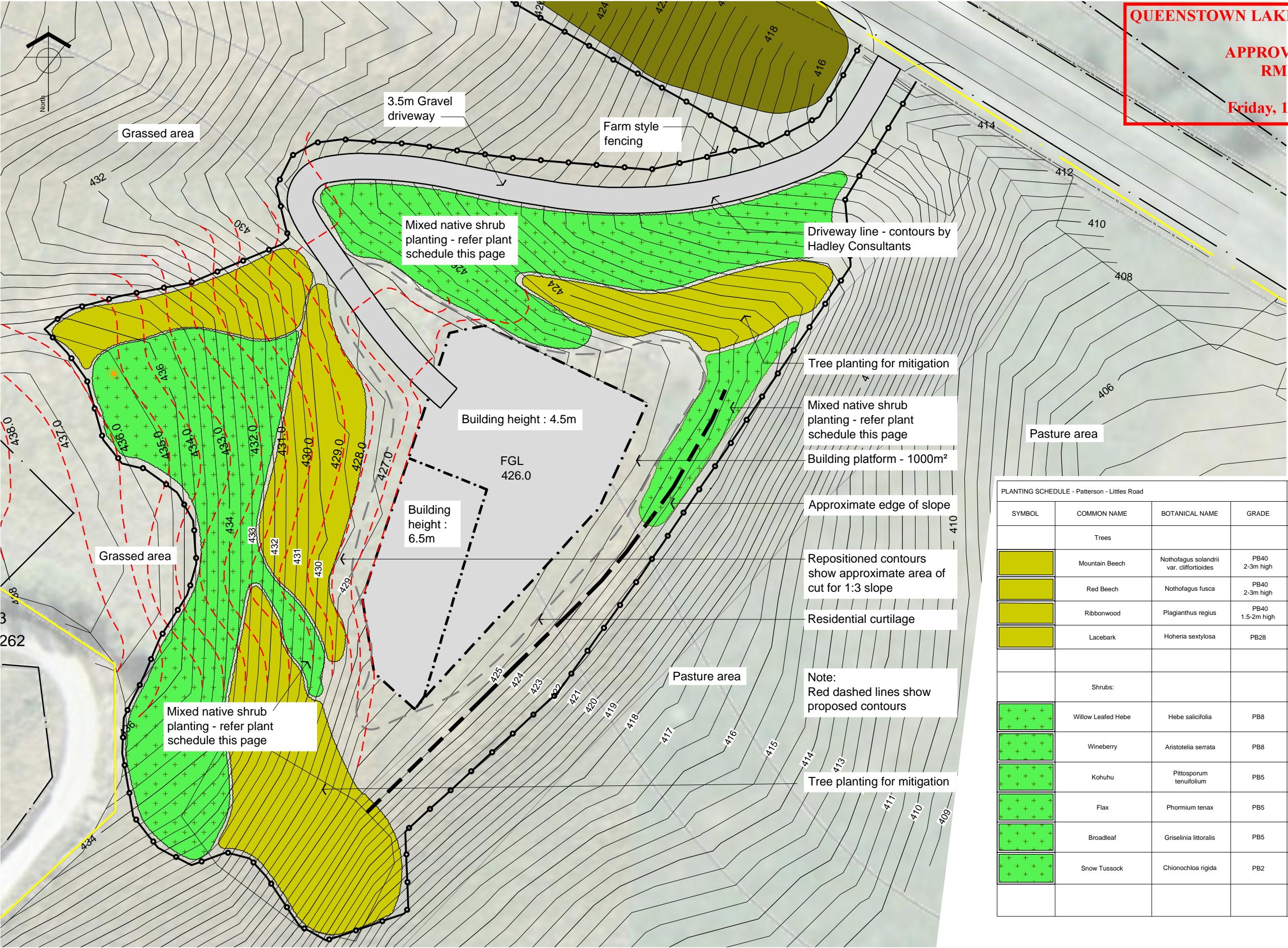
Underground tanks or tanks that are partially buried (provided the top of the tank is no more than 1 metre above ground) may be accessed by an opening in the top of the tank whereby couplings are not required. A hardstand area adjacent to the tank is required in order to allow a fire service appliance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

Fire fighting 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 fire fighting water supply tank and/or the sprinkler system shall be installed prior to the occupation of the building.

- i) There shall be no more than one residential unit within the residential building platform.
- j) Landscaping and mounding detailed on plans entitled, 'Patterson – Littles Road - Site Layout and Planting' and 'Patterson – Littles Road Landscape Plan' (stamped as approved under Condition 1 of RM150607) shall be maintained in perpetuity. Should any tree or plant die or become diseased it shall be replaced in the next available planting season.
- k) External wall claddings shall consist of no more than two of the following materials:
 - Timber weatherboards
 - Timber board and batten
 - In-situ concrete walls with a dark finish
 - Rammed or poured earth.
 - Schist stone stacked horizontally
- l) All external wall claddings shall have a recessive colour in the range of natural browns, greens or greys with a light reflectance value of less than 36%
- m) Material changes are to occur only on an internal corner.
- n) Roofing shall be of a pitch of no greater than 45 degrees.
- o) Roofing shall be either:
 - Membrane roofing systems with a dark grey tone (light reflectance value of less than 20%)
 - Vegetated roofs
 - Red cedar shakes, or
 - Dark grey zinc tray (light reflectance value of less than 20%)
- p) Gutters, downpipes and roof fascia shall be in dark grey or brown tones with a light reflectance value of less than 20%. Joinery shall either be timber or in dark tones to match roof, gutter and downpipes.
- q) Where monopitch roofs are used, glazing shall not exceed a height of 2.7m above the FFL.
- r) Maximum building height within the approved building platform shall be as follows:
 - (i) Within the area shown as Covenant Area X as shown on Land Transfer Plan XXXXX, no part of any building shall exceed 4.5m above an RL of 426masl over 700m² of the building platform.
 - (ii) Within the area shown as Covenant Area X as shown on Land Transfer Plan XXXXX, no part of any building shall exceed 6.5m above an RL of 426masl over 300m² of the building platform.
- s) The Wilding Tree Control Plan approved pursuant to Condition 14(j) of QLDC Resource Consent RM150607 shall be implemented and complied with in perpetuity.



QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM150607

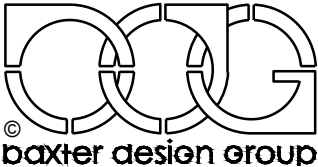
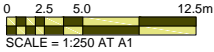
Friday, 13 May 2016

PLANTING SCHEDULE - Patterson - Little's Road						
SYMBOL	COMMON NAME	BOTANICAL NAME	GRADE	AREA m²	SPACING m	QUANTITY
Trees						
	Mountain Beech	Nothofagus solandrii var. cliffortioides	PB40 2-3m high	30%	2.0m	115
	Red Beech	Nothofagus fusca	PB40 2-3m high	30%	2.0m	115
	Ribbonwood	Plagianthus regius	PB40 1.5-2m high	20%	2.0m	75
	Lacebark	Hoheria sextylosa	PB28	20%	2.0m	75
				Total area = 1586m²		Total Trees = 380
Shrubs:						
	Willow Leaved Hebe	Hebe salicifolia	PB8	25%	2.0m	117
	Wineberry	Aristotelia serrata	PB8	20%	2.0m	93
	Kohuhu	Pittosporum tenuifolium	PB5	25%	2.0m	117
	Flax	Phormium tenax	PB5	10%	1.6m	73
	Broadleaf	Griselinia littoralis	PB5	15%	2.0m	70
	Snow Tussock	Chionochloa rigida	PB2	5%	1.2m	65
				Total Area = 1862m²		Total Shrubs = 535

PATTERSON - LITTLES ROAD - SITE LAYOUT AND PLANTING

REFERENCE 2532-SK03 - SCALE = 1:250 AT A1 - 1:500 AT A3 - 06 Nov 2015

j:\2532 - patterson, littles road\cad\ref - 2532 - masterplan 5.dwg - A1 Title Block (3)





QUEENSTOWN LAKES DISTRICT COUNCIL

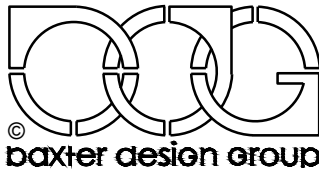
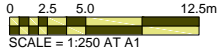
APPROVED PLAN:
RM150607

Friday, 13 May 2016

PATERSON - LITTLES ROAD LANDSCAPE PLAN

REFERENCE 2532-SK02 - SCALE = 1:500 AT A1 - 1:1000 AT A3 - 06 Nov 2015

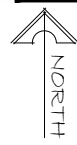
j:\2532 - patterson, littles road\cad\ref - 2532 - masterplan 5.dwg - A1 Title Block



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RM150607

Friday, 13 May 2016



LEGEND

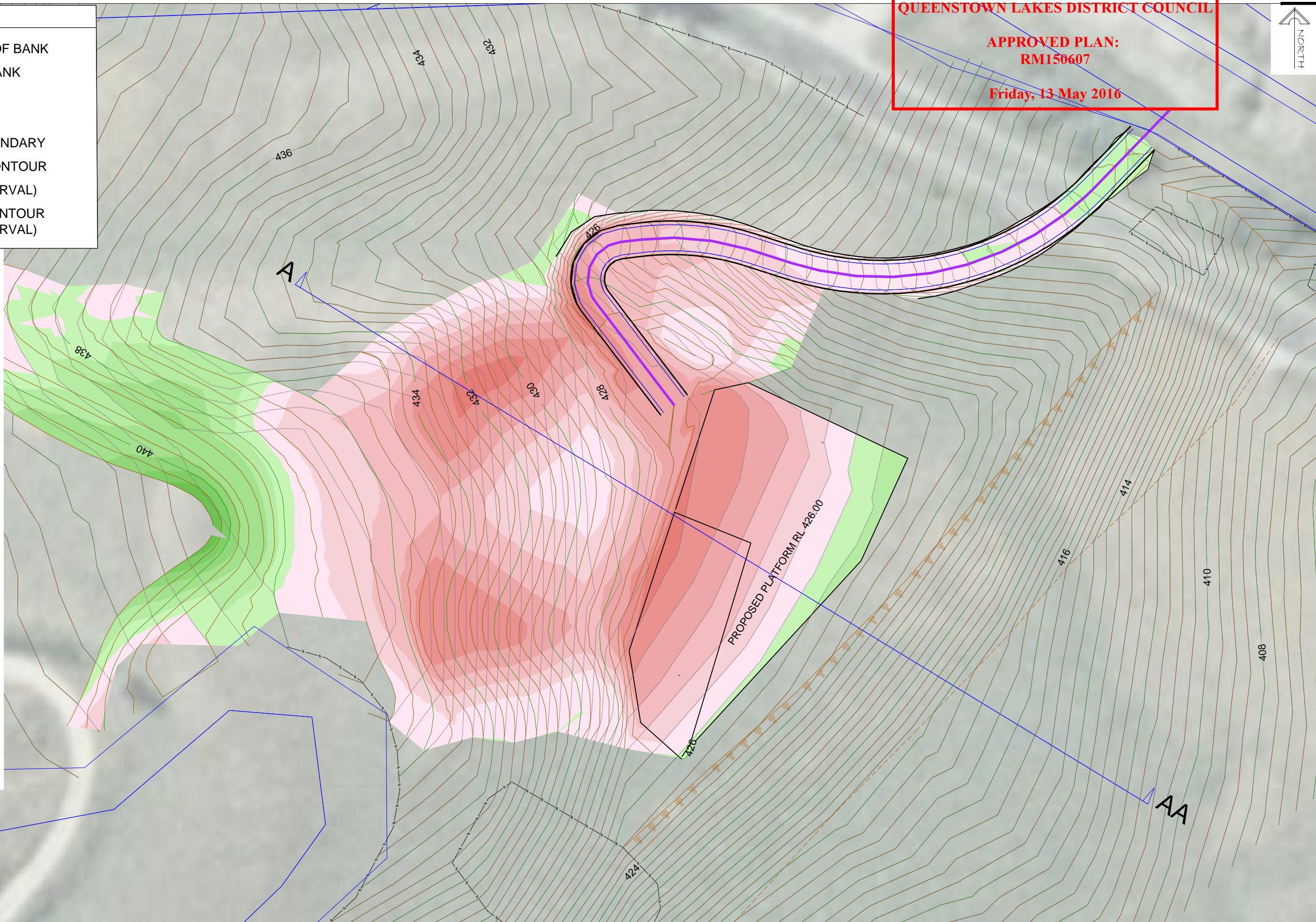
- BOTTOM OF BANK
- TOP OF BANK
- BUILDING
- FENCE
- TITLE BOUNDARY
- MAJOR CONTOUR
(2.0m INTERVAL)
- MINOR CONTOUR
(0.5m INTERVAL)

EARTHWORKS

- Below existing ground
- 3.0m to -3.5m
 - 2.5m to -3.0m
 - 2.0m to -2.5m
 - 1.5m to -2.0m
 - 1.0m to -1.5m
 - 0.5m to -1m
 - 0m to -0.5m
- Above existing ground
- 0m to 0.5m
 - 0.5m to 1.0m
 - 1.0m to 1.5m
 - 1.5m to 2.0m
 - 2.0m to 2.5m
 - 2.5m to 3.0m
 - 3.0m to 3.5m
 - 3.5m to 4.0m

EARTHWORKS VOLUMES

TOTAL CUT 5052m³
TOTAL FILL 863m³
CUT TO WASTE 4189m³
MAX DEPTH 2.7m
TOTAL AREA 6002m²



Rev.	Date	Revision Details	By
A	11.11.15	CHANGE OF CONTOURS	BP

PATTERSON - LITTLES ROAD
PROPOSED EARTHWORKS

Client	Surveyed	Signed	Date	Job No.	Drawing No.
PATTERSON	BP		24.04.15	12025	02
Notes:	Drawn	Signed	Date	Scale	
All dimensions shown are in meters unless shown otherwise. Any person using Clark Fortune McDonald drawings and other data accepts the risk of: - Using the drawings and other data in electronic form without requesting and checking them for accuracy against the original hard copy versions. - Ensuring the information is the most recent issue. - Copyright on this drawing is reserved.	BP		11.11.15	1:250 @ A1 1:500 @ A3	
	Designed	Signed	Date	Datum & Level	Rev.
	BP		11.11.15	Mt Nic 2000 & MSL	A

VERT GEOMETRY GRADE (%)
VERT GRADE LENGTH (m)

VERT CURVE LENGTH (m)

DATUM R.L.384.00

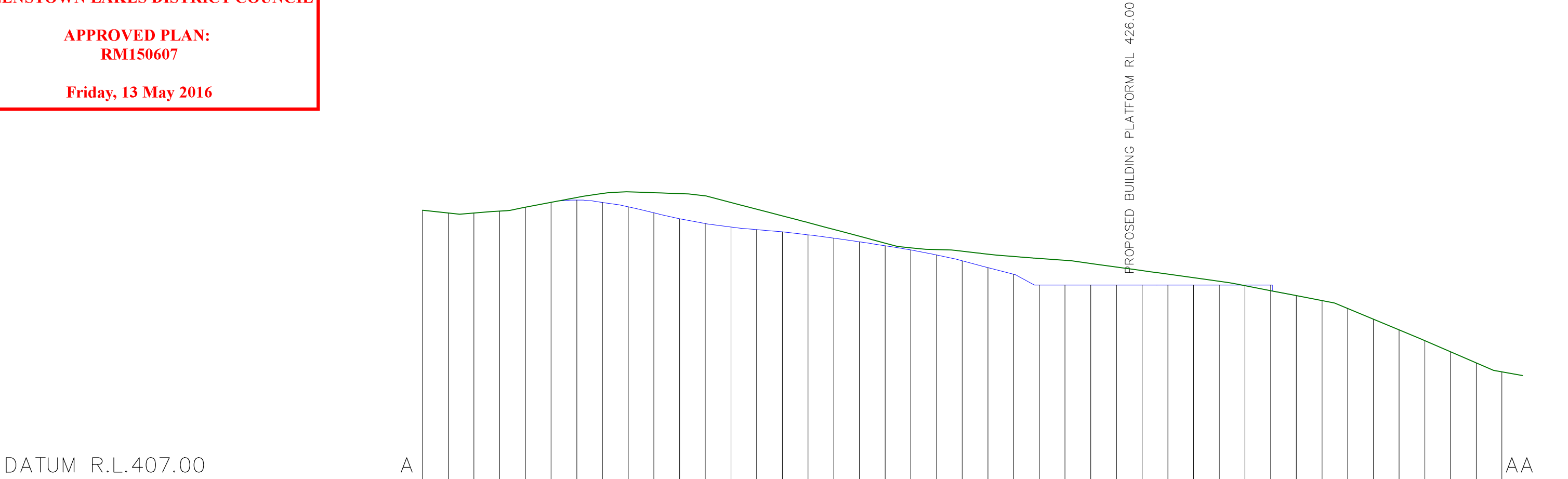
CHAINAGE	EXISTING G.L.	C.L. FINISHED LEVEL	DEPTH
0.00			
6.44	415.38	415.58	0.20
10.00	415.13	415.46	0.34
11.44	415.23	415.49	0.26
16.44	415.75	415.94	0.19
20.00	416.41	416.44	0.03
30.00	417.83	417.84	0.01
36.68	418.92	418.78	-0.14
40.00	419.42	419.24	-0.17
50.00	420.87	420.65	-0.23
60.00	422.53	422.05	-0.48
70.00	424.31	423.46	-0.85
72.06	424.60	423.75	-0.86
80.00	426.14	424.86	-1.27
81.30	426.39	425.04	-1.34
87.60	427.39	425.83	-1.56
90.00	427.90	426.07	-1.82
93.80	428.23	426.40	-1.84
100.00	428.58	426.77	-1.81
106.30	428.62	426.95	-1.67
110.00	428.62	427.00	-1.62

A3 VERT SCALE 1 : 500



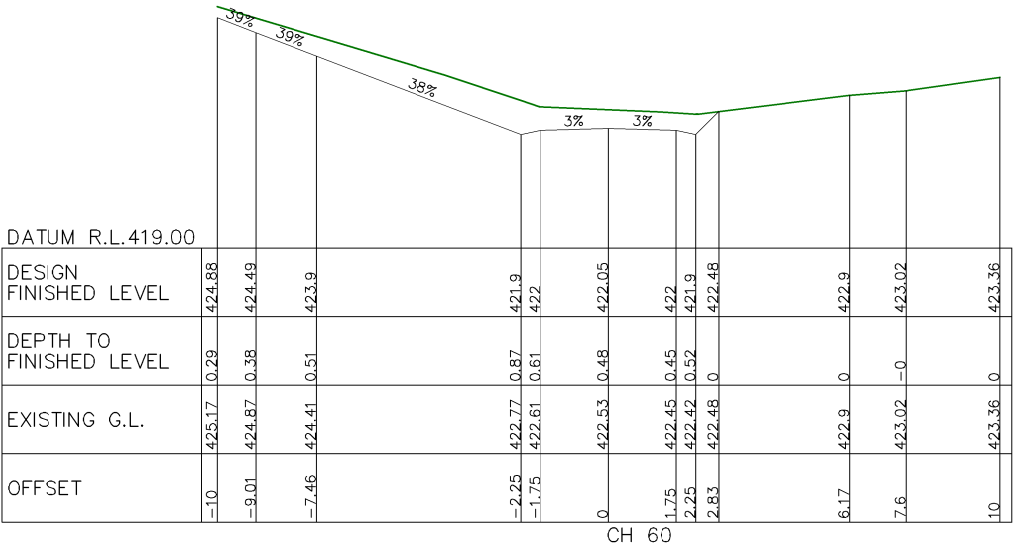
LITTLES ROAD
PROPOSED EARTHWORKS
DRIVEWAY - LONG SECTION

Client	Surveyed	Signed	Date	Job No.	Drawing No.
PATTERSON Notes: All dimensions shown are in meters unless shown otherwise. Any person using Clark Fortune McDonald drawings and other data accepts the risk of: - Using the drawings and other data in electronic form without requesting and checking them for accuracy against the original hard copy versions. - Ensuring the information is the most recent it issue. Government on this revision is assessed.	BP		24.04.15	12025	04
	Drawn	Signed	Date	Scale	1:250 @ A1
	BP		20.05.15		1:500 @ A3
	Designed	Signed	Date	Datum & Level	Rev.
	BP		20.05.15	Mt Nic 2000 & MSL	-

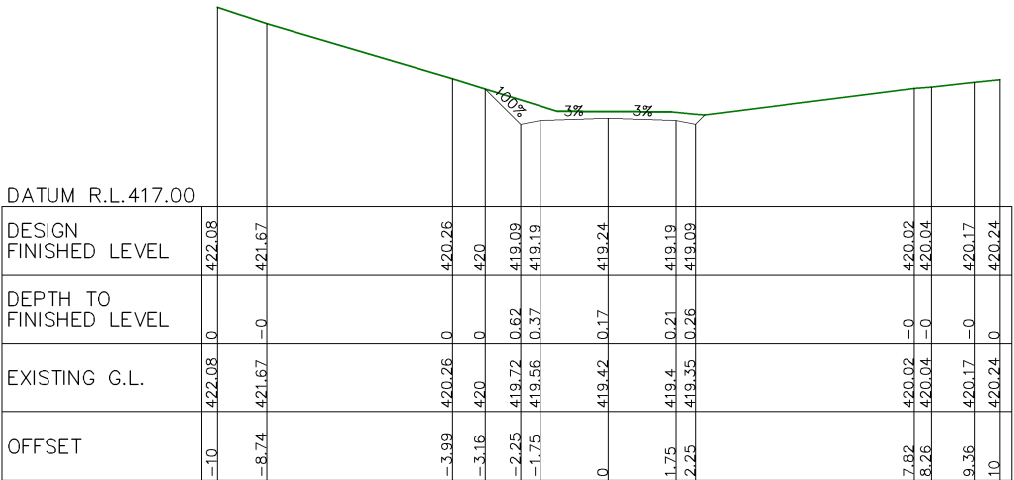


DEPTH	C.L. FINISHED LEVEL	EXISTING G.L.	CHAINAGE
0.00	433.28	433.28	0.00
2.50	433.01	433.01	2.50
5.00	433.01	433.01	5.00
7.50	433.19	433.19	7.50
10.00	433.57	433.57	10.00
12.50	434.04	434.04	12.50
15.00	434.27	434.52	15.00
17.50	434.04	434.91	17.50
20.00	433.62	435.07	20.00
22.50	433.03	434.98	22.50
25.00	432.44	434.90	25.00
27.50	431.99	434.68	27.50
30.00	431.65	434.04	30.00
32.50	431.39	433.39	32.50
35.00	431.17	432.73	35.00
37.50	430.89	432.08	37.50
40.00	430.56	431.41	40.00
42.50	430.21	430.75	42.50
45.00	429.82	430.08	45.00
47.50	429.41	429.62	47.50
50.00	428.93	429.45	50.00
52.50	428.36	429.30	52.50
55.00	427.70	429.01	55.00
57.50	427.05	428.78	57.50
60.00	426.00	428.59	60.00
62.50	426.00	428.41	62.50
65.00	426.00	428.10	65.00
67.50	426.00	427.75	67.50
70.00	426.00	427.41	70.00
72.50	426.00	427.06	72.50
75.00	426.00	426.71	75.00
77.50	426.00	426.37	77.50
80.00	426.00	425.94	80.00
82.50	426.00	425.46	82.50
85.00	424.97	424.97	85.00
87.50	424.48	424.48	87.50
90.00	423.72	423.72	90.00
92.50	422.68	422.68	92.50
95.00	421.65	421.65	95.00
97.50	420.60	420.60	97.50
100.00	419.52	419.52	100.00
102.50	418.43	418.43	102.50
105.00	417.56	417.56	105.00

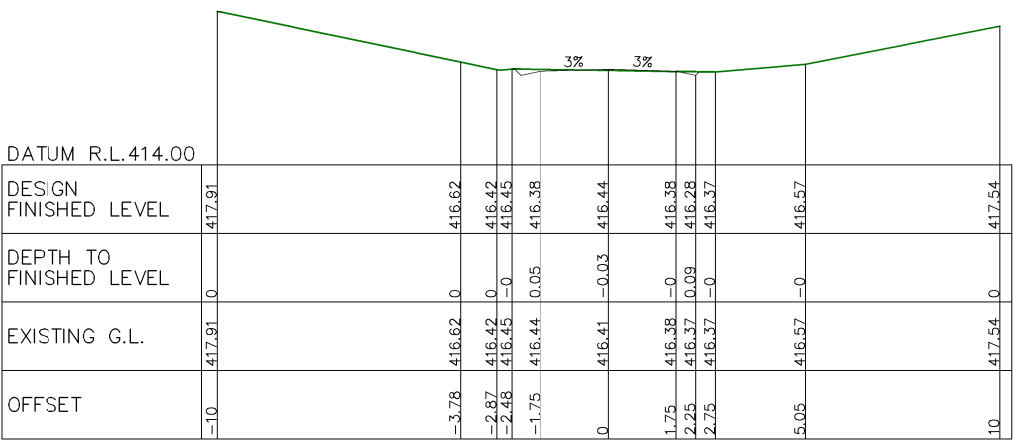
LONGSECTION A–AA Building Platform
A3 HORIZ SCALE 1 : 400
A3 VERT SCALE 1 : 400



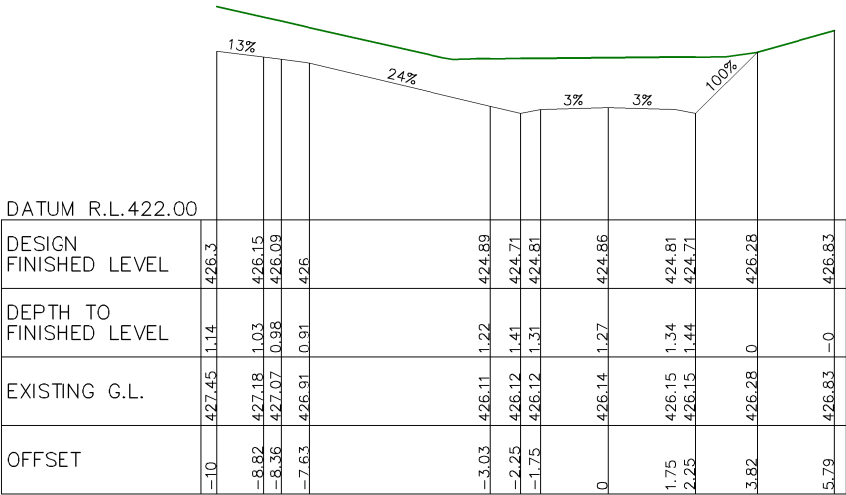
CH 60



CH 40



CH 20



CH 80

NOTES:

1. PAVEMENT DESIGN - 150mm COMPACTED DEPTH GAP 40.
2. EARTHWORKS TO BE IN ACCORDANCE WITH TNZ F/1, AND THE SPECIFICATIONS INCLUDING TESTING, HOWEVER CERTIFICATION OF FILL IS NOT REQUIRED.
3. DESIGN CBR = 7 - TO BE CONFIRMED AS WORK PROCEEDS.
4. BERMS AND BATTERS TO HAVE TOPSOIL AND GRASS - GRASS TO EXTEND UP TO THE SWALE EDGE.
5. SWALE TO BE CONSTRUCTED TO A DEPTH OF 200mm - RIP-RAP MATERIAL TO BE USED WHERE GRADES EXCEED 10%.

ATTACHMENT J

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM150607

Friday, 13 May 2016



+ PATERSON - LITTLES ROAD - Earthworks Location
REFERENCE : 2532 - SCALE 1:4000 @ A3 - 16 JULY 2015