



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	Apres Demail Limited
RM reference:	RM180436
Location:	Paddock Bay Farm, Buchanan Rise, West Wanaka
Proposal:	<p>To establish a residential building platform and relocate a building onto an approved building platform to be altered for use as a residential unit and a residential flat with associated earthworks, landscaping and provision of infrastructure services;</p> <p>To construct a residential unit without a residential building platform with associated earthworks, landscaping and provision of infrastructure services; and</p> <p>To undertake a subdivision to create a lot around an existing car parking area including a pedestrian easement in favour of QLDC to facilitate public access to the lake. Earthworks associated with the car parking area include 240m³ over an area of 790m².</p>
Type of Consent:	Subdivision and land use
Legal Description:	Lot 4-5, 7 Deposited Plan 302117 and Lot 5 Deposited Plan 26111 and Lot 1 Deposited Plan 27689 held in Computer Freehold Register 8373
Zoning:	Rural General (Operative District Plan) Rural (Proposed District Plan)
Activity Status:	Discretionary (Operative District Plan) Discretionary (Proposed District Plan)
Limited Notification:	8 August 2018
Commissioners:	Commissioners Jan Caunter and Jane Sinclair
Date:	5 February 2019
Decision:	CONSENT IS GRANTED IN PART

UNDER THE RESOURCE MANAGEMENT ACT 1991

IN THE MATTER OF an application by Apres Demain Limited to:

Establish a residential building platform and relocate a building onto the approved platform to be altered for use as a residential unit and a residential flat;

Construct a residential unit without a residential building platform; and

Undertake a subdivision

Council File: RM180436

DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL HEARING COMMISSIONERS J CAUNTER AND J SINCLAIR, APPOINTED PURSUANT TO SECTION 34A OF THE ACT

THE PROPOSAL

1. We have been given delegated authority by the Queenstown Lakes District Council ("the Council") under section 34A of the Resource Management Act 1991 ("the Act") to hear and determine the application by Apres Demain Limited ("the Applicant") and, if granted, to impose conditions of consent.
2. The Applicant seeks resource consent (as amended) to:
 - Establish a residential building platform and relocate a building onto the approved building platform to be altered for use as a residential unit and a residential flat, with associated earthworks, landscaping and provision of infrastructure services;
 - Construct a residential unit without a residential building platform with associated earthworks, landscaping and provision of infrastructure services; and
 - Undertake a subdivision to create a lot around an existing car parking area as well as the creation of a pedestrian easement in favour of QLDC to facilitate public access to the lake.
3. The Applicant's property is located at Paddock Bay Farm, West Wanaka, on Roy's Peninsula ("the site").
4. The first part of the application concerns the relocation and rebuilding of an existing farm shed which is intended to create farm manager's quarters involving a residential unit and a residential flat ("the Farm Manager's House"). This part of the development would be located on Lot 7 DP 302117. The building would be split into two self-contained units – a 3 bedroom unit for the farm manager and family, and one 2-bedroom unit for seasonal staff accommodation. The two units would be connected by a garage/ storage area for farm vehicles and equipment, and a carport. The height of the building to its roof apex would be 5.322m. The finished floor level would be raised above flood risk level to 283.5m above sea level, and the size of the building would be 344m². The external materials proposed are designed to mimic the existing shed's appearance as a farm

building and would include corrugated iron for the elevations and roof, in an iron sand colour and with low reflective glass. The residential building platform sought is 1000m². The total proposed earthworks volume¹ involves 185m³ over an earthworks area of 1580m². The Applicant has agreed that occupation of the Farm Manager's House should be limited to the farm manager and his or her family. No commercial guests would be permitted to use this residence.

5. The second part of the application concerns an application to construct a 4 bedroom residential dwelling without a residential building platform on Lot 5 DP 302117 ("the Hill House"). The Hill House would be located on the higher of the two lakeshore benches wrapping around the northwest side of the middle knoll on Paddock Farm, some 40m above lake level. The application as notified included a 1000m² residential building platform but the request for the residential building platform was withdrawn following the hearing as part of the Applicant's Reply. The proposed house size is 513.2m², with a maximum height of 3.3m. The internally accessed garage would be attached to the southern end of the building. The master bedroom would face to the north, separated from the remainder of the building by a hallway. West-facing windows would offer views over the lake and towards the Mt Aspiring National Park. Two bedrooms, a living area and kitchen would form the central hub of this residence. Significant planting mitigation is proposed to almost entirely screen the Hill House from view.
6. The approach to the proposed development of the Hill House site changed during the hearing. Through its Reply, the Applicant advised that, if approved, the Hill House would be developed in stages. According to the amended position described in the Applicant's Reply documents, Stage 1 would comprise preliminary earthworks to establish the access way to the Hill House and earthworks upon which Stage 1 planting would occur. This would involve 1210m³ of cut and 410m³ of fill, with a total volume of 2470m³. The maximum cut depth would be 3.1m and the maximum fill depth 1.1m. Provision would also be made for an access track from the new drive to the southern laydown area. Stage 1 planting would then be undertaken in accordance with the landscape plans. Prior to construction of the Hill House and any further site establishment or building platform earthworks, the Stage 1 Hill House planting would be established to the point where the Hill House itself would be reasonably difficult to see. The conditions lodged with the Applicant's Reply sought to define the term "reasonably difficult to see." The Applicant's Reply documents recorded that Stage 2 of the Hill House earthworks would comprise the balance of earthworks required to construct the house, being 1270m³ of cut and 440m³ of fill, with a total Stage 2 volume of 2440m³. The maximum cut would be 2.6m and the maximum fill 2.7m.
7. Within a period of no longer than 12 months after the occupation of the Hill House, the balance planting proposed to enhance wetlands and other areas of the site shown on the landscape plan would be completed, and access to the lake formalised.
8. The third part of the application concerns a subdivision, which is proposed to create a lot around an existing car parking area, with pedestrian access to facilitate public access to the lake ("the Subdivision"). A new lot of 800m² would be created (Lot 1) to provide for this. The 3m wide pedestrian easement would be created in favour of the Council. This new lot would be amalgamated with the larger lot that contains it, to prevent it being sold off individually. There is an existing informal anglers access to the lake and an adjacent car park adjoining Buchanan Rise. The subdivision application would formalise this access and parking area. A consent notice for this lot would prohibit any buildings

¹ Further information received from Applicant on earthwork calculations and plans, dated 25 January 2019

on the proposed car parking lot, in perpetuity. Earthworks² associated with the formation of the car parking area include 240m³ over an area of 790m².

9. The Hill House is proposed to be located on an Outstanding Natural Feature ("ONF"). The western boundary of the ONF is located along the base of the hill on which the Hill House is proposed to be located. The balance of the farm property is located within an Outstanding Natural Landscape ("ONL"). The ONF/ ONL boundary is not clearly identified on the Operative District Plan maps, but is shown clearly on the Proposed District Plan maps. There was no dispute between the experts as to the location of this boundary.
10. An existing and run down cottage, located at the foot of an ONF and being part of Lot 5 DP 302117, is proposed to be removed. However, the Applicant wishes to use the cottage and its outlying buildings as a laydown site and to screen and protect building materials for the duration of construction. Given the Hill House would not be able to be constructed until vegetative screening has achieved a certain height, the cottage buildings could be expected to remain on site for some time unless their immediate removal was required through any conditions of consent. The Applicant has confirmed that the cottage is not intended for residential use at any time.
11. The required water tanks would be located outside of any proposed residential building platform.
12. Environmental and ecological enhancement of the site is proposed. An assessment of the whole farm was undertaken and areas of potential were identified, based on existing diversity and conditions that could support restoration, the baseline of diversity to support enhancement, whether the areas had a relationship and scale commensurate to the proposal and whether management such as fencing was required.³
13. The Applicant has volunteered a number of conditions to mitigate the effects of the Hill House, including significant planting. An amended landscape plan and a planting plan were provided through the Applicant's Reply.

SITE DESCRIPTION AND LANDSCAPE CONTEXT

14. A description of the site and receiving environment within which the application sits was set out in the Applicant's AEE and was also described in the evidence lodged by both the Applicant and Submitters. We note that the descriptions generally accord with our impressions from our visits to the site and surrounding area. The following is a summary of the site description and receiving environment and a brief landscape context.
15. Paddock Bay Farm comprises about 200 hectares of land, which includes most of the river flats between Paddock Bay, Emerald Cove and Lake Wanaka in the Matukituki River mouth area, as well as a portion of Roy's Peninsula (about 7 hectares). Most of the farm comprises low-lying, post-glacial alluvial flats or deltaic fan deposits from the Matukituki River. The active river floodplain is to the north of the farm. The river currently flows around the north-west edge of the delta, away from the site. There is a levee along the north side of the farm. Parts of the river plain are swampy.
16. Roy's Peninsula is described in the application as:

² Further information received 25 January 2015 relating to earthworks calculations and plans.

³ Evidence of Ms Palmer, paragraph 23

“...an isolated narrow, glaciated, boomerang-shaped ridge of harder schist bedrock broadly orientated southwest-northeast. It is mostly surrounded by the water of Lake Wanaka.

The topography is rolling to hummocky with numerous steep rocky slopes and bluffs. The southern part of the peninsula has a veneer of old beaches from earlier higher post-glacial lakes, forming long relatively smooth benches of gravels overlying the bedrock.⁴

17. The site includes a large knoll on the western side of the peninsula. All of the property has been developed for farming purposes, with the river flats being divided into a series of paddocks cultivated and developed for pasture and fodder crops. The hill area has been sprayed to remove woody plants and is covered in pasture grass. There are small patches of coprosma and matagouri and bracken present on the property. The hillside bench on which it is proposed to locate the Hill House is free of any vegetation and trees and does not contain any knolls or rock features which could assist in screening the proposed Hill House.

18. Ms Steven's landscape report included the following description of the landscape context:

“This landscape is complex, distinctive and strongly impressive with very high visual amenity in my opinion. This is due to the contrasts in landform and landscape character, and between water and land. The form of Lake Wanaka and its bays is convoluted due to the infilling by the Matukituki River delta, creating strong visual interest and encouraging exploration and experience of the unique character of each bay. Paddock Bay, Emerald Cove and Parkins Bay are smaller more intimate bays more strongly enclosed by landform, compared to the Matukituki bay. The juxtaposition of the often deep blue waters of the lake with rock bluffs, mostly clad in broadleaf woodland and shrubland, is dramatic and highly memorable particularly in Emerald Cove and at the south west end of Roys Peninsula. The contrasts between the sheets of water; the flat green cultivated river plains with their fringes of willow and occasional Lombardy Poplar accents; the wide, flat grey gravel riverbed with its braided channels and thickets of clumpy green willow (yellow in autumn); and the lumpy roche moutonnee topography of Glendhu Bluff, Rocky Peak and Roys Peninsula with numerous bluffs and outcrops and mostly native woody vegetation cover or brown grassland also forms a strong visual image, with the addition of the impressive mountain backdrop all around. The view to the north and northeast from the Mt Aspiring – Wanaka Road when driving around Glendhu Bay and Glendhu Bluff is one of the most attractive views in the Wanaka area in my opinion.

Roys Peninsula itself is a distinctive feature due to its isolated nature and its narrow lumpy boomerang form. The southern half is distinguished by two large humpy knolls separated by a relatively long, low, smooth saddle, veneered with benched historic lake-shore gravels.⁵

19. In her evidence, Ms Steven described the common view of the site from Mt Aspiring Road and viewpoints on Glendhu Bluff as “arresting, with the particular arrangement of

⁴ Application Landscape Report page 4

⁵ Application Landscape Report pages 6-7

flat farmland, more rugged and roughly vegetated rocky hills, sheets of water, and mountain backdrop.”⁶

20. In his evidence, Mr Kruger described Roy’s Peninsula as:⁷

“a textbook example of a roche moutonnee – is a vulnerable landscape with significant geomorphological and natural values. It is highly expressive and legible as to the formative processes that led to it.”

21. Mr Kruger emphasised that Roy’s Peninsula is an element of the wider landscape. It was his opinion that the site itself is:⁸

“.....incohesive and is too small to be a landscape. The site is embedded within a landscape and consists of various land types and landscape units. None of these components are necessarily restricted to the site, as they may extend out into the wider landscape. A “landscape unit” almost by definition cannot be “a landscape”.”

22. The site is accessed off West Wanaka Road and continues along a formed private driveway where it intersects with Buchanan Rise. Buchanan Rise extends to the north of the site from West Wanaka Road and is unformed until it intersects the private driveway, near the middle of the site. The residential unit driveway will be extended.

23. Immediate neighbouring properties comprise the Brewer lifestyle property to the north and the partly productive Grant property to the east and south. Both properties contain an existing dwelling, the Grant house being particularly prominent in Paddock Bay. We were told that both the Brewer and Grant properties are committed to extensive restoration of native vegetation, as is the Just One Life Limited property further north.

24. Other more distant properties comprise the Kiesow and Marler properties, and the Hope and Gray properties. The Kiesow and Marler properties have been the subject of native restoration plantings. The Hope and Gray properties face towards the east and are much more open and visible in the landscape, with little planting.

NOTIFICATION AND SUBMISSIONS

25. The application was limited notified on 8 August 2018 with submissions closing on 5 September 2018. The summary of submissions in the Section 42A Report noted that submissions in opposition were received from David and Sally Brewer, Jason Hope, Just One Life Limited, Hil and Mario Kiesow and Seven J Trust. All submissions opposed the application. The full outline of the submissions was set out in the Section 42A Report. In summary, the following issues were raised in these submissions:

- The proposal fails to respect and respond to the sensitive nature of the ONF and will detract from the nature of the ONF. The scale and prominence of the proposed hill dwelling is not appropriate in the ONF;
- Concern about the ability for the development to be integrated into the landform;
- The dwelling design does not mimic traditional rural forms. It would result in undesirable reflection when viewed from other properties;
- The mitigation planting will not be established successfully and will not grow to

⁶ Evidence of Ms Steven paragraph 17

⁷ Evidence of Mr Kruger, section 3 on page 7

⁸ Evidence of Mr Kruger, paragraph 37

the required heights for screening purposes. The planting will be incongruous with the existing open character of the ONF;

- The proposal will exceed the capacity for the landscape to absorb change. Two dwellings would be located on the property instead of one and will be highly visible from public places;
- The remoteness of Paddock Bay will be reduced;
- The principles of section 6(b) of the Act would not be met;
- The proposal is contrary to the objectives and policies of the Operative and Proposed District Plans; and
- The proposal will have effects that are more than minor.

26. No written approvals were provided with the application. The AEE outlined the consultation that had occurred with neighbours on Roy's Peninsula prior to the application being lodged. This was also discussed in the Applicant's evidence and evidence for Just One Life Limited.

THE HEARING

27. A hearing was held in Wanaka on 27 and 28 November 2018. In attendance were:
- (a) The Applicant, represented by Mr Andrew Beatson (legal counsel), Mr Willy Sussman (Applicant's representative), Ms Anne Steven (landscape architect), Ms Dawn Palmer (ecologist) and Ms Jo Fyfe (planner);
 - (b) Just One Life Limited (submitter in opposition) represented by Mr Phil Page (legal counsel), Mr John May (director of Just One Life Limited), Mr Ralf Kruger (landscape architect) and Mr Graham Taylor (planner);
 - (c) Council's reporting staff and administrative support – Ms Erin Stagg (planner), Mr Ben Espie (landscape architect), Ms Lyn Overton (engineering) and Ms Charlotte Evans (hearing secretary).
28. We had the benefit of a section 42A report prepared by Ms Stagg. Based upon her assessment of the application, Ms Stagg recommended as follows:

"That subject to new or additional evidence being presented at the Hearing, the application be GRANTED pursuant to section 104 of the Resource Management Act 1991 (the RMA) for the following reasons:

1. It is considered that the adverse effects of the activity will be no more than minor for the following reasons:
 - The adverse effects of the proposed Hill House on the character and quality of the Outstanding Natural Feature have been sufficiently minimised and mitigated through the proposed landscaping, which will completely screen the proposed dwelling from view and is required to reach a height that will achieve this prior to the construction of the dwelling.
 - The adverse effects of the proposed farm worker's accommodation have been minimised and mitigated through relocating an existing farm building and repurposing for residential, as well as mitigation landscaping in and around the building.

- Adverse effects in relation to servicing, earthworks, access, subdivision and natural hazards are considered to be minor.
2. The proposal is consistent with the relevant objectives and policies of the District Plan for the following reasons:
 - The proposal is considered to be consistent with the District Wide, Rural, Transport and Subdivision objectives and policies of the Operative District Plan.
 - The proposal is considered to be consistent with the Strategic Directions, Landscape, Rural and Earthworks objectives and policies of Stages 1 and 2 of the Proposed District Plan.
 3. The proposal does promote the overall purpose of the RMA."

SITE VISIT

29. We undertook a site visit on 26 November 2018. This included a walkover of the two locations for the residential buildings, a drive along Buchanan Rise and a boat trip on Paddock Bay and along the eastern edge of Roy's Peninsula (this boat trip being organised through an independent company). Ms Stagg accompanied us on our site visit.

THE DISTRICT PLAN AND RESOURCE CONSENTS REQUIRED

30. The AEE, the Section 42A Report and some of the evidence identified the resource consents that were required. However, there was some disagreement between the planners on this, Mr Taylor considering the application should be considered a Discretionary activity under the Operative District Plan ("ODP") because a building platform for the Hill House had not yet been approved. Ms Stagg's report had stated the application should be assessed under the ODP as a Restricted Discretionary activity and considered the construction of the buildings required consent as a Controlled activity.
31. Ms Fyfe's AEE had recorded Discretionary consents being required under Rules 5.3.3.3(i)(a) and (b) of the ODP.
32. We have no evidence of a residential building platform having been approved for the Hill House or the Farm Manager's House, meaning the application must be assessed under Rule 5.3.3.3(i)(a) and 5.3.3.3(i)(b). We also record that the Applicant has now confirmed it does not wish to apply for a residential building platform for the Hill House. Discretionary consent will therefore be required.
33. For completeness, we set out below the consents that we consider are required under the ODP:

Land use consent:

- (i) A **controlled** activity resource consent pursuant to Rule 5.3.3.2(vii) for the construction of a 'residential flat', being the staff accommodation attached to the Farm Manager's House (relevant but the rule is inoperative under section 86F of the Act);
- (ii) A **restricted discretionary** resource consent pursuant to Rule 14.2.2.3(ii) as the proposal breaches Site Standard 14.2.4.2(iv) in relation to sight distances.

The access into the Farm Manager's House would not have the required sight distances. Council's discretion is limited to this matter.

- (iii) A **restricted discretionary** activity resource consent pursuant to Rule 22.3.2.3(a) as the proposal breaches site standard 22.3.3(i) and (ii)(a)(i) in relation to the volume of earthworks and the size of the cut for the accessway to the main dwelling. Council's discretion is limited to this matter.
- (iv) A **discretionary** consent for one building platform of not less than 70m² and not greater than 1000m², for the Farm Manager's House (the Hill House building platform having been withdrawn);
- (v) A **discretionary** activity resource consent pursuant to Rule 5.3.3.2(i)(a) for the construction of buildings and associated physical activities (roading, landscaping and earthworks) not located within an approved residential building platform. This applies to the two residential buildings proposed and the water tanks.
- (vi) A **discretionary** activity resource consent pursuant to Rule 19.2.1.2(i) in relation to the relocation of a building with Council's discretion limited to the external appearance of the building.

Subdivision consent:

- (vii) A **discretionary** activity resource consent for subdivision in a Rural zone pursuant to Rule 15.2.3.3(vi), which complies with all site and zone standards.

34. The AEE was dated 26 March 2018 and stated that there were no rules with immediate legal effect in any chapter of the Proposed District Plan. Ms Stagg's Section 42A Report referred us to the Decisions Version of Stage 1 of the Proposed District Plan (notified 5 May 2018, which we hereafter refer to in this decision as "Decisions Version Stage 1 PDP") meant resource consent was also required under this plan. Ms Fyfe listed these in her evidence. The resource consents required are as follows:

Land use consent:

- (i) A **discretionary** activity resource consent pursuant to Rule 21.4.10 for the proposed identification of building platforms of not less than 70m² and not greater than 1000m² (noting again that now only one residential building platform is applied for).
- (ii) A **discretionary** activity resource consent pursuant to Rule 21.4.11 for the proposed erection of buildings and associated physical activities.

Subdivision consent:

- (iii) A **discretionary** activity resource consent pursuant to Rule 27.5.11 for the proposed rural subdivision, which complies with all standards.

35. As the application was lodged prior to 5 May 2018, the activity status continues to be processed, considered and decided as an application for the type of activity that it was for, or was treated as being for, at the time the application was first lodged.

36. At the time of issuing this decision, the decisions on Stage 2 of the Proposed District Plan have not been released. Stage 2 was notified on 23 November 2017 and includes

some provisions relating to earthworks. Mr Kruger referred us to Stage 2 of the Proposed District Plan which includes a new earthworks limit of 10m³ on an ONF through Rule 25.5.2. This signals a new policy direction from the Council that earthworks on ONFs are now intended to be much more restrictive. We agree with Mr Kruger that this new direction is intended to take account of the integrity of the landform in question and the geomorphology. However, as there are no decisions on Stage 2, this rule has no legal effect at this time. We discuss policies for this rule later in our decision.

37. Overall, the application is to be considered as a **discretionary** activity.

RELEVANT STATUTORY PROVISIONS

38. This application must be considered in terms of Sections 104, 104B, 106, 108 and 220 of the Resource Management Act 1991 ("the" Act).
39. Subject to Part 2 of the Act, Section 104 sets out those matters to be considered by the consent authority when deciding a resource consent application. Considerations of relevance to this application are:

- a) *any actual and potential effects on the environment of allowing the activity; and*
- (b) *any relevant provisions of:*
 - (i) *a national environmental standard:*
 - (ii) *other regulations:*
 - (iii) *a national policy statement:*
 - (iv) *a New Zealand coastal policy statement:*
 - (v) *a regional policy statement or proposed regional policy statement:*
 - (vi) *a plan or proposed plan; and*
- (c) *any other matters the consent authority considers relevant and reasonably necessary to determine the application.*

40. Section 104B states:

"After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –

(a) May grant or refuse the application; and

(b) If it grants the application may impose conditions under section 108.

41. Section 106 of the Act provides that a consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to, or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made.
42. Sections 108 and 220 empower us to impose conditions on land use and subdivision consents.
43. We address Part 2 later in this decision.

RELEVANT PLAN PROVISIONS

The Operative District Plan

44. The relevant provisions of the Operative District Plan that require consideration can be found in Chapter 4 (District Wide), Chapter 5 (Rural), Chapter 14 (Transportation), Chapter 15 (Subdivision, Development and Financial Contributions) and Chapter 22 (Earthworks).

Proposed District Plan

45. The relevant provisions of the Proposed District Plan (Decisions Version Stage 1) that require consideration are Chapters 3 (Strategic Direction), 6 (Landscapes and Rural Character), 21 (Rural), 27 (Subdivision and Development), 28 (Natural Hazards) and 33 (Indigenous Vegetation).
46. Stage 2 of the Proposed District Plan includes provisions relating to earthworks and Chapter 25 is therefore relevant to our assessment, but carries significantly less weight as no decisions on Stage 2 have been notified.
47. Section 86[b](1) of the RMA states a rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified. An exemption to this is section 86[b](3) in which case a rule has immediate legal effect in certain circumstances including if the rule protects or relates to water, air or soil.

Operative Regional Policy Statement

48. The relevant objectives and policies are in Part 5 Land, Part 6 Water, Part 9 Built Environment and Part 11 Natural Hazards.

Proposed Regional Policy Statement

49. The Proposed Regional Policy Statement was notified on 23 May 2015 and decisions were notified on 1 October 2016. Appeals were lodged with the Environment Court, covering a wide range of topics. Consent orders have now been signed off by the Environment Court addressing those appeals and we have assessed this proposal against the consent order version of the proposed RPS where that is relevant. We understand two appeals are not yet resolved.
50. The relevant objectives and policies are found in Chapters 3, 4 and 5. These generally align with the Operative Regional Policy Statement.

NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT 2014 (UPDATED 2017)

51. The AEE referred to the NPS for Freshwater Management, which seeks to protect and manage water quality and quantity of New Zealand's freshwater. We agree that the application will not impact on freshwater qualities, provided adequate mitigation measures are in place for the duration of any earthworks and construction. We also agree that some of the waterways would benefit from the ecological restoration and enhancement proposed.

NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH ("NES")

52. The proposal involves a change of use of two parts of the site from production land to residential use. For the Applicant, Opus International Consultants Limited prepared a Preliminary Site Investigation which established that part of the site is on a Hazardous

Activities and Industries (HAIL) list but it is highly unlikely that there will be a risk to human health if the proposed development is undertaken in the locations sought. The proposal is therefore considered to be permitted pursuant to Clause 8(4) of the NES.

SUMMARY OF SUBMISSIONS AND EVIDENCE HEARD

53. Pre-circulated expert evidence was received from the Applicants and the submitter Just One Life Limited before the hearing. Both parties also presented lay evidence at the hearing, along with legal submissions. We received written summaries of evidence from the Applicant's experts at the hearing, which also responded to the evidence for Just One Life Limited. The experts for Just One Life Limited orally summarised their written evidence and responded to the Applicant's case.
54. The section below is a summary only of the evidence that we heard. The detail of the expert evidence in particular is addressed below in the assessment of environmental effects and in our section addressing the relevant planning provisions.

Applicant

- **Mr Beatson** presented opening legal submissions addressing the proposal and the consents required. He helpfully addressed the application of Part 2 in light of the Court of Appeal's decision in *RJ Davidson Family Trust v Marlborough District Council*⁹. Mr Beatson submitted that the removal of the old cottage and its outbuildings and the relocation of the 6-bay barn would improve the visual amenity of the site and that this had a mitigating effect "...because the risk of adverse cumulative effects will be reduced and inappropriate development within the ONL will be removed."¹⁰ Referencing Ms Steven's evidence, he submitted the views of Roy's Peninsula from Buchanan Rise and Paddock Bay and its margins would "improve the effect on the landscape attribute of openness."¹¹ He submitted "there could arguably be a slight reduction of openness by adding another building on to the landform"¹², a point to which we shall return in our discussion of landscape effects.
- Mr Beatson pointed to the planting proposed to be undertaken to mitigate visual effects and the ecological enhancement as positive effects. The Hill House would not be visible from any neighbouring properties due to the screening proposed. He explained that the Farm Manager's House location was chosen because it was marginally elevated and less prone to flood risk. Mr Beatson addressed the Section 42A Report, outlined the changes to the proposed conditions and responded to the submissions lodged in opposition and the evidence of Just One Life Limited. In his discussion of the relevant planning provisions, Mr Beatson acknowledged that "the provisions set a very high bar to development so that consent should only be granted in exceptional cases"¹³ and referred us to relevant case law. Finally, Mr Beatson addressed the weight to be given to the Proposed District Plan in our assessment.
- **Mr Sussman** gave evidence as a legal representative for the Applicant company and its shareholder, Ms Mauvernay. He confirmed Ms Mauvernay's desire for privacy, and noted that conservation potential was important to the Ms

⁹ [2018] NZCA 316

¹⁰ Opening legal submissions for Applicant, paragraph 30

¹¹ Opening legal submissions for Applicant, paragraph 30

¹² Opening legal submissions for the Applicant, paragraph 37

¹³ Opening legal submissions for the Applicant, paragraph 60

Mauvernay when she was considering purchasing the property. He responded to Mr May's evidence on consultation, noting that Mr May and other neighbours were consulted about the development proposal once some work had been undertaken to come up with a design that satisfied (in the Applicant's view) the ONF and ONL challenges. Mr Sussman told us that the Applicant sought constructive input from Mr May, given his extensive restoration work on Roy's Peninsula. Mr Sussman was critical of Mr May's evidence and described Mr May's interaction with the Applicant as "a thin veneer masking an objective that is anything but supportive."¹⁴

- **Ms Palmer** gave ecological evidence and set out in detail the ecological restoration proposed for the site. She noted the site had considerable potential for improved biodiversity and that the proposal was an important and significant ecological enhancement opportunity. The mitigation planting would infill a portion of the gap between the Brewer and Grant plantings.
- **Ms Steven** presented comprehensive landscape evidence and produced a large number of landscape attachments. The evidence drew from Ms Steven's detailed landscape report prepared in support of the application, in which she set out the landscape context and classification and undertook her assessment of the proposal against the matters set out in the district plans. The landscape assessment included references to the other developments that have been undertaken on Roy's Peninsula. Ms Steven's Reply evidence responded in detail to the evidence of Mr Kruger.
- **Ms Fyfe** presented planning evidence, outlining her understanding of the relevant plan provisions (particularly the "exceptionality" policy) and addressing the conditions as amended. She responded in some detail to the evidence lodged by Just One Life Limited.

Submitter (Just One Life Limited)

- **Mr Page** presented legal submissions and provided us with a case book of relevant legal authorities. He emphasised that precedent effects and plan integrity were at the heart of his client's concerns, and that this application did not provide anything "exceptional" and contravened relevant plan policy. In Mr Page's words, the Applicant's formula was "House + green screen in front = "reasonably difficult to see" therefore consent may be granted."¹⁵
- Mr Page also addressed what he called secondary subsidiary issues, including that the Hill House site has been chosen for views but will have its views screened out entirely, and that the application relies on vulnerable degradation and the outcome sought could not be secured. Mr Page also raised a concern about the lack of public notification of the application, the limited notification decision arrived at by the Council on the basis that the effects were no more than minor. Mr Page submitted that the consent could be declined under section 104(3) of the Act on jurisdictional grounds. However, should we decide there was a jurisdictional problem, his client did not want our decision to decline predicated solely on jurisdictional grounds, but rather sought that it be made on substantive grounds.

¹⁴ Evidence of Mr Sussman, paragraph 14(c)

¹⁵ Legal submissions for Just One Life Limited, paragraph 3

- Mr Page criticised the lack of consideration of alternatives by the Applicant, noting that this requirement particularly arose in this case from the District Plan provisions and the relevant Part 2 issues (section 6(b) in particular). He regarded the application as deficient in this respect. Mr Page drew our attention to the recent *Willowridge* decision of the Environment Court which discussed vegetation screening.¹⁶ He submitted there was a risk this application was a “Trojan Horse”, establishing a baseline consented environment with a view to seeking changes to the proposal that would enable the views to be taken advantage of. Finally, Mr Page noted that his client did not oppose the Farm Manager’s House, but did not want to see this used for visitor accommodation. It should be conditioned as such. The Applicant had her own choice to make – to use the Farm Manager’s House site for herself, or for her farm manager?
- In his additional oral submissions, Mr Page submitted there was some tension between ecological values and landscape values in the District Plans but that the relevant policies were the same and weighting of the plans was not therefore relevant. He considered the Proposed District plan should have more weight even if is under appeal as it represents the Council’s up to date view of what the relevant policies should be. He helpfully took us through several policies, which we discuss later in detail in this decision. Mr Page did not consider the barn removal should be considered as a positive effect as it was currently located in the road reserve and the Council could remove it at any time.
- **Mr May** presented both written and oral evidence. He told us he had bought the Just One Life Limited land in 1999 and added two adjacent lots in 2000. The development of his own site was the subject of Environment Court litigation. He has undertaken ecological restoration on his land and has also developed Emerald Bluffs (7 house sites) nearby. Mr May has implemented an extensive re-vegetation programme, establishing about 45,000 native plants on his property at Roy’s Peninsula and about 120,000 at Emerald Bluffs. Mr May has established a successful business, Matukituki Natives, which is a native nursery based just off West Wanaka Road.
- Mr May provided us with his understanding of the Roy’s Peninsula planning history and explained why he considered this site to be different to the other sites already developed on Roy’s Peninsula. In this regard, he noted that his own house site and those developed by Mr Brewer and Matukituki Trust were not visible from a public road and the landform on those parts of Roy’s Peninsula was completely different to the Applicant’s land. There was vegetation existing on his site when he sought resource consent for his house, as there was on the properties developed by Mr Brewer and Matukituki Trust. None of these properties required extensive screening. Mr May mentioned that both of those property owners had previously sought to build in more open locations but had not succeeded and had accepted that there were better options on their properties that enabled their homes to be absorbed well into the landscape. In Mr May’s view, the Applicant’s proposal did not do that.
- Given his own experience planting in this environment, Mr May considered the planting proposed by the Applicant would be very difficult to establish due to site conditions. In his opinion, the lack of growth visible on Roy’s Peninsula now is illustrative of those site conditions. The west facing sites are the most vulnerable

¹⁶ *Willowridge Development Limited v Queenstown Lakes District Council* [2018] NZEnvC 83. Relevant case law will be discussed later in this decision.

in that regard. Soil temperature was important and the area experienced dry summers with little soil existing over bare rock. Any planting should be self-sustaining. He described the standard of planting required for the Applicant's site as "platinum".

- Mr May was concerned the Applicant's proposal would adversely affect his enjoyment of Roy's Peninsula's landscape and visual amenity values, which he enjoyed as he drove in and out of his own property. He considered the biggest impact would be on his drive along Buchanan Rise towards Roy's Peninsula because of the elevated position of the Hill House on the open slope. Mr May considered the proposed location of the Hill House as "on one of the most prominent parts of Roy's Peninsula (ONF) and is perhaps the area that has the least capacity to absorb the new residence."¹⁷ Mr May otherwise discussed the consultation that had occurred with the Applicant, which differed to the Applicant's evidence on the same topic.
- **Mr Kruger** presented comprehensive and detailed landscape evidence. He did not differ markedly from Ms Steven on the description of the landscape context but drew very different expert opinions on landscape effects, particularly regarding the Hill House. He was critical of the lack of a site selection process, noting that the adverse effects of the Hill House could have been avoided if a different house site on Paddock Farm had been chosen.
- **Mr Taylor** presented planning evidence. He outlined the district plan rules that he considered applied, noting that both the Farm Manager's House and the Hill House should be assessed as discretionary activities under the relevant district plans. Mr Taylor's evidence also addressed the "exceptionality" test in the relevant plan policies, his interpretation differing to that of Ms Fyfe and Ms Stagg.

Council Officers

- **Ms Overton's** engineering report included specific assessment of the access arrangements, servicing and hazards and recommended a number of conditions. In her oral report at the hearing, she explained why her earthworks volumes differed to those of Paterson Pitts, having included the earthworks for the carpark in the area of the subdivision.
- **Mr Espie's** first landscape report accepted Ms Steven's methodology but raised a number of points of disagreement on the degree of effects on views and visual amenity from various locations and the effects on views and visual amenity of erecting a dwelling within the residential building platform that could be different to the design proposed and forming part of any consent granted. On the last point, he noted that the landscape treatment proposed was formulated to mitigate a specific design. A second report followed on 19 September 2018 which provided Ms Stagg with an expert response on why he had not specifically addressed landscape effects, his scale of effects and his understating of the term "openness" and "open space". In his oral report at the hearing, Mr Espie responded to the landscape evidence from both the Applicant and Just One Life Limited.
- **Ms Stagg** spoke to her written report and clarified some matters. She noted that an earthworks consent was not required for the subdivision. Ms Stagg also gave us her expert view on the interpretation of the "exceptionality" policy and

¹⁷ Evidence of Mr May paragraph 2.7

addressed the latest set of conditions provided by the Applicant. We outlined above Ms Stagg's recommendations, which did not change following the evidence.

APPLICANT'S AMENDED PLANS AND CONDITIONS

55. Given the changes being proposed to conditions throughout the hearing, we took a two-step approach to the Applicant's Reply. In questioning of the Applicant's counsel and witnesses, we had expressed some concern about the Applicant's approach to the Hill House design, which was not fixed and was signalled in the documents as possibly being subject to amendment in the future. Given the planting proposed related in part to the final house design, we did not consider this open-ended and flexible approach to provide certainty of the final outcome. We therefore invited the Applicant to clarify which house design it intended to proceed with for the Hill House and to table an amended landscaping plan and a planting plan. This information was provided to us, submitters and the Council on 7 December 2018. Just One Life Limited and the Council were invited to respond to this in writing and did so on 12 December 2018. We received the Applicant's right of reply on 14 and 17 December 2018.
56. The Applicant's 7 December 2018 documents noted several changes to the conditions, which removed the residential building platform around the Hill House, staged the earthworks for the Hill House, introduced a construction management plan, provided detailed planting plans for each area, introduced a condition requiring the maintenance of planting in perpetuity and sought to define the words "reasonably difficult to see" used in relevant plan policies.
57. Mr Page's Memorandum of 12 December 2018 noted that Just One Life Limited did not resile from the position stated by it at the hearing. He noted there was nothing exceptional about this proposal in the sense of the location's ability to absorb change or in its revegetation proposals. He submitted that the conditions created a tension between the interests of the consent holder and the public interest in the integrity of the ONF, the conditions failing to deliver certainty and enforceability. There was nothing in the conditions to address the risk of the screening vegetation failing. He otherwise provided specific comment on the 7 December 2018 conditions tabled by the Applicant, expressing some concern about the attempted definition of "reasonably difficult to see" and noting that Mr Espie's landscape assessment had been based on invisibility after 10 years, not 10% of the Hill House proposal not being screened at all.
58. Through the Council's 12 December 2018 comments, Mr Espie expressed general agreement with Ms Steven but noted that he did not consider that "granting consent with mitigation measures that prevent all views" was good planning, nor was it reliable. He sought some assurance that views to the north could be maintained, while achieving the desired degree of screening, and suggested the possibility of the northern viewshafts being marked on plans so that future monitoring personnel and the landowner would know where the screening should be and what the views should be. Ms Stagg provided feedback on the 7 December 2018 conditions tabled by the Applicant.

APPLICANT'S RIGHT OF REPLY

59. In his closing submissions dated 14 December 2018, Mr Beatson outlined the key changes made by the Applicant in response to matters raised at the hearing. A residential building platform was no longer sought for the Hill House and consent was instead sought for the design as presented via final plans. Any changes to that design would be addressed through the usual section 127 RMA process. A draft construction management plan was prepared in response to concerns raised about the possible

difficulty in establishing a final platform for the Hill House and the construction of the house, both of which had to occur without damaging the mitigation planting. Updated landscaping and planting plans were lodged. Mr Beatson submitted the planting had been:¹⁸

“...very carefully designed to enable views of mountains and in some views, part of the lake to be achieved to the North and Northwest in a way that will not create undue adverse effects (as described by Mr Espie) as the building is not visible from this direction. Plants have been chosen for their natural mature heights so there should be very little need, if any, for trimming.”

60. Mr Beatson pointed to the AEE as stating that consent would be required for a maximum 3m depth of excavation but noted the AEE did not explicitly say this applied to the cut behind the Hill House, instead inferring the cut applied to the earthworks for the driveway. He confirmed the reference in the AEE should have included the cut at the back of the house as well and that no additional consent was required.
61. The staging of earthworks (as amended) was explained and is set out earlier in our decision.
62. Mr Beatson confirmed that in light of Mr Page’s concerns about the term “reasonably difficult to see”, the Applicant would be happy to leave the assessment of this to be undertaken on a qualitative basis. That option was included in the Applicant’s final conditions.
63. Mr Beatson’s submissions addressed key policy questions that we had explored throughout the hearing, particularly the interpretation of plan policy addressing “exceptionality”.
64. Mr Beatson submitted that section 3 of the Act did not exclude the possibility of “cumulative positive effects” referred to by Ms Steven in her evidence and that the range of positive effects here should all be taken into account. He noted that planting is a permitted activity in this zone and that the extent to which the ecological enhancement would reduce open character of the landscape should therefore be put aside. In his submission, we should assess the effects of the Hill House as it would be in 10 years once the planting was established. In Mr Beatson’s words:¹⁹

“In other words you should take into account the applicants [sic] ability to change the open environment by indigenous planting as a permitted activity, in a way similar to that being carried out or proposed to be carried out on the Brewer, JOLL and Kiesow properties, and also Emerald Bluffs to some degree.

Indeed our suggested approach is not to look at the landscape as it is now but to consider it as it will look in 10 years’ time and to say that you should assess the effects of the Hill House in that context. The conditions require this of the applicant, so it is appropriate for you to assess the effects in that way.”

65. We comment on this novel submission later in our decision.
66. In response to evidence and questioning concerning whether the Applicant would offer a no further subdivision covenant, Mr Beatson advised that the Applicant was willing to offer this but only if a significant proportion of other owners of sites on Roy’s Peninsula

¹⁸ Closing legal submissions for Applicant, paragraph 19

¹⁹ Closing legal submissions for Applicant, paragraphs 75 and 76

were also willing to do so. If they did not reciprocate, he submitted it was unreasonable for the Applicant to have to provide this covenant.

67. On other matters, Mr Beatson submitted:²⁰

- (i) The removal of the Hill House residential building platform addressed the Trojan Horse argument raised by Mr Page;
- (ii) The Applicant accepted the argument put forward by Just One Life Limited that the lapse date could be split into two. The Farm Manager's House would have a lapse date of 5 years and the Hill House 15 years;
- (iii) The intent of the planting plan for the Hill House was to ensure the Hill House would be reasonably difficult to see, that it would link in with plantings on each side of the proposed Hill House site (Grant and Brewer properties), that it would soften the "hard and unnatural line of demarcation" between the Grant and Hill House sites and that it would afford a high degree of amenity to the Hill House occupants.

68. We requested further information from the Applicant on the earthworks proposed to be undertaken for the Farm Manager's House and received this information on 25 January 2019.

SECTIONS 95 AND 104(3) – NOTIFICATION and JURISDICTION

69. In regard to Mr Page's submission concerning notification and jurisdiction to hear and determine this application, we do not propose to address those matters any further given we have reached a decision to decline the Hill House.

PERMITTED BASELINE, EXISTING ENVIRONMENT AND RECEIVING ENVIRONMENT

70. Under section 104(2) of the Act, we have the discretion to take into account the permitted baseline.

71. Permitted activities in the Rural General zone (ODP) are not listed in the Plan itself. The permitted activity status arises if the activity is not listed under another activity status. The permitted activities are limited to:

- Farming activities
- Viticulture activities
- Horticulture activities;
- Earthworks 1000m³ within one consecutive 12 month period complying with the relevant site standards;
- The planting of vegetation.

72. In the Rural Zone (Decisions Version Stage 1 PDP) permitted activities include:

- Farming activities;
- Construction of or addition to farm buildings that comply with specified standards;

²⁰ Closing legal submissions for Applicant, paragraph 111

- Factory farming;
 - One residential unit within any building platform approved by resource consent.
73. Unlike the ODP, Decisions Version Stage 1 lists all permitted activities in the zone. The planting of vegetation is not listed as an activity in its own right, nor is it listed as a permitted activity.
74. There was no debate between the witnesses that the establishment of the proposed screen planting could be undertaken as of right under the ODP. However, we note that 5.4.2.2(1) of the ODP includes a specific planting provision relating to ONL and ONF assessment matters. When considering development in these areas, existing vegetation planted after 28 September 2002 or which is self-seeded and less than 1m in height and which obstructs or substantially interferes with views of the landscape (in which the development is set), from roads or other public places shall not be considered beneficial or part of the permitted baseline.
75. The existing environment includes the existing farm cottage, located at the bottom of the hill. This is currently unoccupied and in a state of disrepair. The existing environment also includes the farm shed, which is located within the Buchanan Road reserve.
76. The receiving environment was described earlier in our decision under Site Description and is addressed in the AEE and evidence.

RELEVANT CASE LAW

77. Counsel for the Applicant and Just One Life Limited drew our attention to a number of cases that address previous development proposals in this part of the District, and also one recent proposal to the east of Wanaka. Of particular interest to us were two matters - the Court's approach to the use of vegetation for screening purposes on a site with expansive views, and any distinguishing features of the development of other sites in the vicinity from the Applicant's site.
78. In *Just One Life Limited v Queenstown Lakes District Council*²¹, the applicant sought consent for a residence on land to the north of the Applicant's site here. The Council refused consent on a number of grounds, primarily directed at landscape protection. Through the appeal, the Court granted consent to the proposal. In doing so, it noted that Roy's Peninsula was an ONF within the meaning of section 6(b) of the Act, that being decided as a matter of fact in Decision C129/01.
79. The Court described the five main ecosystems on Roy's Peninsula at that time, noting that the peninsula had potential values for biodiversity partly because of the management regime proposed by Just One Life Limited and partly because of the peninsula's shape, being almost an island located close to Mou Tapu.²² The Court expressed some concern about the mitigation planting proposed by the applicant, given it had suggested planting kanuka and native beech, stating:²³

“We consider it is not good practice to place beeches or kanukas in front of significant or handsome views so that a subsequent owner would be tempted to cut them down, or, worse, top them. We consider the proposed mound should be planted in other, shrub, rather than tree species. Nor do we see any reason for JOLL to confine itself to planting beeches on the western sides of the buildings

²¹ *Just One Life Limited v Queenstown Lakes District Council* (C163/2001)

²² At paragraph [12]

²³ At paragraphs [24] and [25]

when good landscape design might prefer other species such as kowhai, cabbage trees, or southern rata all of which grow in the ecological district.

We accept that the residence will slightly reduce the naturalness of the site – and, since Roy’s Peninsula is an outstanding natural feature, that is an important issue. However we have to offset that adverse effect with some positive effects. JOLL is volunteering that all of the JOLL land (amounting to about 80ha) should be subject to a no-subdivision covenant, and that the land should be managed so as to restore a more indigenous pattern.”

80. The Just One Life site was described as “moderately prominent”. In its discussion of Rule 5.4.1.2(2) and the need for assessment matters to be “stringently applied”, the Court accepted planning evidence that this did not rely on the dictionary meaning of “stringent”, leaving no loophole in discretion, and that as a discretionary activity, there must be some room for discretion. Importantly, the Court stated:²⁴

“The point of the rule in our view is to show that the discretion is a difficult one to exercise in favour of an application bearing in mind that the application relates to (in this case) an outstanding natural feature.”

81. At paragraph 43, the Court discussed the meaning of “open character” and referred back to the decision in *Wakatipu Environmental Society Inc v Queenstown Lakes District Council*, where this issue was discussed in some detail. There, the Court said:²⁵

“Of course in relation to section 6(b) landscapes which are outstanding simply because they are open, there is little difficulty in establishing need for protection.

...

We consider that the protection of open character of landscapes should be limited to outstanding natural landscapes and features (and rural scenic roads).”

82. The Court had received in evidence two photosimulations to assist in assessing visibility, particularly from the lake. It noted that the plantings proposed were “crucial to achieving the effect in the second photosimulation that the plantings are made and nurtured.”²⁶ It again expressed concern about the species proposed, suggesting that species that would grow to over 10 metres high was:²⁷

“...a short-term solution which will cause problems later. As we suggested earlier, when residents of the house wish to retain their disappearing sun and views they will be tempted to top or remove the trees.”

83. The Court worked its way through the relevant assessment matters and decided that consent could be granted. In its discussion of precedent, it stated:²⁸

“Any house-site anywhere on Roy’s Peninsula will need to be assessed on the particular qualities of the site and its surrounds taking into account (inter alia) and being satisfied as to all the assessment matters in Rule 5.4.2.2 of Part 5 of the revised plan.”

²⁴ At paragraph [38]

²⁵ *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* (C180/99) at paragraphs 153-154;

²⁶ *Just One Life Limited*, supra, at paragraph [55]

²⁷ At paragraph [55]

²⁸ At paragraph [74]

84. *Matukituki Trust*²⁹ involved a second application to place a residence on a site on the northern side of Roy's Peninsula. The first application failed, in part because of its sensitive location higher in the environment. This second application proposed a residence in a "saddle site", described by the Court as "in a shallow basin or saddle between two points... slightly set back from the northern face of Roy's Peninsula."³⁰ The site had rough pasture with patches of bracken and matagouri regenerating across the site. There were very few trees on the central and elevated parts of the site. Some pockets of kanuka were present on the steeper slopes with other shrubby species occasionally present. Native shrubs, ferns and herbs on rocky outcrops existed along the shoreline and amongst the rocky terrain on the peninsula slopes.
85. The residence proposed on that site was a single storey dwelling of 538m² in area excluding the garage. Its maximum building height was 3.6m. Farm grazing was to cease, enabling the proposed ecological restoration a better chance of success. The Court had the benefit of high resolution photographs to illustrate what the development would look like from predetermined viewpoints. The Court carefully worked its way through the assessment matters in the Operative District Plan, noting it was not necessary to satisfy all of the assessment matters and they were not individually determinative. But in covering off that assessment, the Court noted that it was important to follow the words of the assessment criteria and to not introduce new words.
86. In that case, the Court was satisfied that the ecological enhancement proposed was a relevant and substantial positive effect. The proposal resulted in only a minor reduction in the openness of the landscape. The shallow basin in which the residence was to be located was one of the factors weighing in favour of the proposal, as was the ceasing of farming on the property and the proposed consent conditions.
87. Mr Page drew our attention to the relatively recent case of *Willowridge*,³¹ which involved a proposal to subdivide 118 hectares of rural land above the Clutha River north of Luggate into 7 allotments, each with a building platform for a house. All building platforms sought were 1000m², with lot sizes ranging from 1.21 ha to 98.41 ha (the balance lot). The proposal taken to the Council at first instance had been for 13 lots.
88. The land in question comprised two terraces separated by a steep scarp. The lower terrace was roughly on the same level as the nearby public road, and was covered in wilding pines, kanuka and other regeneration, with some clearings of grass and tracks. The upper terrace contained a quarry at the southern end, a pine plantation, some vineyard structures and vines, weeds and some gravel bunding.
89. The landscape witnesses in *Willowridge* agreed that the upper terrace was part of a 'big sky' landscape, being at one end of a large uneven terrace on one side of the Clutha River. There was no debate that the lower terrace was part of an ONF and the upper terrace was part of a Visual Amenity Landscape.
90. In considering visual effects, the Court considered that little weight should be given to the screening effect of vegetation on some lots because:³²

“... there is no confidence that the vegetation would not be removed or altered for two reasons. First, the Council's wilding policy suggests that at least the conifers

²⁹ *Matukituki Trust v Queenstown Lakes District Council* (C113/2009)

³⁰ At page 8

³¹ *Willowridge Developments Limited v Queenstown Lakes District Council* [2018] NZEnvC 83

³² At paragraph [58]

may be removed. Second, placing screening vegetation in front of views is always a risky endeavour: there are too many temptations for accidents to happen.”

91. It is the second point that is the most relevant to this application, given the extensive mitigation planting proposed, and the resulting removal of wide and open views to any future occupants of the Hill House.
92. The Court noted that open space was defined in the ODP as “any land or space which is not substantially occupied by buildings and which provides benefits to the general public as an area of visual, cultural, educational or recreational amenity values.” It is the basis of its own special zone – the Open Space Zone. The distinction between open space and open character was understood by the Court to generally be “that the former describes areas free of buildings, whereas the latter is a subset of the former, and refers to a lack of trees in order to describe grasslands/ pasture and perhaps grey shrubland too.”³³
93. In considering the first part of the first landscape assessment matter under Rule 5.4.2.2.3(a) of the ODP, the Court noted that the test was not whether there would be a level of adverse effect on the landscape’s natural and pastoral character, but rather whether the proposal would compromise the open character of the adjacent ONF. The test did not simply relate to the effect of houses on the lower terrace, but to the wider landscape.³⁴
94. The Court specifically referred to the ODP’s practical application of the “asymmetry principle – where the ONL/ONF is a lake or river development only occurs on one side of the landscape or feature.”³⁵ Page 5-28 of the ODP includes reference to the “vicinity or locality” to be assessed as generally being 1.1 km in either direction of the site but it also states that it may be greater “in some of the sweeping landscapes of the upper Wakatipu and upper Clutha.” In *Willowridge*, the Court found that some of the lots would visually compromise the terrace edge from various viewpoints and declined that part of the application.
95. The Court addressed the exceptionality policy and identified two factors which differentiated the Willowridge proposal (as approved) from most of the ONF of the Clutha Valley – the presence of a developed site nearby and the location of the site adjacent to a public road but on the landward (not riverside) side of the road.³⁶ Its assessment of exceptionality worked through each of the relevant landscape assessment matters, test by test. Location was clearly important.
96. In putting forward its Hill House proposal, the Applicant here has made many references to the existing housing development on Roy’s Peninsula and the history of those consents, and others, in particular the house locations and the use of screening to mitigate their visual prominence. Ms Steven noted that the approach to the Hill House location and design was consistent with the approach taken by Just One Life Limited and the Brewers when they applied for their dwelling consents, and quoted an extract from the Commissioners’ decision in Brewer, which noted that the residence in that case was located on a moderately prominent hill and had been tucked into the hill.³⁷

³³ At paragraph [84]

³⁴ At paragraphs [85] and [86]

³⁵ At paragraph [78]

³⁶ At paragraph [127]

³⁷ Evidence of Ms Steven, paragraph 35

97. Much of the application and the Applicant's evidence repeated a general theme that if others could develop their sites (no matter the site and landscape differences), this Applicant should be able to do so too (albeit with two residences proposed). Our reading of the Court decisions and our site visit confirmed that the Just One Life Limited and Brewer sites are very different to the Applicant's site. They are much less prominent in the public view because of their location. Both house sites were able to use the existing topography to assist in mitigation, as could the Matukituki Trust house site. The proposed Hill House cannot do that, as it is currently open pasture land with no natural features to assist in screening the dwelling. The same point was made in evidence from Mr May and Mr Kruger.

APPEALS ON DECISIONS VERSION STAGE 1 PROPOSED DISTRICT PLAN AND THE QUESTION OF WEIGHT

98. We note that the Applicant's general approach to many of the Decisions Version Stage 1 PDP provisions was rather dismissive because they were "under appeal" and we should therefore have much less regard to them. For example, Ms Steven told us that *"several appellants are seeking that proposed Policy 6.3.16 relating to protecting open character in ONLs is deleted, including the Upper Clutha Environmental Society."*³⁸ The intent of this statement appeared to be that even the most conservative of the appellants did not want to see open character protected.
99. It seems Ms Steven (and the Applicant generally) had simply referred to the appeals version of Stage 1 PDP, or the summary of the appeals, without taking the time to check the content of the appeal and the relief that is actually sought. The Upper Clutha Environmental Society appeal does not in fact seek the deletion of Policy 6.3.16. It does the opposite. It challenges Decisions Version Stage 1 PDP as not adequately recognising and providing for the matters in section 6 of the Act related to ONLs and ONFs. The appeal states that Decisions Version Stage 1 PDP does not recognise the ODP provisions as they were intended to be rolled over into the PDP and that the ODP provisions are complete, consistent and certain in their meaning. The Society's amended version of Chapter 6 of the PDP attached to its appeal talks about avoidance of subdivision and development in ONLs and on ONFs. It includes the following wording in the amended policy that it seeks be included in the PDP:³⁹
- "To maintain the openness of those Outstanding Natural Landscapes and Features which have open space and/ or open character at present."
100. While other appeals may seek the deletion of Policy 6.3.16 as it currently stands, Upper Clutha Environmental Society does not. It seeks a stronger stance and better protection of ONLs and ONFs. The matters for determination by the Court therefore covers both ends of the spectrum.
101. The weight to be given to Decisions Version Stage 1 PDP was not entirely agreed. Mr Beatson submitted that both plans were relevant but that the PDP was not "in a state" that it should be given substantial or overriding weight, noting it was subject to a number of appeals.⁴⁰ Ms Fyfe supported that position.⁴¹

³⁸ Reply Evidence of Ms Steven, paragraph 18

³⁹ Appeal by Upper Clutha Environmental Society, amended Policy 6.3.17(b)

⁴⁰ Opening legal submissions for Applicant, paragraph 79

⁴¹ Evidence of Ms Fyfe, paragraph 73

102. Mr Page submitted the relevant policies were the same in both the ODP and the PDP and weighting was not therefore relevant. He also said that the PDP should have more weight as, even under appeal, it represented the Council's view of what its policies should be. We agree with his first point. The overlap between the key landscape policies in particular in both the ODP and PDP is such that even if the proposal failed on the PDP provisions and these were to be given less weight, the proposal would not be consistent with the ODP provisions. We accept Mr Page's point that the PDP represents the Council's latest policy thinking, but given the closeness of the policy framework in both the ODP and PDP, we need take this no further.
103. Mr Taylor's evidence was that given the primacy and directive nature of the policy in Decisions Version Stage 1 PDP and relevant case law, a high weighting of that plan's Strategic Direction should apply.
104. Ms Stagg was of the opinion that as her conclusions reached in her assessment was the same under both plans, no weighting was required.⁴²
105. We have reached the view that no weighting is required. Like Ms Stagg, our assessment is the same or similar under both plans. Many of the objectives and policies on Decisions Version Stage 1 PDP stem from the ODP in any event, as we discuss later in our decision.

ASSESSMENT OF ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

A LANDSCAPE EFFECTS

Operative District Plan

106. The landscape architects agreed that the site of the proposed Hill House is located on an Outstanding Natural Feature (ONF) and the site of the proposed Farm Managers House is located in an Outstanding Natural Landscape (ONL). They and the planners agreed that the relevant assessment matters are:
- Section 5.4.2.2(1) Outstanding Natural Landscapes (WB) and Outstanding Natural Features – District Wide is relevant for the proposed site of the Hill House; and
 - Section 5.4.2.2(2) Outstanding Natural Landscapes (District Wide) is relevant for the proposed site of the Farm Manager's House.
107. While the experts agreed on what the relevant landscape provisions were, they differed to some extent in their opinions on how the provisions should be interpreted and applied.
108. Mr Taylor in his evidence⁴³ directed us to a specific guiding principle stated in the assessment matters 5.4.2.2 Assessment Matters (1) Outstanding Natural Landscapes (Wakatipu Basin) and Outstanding Natural Features which contain two guiding principles. The first of these is that "they are to be stringently applied to the effect that successful applications for resource consent will be exceptional cases."
109. Both Ms Fyfe's and Ms Stagg's evaluations were silent on this matter.

⁴² Section 42A Report

⁴³ Evidence of Mr Taylor, paragraph 23

110. We also note that section 1.5.3 of the ODP states:

Section 1.5.3 Status of Activities, (iii) Discretionary Activities

...

Activities have been afforded such status:

(iii) because in or on outstanding natural landscapes and features the relevant activities are inappropriate in almost all locations within the zone, particularly with the Wakatipu basin or in the Inner Upper Clutha area; or

111. Both these explanatory texts indicate the need for what we would term a 'cautious' approach to defining minor effects. We are mindful of the Court's findings in *Just One Life* about the interpretation of this wording.
112. Before embarking on our discussion of effects, we record that we do not accept Mr Beatson's suggested approach to our effects assessment, such that we should consider the effects of the landscape once the planting has occurred. We do not consider that to be correct in law and that approach overlooks the fact that the planting in itself raises its own adverse effects. The planting is intended to mitigate the adverse effects of the Hill House building. Our starting point is the landscape as it now stands.
113. The ODP states that the key resource management issues within ONLs are their protection from inappropriate subdivision, use and development, particularly where activity may threaten the landscape's openness and naturalness.⁴⁴
114. Policy 2 of 4.2.5 Outstanding Natural Landscapes (District Wide/Greater Wakatipu) sets out the following:
- (a) To maintain the openness of those outstanding natural landscapes and features which have an open character at present.*
 - (b) To avoid subdivision and development in those parts of the outstanding natural landscapes with little or no capacity to absorb change.*
 - (c) To allow limited subdivision and development in those areas with higher potential to absorb change.*
 - (d) To recognise and provide for the importance of protecting naturalness and enhancing amenity values of views from public roads.*
115. Further, Policy 5 of 4.2.5 Outstanding Natural Features states:

To avoid subdivision and/or development on or in the vicinity of distinctive landforms and landscape features...unless the subdivision and/or development will not result in adverse effects which will be more than minor on:

- (i) Landscape values and natural character; and*
- (ii) Visual amenity values*

⁴⁴ 4.2.4(2)

- recognising and providing for:

- (iii) *The desirability of ensuring that buildings and structures and associated roading plans and boundary developments have a visual impact which will be no more than minor in the context of the outstanding natural feature, that is the building etc is reasonably difficult to see;*
- (iv) *The need to avoid further cumulative deterioration of the outstanding natural features;*
- (v) *The importance of protecting the naturalness and enhancing the amenity values of views from public places and public roads;*
- (vi) *The essential importance in this area of protecting and enhancing the naturalness of the landscape.*

116. In applying the above policies, the ODP identifies at 5.4.2.1 (Landscape Assessment Criteria - Process) the need to follow a three-step process of determining the landscape category of the site (steps 1 and 2) and then undertaking the relevant assessment (step 3). In this case, the landscape experts agreed on the landscape classification so steps 1 and 2 are not needed. In terms of the assessment required by step 3, the ODP sets out:

Step 3 - Application of the Assessment Matters. Once the Council has determined which landscape category the proposed development falls within, each resource consent application will then be considered: First, with respect to the prescribed assessment criteria set out in Rule 5.4.2.2 of this section; Secondly, recognising and providing for the reasons for making the activity discretionary (see para 1.5.3(iii) of the plan [p1/3]) and a general assessment of the frequency with which appropriate sites for development will be found in the locality.

117. Dealing first with the assessment matters in 5.4.2.2, as previously stated, Mr Taylor advised us the need to consider the guiding principles stated in Section 5.4.2.2(i) Outstanding Natural Landscapes (Wakatipu Basin) and Outstanding Natural Features - District Wide.
118. In Mr Espie's oral report at the hearing, he advised that the two guiding principles are to be seen in the context of the assessment matters that follow; in that the assessment matters can be seen as a series of 'tests'. If a proposal passes the tests, then it can be assumed that the application is an exceptional case. We agree with Mr Espie that this is an appropriate way to apply the district plan and that in order to be satisfied that an application is exceptional we must work our way carefully through the relevant assessment matters. This advice is consistent with the Court's approach in *Matukituki Trust v Queenstown Lakes District Council* (C113/2009) as previously discussed.
119. The relevant assessment matters for the ONF (section 5.4.2.2(1)) are grouped under the following headings:
- (a) Effects on the openness of landscape;
 - (b) Visibility of development;
 - (c) Visual coherence and integrity of landscape;

- (d) Nature conservation values;
- (e) Cumulative effects of development on the landscape;
- (f) Positive effects; and
- (g) Other matters.

120. It is important to note that there is a materially different expression between the wording of the assessment matters. For example, matters concerning Effects on the Openness of Landscape; Cumulative Effects of Development on the Landscape; Positive Effects; and Other Matters, require us to take certain matters into account. In comparison, matters associated with Visibility of Development; Visual Coherence and Integrity of Landscape; and Nature Conservation Values, require that we must be satisfied on the matters listed. In our interpretation, these latter matters have a more stringent test.
121. In each of the assessment matters below, we have underlined and highlighted in bold the test to be applied, so that this is clear.

Proposed Hill House – ONF Assessment Matters

Assessment Matter (a) Effects on Openness of Landscape

122. Assessment matter (a) relates to factors such as whether the proposed development will maintain the openness of the ONF which have an open character at present when viewed from public roads and places, **taking into account** matters such as:
- (i) *Whether the subject land is within a broadly visible expanse of open landscape when viewed from public road or public place;*
 - (ii) *Whether, and the extent to which, the proposed development is likely to adversely affect open space values with respect to the site and surrounding landscape;*
 - (iii) *Whether the site is defined by natural elements such as topography and/or vegetation which may contain and mitigate any adverse effects associated with the development.*
123. There was considerable debate in the hearing on the terms ‘open character’, ‘openness’ and ‘open space’, and what these terms mean.
124. There was general agreement between the landscape experts that ‘open space’ means ‘*an area free of buildings, but does not necessarily have to be free of trees and vegetation.*’ Whereas, ‘open character’ means ‘*an area free of buildings and structures and woody vegetation*’ and ‘openness’ means ‘*an area open in terms of being navigable and visually open, both free of buildings and structures and woody vegetation.*’
125. The landscape experts also largely agreed that the site of the proposed Hill House is located in a broadly visible expanse of open landscape, which has an open character as viewed by the public from a number of locations on both land and water.

126. Ms Steven⁴⁵ was of the opinion that although existing dwellings located on Roy's Peninsula have reduced openness, overall the landscape has retained a high level of open character, particularly when viewed from the west. She acknowledged that existing topography and vegetation will not contain the proposed development however, the existing lake bench landform will allow the proposed dwelling to 'hunker down in a long low form' that will harmonise with the landform.
127. Further, she was of the opinion⁴⁶ that the proposed dwelling will result in a slight reduction of openness, resulting in a moderate to minor adverse effect at the outset, with effects reducing over time. From Mt Aspiring Road, she concluded that adverse effects would be less than minor, primarily based on viewing distance. In her opinion, once the proposed vegetation matures the proposed dwelling would not be very visible.
128. With the amended application, Mr Espie was largely in agreement with Ms Stevens.
129. In contrast, Mr Kruger was of the view that⁴⁷ the proposed Hill House would be located on an exposed, open and broadly visible slope within a broadly visible landscape and that most parts of the site are broadly and widely visible from a number of locations on land and water.
130. In Mr Kruger's opinion⁴⁸, the ODP directs to protect openness when present in the landscape, and that openness includes both the absence of woody vegetation and built form and also an open wide visual access. Further, in his view⁴⁹, the proposed planting would diminish the current openness of the lower slope of Roy's Peninsula, which is widely visible, and the development will degrade landscape appreciation.
131. We accept the evidence of Mr Kruger and find that in essence, the ODP seeks to protect openness when present on an outstanding natural feature. We also find that the proposed Hill House is located within a broadly visible expanse of open landscape when viewed from public roads, including Buchanan Rise and Mt Aspiring Road and from the surface of Lake Wanaka and its margins. We also agree that the test does not simply relate to the effect of the house on the landform but to the wider landscape.
132. We agree with Mr Kruger that the proposed development will reduce open space values and adverse effects will be more than minor. We find that although the proposed vegetation will reduce openness, albeit in a natural way, we find the proposed vegetation will adversely affect the existing open character that the site currently has.
133. We agree with Mr Kruger that the site does not have any existing natural elements that contain and mitigate adverse effects.
134. Finally, we find that the proposed development will reduce openness on the slope.
135. Overall, we find that the proposed Hill House is not aligned with assessment matter (a) and will not maintain the existing open character and openness that the ODP seeks to protect and maintain.

Assessment Matter (b) Visibility of Development

⁴⁵ Landscape Report, dated May 2017, section 9.1.1

⁴⁶ Landscape Report, dated May 2017, section 9.1.1

⁴⁷ Evidence of Mr Kruger, page 32, paragraph 162

⁴⁸ Evidence of Mr Kruger, page 31, paragraph 155

⁴⁹ Evidence of Mr Kruger, page 8

136. Visibility of development (item (b)) requires that when considering visibility and whether the adverse effects are minor, we **have to be satisfied** that:
- (i) *The proposed development will not be visible or will be reasonably difficult to see when viewed from public roads and other public places and in the case of proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, equestrian and other means of access; and*
 - (ii) *The proposed development will not be visually prominent such that it dominates or detracts from public or private views otherwise characterised by natural landscapes; and*
 - (iii) *The proposal can be appropriately screened or hidden from view by any proposed form of artificial screening, being limited to earthworks and/ or new planting which is appropriate in the landscape, in accordance with Policy 4.2.5.11(b).⁵⁰*
 - (i) *any artificial screening or other mitigation will detract from those existing natural patterns and processes within the site and surrounding landscape or otherwise adversely affect the natural landscape character; and*
 - (ii) *the proposed development is not likely to adversely affect the appreciation of landscape values of the wider landscape (not just the immediate landscape); and.*
 - (iii) *The proposal does not reduce neighbours' amenities significantly.*
137. There was general agreement between the landscape architects that the proposal would be inappropriate in the absence of screening. Ms Steven and Mr Espie were largely in agreement on visual effects, however their opinions differed to some extent on the significance of the adverse visual effects when viewed from Paddock Bay and its margins; from close parts of Buchanan Rise; and from four of the Emerald Bluffs rural living properties. In response to issues raised by Mr Espie, the application was amended to include a band of extensive screen planting in front of the proposed dwelling, described as 'Stage One' planting.
138. The conditions agreed between the Council and the Applicant have resolved the initial differences between these parties. Those conditions require that prior to construction of the Hill House, planting within the 'Stage One' area as shown on the amended plans will have reached sufficient height and density so that it can be demonstrated to the satisfaction of the Manager Resource Consents at QLDC that the finished dwelling will be reasonably difficult to see from specified viewpoints. For the purposes of this condition, the Applicant has defined 'Reasonably Difficult to See' to mean "in addition to all other restrictions relating to visibility contained in this consent, no more than 10% of the building elevation will be visible from any of the identified viewpoints." Further, the Applicant has defined that successful plant establishment means that 90% of all plants are present, healthy, growing and therefore considered to be well established.
139. Just One Life Limited, through Mr Page, did not agree to the conditions. As stated earlier in our decision, this submitter did not resile from the position it put forward at the hearing.

⁵⁰ Policy 4.2.5.11(b) encourages planting to be undertaken so that vegetation will not obstruct views from public places and discourages linear planting near boundaries of public roads.

140. Ms Steven's overall opinion on the effects of visibility is captured in her conclusion⁵¹:

"With the proposed condition that no construction may start until Stage One screening planting is sufficiently tall and dense enough (to the satisfaction of Council), visibility of future dwelling (as well as curtilage and access drive) would be negligible to nil through the range of views assessed, in particular from Buchanan Rise as it approaches and passes by the Hill House site. It will be at most, reasonably difficult to see at the outset. As stated earlier, there would be nil visibility from southwest to south viewpoints, which includes the most important views from Mt Aspiring Road more than 2.5km distant and Parkins Bay more than 2km distant. From Paddock Bay, also an important viewpoint, visibility would be at best negligible and most likely nil, especially from closer viewpoints due to the steepened angle of view. Instead, in closer views the extensive native planting would be highly visible (as a positive effect on amenity with perceived enhancement of natural character). Buchanan Rise is not considered to be an important public viewpoint as it has a low level of public use.

...

With the additional condition, my view is that the effect of the proposed Hill House development on public views of natural landscape would be less than minor if not negligible from the outset. In fact it is likely to be regarded positively because of the planting which would be the dominant element and would increase natural character and visual coherence."

141. Mr Espie's final opinion was that⁵²:

"If all of the amended proposed measures are followed, I consider that adverse visual effects on:

- Paddock Bay users will be of a very low degree.
- Buchanan Rise users will be of a low degree.
- Occupiers of Emerald Bluffs will be of a very low degree."

142. In contrast, Mr Kruger's overall conclusion was⁵³:

"In terms of landscape integration and visibility, the Applicant's design team has created a situation that may be best described as fanciful, to not use the term frivolous.

The end result of various iterations between Ms Stevens and Mr Espie ...was "a dense and robust belt of vegetation" directly in front of the proposed Hill House's main façade. In the event of successful establishment and long-term maintenance of the designed dense wall of vegetation, the Hill House would be invisible. This means – in reverse, views of the surrounding landscape would be impossible to appreciate and access to light and sun would be reduced in a significant way. This scenario is - in my professional opinion – fanciful and entirely unrealistic. Should the vegetation fail or should the wall of vegetation proposed become porous – I note pruning or limbing-up is now already proposed via the evidence of Ms Steven – the proposed Hill House will be neither

⁵¹ Evidence of Ms Steven, paragraphs 47 & 49

⁵² Section 42A Report, page 85, Email from Mr Espie

⁵³ Evidence of Mr Kruger, page 8

invisible, nor will it be reasonably difficult to [sic].⁵⁴ The degree of visibility would depend on the level of vegetation failure or removal.”

143. There was extensive evidence presented on the visual effects, largely focused on the proposed Hill House development. The landscape architects broadly agreed that once vegetation is established the proposed Hill House building would be reasonably difficult to see from distant viewpoints. However, we are mindful that the assessment matters, in our interpretation, are not just concerned with the visibility of the building but the development as a whole, and we take this to include visibility of the proposed landscape and in this context of the ONF the effects of this landscaping.
144. We accept Ms Steven’s conclusion⁵⁵ “that the extensive native planting would be highly visible” and “that planting would be the dominant element”. In response to Mr Kruger’s concerns that the plants will eventually completely block all views from the dwelling and its outdoor living areas, the Applicant altered the plans presented in the application and at the hearing, to include eight views out from the house generally towards the north and north-west.
145. As previously discussed, the Applicant also introduced a definition for “reasonably difficult to see” to mean that no more than 10% of the building elevation would be visible from any of the identified viewpoints. We agree with Mr Page⁵⁶ that converting a qualitative assessment matter “reasonably difficult to see” into a quantitative standard “10% of the building elevation will be visible is not a reasonable application of the plan provisions. We also agree that the outcomes would be different depending on the size of buildings and that this approach takes no account of viewing distance or context of the ONF. We also find that this approach is concerned with visibility of buildings and does not take into account visibility of other development elements such as planting, earthworks and access as directed by the assessment matters which, in our view, are concerned with visibility of the proposed development as a whole.
146. We accept that substantial mitigation planting and earthworks are required and proposed to screen the Hill House dwelling. Although we appreciate the effort and thought that the Applicant has gone to with the amended application, we find that the volunteered condition requiring Stage 1 planting be implemented prior to construction and that no building may occur until QLDC is satisfied that the dwelling will be reasonably difficult to see is absolutely fundamental to ensuring that the actual and potential adverse visual effects are appropriately avoided, remedied or mitigated.
147. Further, notwithstanding our findings above on visibility of the proposed development, we find that in the event that parts of the mitigation planting are removed, fail or are pruned, the building would not be reasonably difficult to see. We agree with Mr Kruger that the degree of visibility would depend on the level of vegetation failure or removal.
148. We also find that the proposed development in the context of the ONF will be visually prominent and detract from views otherwise characterised by natural landscapes and that while the artificial screening is of an appropriate planting mix, it will detract from the existing natural patterns and processes and adversely affect the existing natural landscape character and existing natural landscape values of the ONF.
149. We agree with Mr Page that the proposed conditions in relation to visibility are too uncertain and would be complex for the Council to administer and enforce. In part, the

⁵⁴ It seems that Mr Kruger omitted the word “see” in this paragraph

⁵⁵ Evidence of Ms Stevens, paragraph 47 & 49

⁵⁶ Mr Page’s Memorandum dated 12 December 2018, paragraph 7

problem arises because of the open nature of the Hill House site and the lack of other mitigation that could be relied on. This distinguishes this site from others.

150. The proposed planting condition inappropriately leaves a high degree of discretion to the relevant Council manager on a principle issue of contention. The condition proposed would significantly limit how the house and landscaping may be used. This has the potential to undermine the clear intent to create the use as a residential dwelling. It leaves an uneasy tension between what might be expected to be a normal residential use and Council having to enforce very restrictive conditions to ensure mitigation is achieved. There is a risk of non-compliance which must be considered relevant given the high value of the ONF landscape.
151. On the evidence, we are not satisfied that the proposed Hill House development passes the assessment matter for visibility of development. We note that we were not provided with high resolution photographs to demonstrate what the final development would look like when viewed from key viewing points. In that regard, insufficient information was provided to support the proposal.
152. Overall, we find that adverse visual effects will be more than minor and find that the proposal does not satisfy assessment matter (b).

Assessment Matter (c) Visual Coherence and Integrity of Landscapes

153. In considering whether the proposed development will adversely affect visual coherence and integrity of the landscape and if these effects will be minor, we **must be satisfied** that:
 - (i) *structures will not be located where they will break the line and form of any ridges, hills and any prominent slopes;*
 - (ii) *any proposed roads, earthworks and landscaping will not affect the naturalness of the landscape;*
 - (iii) *any proposed new boundaries will not give rise to artificial or unnatural lines or otherwise adversely (such as planting and fence lines) affect the natural form of the landscape.*
154. Ms Steven concluded that⁵⁷:

“...although there were potentially some small skyline and ridgeline effects in views from the south, these would be adequately mitigated by the proposed earthworks and planting. Due to Stage 1 planting however, there would not be any effect of built form on the skyline or ridgeline. I also concluded that the earthworks/access and planting would harmonise with topography and other patterns. The existing road would be utilised.”
155. While Mr Kruger agreed that the proposed building would break the line and form of the ridge, he had a contrasting view that⁵⁸:

“...the proposed building does break the line and form of a prominent slope, and the proposed earthworks will affect naturalness of the landscape.”

⁵⁷ Evidence of Ms Steven, paragraph 55

⁵⁸ Evidence of Mr Kruger, paragraph 121

156. Further, Mr Kruger stated in his evidence⁵⁹:

“..... the adverse effects of earthworks generated by this project will be significant, both in terms of volumes and surface distribution. They severely and negatively impact on the geomorphology, the landscape’s legibility and the intrinsic values of the landform. The proposed earthworks are inappropriate.”

157. We prefer and accept the evidence of Mr Kruger and find that the proposed Hill House will break the line and form of the prominent slope. We are not satisfied that adverse effects will be minor on visual coherence and integrity from the driveways, earthworks and landscaping. However, we are satisfied that the development will not result in any new boundaries that create artificial or unnatural lines.

Assessment Matter (d) Nature Conservation Values

158. In considering if the proposed development will adversely affect nature conservation values and whether these effects are minor with respect to ecological systems and other nature conservation values, we **must be satisfied** that:

- (i) *The area affected by the development proposed in the application does not contain any indigenous, ecosystems including indigenous vegetation, wildlife habitats and wetlands or geological or geomorphological feature of significant value;*
- (ii) *The development proposed will not have any adverse effects that are more than minor on these indigenous ecosystems and/or geological or geomorphological feature of significant value;*
- (iii) *The development proposed will avoid the establishment of introduced vegetation that have a high potential to spread and naturalise (such as wilding pines or other noxious species).*

159. The landscape architects agreed that the proposed dwelling would be located on the lower slopes of Roy’s Peninsula - a roche moutonnee. However, there was a difference of opinion on the degree of effect the development would have on this geomorphological feature.

160. Ms Steven’s May 2017 assessment concluded that⁶⁰:

“There is no indigenous vegetation and limited habitat values on the site. There are no significant landforms. The proposed development would significantly improve natural values on the hill, and would close the “gap” in indigenous vegetation cover.”

The assessment matter for nature conservation was not further addressed in Ms Steven’s statement of evidence.

161. In contrast, Mr Kruger was of the opinion that⁶¹ this is a vulnerable landscape with significant geomorphological and natural values and that it should be protected.

⁵⁹ Evidence of Mr Kruger, paragraph 125

⁶⁰ Landscape Report, page 32, section 9.1.4

⁶¹ Evidence of Mr Kruger, page 95

162. We find that that while the proposal satisfies the assessment matters associated with indigenous ecosystems including indigenous vegetation, wildlife habitats, and wetlands as well as avoiding introducing vegetation that has potential to spread, we prefer and accept the evidence of Mr Kruger, and find that the proposed Hill House is located on a geomorphological feature of significant value and the proposal will adversely affect this feature to a more than minor degree.

Assessment Matter (e) Cumulative Effects

163. This assessment matter references both existing and potential future development. In considering the potential adverse cumulative effects on the natural landscape with particular regard to whether any adverse effects on wider values of the ONF will be more than minor, we are directed to **take into account**:

- (i) whether and to what extent existing and potential development (ie. existing resource consent or zoning) may already have compromised the visual coherence and naturalness of the landscape;*
- (ii) where development has occurred, whether further development is likely to lead to further degradation of natural values or domestication of the landscape or feature such that the existing development and/or land use represents a threshold with respect to the site's ability to absorb further change;*
- (iii) whether, and to what extent the proposed development will result in the introduction of elements which are inconsistent with the natural character of the site and surrounding landscape;*
- (iv) whether these elements in (iii) above will further compromise the existing natural character of the landscape either visually or ecologically by exacerbating existing and potential adverse effects;*
- (v) where development has occurred or there is potential for development to occur (ie. existing resource consent or zoning), whether further development is likely to lead to further degradation of natural values or domestication of the landscape or feature.*

164. Our interpretation is that cumulative effects are relevant in terms of the combined effects of building visibility, vehicle movements, light spill from interior lights and possible ongoing small-scale changes to landforms and landscapes from domestication. In turn, these effects need to be looked at in terms of the existing modification to the landscape resulting from the existing housing developments on the slopes of Roy's Peninsula.

165. Ms Steven concluded in her evidence⁶² that there would be an adverse cumulative effect that would be minor (due to initial effects on natural and open character, which would be less due to the additional proposed condition, through the addition of one more house to the ONF. Her opinion was largely based on there being no change in building density across the site and the re-location and design of the two new houses would make buildings less obvious. Further, she was of the opinion that there would be a positive cumulative effect with regard to natural character and nature conservation values, once planting is established on site and in the wetland areas.

⁶² Evidence of Ms Steven, paragraphs 56 & 57

166. Mr Kruger had an opposing view⁶³ in that, in conjunction with the Grant House, (which he considered to be highly visible), the proposed Hill House would create adverse cumulative effects on rural character, landscape character and the natural form of the landscape, as well as contribute to the deterioration of the ONF and the visual coherence and naturalness of the landscape. In his opinion, the density of development in a landscape of national importance is excessive in landscape terms, and that there is no ability for the landscape to absorb such development.
167. Assessment matter (i) is concerned with whether and to what extent has existing and potential development already compromised the visual coherence and naturalness of the landscape. It was evident from the site visit that Roy's Peninsula has a number of existing residential dwellings. In our view, some of these developments have been more successful than others at protecting visual coherence and naturalness.
168. Assessment matter (ii) is concerned with where development has occurred, whether further development is likely to lead to further degradation of natural values or domestication of the landscape or feature such that the existing development and/or land use represents a threshold with respect to the site's ability to absorb further change. We accept and prefer Mr Kruger's evidence, and find that the development of the Hill House will lead to further degradation of natural values and domestication of the ONF and that in this location there is no ability to absorb the change.
169. In regard to assessment matter (iii) and (iv), we find that the development will introduce a house, earthworks, landscaping and vehicle accesses which will be inconsistent with existing natural character and that these elements will further compromise the existing natural character of the site, however we accept that the proposed planting will have some ecological benefits.
170. With reference to assessment matter (v), we find that the proposed Hill House will further degrade natural values resulting in domestication of the ONF.
171. We find that while the proposal is aligned with matters associated with ecological benefits, it does not satisfy the matters associated with protecting visual coherence and naturalness, natural values, domestication and natural character of the ONF.

Assessment Matter (f) Positive Effects

172. There was considerable debate at the hearing on whether positive effects were relevant. Both Mr Taylor and Mr Kruger were of the opinion that positive effects are not relevant and that they have been overstated. In contrast, Ms Steven, Mr Espie, Ms Fyfe and Ms Stagg were of the opinion that they are relevant and will benefit the property and the area.
173. In considering whether there are positive effects in relation remedying or mitigating the continuing adverse effects of past inappropriate subdivision and/or development, we must **take into account** the following:
- (i) *Whether the proposed activity will protect, maintain or enhance any of the ecosystems or features identified in (f) above which have been compromised by past subdivision and/or development;*
 - (ii) *Whether the proposed activity provides for the retention and/or reestablishment of native vegetation and their appropriate management,*

⁶³ Evidence of Mr Kruger, page 8

particularly where native vegetation has been cleared or otherwise compromised as a result of past subdivision and/ or development.

(iii) Whether the proposed development provides an opportunity to protect open space from further development which is inconsistent with preserving a natural open landscape, particularly where open space has been compromised by past subdivision and/or development,

(iv) Whether the proposal provides an opportunity to remedy or mitigate existing and potential adverse effects (i.e. structures or development anticipated by existing resource consents) by modifying, including mitigating, or removing existing structures or developments; and or surrendering any existing resource consents.

174. In regard to (i) we find that the proposal will protect, maintain and enhance the wetland and riparian habitat area and that there will be positive effects from the ecological enhancements in the north-eastern corner. However, in our view, while the proposed planting will enhance ecological systems, the proposed house development will not protect, maintain or enhance the existing character of the ONF feature.
175. In regard to (ii) we find that the proposal will provide for re-establishment of native vegetation on the hill slope and retention and re-establishment in the wetland area and northeast corner.
176. In regard to (iii), during the course of the hearing the Applicant volunteered a condition of consent designed to protect open space by prohibiting further subdivision. However, in closing legal submissions, the condition was reworded to place certain parameters on the condition relating to other owners of Roy's Peninsula entering into a similar arrangement to protect open space. Mr Page submitted that it is not lawful for a condition to bind third parties. We agree. The suggested condition is not lawful or enforceable and cannot be achieved.
177. In regard to (iv) the proposal involves the demolition of the old cottage and out buildings and the relocation of the farm shed.
178. Overall, we find that the proposal is aligned with matters associated with ecosystems, enhancement and re-establishment of native vegetation and removal and relocation of existing buildings. However, we find that the proposal is not aligned with protecting, maintaining and enhancing the ONF. The wording of the volunteered consent notice offered to protect open space is not lawful or enforceable.

Assessment Matter (g) Other Matters

179. In addition to considering positive effects above, we are directed to **take into account**:
- (i) The ability to take an esplanade reserve to protect the natural character and nature conservation values around the margins of the lake, river, wetland or stream within the subject site;*
 - (ii) The use of restrictive covenants, easements, consent notices or other legal instruments otherwise necessary to realise these positive effects referred to in (f)(i)-(v) above and/or to ensure that the potential for future effects, particularly cumulative effects, are avoided.*
180. No esplanade reserve has been proposed as part of the application. However, the Applicant has offered an easement to formalise the walking track to the lake, as well as

around the car parking area. In addition, as discussed above, although a consent notice has been offered for no further residential development we find that the outcomes sought by the consent notice are not lawful or enforceable.

181. Other relevant assessment matters include 5.4.2.3(iv) Buildings. Matter (a) is the same as set out in assessment matter 5.4.2.2(1)(c)(i) Visual Coherence and Integrity of Landscape and to avoid repetition we will not repeat our findings. In regard to matter (b) we find that building materials are appropriate.

182. Finally, in regard to earthworks, this matter is discussed further below in our assessment of earthworks effects (from an engineering perspective). For completeness in our assessment of effects on the ONF, we find that assessment matter 22.4(iv) Effects on Rural Landscape and Visual Amenity Values Including on Outstanding Natural Features and Outstanding Natural Landscapes is a relevant consideration. This assessment matter is concerned with:

(a) whether and to what extent, the scale and location of the cut and fill will adversely affect:

(i) visual quality and amenity values of the landscape;

(ii) the natural landform of any ridgeline or visually prominent area;

(iii) the visual amenity of surrounding sites

(b) Whether the earthworks will take into account the sensitivity of the landscape.

(c) The potential for cumulative effect on the natural form of the existing landscape.

(d) Whether and to what extent the earthworks create an area that is inconsistent with the character of the surrounding landscape.

(e) Whether the location and/or design of any new tracking can be modified in order to decrease the effects on the stability, visual quality and amenity values of the landscape.

183. Ms Steven's opinion was that⁶⁴:

"The proposed access drive and relatively small scale earthworks would not have any adverse effect on the natural form of the existing topography that is more than minor."

184. She further stated:⁶⁵:

"...that the earthworks/access and planting would harmonise with topography and other natural patterns."

185. Mr Kruger had a contrasting view, stating that:⁶⁶

"With respect, but "hacking" a 3,600m³ hole into an Outstanding Natural Feature and totalling 7,200m³ of earthworks over an area of 4,230m² on an Outstanding

⁶⁴ Landscape Report, page 32

⁶⁵ Evidence of Ms Steven, paragraph 55

⁶⁶ Evidence of Mr Kruger, paragraph 112

Natural Feature, I will neither call “relatively minor” nor could I see volumes as “...consistent with natural forms and patterns”.

186. Further, he concluded that⁶⁷:

“...adverse effects will be significant, both in terms of volumes and surface disturbance. They are severe and negative on the geomorphology, the landscape’s legibility and the intrinsic values of the landform. The proposed earthworks are inappropriate.”

187. In the Section 42A Report, Ms Stagg addressed earthworks but this assessment was limited to engineering matters such as feasibility and stability. Ms Stagg did not assess the proposal against assessment matter 22.4(iv). However she did include a brief assessment on the objectives and policies contained in Chapter 22, stating⁶⁸:

“The proposed earthworks are sympathetic with the existing landform and will enable the proposed dwelling to fit into the landscape.”

188. The effects on the ONF were assessed in Ms Fyfe’s AEE where she concluded⁶⁹:

“The earthworks will slightly modify the ONF landform by benching the access and dwelling building platform into the slope. However, this is designed to be indiscernible once the works are completed and the landscape mitigation works have been implemented. Ms Steven has assessed the visual impact of all the works on the ONL and ONF, in Appendix C. Overall the earthworks proposed will result in a less than minor adverse effect on the ONL and ONF, and the proposed mitigation measures and on-going management for the duration of the works will ensure there are minimal, if any, adverse off-site effects.”

189. We have previously found that in regard to assessment matter 5.4.2.2(c) that earthworks will affect the naturalness of the landscape. Further we prefer the evidence of Mr Kruger and find that when considering ONF and ONL landscapes the assessment matters not only require visual effects to be assessed but also the effects on the landform. We find that although the visual effects of the earthworks can be mitigated, the effects of the actual alteration to the natural landform of the ONF would be inconsistent with the geomorphology of the ONF and adversely affect the values of the landform.

Farm Manager’s House – ONL Assessment Matters

190. The relevant ODP assessment matters are contained in section 5.4.2.2(2) Outstanding Natural Landscapes (District Wide). These assessment matters differ from the ONF assessment matters, in that they do not contain the very high bar pertaining to ONFs for successful applications, with that starting point being that successful applications will be exceptional. Relevantly, the guiding principles of the ONL relate to matters associated with existing vegetation and whether it was planted after 28 September 2002, and if this vegetation obstructs views of the landscape from roads, it shall not be considered beneficial or part of the permitted baseline. We addressed this in our discussion of the permitted baseline.

191. The relevant assessment matters for the ONL (DW) relate to:

⁶⁷ Evidence of Mr Kruger, page 8

⁶⁸ Section 42A Report, page 20

⁶⁹ AEE, page 25, section 5.11

- (a) Potential of the landscape to absorb development;*
- (b) Effects of openness on landscape;*
- (c) Cumulative effects on landscape values; and*
- (d) Positive effects.*

192. The ONL assessment matters direct that we ‘take into account’ certain matters, as opposed to the requirement that we ‘must be satisfied’ about certain matters in the ONF assessment matters.
193. In relation to the proposed Farm Manager’s House, we find that Ms Stagg’s Section 42A Report properly discharges QLDC’s responsibilities under section 42A, namely to:
- (a) address relevant considerations;*
 - (b) suggest conditions that it considers should be imposed if the Commission grant the application; and*
 - (c) provide a summary of the submissions received.*
194. In respect of this aspect of the application, we have drawn from the conclusions reached in the Section 42A Report in this part of our decision.

Assessment Matter (a) Potential of Landscape to Absorb Development

195. When considering the potential of the landscape to absorb development we are to **take into account** the following matters consistent with retaining openness and naturalness, such as:
- (i) whether, and to what extent, the proposed development is visible from public places;*
 - (ii) whether the proposed development is likely to be visually prominent to the extent that it dominates or detracts from views otherwise characterised by natural landscapes;*
 - (iii) whether any mitigation or earthworks and/or planting associated with the proposed development will detract from existing natural patterns and processes within the site and surrounding landscape or otherwise adversely affect the natural landscape character;*
 - (iv) whether, with respect to subdivision, any new boundaries are likely to give rise to planting, fencing or other land use patterns which appear unrelated to the natural line and form of the landscape; wherever possible with allowance for practical considerations, boundaries should reflect underlying natural patterns such as topographical boundaries;*
 - (v) whether the site includes any indigenous ecosystems, wildlife habitats, wetlands, significant geological or geomorphologic features or is otherwise an integral part of the same;*
 - (vi) whether and to what extent the proposed activity will have an adverse effect on any of the ecosystems or features identified in (v);*

(vii) whether the proposed activity introduces exotic species with the potential to spread and naturalise.

196. We accept and agree with the evidence of the landscape architects that the proposed dwelling would be visible from West Wanaka Road and Buchanan Rise and that visibility would reduce as planting establishes. We also accept that the position of the relocated building is more visually discreet and adverse effects would be no more than minor.
197. Submitter Seven J Trust raised concerns regarding glare and that the dwelling would have adverse effects in relation to views from their dwelling of Mt Aspiring. We accept the evidence of Ms Stagg, relying on both Ms Steven and Mr Espie, that subject to conditions, adverse effects will be no more than minor, based on existing mature trees, additional planting and the viewing distance. We also find that the relocated building will be positioned in a less visible location, further from the submitter's dwelling.
198. Further, we find the parked cars in the vicinity of the proposed dwelling may cause glare, however we accept Ms Stagg's evidence, relying on Ms Steven and Mr Espie, that given the location of the public road, the proposed formalised parking area and the existing and proposed planting, adverse effects will be minor.
199. We find that the proposed earthworks and planting will not detract from existing natural patterns and process in this area. We also find that the proposed subdivision will not create unnatural lines in the landscape. We are satisfied that there will not be any adverse effects on indigenous ecosystems, wildlife habitats, wetlands and geological and geomorphological features and that the proposal will not introduce any exotic species with the potential to spread.
200. Overall, we find that that this aspect of the proposal is aligned with assessment matter (a).

Assessment Matter (b) Effects on Openness of Landscape

201. We are directed by assessment matter (b) to **take into account** matters such as:
 - (i) *whether and the extent to which the proposed development will be within a broadly visible expanse of open landscape when viewed from any public road or public place and in the case of proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, equestrian and other means of access; and*
 - (ii) *whether, and the extent to which, the proposed development is likely to adversely affect open space values with respect to the site and surrounding landscape;*
 - (iii) *whether the proposed development is defined by natural elements such as topography and/or vegetation which may contain any adverse effects associated with the development.*
202. There is general agreement that this proposed dwelling will be located in an open expanse of visible landscape when viewed from the road and other public places but would be seen as one of several buildings, within a cluster of existing farm buildings. We agree with this advice.

203. We agree with Ms Stagg, who relied on the opinion of Mr Espie, that the proposed Farm Manager's House will not adversely affect open space values.
204. We find that in this location there are some existing natural elements that will contain adverse effects. We consider that the proposed Farm Manager's House is aligned with assessment matter (b) and that adverse effects on the openness of the landscape will be no more than minor.

Assessment Matter (c) Cumulative Effects on Landscape Values

205. In determining if there will be adverse cumulative effects on landscape values we are to **take into account**:
- (i) whether, and to what extent, the proposed development will result in the introduction of elements which are inconsistent with the natural character of the site and surrounding landscape;*
 - (ii) whether the elements identified in (i) above will further compromise the existing natural character of the landscape either visually or ecologically by exacerbating existing and potential adverse effects;*
 - (iii) whether existing development and/or land use represents a threshold with respect to the site's ability to absorb further change;*
 - (iv) where development has occurred or there is potential for development to occur (ie. existing resource consent or zoning), whether further development is likely to lead to further degradation of natural values or inappropriate domestication of the landscape or feature.*
206. The landscape architects agreed that the proposed site of the Farm Manager's House has a lower level of natural character and the proposal would not result in elements that are inconsistent with this area. Further, there is agreement that in this location, the landscape can absorb the proposed development particularly as it involves a relocation of a farm building to be repurposed as a dwelling for the manager of the farm.
207. We accept the advice of the landscape architects and agree with the planners that this aspect of the proposal is aligned with assessment matter (c) and that adverse effects will be no more than minor.

Assessment Matter (d) Positive Effects

208. In determining if there are positive effects we need to **take into account** matters such as:
- (i) whether the proposed activity will protect, maintain or enhance any of the ecosystems or features identified in (a)(v) above;*
 - (ii) whether the proposed activity provides for the retention and/or re-establishment of native vegetation and their appropriate management;*
 - (iii) whether the proposed development provides an opportunity to protect open space from further development which is inconsistent with preserving a natural open landscape;*

- (iv) *whether the proposed development provides an opportunity to remedy or mitigate existing and potential (ie. structures or development anticipated by existing resource consents) adverse effects by modifying, including mitigation, or removing existing structures or developments; and/or surrendering any existing resource consents;*
- (v) *the ability to take esplanade reserves to protect the natural character and nature conservation values around the margins of any lake, river, wetland or stream within the subject site;*
- (vi) *the use of restrictive covenants, easements, consent notices or other legal instruments otherwise necessary to realise those positive effects referred to in (i)- (v) above and/or to ensure that the potential for future effects, particularly cumulative effects, are avoided.*

209. We find that the matters listed in assessment matters (i) to (iv) are similar to the assessment matters for ONF and to avoid duplication, we will not repeat our findings here.
210. Overall, we find that the proposed Farm Manager's House and the ecological restoration areas are in appropriate locations and will not compromise the landscape values of the ONL.

Decisions Version Stage 1 Proposed District Plan

211. Chapter 3 is relevant as this chapter sets out the over-arching strategic direction for the management of growth, land use and development in the District. We agree with Mr Taylor that these directions are accorded primacy in the Proposed Plan, and all subsequent provisions and decisions made under them should be considered in that context. Further we accept Mr Taylor's evidence that this places the protection of ONF's in a position of prime importance in the plan hierarchy.
212. As with the Operative District Plan, there were differences of opinion between the experts as to how the provisions should be interpreted and applied. In his evaluation, Mr Taylor again drew our attention to the explanatory texts included in Decisions Version Stage 1 PDP which state:

Assessment matter 21.21.1.1:

In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of the application.

213. There is a clear overlap between this provision and the policies covered in Chapters 3 and 6.
214. The other relevant assessment matters for the ONF and ONL are found in:
- *Section 21.21.1.2 – Existing vegetation;*
 - *Section 21.21.1.3 – Effects on landscape quality and character;*
 - *Section 21.21.1.4 – Effects on visual amenity;*

- *Section 21.21.1.5 – Design and density of development;*
- *Section 21.21.1.6 – Cumulative effects of subdivision and development on the landscapes.*

215. Assessment matter 21.21.1.2 Existing Vegetation is similar to assessment matter 5.4.2.2 (1) in the ODP.
216. In this part of our decision, we will set out the relevant assessment matter first and follow with a discussion of both the Hill House and the Farm Manager's House against that provision. Much of the evidence has been addressed above in our discussion of the ODP assessment matters.

Assessment Matter 21.21.1.3 Effects on Landscape Quality and Character

*In considering whether the proposal maintains or enhances the quality and character of ONF and landscapes, the Council **shall be satisfied** of the extent to which the proposed development will affect landscape quality and character, **taking into account** the following elements:*

- a. *physical attributes:*
 - i. *geological, topographical, geographic elements in the context and whether these formative processes have a profound influence on landscape character;*
 - ii. *vegetation (exotic and indigenous);*
 - iii. *the presence of waterbodies including lakes, rivers streams, wetlands.*
- b. *visual attributes*
 - i. *legibility or expressiveness - how obviously the landscape or feature demonstrates its formative processes;*
 - ii. *aesthetic values including memorability and naturalness;*
 - iii. *transient values including values at certain times of day or year;*
 - iv. *human influence and management – settlements, land management patterns, buildings, roads.*
- c. *Appreciation and cultural attributes:*
 - i. *Whether the elements identified in (a) and (b) are shared and recognised;*
 - ii. *Cultural and spiritual values for tangata whenua;*
 - iii. *Historical and heritage associations.*
The Council acknowledge that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.
- d. *In the context of (a) to (c) above, the degree to which the proposed development will affect the existing landscape quality and character, including whether the proposed development accords with or degrades landscape quality and character, and to what degree.*
- e. *Any proposed new boundaries will not give rise to artificial or unnatural lines (such as planting and fence lines) or otherwise degrade the natural character.*

Proposed Hill House

217. As previously stated, there was agreement between the landscape experts that the ONF part of the site is a textbook example of a roche moutonnée and that many features of glaciation and subsequent events are present, including the ancient lake benches of a once higher lake level. It is noted by the landscape experts that Lake Wanaka and its margins surround the property. Further, Mr Kruger was of the opinion that although the landscape is overlaid by agricultural practices, the landscape is generally intact.
218. There was agreement that the ONF demonstrates its formative processes. We agree with Mr Kruger that aesthetic values are quite subjective and that the general context of the area, the lake and the surrounding mountains and more specifically the lake benches, the shape of the bay, the escarpments of the moraine and the ice sculptured form and rock shapes substantially contribute to high aesthetic values. We also accept Mr Kruger's evidence that the beauty at different times of the day and the impact of light reflection, fogs and frost can create spectacular effects.
219. We understand that there has been no input from local iwi groups as the application was notified on a limited basis, and as such, local iwi groups were not served notice of the application.
220. We find that the proposal will not result in any new boundaries that will create artificial or unnatural lines or degrade the character of the landscape.
221. Overall, we find that the proposal satisfies (c) and (e), however we are not satisfied with the extent to which the proposed Hill House development will affect landscape quality and character taking into account matters (a), (b) and (d).

Proposed Farm Manager's House

222. The landscape experts broadly agree that the proposed Farm Manager's House will maintain and enhance the quality and character of the ONL. We find that when assessed against these matters the adverse effects on the quality and character of the landscape will be minor, taking into account the matters set out.

Assessment Matter 21.21.1.4 Effects on Visual Amenity

223. In considering whether the potential visibility will maintain and enhance visual amenity values we are guided by assessment matter 21.21.1.4, where we **shall be satisfied** that:
- a. the extent to which the proposed development will not be visible or will be reasonably difficult to see when viewed from public roads and other public places. In the case of proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, cycling, equestrian and other means of access;*
 - b. the proposed development will not be visually prominent such that it detracts from public or private views of and within Outstanding Natural Features and Landscapes;*
 - c. the proposal will be appropriately screened or hidden from view by elements that are in keeping with the character of the landscape;*

- d. the proposed development will not reduce the visual amenity values of the wider landscape (not just the immediate landscape);*
- e. structures will not be located where they will break the line and form of any ridges, hills and slopes;*
- f. any roads, access, lighting, earthworks and landscaping will not reduce the visual amenity of the landscape.*

Proposed Hill House

- 224. We find that the proposed Hill House would be visible and we are not satisfied that it would be reasonably difficult to see, specifically from Paddock Bay and Buchanan Rise. We prefer and accept the evidence of Mr Kruger that the proposed dwelling will be visually prominent and will detract from both public and private views of the landscape. While we agree that the landscaping would assist with screening the proposed dwelling, we do not agree that it is in keeping with the open character of the existing landscape. We find that that the proposed dwelling will reduce the visual amenity values of the wider landscape. In addition, we find that the dwelling is located where it will break the line and form of the ridge and is located on a prominent slope. Further, we find that the access way, lighting and earthworks and landscaping will reduce amenity values of the landscape.
- 225. Overall, we are not satisfied that the proposal is aligned with assessment matter 21.21.1.4.

Proposed Farm Manager's House

226. We agree with the conclusions of the landscape architects and the evaluations by the planners that the proposed Farm Manager's House will maintain and enhance visual amenity values and is aligned with the matters contained in assessment matter 21.21.1.4. We find that this part of the proposal is appropriate in the landscape.

Assessment Matter 21.21.1.5 Design and Density of Development

227. In determining the appropriateness of the design and density we have applied Assessment Matter 21.21.1.5 which looks at:
- a. *opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (i.e. open space held in one title whether jointly or otherwise);*
 - b. *there is merit in clustering the proposed building(s) or building platform(s) within areas that are least sensitive to change;*
 - c. *development, including access, is located within the parts of the site where it would be least visible from public and private locations;*
 - d. *development, including access, is located in the parts of the site where it has the least impact on landscape character.*

Proposed Hill House

228. We find that although the proposed Hill House will share Buchanan Rise to access the site, the proposal does not combine any other shared built development elements. The Applicant has not chosen to cluster the proposed dwelling. We find that the proposed dwelling is located in an area highly sensitive to change and located in one of the most visible locations from both public and private views. Further, we find that this location will have the most impact on landscape character.
229. Overall, we find that the proposed Hill House is not aligned with assessment matter 21.21.1.5.

Proposed Farm Manager's House

230. We have assessed the proposed dwelling against assessment matter 21.21.1.5 and agree with the evidence, that the proposal successfully clusters buildings together, is located in an area least sensitive to change, is located in an area least visible and will have an appropriate impact on the existing landscape character.
231. Overall, we find that the proposal is aligned with assessment matter 21.21.1.5.

Assessment Matter 21.21.1.6 Cumulative Effects of Subdivision and Development on the Landscapes

232. This assessment matter states:

Taking into account whether and to what extent existing, consented or permitted development (including unimplemented but existing resource consent or zoning) may already have degraded:

- (a) the landscape quality or character; or
- (b) the visual amenity values of the landscape.

The Council **shall be satisfied** the proposed development, in combination with these factors will not further adversely affect landscape quality, character, or visual amenity values.

Proposed Hill House

233. As previously stated, we find that although some of the existing developments on Roy's Peninsula have successfully integrated into the landscape, others have not been as successful. In our view, the proposed location of the Hill House will further adversely affect landscape quality, character and visual amenity. We are not satisfied that the proposed dwelling is aligned with assessment matter 21.21.1.6.

Proposed Farm Manager's House

234. We are satisfied that the proposed Farm Manager's House satisfies assessment matter 21.21.1.6 and will not adversely affect landscape quality, character and visual amenity values.
235. There are a number of additional assessment matters that apply in both the ONL and ONF landscape categories, namely 21.21.3.1 and 21.21.3.3.

Assessment Matter 21.21.3.1

236. Assessment matter 21.21.3.1 is concerned with whether a specific design, rather than nominating a building platform, helps demonstrate whether a proposed development is appropriate.

Proposed Hill House

237. Although the Applicant has withdrawn the residential building platform for the proposed Hill House and confirmed that the design is as shown on the plans, we find that the location for the development is inappropriate.

Proposed Farm Manager's House

238. We are satisfied that the proposed Farm Manager's House satisfies this assessment matter.

Assessment matter 21.21.3.3

239. In regard to positive effects as set out in assessment matter 21.21.3.3, which consider if whether there are any positive effects in relation to the proposed development, or remedying or mitigating the continuing adverse effects of past development, the Council shall **take into account**:

- a. whether the proposed subdivision or development provides an opportunity to protect

the landscape from further development and may include open space covenants or esplanade reserves;

- b. whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;*
- c. any positive effects including environmental compensation, easements for public access such as walking, cycling or bridleways or access to lakes, rivers or conservation areas;*
- d. any opportunities to retire marginal farming land and revert it to indigenous vegetation;*
- e. where adverse effects cannot be avoided, mitigated or remedied, the merits of any compensation;*
- f. whether the proposed development assists in retaining the land use in low intensity farming where that activity maintains the valued landscape character.*

Proposed Hill House and Farm Manager's House

240. We have previously addressed positive effects and will not repeat that assessment. Other than a small area around the proposed Hill House site and areas associated with the restoration planting, we note that the remainder of the farm will still be used for farming purposes.

Summary of landscape assessment matter analysis

241. We find that the plan provisions taken as a whole can be said to impose a high threshold as to whether development in areas identified in ONLs and ONFs is appropriate. As a result, the lines between the current environment and what is a minor effect and what is a more than minor effect need to be tightly drawn.
242. In order to be satisfied that the proposal is appropriate, we have applied the relevant assessment matters and find that, while the application is aligned with some of the assessment matters, it is not aligned with others that we must be satisfied on.
243. In relation to ODP and the proposed Hill House, for matters that we must be satisfied on for the ONF, we find:
- (i) Assessment matter 5.4.2.2(1)(b) relating to visibility of development – we are not satisfied that the proposed Hill House development would be reasonably difficult to see and find that it will be visually prominent detracting from views of the landscape;
 - (ii) Assessment matter 5.4.2.2(1)(c) relating to visual coherence and integrity of landscapes – we find that the proposed Hill House will break the line and form of a prominent slope and that the access, earthworks and landscaping will affect

visual coherence and integrity. However, we are satisfied that the development will not result in any new boundaries that create artificial or unnatural lines;

- (iii) Assessment matter 5.4.2.2(1)(d) relating to nature conservation values - while the proposal satisfies matters associated with indigenous ecosystems including indigenous vegetation, wildlife habitats and wetlands, as well as not introducing vegetation with a potential to spread, we find that the proposal will adversely affect the geomorphological feature to a more than minor degree.

244. For matters that we need to take into account for the ONF, we find that:

- (i) Assessment matter 5.4.2.2(1)(a) relating to effects on openness of landscape - the proposed Hill House is not aligned with this matter and will not maintain the existing open character and openness that the district plan seeks to protect and maintain;
- (ii) Assessment matter 5.4.2.2(1)(e) relating to cumulative effects of development - while aligned with ecological benefits, it does not satisfy matters associated with protecting visual coherence and naturalness, natural values or domestication and natural character of the ONF;
- (iii) Assessment matter 5.4.2.2(1)(f) relating to positive effects - the proposal is aligned with matters associated with ecosystems, native vegetation and removal of buildings, but it is not aligned with protecting, maintaining and enhancing the ONF;
- (iv) Assessment matter 5.4.2.2(1)(g) relating to other matters – we find that some matters are not relevant however, the proposed easement with associated car park is positive. We find that the proposed consent notice condition is unlawful and unenforceable.

245. In relation to the ODP and the proposed Farm Manager's House located in the ONL, for matters that we need to take into account, we find that:

- (i) The proposal is aligned with assessment matter 5.4.2.2(2)(a) Potential of the Landscape to Absorb Development;
- (ii) The proposed is aligned with assessment matter 5.4.2.2(2)(b) relating to effects on openness of landscape;
- (iii) The proposal is aligned with assessment matter 5.4.2.2(2)(c) relating to cumulative effects on landscape values;
- (iv) Assessment matter 5.4.2.2(2)(d) relating to positive effects - as with 5.4.2.2(1)(f), the proposal is aligned with ecosystems, native vegetation, easements and removal of buildings but we have concerns that the consent notice protecting open space will not be realised.

246. Under the Decisions Version Stage 1 PDP provisions, for matters that we need to be satisfied on, we find that:

- (i) Assessment matter 21.21.1.3 relating to effects on landscape quality and character - the proposal satisfies (c) and (e), however we are not satisfied with the extent to which the proposed Hill House will affect landscape quality and character taking into account physical and visual attributes. We are however satisfied that the proposed Farm Manager's House will maintain or enhance the quality and character of the ONL, satisfying the stated assessment matters.
- (ii) Assessment matter 21.21.1.4 relating to visual amenity – we are not satisfied that the potential visibility of the proposed Hill House will maintain and enhance visual amenity values. However, we are satisfied that the proposed Farm Manager's House is aligned with the stated assessment matters.

- (iii) Assessment matter 21.21.1.6 relating to cumulative effects of subdivision and development – we are not satisfied that the proposed Hill House is aligned with this assessment matter. We find that the proposed Farm Manager’s House will not adversely affect landscape quality, character and visual amenity values.

247. For matters that we need to take into account:

- (i) Assessment matter 21.21.3.3 relating to positive effects - the enhancement of the native vegetation and the restoration of the wetland area as well as the proposed easement are all positive elements of the proposal. As previously stated, we have concerns that the open space consent notice will not be realised.

248. For matters that do not direct the consent authority in any particular way, we find that in relation to assessment matter 21.21.1.5 relating to design and density, the proposed Hill House is not aligned with (b), (c) and (d) however is partly aligned with (a). Further we find that the proposed Farm Manager’s House is aligned with (a), (b), (c) and (d).

249. In relation to 21.21.3.1 we find that the proposed Farm Manager’s House is appropriate. As regard to the proposed Hill House, we find that although the residential building platform has been withdrawn, we do not accept that the development is appropriate.

250. In regard to Assessment Matter 22.4(iv) relating to earthworks, we find that when considering ONF and ONL landscapes the assessment matter requires the visual effects to be assessed as well as the effects on landform. We conclude that although visual effects over time would be mitigated, the effects on the landform will be inconsistent with the geomorphology of the ONF and adversely affect these values.

B ECOLOGICAL RESTORATION AND ENHANCEMENT

251. The application included an assessment of proposed ecological restoration and enhancement for Paddock Farm, which was prepared by Ms Palmer in consultation with Ms Steven. This identified that the low laying ground of the farm was classified as K3.3a Land Environment, meaning it was within threat category 1, having less than 10% of the indigenous vegetation cover remaining and just 2.3% protected. Ms Palmer’s report stated that the protection of threatened biodiversity was required and is the first priority in the National Priority Statement for the protection of biodiversity on privately owned land.⁷⁰ The higher and drier slopes on Buchanan Rise were classified as Land Environment Q2.2b with 39% of the indigenous vegetation associated with this Land Environment remaining on a national scale but only 6.5% of that being protected. This land was classified as Threat Classification 4.

252. Ms Palmer’s report noted that Paddock Farm is currently “virtually bereft of indigenous vegetation and most of the natural wetland areas continue to be drained and maintained in high producing pasture.”⁷¹ Flooding occurs frequently on the low lying southern paddocks. Bracken is regenerating and matagouri and coprosma along with briar are present on the dry eastern slopes of the farm. Lake margins contained the highest diversity of species. The north-eastern corner of the farm currently contains a wetland.

253. Overall, the farm does not contain significant natural areas or significant indigenous vegetation, with the exception that it contains a threatened ecosystem type – wetlands, and is within a category 1 Threatened Environment. In Ms Palmer’s opinion, the farm

⁷⁰ Ecology Report, section 4.1

⁷¹ Ecology Report, section 4.3

has potential for improved biodiversity, the reinstatement of ecosystems that have been lost, extension of restoration work undertaken by neighbours and improved ecosystem function.⁷²

254. Restoration of the central wetland and the north-east corner of the farm were identified. The wetland and shrub components of these areas were said to “complement the mitigations proposed under the application and extend the establishing restoration measures on neighbouring properties.”⁷³ The preparation of a Farm Management Plan would include provisions for stock to be fenced out of farm drains and away from the lake margin.⁷⁴
255. Ms Palmer saw the proposed development, including the two ecological restoration projects and the mitigation planting, as a “significant ecological enhancement opportunity.” She noted that:⁷⁵
- “The restoration of ecosystems substantially lost to the area and extension of restoration work undertaken by neighbours, will result in improved ecosystem function, an increase in habitat and better overall connectivity with the surrounding network of public conservation lands.”
256. She also noted the benefits that would come from predator control.
257. Mr Kruger was critical of the application and its approach to the biodiversity and landscape overlap. He noted that Ms Steven’s evidence had opened up a discussion of the weighting between retaining openness in an open landscape and the benefits of improved indigenous biodiversity. He noted that the landscape assessment matters sought the retention of openness and that this proposal did not achieve that. He stated:⁷⁶
- “This is not a case of maintaining “grassland for the sake of open character” – this is a case of maintaining open character for the sake of landscape cohesion and outstanding landscape values. Fragmenting this vulnerable landscape by inserting a significant human intervention and then disguising this intervention as an “improvement in indigenous biodiversity”, I find ironic.
258. Mr Kruger considered Ms Steven’s assessment to be inconsistent and noted her “demotion” of Policy 6.3.15 of the PDP on the grounds that it is under appeal. We commented on that “demotion”, and others, earlier in our decision.
259. In replying to Mr Kruger’s evidence, Ms Palmer saw the historical removal of indigenous vegetation from Roy’s Peninsula as “a catastrophic intervention in natural ecological processes, natural character, ecosystem function, and connectivity.” She did not agree that the proposal to undertake restoration on the farm as part of this proposal was a “disguise”.⁷⁷ She outlined in her Reply Evidence the areas of net gain she had calculated for the site overall - a net gain of reinstated shrubland of 16,256m², a net gain of wetland habitat of 46,564m², and a total “ecological gain” of 62,820m².⁷⁸
260. As we discuss later in our decision, the thrust of the District Plan objectives and policies is to protect indigenous vegetation and encourage biodiversity. Protection can only

⁷² Ecology Report, section 5.2

⁷³ Ecology Report, section 6

⁷⁴ Ecology Report, section 6

⁷⁵ Reply Evidence of Ms Palmer, paragraph 5

⁷⁶ Evidence of Mr Kruger, paragraph 348

⁷⁷ Reply Evidence of Ms Palmer, paragraph 14

⁷⁸ Reply Evidence of Ms Palmer, paragraph 25

occur if the indigenous vegetation is actually present on the site. In this case, there is very little to “protect”. We do not interpret those policies as enabling development provided some element of restoration occurs. To the contrary, some policies in fact seek to protect the existing open landscape. That was Mr Kruger’s point. We agree with him.

261. Nature Conservation Values Assessment Matters are set in in two sections of the ODP - Section 5.4.2.2(1)(d) as it relates to ONL and ONF, which is discussed later in the decision and in Section 5.4.2.3(i)(a)-(g) of the ODP in a more general sense. Our findings follow.
262. The assessment matters are concerned with opportunities for protection and enhancement of indigenous bio-diversity or indigenous ecosystems; adverse effects on the indigenous ecosystems from animal pests and domestic animals; the need to control the introduction of introduced plants; the protection and enhancement of indigenous plants; protection of lizard populations and effect on inherent values of the site.
263. We accept the evidence that the site has limited indigenous plants and find that the proposal will result in improved biodiversity by the restoration and enhancement of ecosystems, extension of restoration work undertaken by neighbours and improved ecosystem functioning.
264. We also find that the provision for stock to be fenced out of farm drains and away from the lake margin is aligned with the assessment matters.
265. Further the proposal will not result in the planting of introduced plants that have the potential to spread and naturalise.
266. Finally, in regard to assessment matter (g), we find that while the location of the proposed Farm Manager’s House has recognised and provided for the inherent values of the site and its ecological context, the proposed site of the Hill House has not.
267. Overall, there is no doubt that the proposal would bring some ecological benefits to Paddock Farm. However, that would come at a cost to the landscape values of the ONF. There was no suggestion from the Applicant that ecological restoration had been undertaken already, or would be undertaken if the development was declined. Rather, it has approached this development proposal on the basis that the ecological restoration will occur if the development is approved. Ms Fyfe described it as one of the matters intended to “enhance” the application, in light of the effects raised by the development.⁷⁹
268. However, unlike other sites on Roy’s Peninsula, this site is very open in nature and that is one of its important values. That value should be protected. We consider that protection to take priority over the ecological restoration that is only being offered on the basis that development will occur.

C ACCESS AND TRAFFIC EFFECTS

269. It is proposed to access the two proposed development sites from a right of way, Buchanan Rise. Ms Overton was satisfied that the existing road formation was appropriate and no additional work was required.
270. Access to the Hill House would come from Buchanan Rise to an existing legal road, with an extension to the driveway, designed in a curve shape to fit into the natural slope, the intention being to minimise earthworks. Ms Overton was satisfied that the Applicant had

⁷⁹ AEE, section 5.3.7

demonstrated that a fire appliance would be able to negotiate the bend into the Hill House site entrance and that it could manoeuvre within the Hill House site. Conditions were recommended to address these matters. Access to the Farm Manager's House would utilise an existing farm access off Buchanan Rise. Ms Overton was satisfied that the gradients for both accessways complied with the District Plan rules.

271. Ms Overton noted that the vehicle crossing to the Farm Manager's House would breach the site standard for sightlines, which requires a sight distance of 170m for a 100 kph speed zone. The sight distance to the west of this crossing is approximately 93m and to the east it is approximately 60m. However, as a gravel road, the actual driving speed is approximately 70kph, meaning the sight distances required are much less, at 85m. Ms Overton was satisfied that the users of the road in this location are familiar with the existing road layout. The fence results in a narrowing of the road in this location which would reduce vehicle travel speed. Ms Overton was satisfied the proposed access in this location would not result in adverse traffic safety effects and recommended conditions to address the access proposed.
272. We find that the access and traffic effects would be no more than minor.

D NATURAL HAZARDS

273. The application included two separate reports, one from Geosolve and the other from RDAgritech Ltd.
274. Geosolve's assessment was that the Farm Manager's House would be susceptible to liquefaction and flooding from the Matukituki River. The report noted that the Council has established a minimum floor level at Wanaka of 281.9 masl to provide security against an extreme flood with wave set-up. Geosolve noted this was a conservative level for the Farm Manager's House as its sheltered nature meant it would experience less wave heights than at Wanaka township. The existing ground level at the Farm Manager's House site were generally around or above this specified level, therefore the minimum floor level could be readily achieved.
275. In order to address the possibility of flooding from the river, Geosolve recommended establishing a minimum floor level for the Farm Manager's House of 283.5 masl. This level corresponds to the high ground near the south-eastern corner of the site and would provide protection from the Matukituki River against at least the 50 year flood plus freeboard.
276. RDAgritech Ltd's assessment was that the Hill House was not at risk of liquefaction. It recommended that stormwater is channelled to the lower terrace due to the unsuitability of the underlying soil on the terrace. RDAgritech also addressed the risk of flooding from the overland flow path located above the main Hill House residential unit and recommended that a swale be provided above the Hill House residential unit to act as a cut off drain to direct any flood flows away from the residential unit.
277. No active fault traces were observed at the site or are known to exist in the immediate vicinity, however the Geosolve report did note the significant seismic risk in the region because of the known Alpine Fault. There is a high probability of a large magnitude earthquake occurring on the Alpine Fault in the next 50 years, which is expected to result in strong and prolonged ground shaking in the vicinity of Lake Wanaka.
278. Ms Overton accepted the geotechnical assessments and recommended conditions to incorporate these matters. In questioning, Ms Overton confirmed that the cottage (to be

removed) has flooded several times due to extreme rain events, flooding by more than a metre. Ms Overton had no knowledge of the public road flooding.

279. We accept that natural hazards on site can be mitigated through appropriate design and consent conditions. However, as we are not granting consent to the Hill House, we make no further comment on any relevant conditions related to that part of the proposal.

E SERVICING

280. Ms Overton was satisfied that the proposed water supply from an existing bore would be sufficient to supply two proposed residential units. As no current chemical and bacterial tests were submitted with the application, she recommended a condition that these be submitted to the Council prior to any building platforms being registered.
281. Ms Overton was satisfied that sufficient water storage was available for firefighting and included conditions addressing this.
282. Reports submitted with the application confirmed that wastewater was proposed to be disposed of on site. The waste water system design submitted for the Farm Manager's House was acceptable to Ms Overton and conditions recommended that the system be installed as designed. No wastewater design was submitted for the Hill House given it would not be constructed for some time.
283. It is proposed that stormwater will be addressed at the time of building consent.
284. Telecommunications and electricity services can be provided.
285. We are satisfied that appropriate services can be provided in accordance with the Council's standards and that conditions of consent could address these matters.

F EARTHWORKS

286. We outlined earlier in this decision the extent of the earthworks proposed for Stages 1 and 2. Geotechnical reports were provided with the application, both reports including recommendations in regard to site preparation, suitability of soils as fill and batter slope angles. The Hill House construction would involve schist being removed and therefore some rock breaking could be expected. The distance to other properties would mean no adverse effects from this construction activity were expected to occur.
287. Council's reporting engineer, Ms Overton, was satisfied that the earthworks were feasible and that no adverse effects would result on neighbouring sites. She recommended a number of conditions. Ms Overton's report had been based on different earthworks volumes to those contained within the application. In questioning, Ms Overton noted Paterson Pitts' earthworks volumes had not included earthworks for the carpark, which she calculated as approximately 400m² in area. Ms Overton noted that the schist to be removed could be used for farm tracks. Sands and soils would be spread across farm paddocks on Paddock Farm.
288. We have discussed above in the Landscape Effects section the impact of earthworks on the landscape and the potential adverse effects that could result from incomplete construction.
289. Putting those effects to the side under this head, we otherwise find that the effects of earthworks are no more than minor and could be addressed through conditions.

G CUMULATIVE EFFECTS

290. We consider the proposal would raise adverse cumulative effects. The landscape does not have the ability to absorb the Hill House. We have discussed this under assessment matters.

H POSITIVE EFFECTS

291. The positive effects arising from the proposal have been discussed under assessment matters.

SUMMARY OF EFFECTS

292. Overall, having considered the evidence, the application and supporting reports, the legal submissions and the Council's reports, we consider the proposal raises adverse environmental effects on the landscape that cannot be avoided, remedied or mitigated.

OBJECTIVES AND POLICIES OF THE RELEVANT REGIONAL PLANS

293. We are required to take account of the Otago Regional Policy Statement ("Otago RPS") in our assessment. As noted earlier in this decision, there is both an operative and proposed ORPS.
294. We outlined the relevant provisions of both plans earlier in this decision. Broadly, they seek to protect the landscape from inappropriate subdivision and to protect water quality. The operative Otago RPS is a general document and the relevant objectives and policies add little analysis in the way of Part 2. We understand the proposed Otago RPS is now almost operative, subject to two outstanding appeals being resolved. We have considered both documents in our assessment but have primarily focused on the proposed Otago RPS given it is almost settled and more clearly implements Part 2 of the Act. We understand the Otago Regional Council has now indicated this document is partially operative.
295. Chapter 3 of the proposed Otago RPS is one of the matters still subject to appeal and is not yet operative. We therefore refer to the Decisions Version of Chapter 3.
296. Objective 3.2 in Part B Chapter 3 of the proposed Otago RPS requires that:
- "Otago's significant and highly valued natural resources are identified, and protected or enhanced where degraded."
297. Policy 3.2.3 requires the identification of areas and values of outstanding natural features, landscapes and seascapes, using the attributes in Schedule 3 of the proposed Otago RPS. Policy 3.2.5 is almost identical in its management of highly valued landscapes and features.
298. Policy 3.2.4 directs the management of ONLs and ONFs. It seeks that outstanding natural features and landscapes be protected, enhanced or restored by maintaining the outstanding values of the natural feature or landscape; avoiding, remedying or mitigating other adverse effects; and encouraging enhancement of those areas and values which contribute to the significance of the natural feature or landscape.
299. The important policy here is that the values of the ONF or ONL are to be maintained. In this case, those values include the geomorphological features of Roy's Peninsula and the open pasture of this particular ONF. The policy is not directed at remedying and

mitigating effects on ONFs and ONLs because it talks about “other effects”. Otherwise the policy encourages the enhancement of ONFs and ONLs and the values of those features that contribute to the significance of the ONF and ONL.

300. Policy 3.2.6 requires that highly valued natural features and landscapes be maintained or enhanced through all of the following:
- (a) Avoiding significant adverse effects on those values that contribute to the high value of the natural feature or landscape;
 - (b) Avoiding, remedying or mitigating other adverse effects;
 - (c) Encouraging enhancement of those values that contribute to the high value of the natural feature or, landscape.
301. As we have already noted, Roy’s Peninsula is an ONF and is clearly identified as such in the Decisions Version Stage 1 Proposed District Plan maps. We do not understand this aspect of the Decisions Version Stage 1 Proposed District Plan to be under challenge and no landscape expert before us disputed that categorisation. The landscape evidence confirmed the value of the ONF and the ONL on the Applicant’s property. Policy 3.2.6 is essentially directed at avoidance of significant effects on the values of ONLs and ONFs.
302. We find that the proposal is inconsistent with Objective 3.2 and Policies 3.2.4 and 3.2.6 of the proposed Otago RPS. It does not avoid significant adverse effects on the values that contribute to the ONF or ONL. It does not maintain the outstanding values of the ONF and ONL in question, nor does it enhance those values.
303. Objective 4.1 and associated policies of the proposed Otago RPS address risks from natural hazards. We are satisfied these objectives and related policies are met.
304. Objective 5.1 of the proposed Otago RPS requires that public access to areas of value to the community is enhanced or maintained. The subdivision and resulting public access to the lake mean this objective and its relevant policies are met.

OBJECTIVES AND POLICIES OF THE RELEVANT DISTRICT PLANS

305. We have considered the assessments of the objectives and policies of the relevant district plans as set out in the Application, the Section 42A Report and the evidence.
306. Following the Court’s approach in *Willowridge*,⁸⁰ we do not intend to traverse each and every relevant objective and policy of the ODP and Decisions Version Stage 1 PDP as they both have a comprehensive list of assessment matters which reflect the relevant objectives and policies. We discussed these in detail earlier in our decision under Landscape Effects. However, given the importance of the landscape issues raised by this application, this part of our decision addresses important objectives and policies and whether this proposal meets those provisions.

Landscape objectives and policies

307. It is important to recognise that many of the relevant landscape objectives and policies now found in Decisions Version Stage 1 PDP have their origins in the ODP. For example:

⁸⁰ At paragraph [33]

- 4.1.4 Objective 1 includes “The protection of outstanding natural features and natural landscapes”;
- Policy 4.2.5(1) – avoiding, remedying or mitigating the adverse effects of development in areas of the District where the landscapes and visual amenity values are vulnerable to degradation and encouraging development in areas with greater potential to absorb change;
- Policy 4.2.5.2(a) - “To maintain the openness of those outstanding natural landscapes and features which have an open character at present”;
- Policy 4.2.5.2(b) - “To avoid subdivision and development in those parts of the outstanding natural landscapes with little or no capacity to absorb change”;
- Policy 4.2.5.2(d) - “To recognise and provide for the importance of protecting the naturalness and enhancing amenity values of views from public roads”;
- Policy 4.2.5.5, under the heading Outstanding Natural Features - “To avoid subdivision and/ or development on and in the vicinity of distinctive landforms and landscape features.....unless the subdivision and/ or development will not result in adverse effects which will be more than minor on...landscape values and natural character...”;
- Policy 4.2.5.5(a) – “To avoid subdivision and/ or development on and in the vicinity of distinctive landforms and landscape featuresunless the subdivision and/ or development will not result in adverse effects which will be more than minor on landscape values and natural character and visual amenity values.” We note here the “reasonably difficult to see” test as it applies to ONFs is included as a matter to be recognised and provided for under (a)(iii);
- The need to avoid “further cumulative deterioration of the outstanding natural features” is found in Policy 4.2.5.5(a)(iv);
- The importance of protecting naturalness of the landscape is found in Policy 4.2.5.5(a)(vi);
- The environmental results anticipated are stated in 4.2.6 as including:
 - “(i) The protection of outstanding natural landscapes and features from inappropriate subdivision, use and development.
 - “(ii) Maintenance and enhancement of openness and naturalness of outstanding natural landscapes and features.”

308. As will be evident from our Landscape Effects assessment, we consider the proposal is inconsistent with these objectives and policies.

309. Policy 4.2.5(11) refers to forestry and amenity planting. Subject to Policy 16, 4.2.5(11)(a) requires the maintenance of the existing character of openness in relevant ONLs and ONFs of the District by (relevantly here)

“(a) encouraging forestry and amenity planting to be consistent with patterns, topography and ecology of the immediate landscape”.

310. We find the proposal is inconsistent with this policy as regards amenity planting.

311. Policy 4.2.5(17) directs that land use be encouraged “in a manner which minimises adverse effects on the open character and visual coherence of the landscape.” We consider the proposal is inconsistent with this policy.
312. Part 4.9.3 also addresses the natural environment and landscape values. Objective 1 states “Growth and development consistent with the maintenance of the quality of the natural environment and landscape values”. Policy 1.1 requires that new growth protects the visual amenity and avoid urbanisation of land which is of outstanding landscape quality, ecologically significant, or which does not detract from the values of the margins of rivers and lakes. We consider the proposal is inconsistent with this objective and policy.
313. Chapter 5 of the ODP continues the themes of the protection of character and landscape value of the rural area; avoiding, remedying or mitigating adverse effects on landscape values; avoiding, remedying or mitigating adverse effects of structures and water tanks on prominent slopes; the retention of the life supporting capacity of soils; and the protection of rural amenity. As Ms Fyfe noted in her evidence, many of the landscape protection themes of Chapter 4 of the ODP are repeated in Chapter 5. The most relevant objectives and policies here are:
- Objective 1, supporting policies 1.1, 1.6, 1.7, 1.8
 - Objective 2, supporting Policy 2.1
 - Objective 3, supporting policy 3.3
314. In our discussion under Landscape Effects, we referred to the guiding principles under 5.4.2.2(1) of the ODP, which include reference to “exceptionality”.
315. The intent of the level of protection for ONLs and ONFs, openness and open character, is very clear in the ODP. So too is the concern that cumulative degradation of ONFs be avoided. In our view, that level of protection has not always been achieved.
316. A similar but more stringent focus has been carried through to Decisions Version Stage 1 PDP through the following:
- 3.1(d) Issue 4 – the District’s natural environment, particularly its ONLs, has intrinsic qualities and values worthy of protection in their own right as well as offering significant economic value to the District;
 - Objectives 3.2.4 and 3.2.4.3 – protection of the natural environments and ecosystems of the District and preservation or enhancement of the natural character of the beds and margins of the District’s lakes, rivers and wetlands;
 - Objectives 3.2.5 and 3.2.5.1 – retention of the District’s distinctive landscapes and the protection of the landscape and amenity values and the natural character of ONLs and ONFs from adverse effects of subdivision, use and development that are more than minor and/ or not temporary in duration;
 - Objective 3.3.19 – manage subdivision and/ or development that may have adverse effects on the natural character and nature conservation values of the District’s lakes, rivers and wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced;

- Objective 3.3.30 – avoid adverse effects on the landscape and visual amenity values and natural character of the District’s ONLs and ONFs that are more than minor and/ or not temporary in duration;
- Section 6.2 – values are stated for a variety of matters including landscapes and indigenous vegetation;
- Policy 6.3.9 – encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the intensity in the land use or the retirement of productive land;
- Policy 6.3.10 – ensure that subdivision and development in the ONLs and RLCs adjacent to ONFs does not have more than minor adverse effects on the landscape quality, character and visual amenity of the ONF;
- Policy 6.3.11 – encourage any landscaping to be ecologically viable and consistent with the established character of the area;
- Policy 6.3.12 – the exceptionality provision (see full wording and discussion below);
- Policy 6.3.16 – maintain the open landscape character of ONFs and ONLs where it is open at present.

317. The interpretation of Policy 6.3.12 occupied much of the hearing before us. We consider this policy to be at the heart of the effects raised by this application, along with Policy 6.3.16. These must be read alongside the assessment matters in Chapter 21.

318. Policy 6.3.12 Decisions Version Stage 1 PDP states:

“Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site the subject of application.”

319. None of the parties appeared to have gone back to the Proposed District Plan Hearing Panel (“PDP Hearing Panel”) Reports and Recommendations prepared in support of Decisions Version Stage 1 PDP. If they had, they did not refer us to those reports. In order to understand how the landscape policies were arrived at, we have read the PDP Hearing Panel Report and Recommendations.

320. In its report and recommendations on the lead-in objective in Chapter 3 setting the strategic framework for the protection of ONLs and ONFs, the PDP Hearings Panel said this:⁸¹

“Given our recommendation that there should be a strategic chapter giving guidance to the implementation of the PDP as a whole, the objective in the strategic chapter relating to activities affecting ONLs and ONFs is arguably the most important single provision in the PDP.” (our emphasis)

⁸¹ Hearing Panel Recommendation Report 03 Stream 1B Chapters 3, 4 and 6, paragraph 362

321. The PDP Hearing Panel concluded that there should be one objective for ONLs and ONFs of the District and the objective should be “based upon protecting the landscape and visual amenity values and the natural character of landscapes and features from more than minor adverse effects that are not temporary in nature.”⁸² (our emphasis)
322. The PDP Hearing Panel made reference to an Environment Court case relevant to the wording of the ODP provision on exceptionality:⁸³
- “The Environment Court thought it was necessary to make comment about the likelihood of applications being successful in the ODP to make it clear that the discretionary activity status afforded activities in ONLs and ONFs under the ODP did not carry the usual connotation that such activities are potentially suitable in most if not all locations in a zone. The Environment Court made it clear that, were this not able to be stated, a more restrictive, non-complying activity would be appropriate.”
323. At paragraph 1225, the PDP Hearing Panel then explicitly rejected a submission that the ODP policy was only directed at ONLs in the Wakatipu Basin.
324. Addressing Policy 6.3.12, the PDP Hearing Panel noted the policy’s overlap with the relevant assessment matters, stating the role of assessment matters is to implement the policies in a plan. Assessment matters are not quasi-policies. The PDP Hearing Panel decided that it would be more helpful for the Plan to not only explain that successful applications will be exceptional, but to give some guidance as to what characteristics would determine when an application would be successful. The capacity to absorb change was one factor. The visibility of buildings and structures was another.⁸⁴ The assessment matters set out a detailed list of matters to be considered in any assessment.
325. The Applicant’s case before us (particularly the evidence) appeared to be premised on the exceptionality test being satisfied by an overall listing of many factors of the proposal, including positive effects. In his opening submissions, Mr Beatson stated:⁸⁵
- “Planning provisions controlling development in an ONF specify that development is inappropriate in almost all locations such that successful applications will be exceptional cases. The submitters seem to read these provisions to mean development is prohibited.
- It is acknowledged the provisions set a very high bar to development so that consent should only be granted in exceptional cases. Each case should be considered on its particular merits having regard to the particular location, its ability to absorb the proposed development and the extent to which the effects can be mitigated. In this regard, planning provisions do not require invisibility; rather that the development be reasonably difficult to see.”
326. We did not understand the submitters to interpret the provisions as meaning development is prohibited. Rather, the submitters had examined the objectives and policies and the relevant assessment matters, and worked through the planning provisions methodically. The evidence for Just One Life Limited was that there would

⁸² Hearing Panel Recommendation Report 03 Stream 1B Chapters 3, 4 and 6, paragraph 392

⁸³ Hearing Panel Recommendation Report 03 Stream 1B Chapters 3, 4 and 6, paragraph 1223, citing the case of *Lakes District Rural Landowners Society Inc v QLDC C75/2001* at 41-46

⁸⁴ Hearing Panel Recommendation Report 03 Stream 1B Chapters 3, 4 and 6, paragraphs 1228 and 1229

⁸⁵ Opening submissions for Applicant, paragraphs 59 and 60

be adverse effects on the ONF that could not be remedied or mitigated. The mitigation planting in itself caused its own adverse effects.

327. Mr Taylor’s interpretation of the exceptionality policy was as follows:⁸⁶

“...the reference to exceptionality means that there is an implicit assumption that an ONF location should only be considered where other options are not practicable, and where the feature can absorb the change, and the buildings are reasonably difficult to see. Where there are other options outside of the ONF or in locations or circumstances where effects can be further minimised, I consider these should be pursued in the first instance. For otherwise the application could not be regarded as exceptional.”

328. Ms Fyfe’s initial interpretation was:⁸⁷

“...only exceptional cases where the landscape can absorb the change and where buildings will be reasonably difficult to see from beyond the Property would be successful.”

329. In her Reply evidence, Ms Fyfe referred us to the Oxford dictionary of “exceptional” and then proceeded to tell us why the proposal was, in her view, exceptional. These reasons included:⁸⁸

- The condition that the Hill House construction could not commence until screen planting was sufficiently mature that the Hill House would be reasonably difficult to see or not visible at all;
- Other buildings in the landscape will be removed or repurposed;
- The volunteering of extensive enhancements and the planting around the Hill House;
- The site’s location between two area of active restoration;
- The built aspects of the proposal would be a small component in the landscape as seen by the public.

330. Ms Steven made similar points in her oral evidence in responding to our questioning on this point.

331. Mr Beatson made further submissions on the meaning of the policy in his closing, noting the key word of “meaning” in the policy and that exceptional cases are those where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site the subject of application.⁸⁹

332. We consider the exceptionality test in Policy 6.3.12 breaks down into the following parts (underlining is our emphasis):

- First, subdivision and development is inappropriate in almost all locations in ONLs and on ONFs

⁸⁶ Evidence of Mr Taylor, paragraph 26

⁸⁷ Evidence of Ms Fyfe, paragraph 77

⁸⁸ Reply Evidence of Ms Fyfe, paragraph 7

⁸⁹ Closing legal submissions for Applicant, paragraph 36

- Second, successful applications will be exceptional cases where:
 - The landscape or feature can absorb the change;
- Third:
 - And where buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the site boundary.

333. If the ONL or ONF cannot absorb the change, the policy cannot be met. The “reasonably difficult to see” test only follows the first “absorption” test being satisfied. This means the location of the development proposal is critical. If the ONF or ONL cannot absorb the change, other available sites outside the ONF or ONL should be considered. In this case, and given the extensive landholding concerned, other options should have been explored in detail, rather than proceeding with a development on the most prominent part of the property and seeking to undertake significant mitigation to screen it. That, in our view, is not absorption. We agree with Mr Taylor’s conclusion that “I do not consider that the desire of an applicant to have a dwelling in a sensitive ONF location for purely personal use and reasons, is in any way exceptional.”⁹⁰
334. Mr Kruger was critical of the lack of site selection undertaken by the Applicant. Ms Steven made it clear that she had not been asked to assess possible options across the whole site.⁹¹ She stated that she considered the Hill House site to be “potentially appropriate” from the outset, but noted that it would require considerable mitigation through planting, which her client “was yet to accept” at that stage of Ms Steven’s involvement. Ms Steven also noted that the lower, more steeply sloping bench with easier shorter access was initially considered, but “it was decided it did not provide enough room for the proposal.” Flooding and liquefaction on the flatter parts of Paddock Farm were already known.⁹²
335. Ms Palmer also confirmed that she had not been involved in any site selection process.⁹³
336. The impression we were left with was that the Applicant had made up her mind on where she wanted to locate the Hill House site, and the task of the experts engaged was then to mitigate the effects raised.
337. Overall, in our view, the extent of the mitigation required to address the adverse effects of the proposed Hill House highlights the lack of absorption capacity of the ONF for this development. We agree with Mr Kruger that the inappropriateness of the proposal cannot be “outdesigned”.⁹⁴ We find the proposal does not satisfy the test of “exceptionality”.

Rural zone objectives and policies

338. We referred earlier in our decision to the key linkages between Chapters 3, 6 and 21 of Decisions Version Stage 1 PDP. The key objectives and policies are:

⁹⁰ Evidence of Mr Taylor, paragraph 27

⁹¹ Reply Evidence of Ms Steven, paragraph 66

⁹² Reply Evidence of Ms Steven, paragraph 66

⁹³ Reply Evidence of Ms Palmer, paragraph 10

⁹⁴ Evidence of Mr Kruger paragraph 257

- Objective 21.2.1 and supporting policies 21.2.1.1-21.2.1.3, 21.2.1.5, 21.2.1.6, 21.2.1.8 and 21.2.1.9
- Objective 21.2.2 and supporting policies 21.2.2.1, 21.2.2.2, 21.2.2.3
- Objective 21.1.3 and supporting policy 21.2.3.1
- Objective 21.2.9 and supporting policies 21.2.9.1 and 21.2.9.2
- Objective 21.2.12 and supporting policies 21.2.12.6 and 21.2.12.7

339. As Ms Fyfe noted in her evidence, the main themes are enabling a range of rural activities whilst maintaining and enhancing landscape, ecosystems, nature conservation and rural amenity, protecting vegetation from fire risk, avoiding cumulative impacts on ecosystems and nature conservation values and supporting soil and water resources.⁹⁵
340. But they also include the protection, maintenance or enhancement of the natural character of lakes and rivers and their margins and enabling people to have access to a wide range of recreational experiences on the lakes and rivers.
341. As Mr Taylor noted, there is no policy support in Chapter 21 for the establishment of dwellings for purely residential purposes. He regarded the Hill House as “other rural activity”. Unlike the Farm Manager’s House, it is not necessary for farm management purposes.⁹⁶

Nature Conservation objectives and policies

342. ODP 4.1.4 lists objectives and policies for nature conservation. Objective 1 has many parts and includes:
- “The protection and enhancement of indigenous ecosystem functioning and sufficient viable habitats to maintain the communities and the diversity of indigenous flora and fauna within the District.
- Improved opportunity for linkages between the habitat communities.
- The preservation of the remaining natural character of the District’s lakes, rivers, wetlands and their margins.
- The protection of outstanding natural features and natural landscapes.”
343. The policies include encouraging the long-term protection of indigenous ecosystems and geological features;⁹⁷ encouraging the protection of sites having indigenous plants or animals or geological or geomorphological features of significant value;⁹⁸ allowing development which maintains or enhances the quality of the environment in areas identified as having rare, endangered or vulnerable species of plants or animals of national significance, or indigenous plant or animal communities that are of outstanding significance to the nation;⁹⁹ and avoiding any adverse effects of activities on the natural character of the District’s environment and on indigenous ecosystems.¹⁰⁰

⁹⁵ Evidence of Ms Fyfe, paragraph 82

⁹⁶ Evidence of Mr Taylor, paragraphs 81 - 83

⁹⁷ Policy 1.1

⁹⁸ Policy 1.4

⁹⁹ Policy 1.6

¹⁰⁰ Policy 1.7

344. Chapter 33 of the PDP addresses indigenous vegetation, the most relevant being:
- Objective 33.2.1 and supporting Policy 33.2.1.7; and
 - Objective 33.2.3 and supporting policies 33.2.3.2 and 33.2.3.3.
345. The key theme of these is the protection, maintenance and enhancement of indigenous biodiversity.

Earthworks objectives and policies

346. Chapter 22 of the ODP includes Objective 1, which seeks to enable earthworks for development provided they are undertaken in a way that avoids, remedies or mitigates adverse effects on ...the natural environment. Policy 1.1 directs that they are to be designed to be sympathetic to natural topography where practicable. Objective 2 is that the adverse effects of earthworks on rural landscapes and visual amenity values to be avoided, remedied or mitigated. Two policies have a strong focus on landscape:

Policy 2.1 – “Avoid, where practicable, or remedy or mitigate adverse effects of earthworks on Outstanding Natural Features and Outstanding Natural Landscapes.”

Policy 2.2 – “Avoid, where practicable, or remedy or mitigate adverse visual effects of earthworks on visually prominent slopes, natural landforms and ridgelines.”

347. As we mentioned earlier in our decision, Stage 2 of the PDP includes a new restriction on earthworks in ONFs and ONLs, limiting the area to 10m³. This is supported by Policy 25.2.1.2 which states:

“Protect the followed values resources including those that are identified in the District Plan from the inappropriate adverse effects of earthworks:

a. Outstanding Natural Features and landscapes...”

348. Policy 25.2.1.3 of the PDP is also relevant. It directs “Avoid, where practicable, or remedy or mitigate adverse visual effects of earthworks on visually prominent slopes, natural landforms and ridgelines.” This is the same wording as Policy 2.2 of Chapter 22 of the ODP.

Natural hazards objectives and policies

349. Natural Hazards are addressed in 4.8 of the ODP. These generally seek that risk from natural hazards be avoided or mitigated. Chapter 28 of the PDP has more of a focus on management. As natural hazards are not an issue with this proposal, we do not propose to address these objectives and policies any further.

Transportation objectives and policies

350. We adopt Ms Stagg's Section 42A Report on the objectives and policies of Chapter 14 ODP, Transport.

Subdivision objectives and policies

351. Chapter 5 of the ODP is primarily directed at servicing. It also addresses the maintenance and enhancement of amenity. In particular, Policy 5.2 seeks to ensure rural subdivision will not lead to a pattern of land uses that will adversely affect landscape, visual, cultural and other amenity values.
352. Chapter 27 of Decisions Version Stage 1 PDP is more focused on servicing and design.

Summary Objectives and Policies

353. In summary, our findings on the assessment matters are detailed and overlap with the relevant District Plan objectives and policies and the Operative and Proposed Regional Policy Statements.
354. We find that in terms of the Operative and Proposed Regional Policy Statements, the Hill House is inconsistent with the objectives and policies directed at the protection of landscapes and ONFs. It is consistent with the objectives and policies addressing natural hazards and public access.
355. The Farm Manager's House is generally consistent with all objectives and policies referred to.
356. We find that in terms of the Operative District Plan the Hill House:
- i. Is inconsistent with the landscape objectives and policies. It does not avoid adverse effects on an ONF that is subject to degradation and it does not place development in an area that can absorb change. It will result in more than minor adverse effects on the ONF (including its values) and on the open character and visual coherence of the landscape. The proposal will not be reasonably difficult to see, in part because the extensive mitigation proposed will draw the public eye to the site's development and the presence of a building there. It does not maintain the openness of the ONF which has an open character at present.
 - ii. Is consistent with those parts of the nature conservation objectives and policies that address indigenous system functioning and linkages, but is inconsistent with the objectives and policies that require the protection of ONFs and the preservation of the natural character of the lake and its margins.
 - iii. Is inconsistent with the rural zone objectives and policies.

- iv. Is inconsistent with the earthworks objectives and policies because of the adverse effects on the ONF and its prominent slope, which cannot be remedied or mitigated.
 - v. Is consistent with objectives and policies addressing transport and natural hazards.
 - vi. Is consistent with the parts of the subdivision objectives and policies addressing servicing, but is inconsistent with those that address amenity.
357. The Farm Manager's House is generally consistent with the objectives and policies of the ODP.
358. We find that in terms of the Decisions Version Stage 1 PDP the Hill House:
- i. Is inconsistent with the strategic direction and landscape objectives and policies. In particular, the proposal is not in any way exceptional as required by Policy 6.3.12 as the landscape cannot absorb the change.
 - ii. Is inconsistent with objectives and policies in the Rural zone.
 - iii. Is consistent with the objectives and policies seeking to enhance and maintain indigenous vegetation.
 - iv. Is inconsistent with the earthworks objectives and policies in Chapter 25. We note again that these provisions have less weight than the ODP as no decisions on Stage 2 of the PDP are available.
 - v. Is generally consistent with the subdivision objectives and policies.
 - vi. Is consistent with the natural hazards objectives and policies.
359. The Farm Manager's House is generally consistent with the objectives and policies of Decisions Version Stage 1 PDP and Stage 2 earthworks.

OTHER MATTERS

Precedent

360. We are concerned that granting consent for the Hill House may set a precedent for further, like-minded development to follow. This could affect both the integrity and administration of the plans, in particular development ONLs and ONFs and the use of artificial mitigation to achieve the "reasonably difficult to see" test. There is a very real potential for further development to follow, relying on any consent granted here, just as the Applicant has done in putting this proposal forward. We consider this application does raise a precedent effect.

Subdivision (s.106)

361. A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to, or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made. As we have already noted, there is no risk from natural hazards on this site that cannot be mitigated against. Consent can therefore be granted under section 106 of the Act.

SECTION 104 and 104B ASSESSMENT

362. Under sections 104 and 104B, we have reached the view that the development raises actual and potential landscape effects on the environment that cannot be addressed through consent conditions. The proposal is inconsistent with many relevant and important provisions of the district and regional planning instruments.

PART 2 MATTERS

363. In his opening submissions, Mr Beatson referred us to the decision of the Court of Appeal in *Davidson*¹⁰¹, noting that the Court confirmed the application of Part 2 of the Act to resource consent applications but noting also that such recourse to Part 2 may not add anything where planning documents have been competently prepared in a manner that appropriately reflects the provisions of Part 2.¹⁰² As Mr Beatson submitted, reference to Part 2 “cannot justify an outcome contrary to the thrust of the relevant policies, so as to render ineffective regional or district plans.”¹⁰³
364. We consider the planning documents referred to in our decision do reflect the provisions of Part 2 and that no further analysis is required. However, we are conscious that this decision is important in addressing the Council’s planning policy direction as it now stands following the release of decisions on Stage 1 of the PDP and that further analysis under Part 2 may be helpful. As will be evident from our decision, we are concerned that development on this part of Roy’s Peninsula raises real issues for the integrity of this important landscape and the planning instruments which appear directed at protecting it. We are satisfied that our analysis of Part 2 properly reflects, and is consistent with, the thrust of the relevant planning policies we have discussed in this decision.
365. With reference to Section 5 of the Act, we consider that a perception of change to a valued landscape is as relevant as the extent of the change itself. People and communities appreciate natural and physical qualities and characteristics of a landscape. There was no debate here that the ONL and ONF classifications are appropriate and valued. The policies in the plans bring these values into play, just as they bring into play the definition of amenity in the Act. As the ODP notes, these are the romantic landscapes. The potential of the natural and physical resource here, the ONF, will not be sustained so as to protect the reasonably foreseeable needs of future generations. Adverse effects cannot be avoided, remedied or mitigated under Section 5(2)(c). We do not consider the purpose of the Act is met by this proposal.
366. In achieving the purpose of the Act, and in relation to managing the use, development and protection of natural and physical resources, we are to recognise and provide for a number of matters of national importance.
367. Section 6(a) requires the preservation of the natural character of, amongst other things, lakes and rivers and their margins, and their protection from inappropriate subdivision, use and development. This was not addressed much at all in evidence. The presence of the Hill House in such a visible location could fail to meet this matter of national importance. It is not in the lake margin, but arguably, the natural character of the lake itself is affected by the presence of housing in such a prominent and visible location.

¹⁰¹ *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316

¹⁰² *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, at paragraphs [74]-[75]

¹⁰³ Opening legal submissions for Applicant, paragraph 18, *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, at paragraphs [74] and [78]

Unlike the Court in the *Just One Life Limited* case, we find that this site is prominent and would be exposed to a number of viewers.

368. Section 6(b) is clearly at the heart of this proposal. It requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development. For the reasons stated in this decision, we do not consider this matter of national importance to have been met.
369. Section 6(c) requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. As there are no such areas on the site, this matter is not relevant.
370. Section 6(d), the maintenance and enhancement of public access to and along lakes and rivers, is met by the subdivision and the provision of the fisherman's access.
371. Sections 6(e), (f) and (g) are irrelevant. There are no risks from natural hazards, therefore section 6(h) is met.
372. Sections 7(a), (aa), (ba), (h), (i) and (j) are irrelevant. We do not consider this proposal to meet sections 7(b), (c) and (f)). It is not an efficient use of this natural and physical resource, being a valued ONF. It does not maintain and enhance amenity values and does not maintain and enhance the quality of the environment. The finite resource of the natural and physical resource of the ONF is relevant under section 7(g), but to find the proposal does not meet this provision could be regarded as "double counting" when it is considered against section 7(b).
373. Section 8 is not relevant.

DETERMINATION

374. Overall, the activity was assessed as a discretionary activity under sections 104 and 104B of the Act.
375. The Act seeks to avoid, remedy and mitigate adverse effects associated with developments. We do not consider that the adverse effects of the Hill House can be appropriately avoided, remedied or mitigated, and have determined that this part of the proposal is inconsistent with the relevant planning instruments.. It does not satisfy Part 2 of the Act.
376. Accordingly, we determine that consent is GRANTED IN PART solely for the Farm Manager's House and the subdivision. The conditions of consent have been amended to reflect that partial grant of consent.
377. The application for the Hill House is REFUSED in its entirety.

Dated at Queenstown this 5th day of February 2019.



Jan Caunter (Chair)

For the Hearings Commission

Appendix 1 – Consent Conditions

APPENDIX 1 – CONSENT CONDITIONS

Land Use Consent Conditions

Intpretation

1. In this consent, unless the context otherwise requires:
 - (a) 'QLDC' means the Queenstown Lakes District Council.
 - (b) 'Land Development and Subdivision Code of Practice' and 'Code' means the Land Development and Subdivision Code of Practice adopted by the QLDC on 3 June 2015 and subsequent amendments to that document up to the date of commencement of the resource consent.

Note: The current standards are available on Council's website via the following link:
<http://www.qldc.govt.nz>

General Conditions

2. That the development must be undertaken/carried out in accordance with the following plans:
 - (i) Architectural Concept Plans prepared by Patterson's Architects, 'Paddock Bay Farm Managers Shed, Wanaka':
 - a. Floor Plan, dated May 2017
 - b. Elevations, dated May 2017
 - c. Site Plan- Sheds, dated May 2017 (with Aerial Overlay)
 - d. Site Plan- Sheds, dated May 2017
 - (ii) Patterson Pitts Group, Apres Demain Ltd, Paddock Bay, Proposed Building Platform on Lot 7 DP302117, Computer Freehold Register 8373, Sheet 102, Revision 4, dated 05/12/2018.
 - (iii) Landscape Plan 'Proposed Staff Accommodation House- Paddock Bay Farm Houses' prepared by Anne Steven Landscape Architect, referenced Fig.5, Plan Ref.254.LP02, dated May 2017.
 - (iv) Ecological Restoration Areas, prepared by Dawn Palmer (Natural Solutions for Nature) and Anne Steven, dated February 2018, referenced Map 1.
 - (v) Table 2- Planting Schedule for Restoration Area- Natural Solutions for Nature
 - (vi) Earthworks Plans prepared by Paterson Pitts Group, Apres Domain Limited (sic), Paddock Bay, all dated 18 January 2019:
 - a. Proposed Earthworks Overview Plan, Drawing Number 008, Sheet Number 200, Revision O,
 - b. Proposed Managers Quarters, Existing Contours, Drawing Number 008, Sheet 203, Revision O,
 - c. Proposed Managers Quarters, Proposed Contours, Drawing Number 008, Sheet 204, Revision O,
 - d. Proposed Managers Quarters, Cut/Fill Plan, Drawing Number 008, Sheet 205,

- Revision O,
- e. Proposed Managers Quarters, Long and Cross Sections, Drawing Number 008, Sheet 206, Revision O,
- f. Proposed Carpark Existing Contours, Drawing 008, Sheet 201, Revision O, and
- g. Proposed Carpark Proposed Contours and Earthworks, Drawing 008, Sheet 202, Revision O.

stamped as approved on 5 February 2019

and the application as notified, along with the evidence lodged in support of the application (except insofar as any condition of this consent provides otherwise).

3. Until the consent holder has paid all fixed fees and any additional charges imposed under section 36 Resource Management Act 1991, no work or activity authorised by this consent may be undertaken.
4. The consent holder is liable for costs associated with the monitoring of this resource consent under section 35 of the Resource Management Act 1991.

Engineering

5. All engineering and construction works must be carried out in accordance with QLDC Land Development and Subdivision Code of Practice.

Prior to Commencing Any Work on Site

6. At least 10 days prior to commencing any works on site the consent holder shall provide a letter to the Manager of Resource Management Engineering at QLDC 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.
7. At least 7 days prior to commencing work on site, the consent holder shall provide the Manager of Resource Management Engineering at QLDC with the name of a suitably qualified professional as defined in Section 1.7 of QLDC's Land Development and Subdivision Code of Practice who is familiar with the reports by GeoSolve, Geotechnical Report, Paddock Bay Farm, Wanaka dated April 2017, GeoSolve Ref: 170173 who shall supervise the works and ensure compliance with the recommendations of these reports. This engineer shall continually assess the condition of the excavation and shall be responsible for ensuring that temporary retaining is installed wherever necessary to avoid any potential erosion or instability.
8. Prior to any works commencing on site the consent holder shall implement the following traffic management measures during the earthworks phase of the development:
 - (i) Suitable site warning signage shall be in place on the road in both directions from the site entrance;
 - (ii) High visibility safety clothing shall be worn by any staff working on the road; and
 - (iii) Safe sight distances and passing provisions shall be maintained at all times.

9. 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 to ensure that neighbouring sites remain unaffected from earthworks. 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.
10. Prior to commencing any works on the site, the consent holder shall obtain 'Engineering Review and Acceptance' from the QLDC for all development works and information requirements specified below. An 'Engineering Review and Acceptance' application shall be submitted to the Manager of Resource Management Engineering at QLDC and shall include copies of all specifications, calculations, design plans and Schedule 1A design certificates as is considered by QLDC to be both necessary and adequate, in accordance with Condition (5), to detail the following requirements:
 - a) Provision of a minimum supply of 2,100 litres per day of potable water to the building platform on Lot 7 DP 302117 that complies with/can be treated to consistently comply with the requirements of the Drinking Water Standard for New Zealand 2005 (Revised 2008).
 - b) The provision of a vehicle crossing to the building platform within Lot 7 DP 302117 from Shortcut Road/Buchanan Rise to be in terms of Diagram 2, Appendix 7 and Rule 14.2.4.2 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 consent holder shall provide a flood assessment by a suitably qualified hydraulic engineer to ensure that there is no inundation of any buildable areas for the Farm Manager's residential unit and the residential flat to cater for a 1% AEP storm event. This shall include the provision of setting the height(s) of the finished floor level. In the event that the site conditions 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 Manager Resource Management Engineering at QLDC for review and acceptance 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 prior to registration.

Prior to Registration of the Building Platform

11. Prior to the building platform being registered on the Computer Freehold Register, the consent holder shall complete the following:
 - a) The consent holder shall submit to the Manager Resource Consents at QLDC for certification an Ecological Restoration Management Plan for Lot 7 DP302117 prepared by a suitably qualified professional. The plan shall incorporate appropriate details that ensure the successful establishment of all plants for the planting areas shown in Map 1 described in Condition 2 above. As a minimum the Ecological Restoration Plan ("ERP") shall include the following:
 - i) A requirement that the planting as shown the following plans prepared by

Anne Steven and Dawn Palmer, titled:

Landscape Plans:

- a. Map 1-Ecological Restoration Areas, prepared by Dawn Palmer (Natural Solutions for Nature) and Anne Steven, dated February 2018
- b. Landscape Plan 'Proposed Staff Accommodation House- Paddock Bay Farm Houses' prepared by Anne Steven Landscape Architect, Fig.5, Plan Ref.254.LP02, dated May 2017.

incorporate the plant species identified in Table 2- Planting Schedule for Restoration Area- Natural Solutions for Nature, detailed in Condition 2, and be implemented immediately following completion of the construction of the Farm Manager's residential unit and residential flat.

- ii) Detailed planting plans for all areas including species identified in Table 2 included in Condition 2, numbers, grades and timing of planting; and identification of any existing indigenous vegetation in the planting area.
- iii) A detailed planting implementation specification prepared by a suitably qualified and experienced person including, but not limited to:
 - a. Site preparation and horticultural standards required for planting and appropriate for the site conditions and maintenance requirements during establishment.
 - b. Prior to planting, certification from plant suppliers that eco-sourced plants from the Central Otago and/or Lakes Ecological Region are to be supplied by them, that certification to be supplied to the Manager Resource Consents at QLDC on request.
 - c. The location and any staking required for larger grade trees and shrubs.
 - d. Details for all pest control fencing including fence design, and fence location shown on a plan.
 - e. A methodology for the provision of irrigation for the purpose of ensuring successful establishment and healthy growth.
- iv) An ongoing plant maintenance plan prepared by a suitably qualified and experienced professional providing for, at a minimum:
 - a. The ongoing management and maintenance required to ensure the successful establishment, healthy growth and maturation of all planting. The ongoing management and maintenance schedule shall specify that unsuccessful planting shall be progressively and promptly replaced as soon as practicable with either the same species or another species listed in Table 2 of the ERP and that plants will be eco-sourced from the Central Otago and/or Lakes Ecological Regions and provide the same ecological and screening benefit.
 - b. The protection of existing indigenous vegetation to no less than the extent and density as shown on the certified landscape plans.

- v) A Weed and Pest Animal Control Plan that provides for the control and removal of plant and animal pests identified in the Regional Pest Management Plan, any invasive nuisance plant pest species (e.g. but not limited to hawthorn, elder, willows beyond the existing copses), cats, mustelids (ferrets and stoats), rabbits and possums. The Weed and Pest Animal Control Plan should adopt best practice methods as specified by the Department of Conservation, Otago Regional Council and the National Animal Welfare Advisory Committee (NAWAC) guidelines for the humane destruction of animals.
- b) The certified ERP shall be complied with by the consent holder including the completion, implementation and maintenance of all works and timing thereof. For the avoidance of doubt, where there is an inconsistency between the certified ERP and these conditions of consent, these conditions shall prevail.
- c) The consent holder shall provide 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this development to the Manager of Resource Management Engineering at QLDC. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Water reticulation (including private laterals and toby positions).
- d) The completion and implementation of all works detailed in Condition (10) above.
- e) A digital plan showing the location of the building platform as shown on the Land Transfer Plan shall be submitted to the Manager of Resource Management Engineering at QLDC. This plan shall be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.
- f) The consent holder shall submit to the Subdivision Planner at QLDC Chemical and bacterial tests of the water supply that clearly demonstrate compliance with the Drinking Water Standards for New Zealand 2005 (Revised 2008). The chemical test results shall be no more than 5 years old, and the bacterial test results no more than 3 months old, at the time of submitting the test results. The testing must be carried out by a Ministry of Health recognised laboratory (refer to <http://www.drinkingwater.esr.cri.nz/mohlabs/labmain.asp>).
- g) In the event that the test results required in 11(f) above show the water supply does not conform to the Drinking Water Standards for New Zealand 2005 (Revised 2008) then a suitably qualified and experienced professional shall provide a water treatment report to the Subdivision Planner at QLDC for review and certification. The water treatment report shall contain full details of any treatment systems required to achieve potability, in accordance with the Standard. The consent holder shall then complete the following:

The consent holder shall install a treatment system that will treat the subdivision water supply to a potable standard on an ongoing basis, in accordance with Drinking Water Standards for New Zealand 2005 (Revised 2008). The design shall be subject to review and certification by the Manager Resource Management Engineering at QLDC prior to installation and shall be implemented prior to the registration of the building platform.

OR

A covenant shall be registered on the relevant Computer Freehold Registers for the lots, subject to the approval of Manager Resource Consents at QLDC. The covenant shall require that, prior to occupation of the residential unit an individual water treatment system shall be installed in accordance with the findings and recommendations contained within the water treatment report submitted for the RM180436 subdivision consent. The final wording of the consent notice shall be reviewed and approved by QLDC's solicitors prior to registration.

- h) Written confirmation shall be provided to the Manager Resource Management Engineering at QLDC 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 development.
 - i) Written confirmation shall be provided to the Manager Resource Management Engineering at QLDC from the telecommunications network supplier responsible for the area that provision of underground telephone services has been made available to the development.
 - j) At the time the Farm Manager's residential unit and residential flat is constructed within the building platform located within Lot 7 DP 302117 it shall have a minimum finished floor level of 283.5 masl or as otherwise determined in the specialist report submitted under Condition 10(c).
12. At the time the consent to construct the Farm Manager's residential unit and residential flat is given effect to, the consent holder shall provide a 'Land Transfer Covenant Plan' showing the location of the approved building platform (as per Patterson Pitts Group plans titled 'Proposed Building Platform on Lot 7 DP 302117', Sheet 102, Job No. W5027, Revision 4, dated 5/12/2018). The consent holder shall register this "Land Transfer Covenant Plan" on Computer Freehold Register Identifier 8373 and shall execute all documentation required to register this plan. The costs of doing so are to be borne by the consent holder.
 13. The Farm Manager's residential unit and residential flat shall not be constructed on the site until the building platform has been registered.
 14. Prior to the construction of the Farm Manager's residential unit and residential flat the consent holder shall remove the 6 bay farm shed from Buchanan Rise road reserve and the area reinstated to the satisfaction of the Manager Resource Consent QLDC.

To be monitored throughout earthworks

15. All earthworks, batter slopes and retaining shall be undertaken in accordance with the recommendations contained in the geotechnical report by GeoSolve Ltd dated April 2017, GeoSolve Ref: 170173.
16. Wherever necessary, the consent holder shall install temporary retention systems immediately following excavation to avoid any possible erosion or instability.
17. 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.

18. No earthworks, temporary or permanent, are to breach the boundaries of the site, except for the works required for the vehicle crossing.

On completion of earthworks

19. On completion of earthworks within the building footprint and prior to the construction of the Farm Manager's residential unit and residential flat, the consent holder shall ensure that certification from a suitably qualified geo-professional experienced in soils investigations is provided to the Manager of Resource Management Engineering at QLDC, in accordance with NZS 4431:1989, for all areas of fill within the site on which buildings are to be founded (if any). Note this will require supervision of the fill compaction by a suitably qualified geo- professional.

Prior to Occupation of the Residential Unit and Residential Flat

20. Prior to the occupation of the Farm Manager's residential unit and residential flat, the consent holder shall complete the following:
 - a) The submission of 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this development at the consent holder's cost. This information shall be formatted in accordance with QLDC's 'as-built' standards and shall include all water reticulation (including private laterals and toby positions).
 - b) The completion and implementation of all works detailed in Condition (10) above.
 - c) The existing cottage and all of the out buildings located on Lot 5 DP302117 shall be removed from the site and the land restored to pasture, but other plantings shall not be precluded.
 - d) The planting as shown on the landscape plan prepared by Anne Steven, 'Proposed Manager's House - Paddock Bay Farm', Plan Reference 254.LP02, dated May 2017 described in Condition (2) shall be implemented no later than the first planting season following completion of the Farm Manager's residential unit and residential flat.
 - e) The planting in the ecological restoration planting areas, shown on Map 1 described in Condition (2) shall be implemented no later than the first planting season following completion of the Farm Manager's residential unit and residential flat.
 - f) A surveyors' certificate shall be submitted to confirm that the finished floor level for the Farm Manager's residential unit and residential flat is constructed at either no less than 283.5 masl or provided to meet the recommendations of the specialist report submitted in Condition (10) above.
 - g) The construction of all vehicle manoeuvring and car parking areas to Council's standards. Provision shall be made for stormwater disposal from all impermeable surfaces.

- h) The provision of an effluent disposal system to the Farm Manager's residential unit and residential flat in accordance with the RDA Consulting Ltd report (dated 31 May 2018) submitted with the application. The on-site wastewater disposal and treatment system shall comply with AS/NZS 1547:2012 and shall provide sufficient treatment/renovation to effluent prior to discharge to land.
- i) The wastewater disposal fields shall be blocked off to vehicular traffic and stock. This shall be achieved through use of a physical barrier, such as fencing or other suitable measures that will prevent vehicles and stock from passing over the disposal area.
- j) Any power supply and wired telecommunications connections to the Farm Manager's residential unit and residential flat shall be underground from existing reticulation and in accordance with any requirements and standards of the network provider.
- k) All earthworked/exposed areas shall be top-soiled and grassed/re-vegetated or otherwise permanently stabilised.
- l) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
- m) Provide domestic water and firefighting storage. A minimum of 45,000 litres shall be maintained at all times as a static firefighting reserve. Alternatively, a 7,000 litre firefighting reserve is to be provided for each residential unit in association with a domestic sprinkler system installed to an approved standard. A firefighting connection in accordance with Appendix B - SNZ PAS 4509:2008 (or superseding standard) 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 Fire and Emergency New Zealand (FENZ) as larger capacities and flow rates may be required.

The FENZ 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 (within 5m) 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 Council's standards for rural roads (as per Council's Land Development and Subdivision Code of Practice). 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 FENZ connection point/coupling/fire hydrant/tank must be located so that it is clearly visible and/or provided with appropriate signage to enable connection of a fire appliance.

Firefighting water supply may be provided by means other than the above if the written approval of the Fire and Emergency New Zealand Fire Risk Management Officer is obtained for the proposed method. The firefighting water supply tank and/or the sprinkler system shall be installed prior to the occupation of the building.

Advice Note: Fire and Emergency New Zealand considers that often the best method to achieve compliance with SNZ PAS 4509:2008 is through the installation of a home sprinkler system in accordance with Fire Systems for Houses SNZ 4517:2010, in each new residential unit. Given that the proposed dwelling is approximately 22.5km from the nearest FENZ Fire Station the response times of the New Zealand **Volunteer** Fire Brigade in an emergency situation may be constrained. It is strongly encouraged that a home sprinkler system be installed in the new dwelling.

Hours of Operation – Earthworks

21. The hours of operation for earthworks shall be Monday to Saturday (inclusive): 8.00am to 6.00pm. There shall be no activity on Sundays and Public Holidays.

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.

To be monitored throughout the earthworks

Accidental Discovery Protocol

22. 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 Heritage 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 Heritage 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.

Ongoing Conditions/Covenants

- 23. 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 for works to be carried out at the time the Farm Manager's residential unit and residential flat is proposed:
 - a) All future buildings on Lot 7 DP302117 shall be contained within the Building Platform as shown as Covenant Area X as shown on Land Transfer Plan XXXXX.
 - b) The Farm Manager's residential unit and residential flat within the building platform on Lot 7 DP302117 shall have a minimum finished floor level of 283.5 masl or as otherwise determined in the report submitted under Condition 10(c).
 - c) At the time the Farm Manager's residential unit and residential flat is constructed within the building platform on Lot 7 DP302117 the lot owner at the time shall submit a surveyor's certificate to confirm that the finished floor level has been set at either no less than 283.5 masl or provided to meet the recommendations of the specialist report submitted in Condition 10(c) above.
 - d) All Ecological and Mitigation Planting required by Conditions 11(a) and (b) and 20(d) and (e) shall be maintained in perpetuity. Any plant that dies, is damaged or fails to thrive shall be replaced by the same species or a similar species from Table 2 identified in Condition (2), in the first planting season a replacement plant is available.
 - e) At the time a building is erected on Lot 7 DP302117, the owner for the time being shall engage a suitably qualified professional as defined in Section 1.7 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.

- f) At the time the Farm Manager's residential unit and residential flat is erected on Lot 7 DP302117, 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 RDA Consulting, dated 31/05/2018. The proposed wastewater system shall be subject to Council review prior to implementation and shall be installed prior to occupation of the dwelling.
- g) Prior to the occupation of the Farm Manager's residential unit and residential flat, domestic water and fire fighting storage is to be provided. A minimum of 45,000 litres shall be maintained at all times as a static fire fighting reserve. Alternatively, a 7,000 litre fire fighting reserve is to be provided for each residential unit 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 Fire and Emergency New Zealand (FENZ) as larger capacities and flow rates may be required.

The FENZ 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 FENZ 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 Fire and Emergency New Zealand Fire Risk Management Officer 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.

Advice Note:

Fire and Emergency New Zealand considers that often the best method to achieve compliance with SNZ PAS 4509:2008 is through the installation of a home sprinkler system in accordance with Fire Systems for Houses SNZ 4517:2010, in each new dwelling. Given that the proposed residential unit is are approximately 22.5km from the nearest FENZ Fire Station the response times of the New Zealand Volunteer Fire brigade in an emergency situation may be constrained. It is strongly encouraged that a home sprinkler system be installed in the new dwelling.

- h) Only farm staff and family shall occupy the Farm Manager's residential unit and residential flat.
- i) All residential buildings (except water tanks) shall be contained within the building platform including any accessory buildings;
- j) The maximum building footprint shall be 400m² including any verandas, covered walkways, garaging, L
SEP sheds, offices, sleepouts, utility buildings and such like. Building may be one building or several buildings;
- k) The maximum building height shall be 5.35m at the apex of a pitched roof, and 3.9m to the eaves, above 283.5masl;
- l) Exterior roofing materials of buildings shall be of natural dark and recessive colours with a matte finish in the range of natural browns, greys and greens, with an LVR of 10-15% or a living 'green' roof with vegetation to blend into the surrounding landscape; L
SEP
- m) Exterior claddings shall be selected from rendered concrete or concrete block (plain or tinted in natural brown colours), locally sourced stone, timber (naturally weathered, stained or painted), painted plaster and/or painted steel sheeting; and shall be of grey and/or brown hues with an LRV of between 15 and 27%. Mortar in stonework shall not exceed 40% coverage and shall be tinted a grey-brown colour to avoid strong contrast. Window and door joinery shall be the same or darker colour as wall and roof colours to avoid contrast;
- n) Chimneys and other minor structures may exceed the maximum height limit by a maximum of 1.2 metres;
- o) All windows shall be fitted with low-reflectivity glass;

- p) All exterior lighting shall be restricted to the immediate building area or affixed to buildings and shall be down lighting only. There shall be no external lighting outside the building platform. Lighting shall be directed downward so as to avoid night sky light pollution and minimise light overspill beyond the building platform. Any effects of interior lighting shall be negligible beyond 300m of the dwelling;
- q) All domestic outdoor activities shall be confined within the identified curtilage areas and building platform such as lawns, amenity planting, paving and /or decking, outdoor furniture, play equipment, clothes lines, compost and rubbish bins, animal hutches, dog kennels and the like. Any exotic plant found to be self-spreading shall be removed without undue delay including any self-sown plants. Hen houses and the like shall be located in the vicinity of the farm buildings, stock yards and Farm Manager's building platform;
- r) Water tanks shall be at least partly buried and/or screened by vegetation so that they are not visible from any public view. Any screening vegetation shall appear as an integral part of wider landscape plantings, so attention is not drawn to the tank location;
- s) Driveway and access road entrance features shall be limited to 1.2m height and up to 3m either side of the driveway and shall be constructed of locally sourced stone and/or constructed of timber and minor steel and concrete components. The entrance ways shall be of a simple robust design in keeping with rural landscape character;
- t) Fencing outside the curtilage area shall be limited to conventional farm stock fencing (timber post/waratah and wire). Any fencing around and within the curtilage shall be timber or steel post and wire/netting and may incorporate small sections of stonewall using local stone no higher than 1.2m and no longer than 10m, or stone or exposed aggregate concrete piers to 1.2m.

Advice Note

1. This consent triggers a requirement for Development Contributions. Please see the attached information sheet for more details on when a development contribution is triggered and when it is payable. For further information please contact the DCN Officer at Council.

Subdivision Consent Conditions

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - (i) Patterson Pitts Group, Apres Demain Ltd, Paddock Bay, Lots 1 & 2 Being a Subdivision of Lot 4 DP 302117, Revision 4, Sheet 100, dated 5/12/2018;
 - (ii) Patterson Pitts Group, Apres Demain Ltd, Paddock Bay, Lots 1 & 2 Being a Proposed Subdivision of Lot 4 DP302117, Sheet 101, Revision 4, dated 05/12/2018;
 - (iv) Patterson Pitts Group Apres Demain Ltd, Paddock Bay, Proposed Building Platform on Lot 7 DP302117, Computer Freehold Register 8373, Sheet 102, Revision 4, dated 05/12/2018.

stamped as approved on 5 February 2019

and the application as notified, along with the evidence lodged in support of the application (except insofar as any condition of this consent provides otherwise).

2. 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.

Engineering

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 May 2018 and subsequent amendments to that document up to the date of issue of any resource consent.

Note: The current standards are available on Council's website via the following link:
<http://www.qldc.govt.nz>

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 Manager of Resource Management Engineering 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. The consent holder shall implement the following traffic management measures during the excavation phase:
 - Suitable site warning signage shall be in place on the road in both directions from the site entrance.
 - High visibility safety clothing shall be worn by any staff working on the road.
 - Safe sight distances and passing provisions shall be maintained at all times.

To be completed before Council approval of the Survey Plan

6. Prior to the Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall complete the following:
 - a) All necessary easements shall be shown in the Memorandum of Easements attached to the Survey Plan and shall be duly granted or reserved. This shall include a public pedestrian right of way easement over Lot 1 with the easement instrument detailing the maintenance provisions of the car park as carried out by the lot owner.

Amalgamation Condition

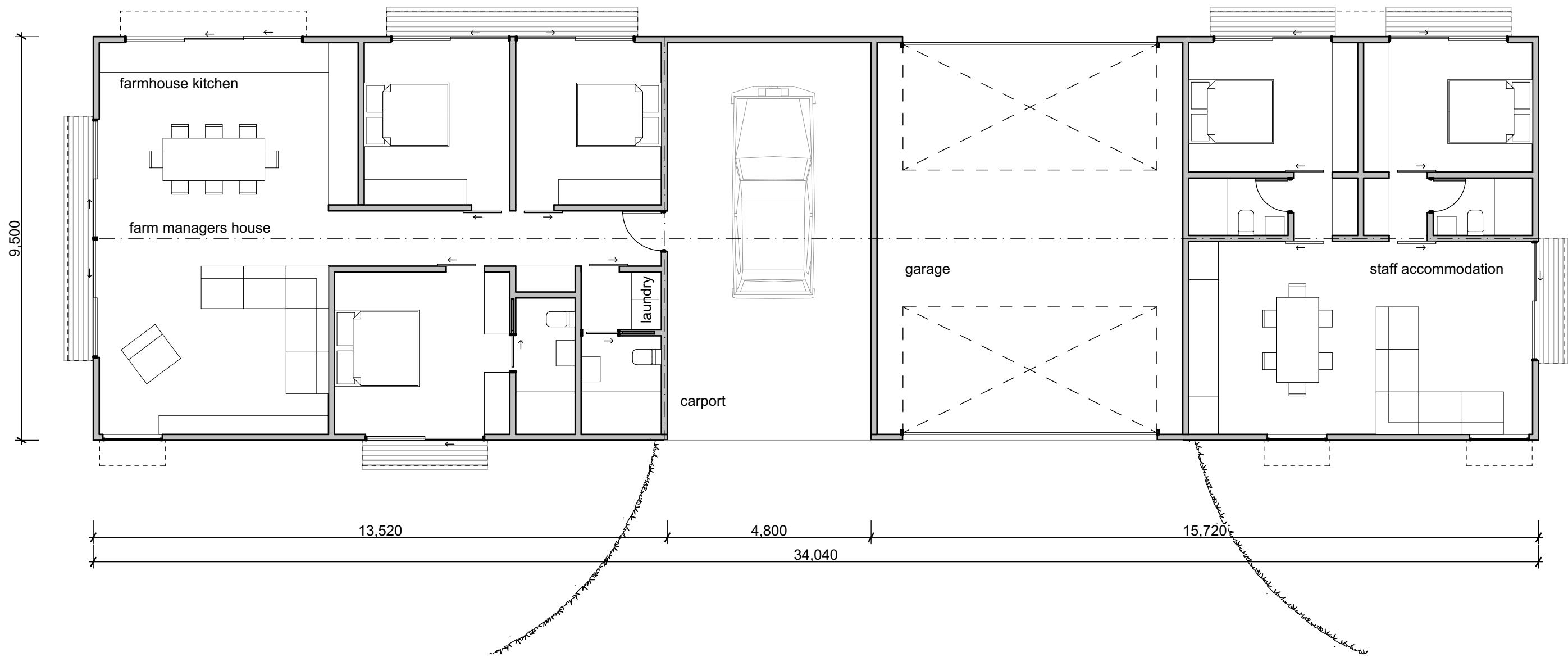
7. The following shall be registered with Land Information New Zealand (CSN XXXXX):
 “That Lots 1 and 2 hereon and Lots 5 and 7 DP 302117, and Lot 5 DP 26111, and Lot 1 DP 27689 be held in the same Computer Freehold Register”

Consent Notice

8. The following condition of the consent shall be complied with in perpetuity and shall be registered on the relevant computer Freehold Register(s) by way of a consent notice pursuant to section 221 of the Act.
 - a) No buildings shall be erected on the car park site within Lot 1.

To be completed before issue of the s224(c) certificate

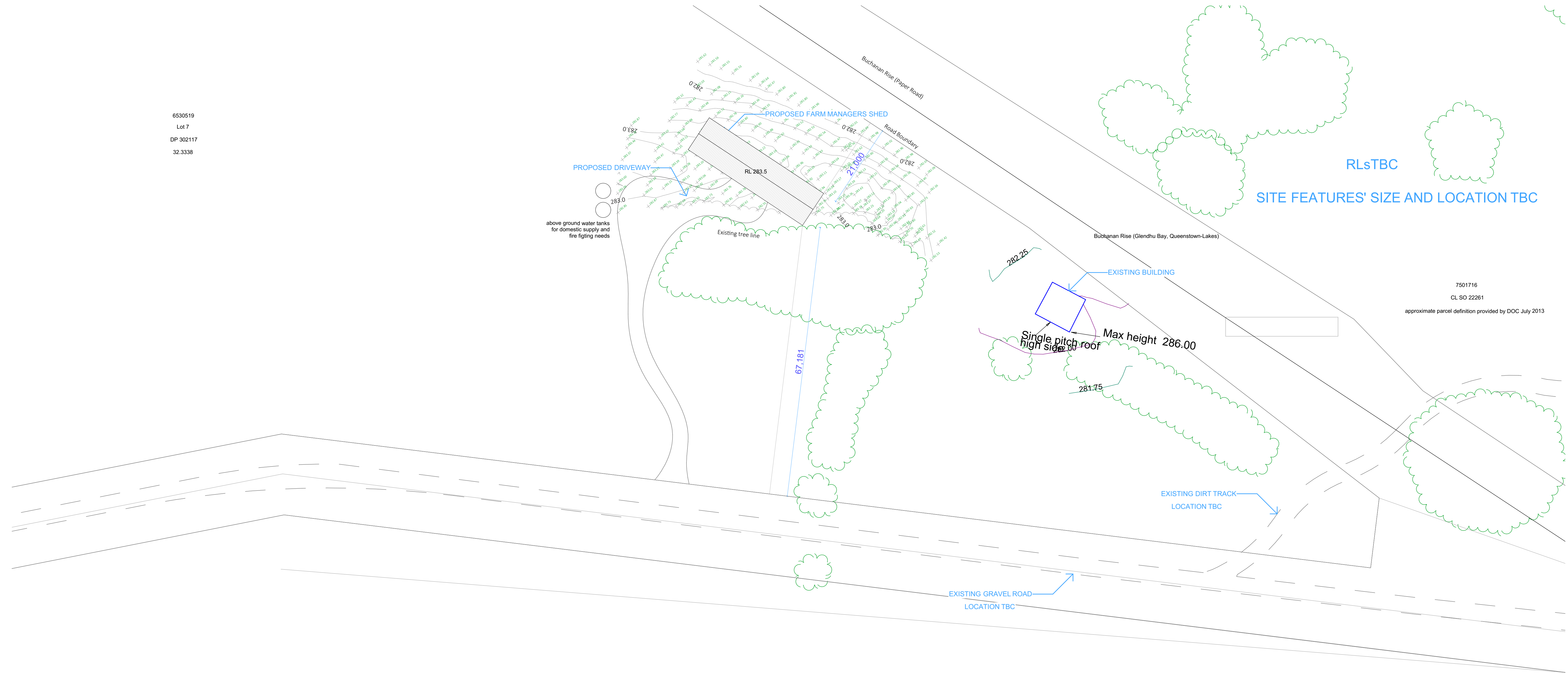
9. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
 - a) The consent holder shall form the carpark area within Lot 1 with a minimum of 150mm AP40 to meet Council standards. Provision shall be made to continue any roadside drainage.
 - b) All earthworked/exposed areas associated with this subdivision shall be top-soiled and grassed/revegetated or otherwise permanently stabilised.
 - c) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.







6530519
Lot 7
DP 302117
32.3338



QUEENSTOWN LAKES DISTRICT COUNCIL

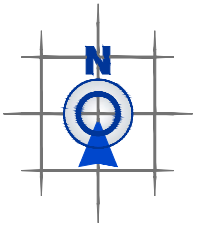
APPROVED PLAN:
RM180436

Tuesday, 5 February 2019

CL SO 22261

11.2349

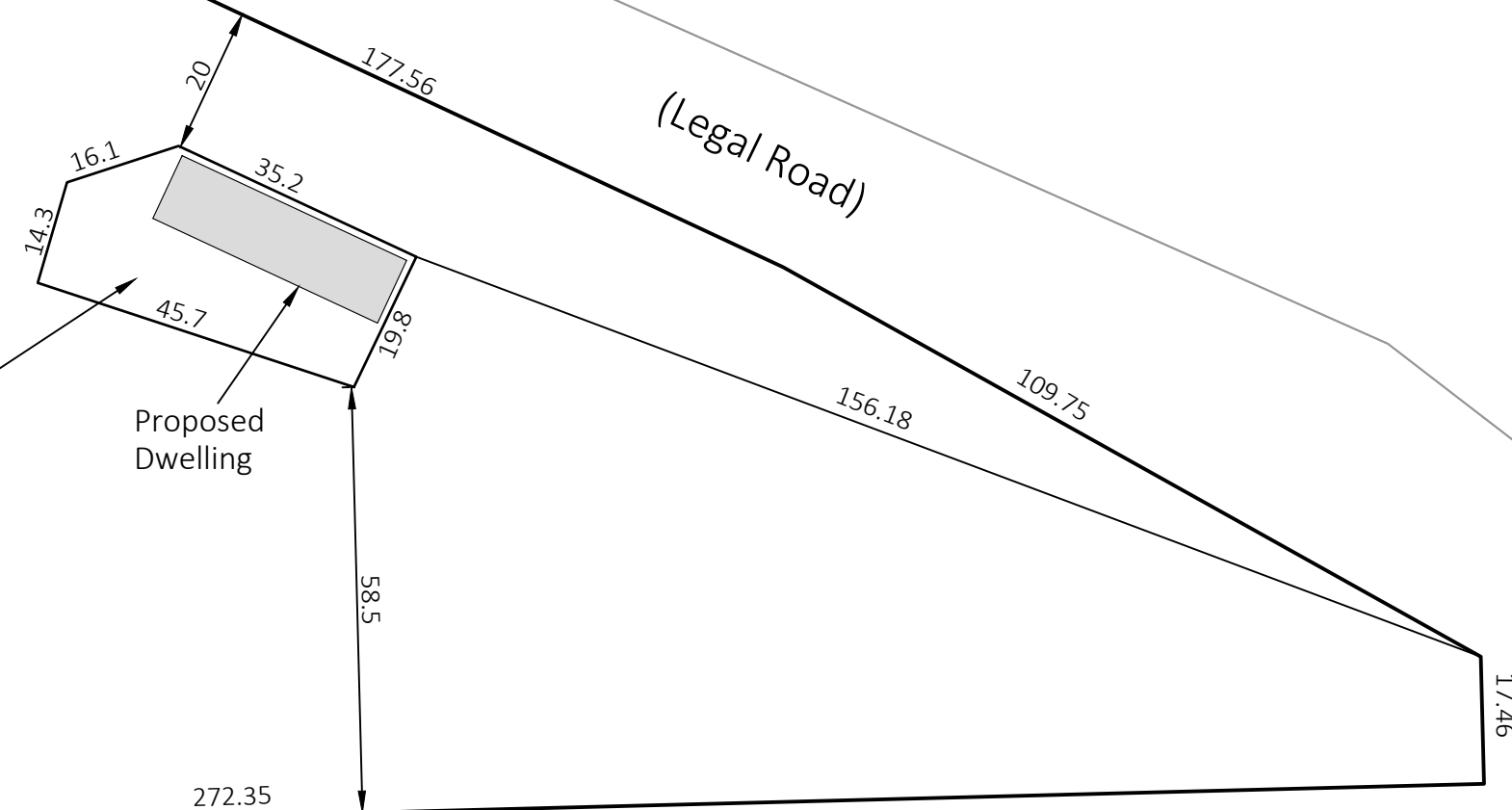
Crown Land
(Conservation Act 1987)



Lot 7
DP 302117
32.3338Ha
CFR 8373
Apres Demain Ltd

Proposed Building
Platform
Area = 1000m²
(irregular shape)

Proposed
Dwelling



Buchanan Rise

Lot 2

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Client & Location:

Apres Demain Limited
Paddock Bay

Purpose & Drawing Title:

Proposed Building Platform on
Lot 7 DP 302117
CFR 8373

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Drawn by:	kmb		
Checked by:	agt		DO NOT SCALE
Approved by:	agt		
Job No:	W5027	Drawing No:	004
		Sheet No:	102
		Revision No:	5
		Date Created:	05/12/2018



Fig. 5 PROPOSED STAFF ACCOMMODATION HOUSE
PADDOCK BAY FARM HOUSES
 Plan Ref. 254.LP02

May 2017

prepared by
 Anne Steven
 Landscape Architect

scale 1:1500 at A3

0 10 20 30 40 50m



Table 2 - Planting Schedule for Restoration Areas

Species name	Common name	Height	Spacing	no of plants	Location
Northeast Corner					
2715		65%	of the area to be planted		
Area to plant (m2)		1765	1142		
<i>Austroderia richardii</i>	Toetoe	2	1	71	water edge/ moist soils
<i>Carex secta</i>	Purei	1.5	1.2	29	water edge
<i>Carmichaelia petriei</i>	Desert broom	2	0.75	24	dry slope
<i>Coprosma crassifolia</i>		3	1.75	50	
<i>Coprosma intertexta</i>		2	1.2	74	moist/dry soils
<i>Coprosma propinqua</i>	Mingimingi	3	1.2	147	moist/dry soils
<i>Coprosma rugosa</i>	mikimiki	3	1.2	110	moist/dry soils
<i>Cordyline australis</i>	Cabbage tree	12	2.2	16	moist/dry soils
<i>Corokia cotoneaster</i>	Korokio	2.5	1.2	74	moist/dry soils
<i>Discaria toumatou</i>	Matagouri	5	1.5	59	moist/dry soils
<i>Fuscopora cliffortioides</i>	Mountain beech	20 - 25	3	29	dry slope, well drained alluvium
<i>Kunzea robusta</i>	kanuka	3 - 8	2.5	106	dry slope
<i>Olearia bullata</i>	Shrub daisy	3 - 5	1.2	74	moist soils
<i>Olearia fimbriata</i>		5 - 8	2	9	moist/dry soils
<i>Olearia hectorii</i>	Hector's tree daisy	5	2.5	18	well drained alluvium
<i>Olearia odorata</i>	Scented tree daisy	2 - 4	1.2	147	moist/dry soils
<i>Pittosporum tenuifolium</i>	kohuhu / black matipo	8	3	15	moist/dry soils
<i>Podocarpus laetus</i>	Mountain totara	20	2.2	40	moist/dry soils
<i>Prumnopitys taxifolia</i>	Matai	25	3	29	moist/dry soils
<i>Sophora microphylla</i>	kowhai	10	2	22	moist/dry soils
Central Wetland					
66520		70%	of the area to be planted		
Area to plant (m2)		46564	34335	plants	
<i>Austroderia richardii</i>	Toetoe	2	1	936	water edge/ moist soils
<i>Carex gaudichaudiana</i>	Gaudichaud's sedge	0.3	0.75	1872	water edge
<i>Carex secta</i>	Purei	1.5	1	4680	water edge
<i>Carex sinclairii</i>	Sedge	0.4	1	2340	water edge
<i>Coprosma intertexta</i>		2	1.2	1950	dry margins
<i>Coprosma propinqua</i>	Mingimingi	3	1.2	3900	moist - dry margins
<i>Coprosma rugosa</i>	mikimiki	3	1.2	3900	moist - dry margins
<i>Cordyline australis</i>	Cabbage tree	12	2	1170	moist - dry margins
<i>Dacrycarpus dacrydioides</i>	kahikatea	30	3	156	tolerates seasonal inundation
<i>Discaria toumatou</i>	Matagouri	5	1.5	624	dry margins
<i>Griselinia littoralis</i>	broadleaf, kapuka, papaum	10	2.5	374	moist - dry margins
<i>Leptospermum scoparium</i>	manuka	4	1.5	1560	dry margins
<i>Olearia bullata</i>	Shrub daisy	3 - 5	1	2340	moist soils
<i>Olearia fragrantissima</i>	fragrant tree daisy	5 - 8	2.5	187	moist - dry margins
<i>Olearia hectorii</i>	Hector's tree daisy	5	2.5	468	moist - dry margins
<i>Olearia lineata</i>		3	1.2	1560	dry margins
<i>Olearia odorata</i>	Scented tree daisy	2 - 4	1.2	1950	dry margins
<i>Pittosporum tenuifolium</i>	kohuhu / black matipo	8	2.5	936	moist/dry soils
<i>Podocarpus laetus</i>	Mountain totara	20	3	312	moist/dry soils
<i>Prumnopitys taxifolia</i>	Matai	25	3	468	dry margins
<i>Sophora microphylla</i>	kowhai	10	3	312	moist - dry margins

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:

RM180026

Tuesday, 5 February 2019

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM180436

Tuesday, 5 February 2019

92



Matukituki River

Sec 6
Blk XVIII Lower Wanaka
Survey District (SO 964)
1.0117Ha
Crown Land
(Conservation Act 1987)

Proposed manager's
quarters earthworks

CL SO 22261
11.2349
Crown Land
(Conservation Act 1987)

Lot 7
DP 302117
32.3338Ha
Apres Demain Ltd

Buchanan Rise

Proposed Lot 1
(carpark) earthworks

Lot 4
DP 302117
126.667Ha
Apres Demain Ltd

Lake Wanaka

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Client & Location:

Apres Domain Limited
Paddock Bay

Purpose & Drawing Title:

Proposed Earthworks
Overview Plan

Surveyed by:	DA	Original Size:	Scale:
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Drawn by:	DA		1:4000 @ A3
Checked by:	AGT		DO NOT SCALE
Approved by:	AGT		
Job No:	Drawing No:	Sheet No:	Revision No:
W5027	008	200	0
			Date Created:
			18/01/2019



- NOTES
1. The contractor shall be responsible for locating all existing services prior to commencement of works. The contractor shall make good at their own expense any damage to existing services
 2. Levels are in terms of Dunedin Vertical Datum 1958
 3. All works are to be installed as per the QLDC Land Development and Subdivision Code of Practice
 4. Contours at 0.5m interval

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM180436

Tuesday, 5 February 2019

- LEGEND
- Natural Contours (0.5m interval)
 - Extent of Earthworks
 - Fence
 - Gate
 - Tree dripline

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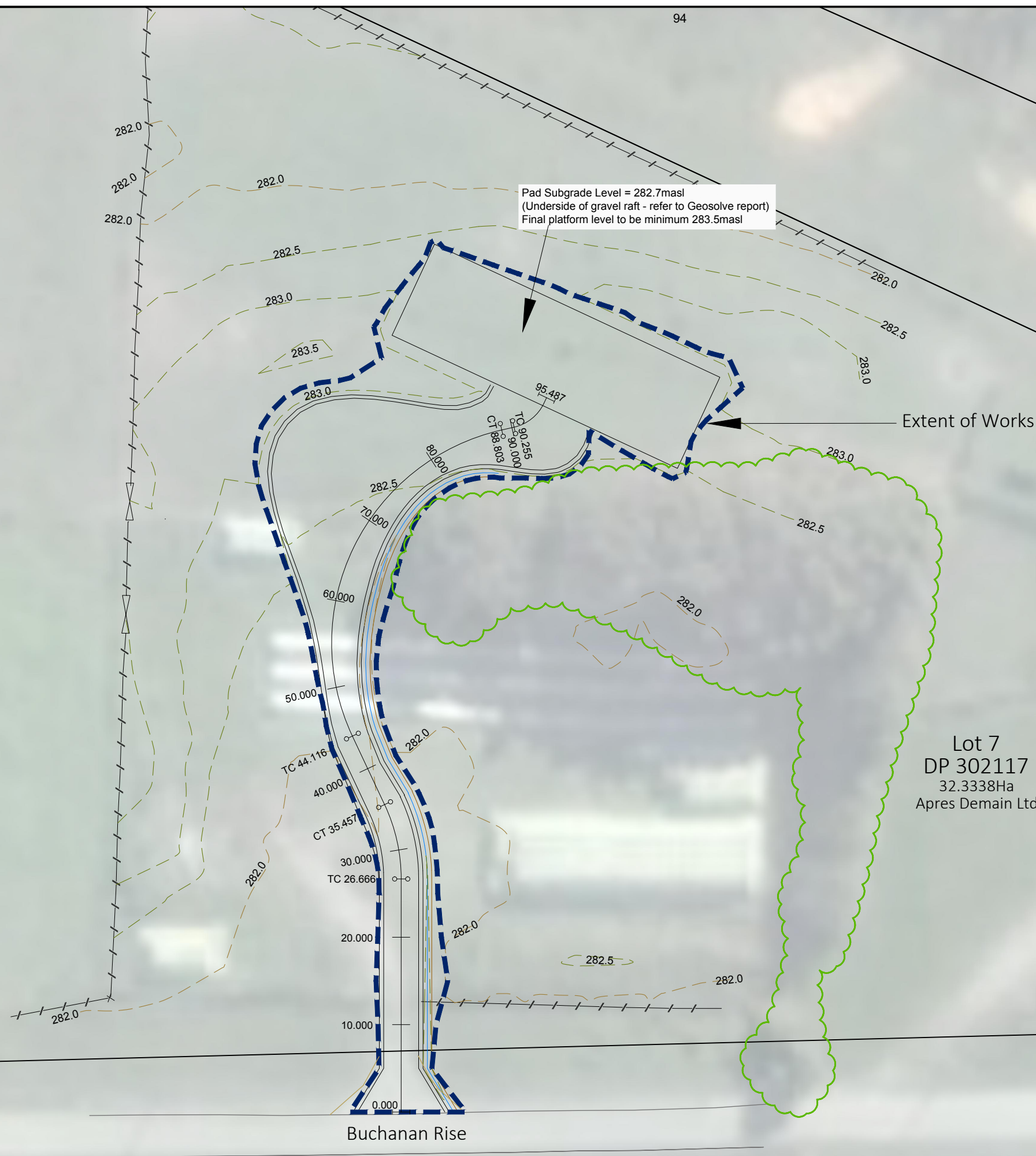
Client & Location:

Apres Domain Limited
Paddock Bay

Purpose & Drawing Title:

Proposed Managers Quarters
Existing Contours

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Checked by:	AGT		DO NOT SCALE
Approved by:	AGT		
Job No:	W5027	Drawing No:	008
		Sheet No:	203
		Revision No:	0
		Date Created:	18/01/2019



- NOTES
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 - 3. All works are to be installed as per the QLDC Land Development and Subdivision Code of Practice
 - 4. Contours at 0.5m interval

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM180436

Tuesday, 5 February 2019

- LEGEND
- Proposed Contours (0.5m interval)
 - Extent of Earthworks
 - Fence
 - Gate
 - Tree Dripline

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Client & Location:

Apres Domain Limited
Paddock Bay

Purpose & Drawing Title:

Proposed Managers Quarters
Proposed Contours

Surveyed by:	DA	Original Size:	Scale:
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Drawn by:	DA		1:500 @ A3
Checked by:	AGT		DO NOT SCALE
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			18/01/2019



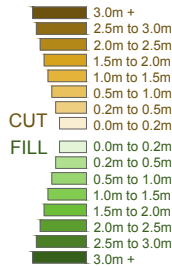
- NOTES
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 2. Levels are in terms of Dunedin Vertical Datum 1958
 3. All works are to be installed as per the QLDC Land Development and Subdivision Code of Practice

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM180436

Tuesday, 5 February 2019

LEGEND



- Depth Contours (at 0.5m intervals)
- Proposed Contours (0.5m interval)
- Extent of Earthworks
- Fence
- Gate
- Tree Dripline

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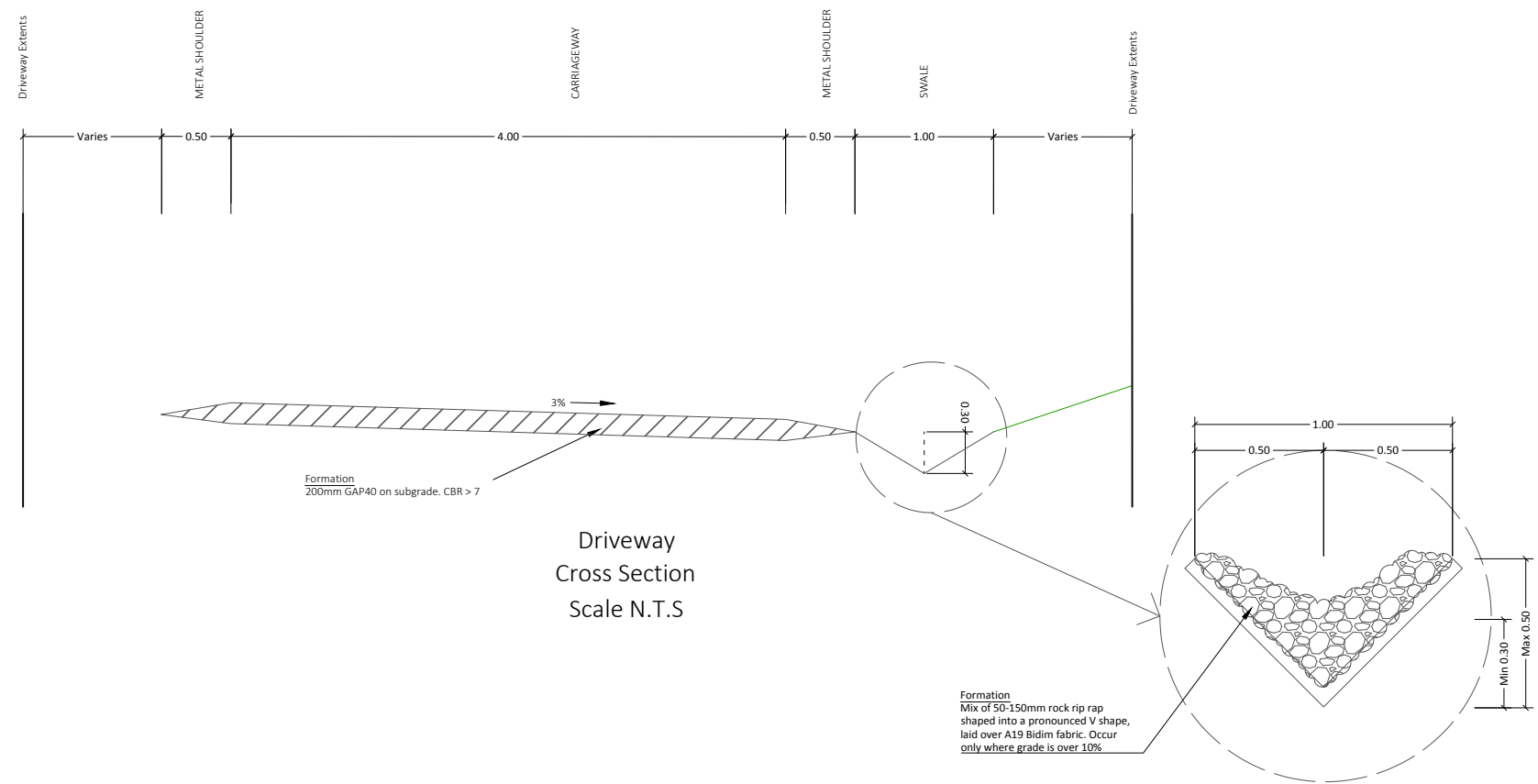
Client & Location:
Apres Domain Limited
Paddock Bay

Purpose & Drawing Title:
Proposed Managers Quarters
Cut/Fill Plan

Earthworks Volumes:

Earthworks area: 1580m²
Cut Volume 35m³
Fill Volume 150m³
GAP40 placed to 150mm compacted depth on driveway 120m³

Surveyed by:	DA	Original Size:	Scale:
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Drawn by:	DA		1:500 @ A3
Checked by:	AGT		DO NOT SCALE
Approved by:	AGT		
Job No:	W5027	Drawing No:	008
		Sheet No:	205
		Revision No:	0
		Date Created:	18/01/2019

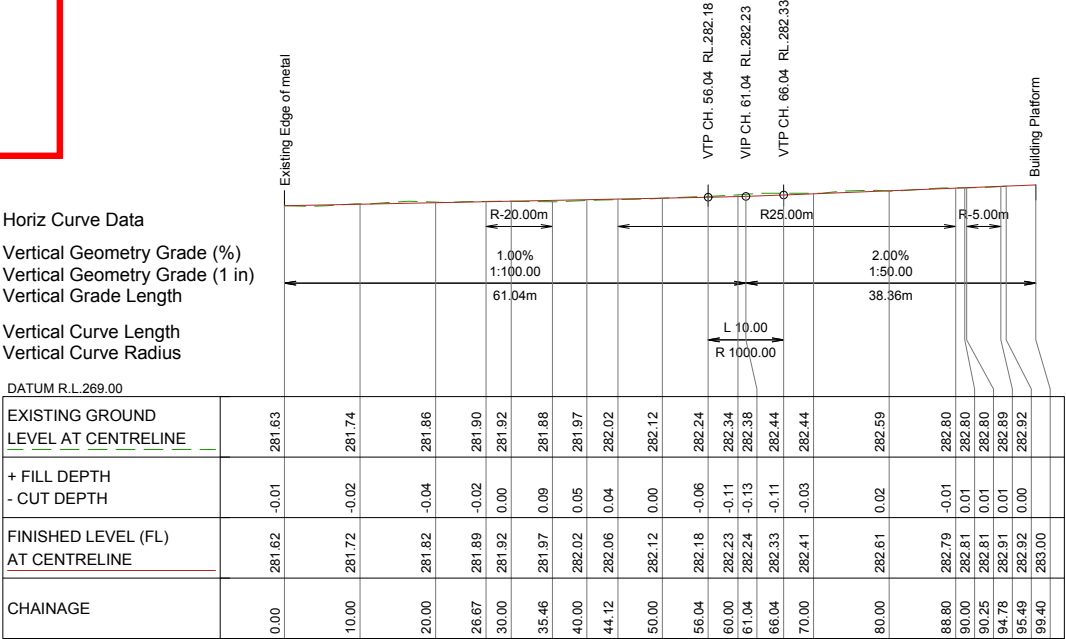


- NOTES
- 1. Levels are in terms of Dunedin Vertical Datum 1958
 - 2. All works are to be installed as per the QLDC Land Development and Subdivision Code of Practice

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM180436

Tuesday, 5 February 2019



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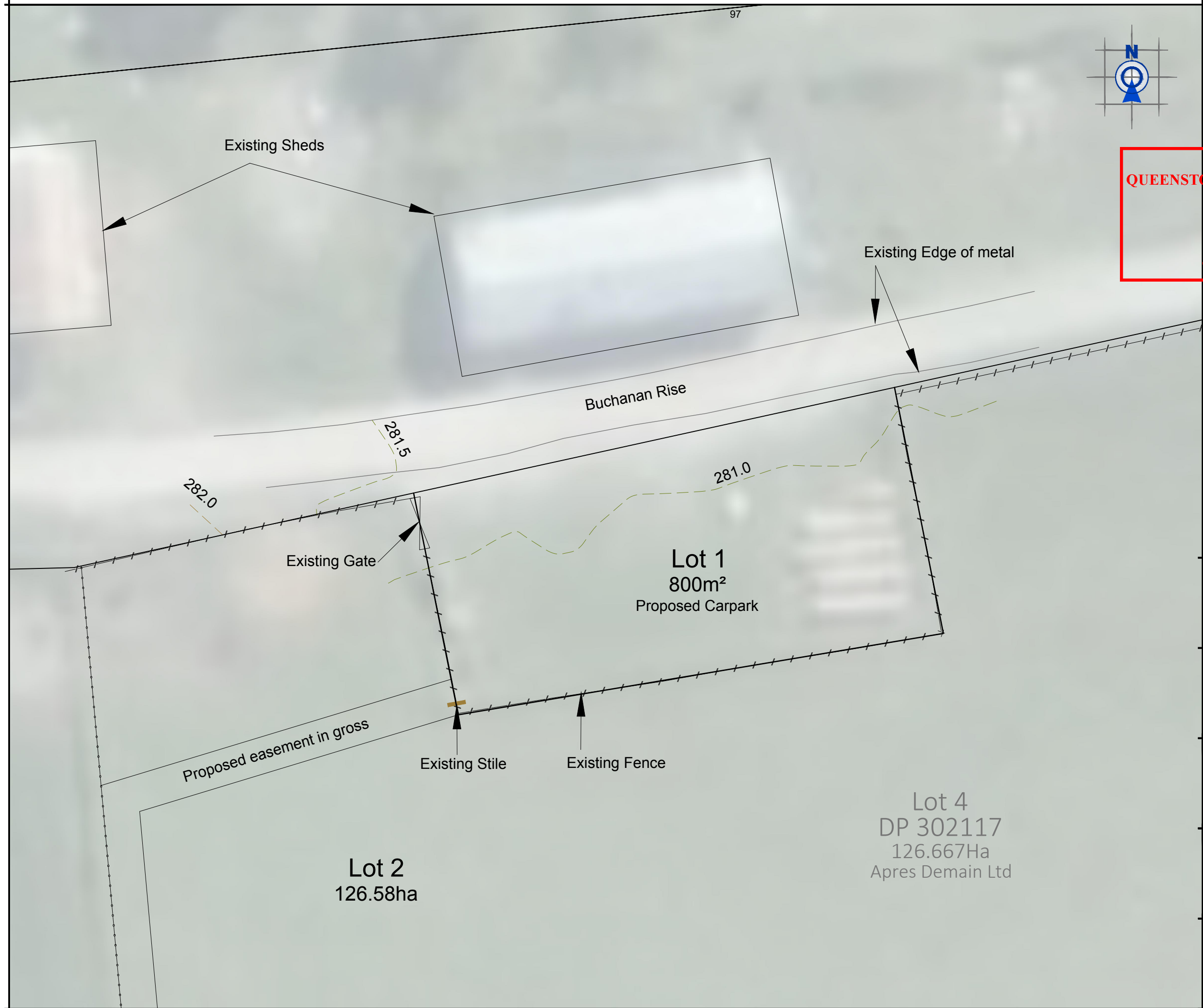
Client & Location:

Apres Domain Limited
Paddock Bay

Purpose & Drawing Title:

Proposed Managers Quarters
Long & Cross Sections

Surveyed by:	DA	Original Size:	Scale:
Designed by:	--	A3	NTS
Drawn by:	DA		
Checked by:	AGT		
Approved by:	AGT		
Job No:	W5027	Sheet No:	206
Drawing No:	008	Revision No:	0
		Date Created:	18/01/2019



- NOTES
1. The contractor shall be responsible for locating all existing services prior to commencement of works. The contractor shall make good at their own expense any damage to existing services
 2. Levels are in terms of Dunedin Vertical Datum 1958
 3. All works are to be installed as per the QLDC Land Development and Subdivision Code of Practice. Standard drawings are available from the Engineer
 4. Contours at 0.5m interval

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM180436

Tuesday, 5 February 2019

- LEGEND
- Natural Contours (0.5m interval)
 - Extent of Earthworks
 - Fence
 - Gate

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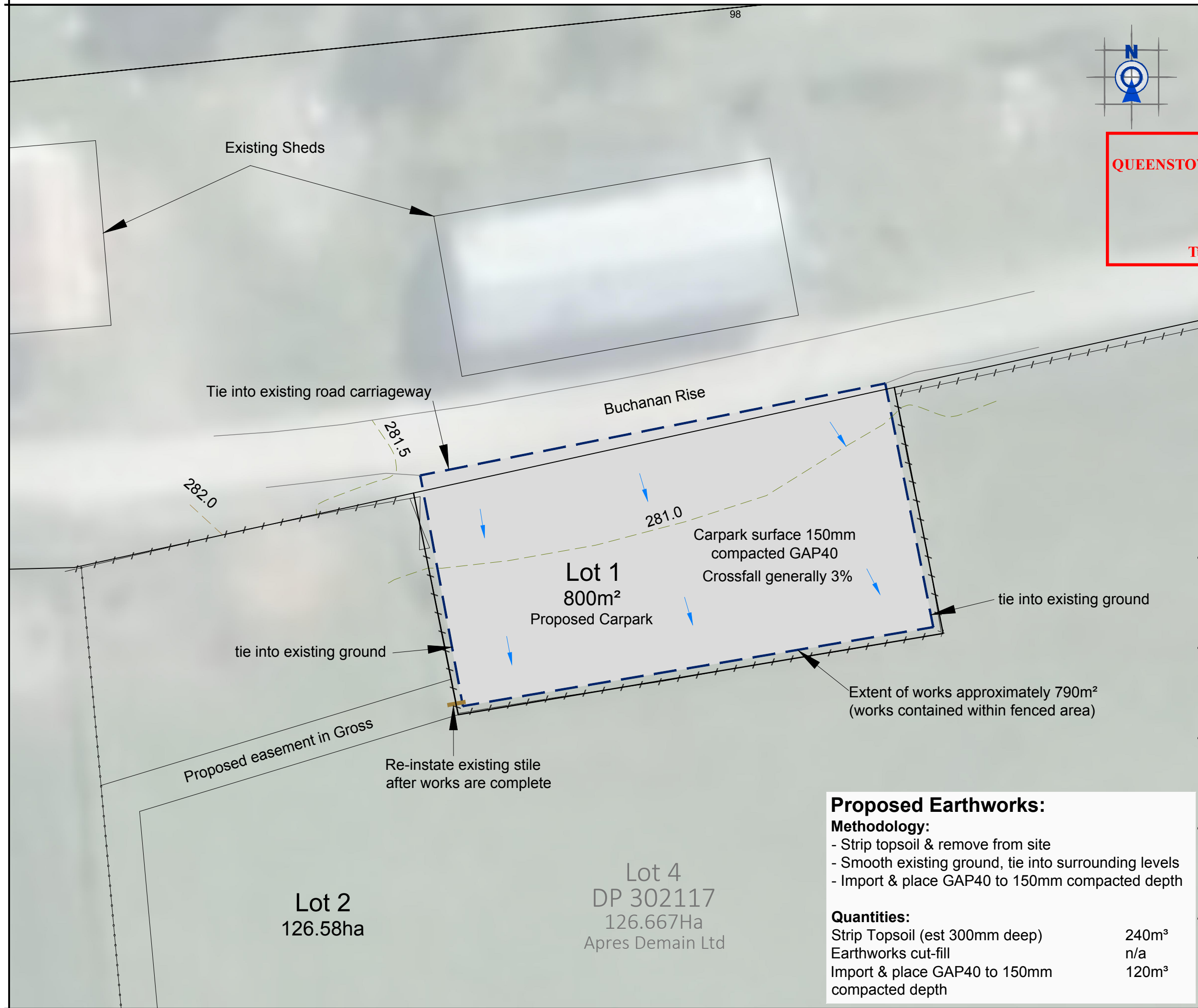
Client & Location:

Apres Domain Limited
Paddock Bay

Purpose & Drawing Title:

Proposed Carpark
Existing Contours

Surveyed by:	DA	Original Size:	Scale:
Designed by:	--	A3	1:150 @ A1
Drawn by:	DA		1:300 @ A3
Checked by:	AGT		DO NOT SCALE
Approved by:	AGT		
Job No:	W5027	Sheet No:	201
Drawing No:	008	Revision No:	0
		Date Created:	18/01/2019



98



- NOTES
1. The contractor shall be responsible for locating all existing services prior to commencement of works. The contractor shall make good at their own expense any damage to existing services
 2. Levels are in terms of Dunedin Vertical Datum 1958
 3. All works are to be installed as per the QLDC Land Development and Subdivision Code of Practice
 4. Contours at 0.5m interval

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM180436

Tuesday, 5 February 2019

- LEGEND
- Design Contours (0.5m interval)
 - Extent of Earthworks
 - Overland flow direction
 - Fence
 - Gate

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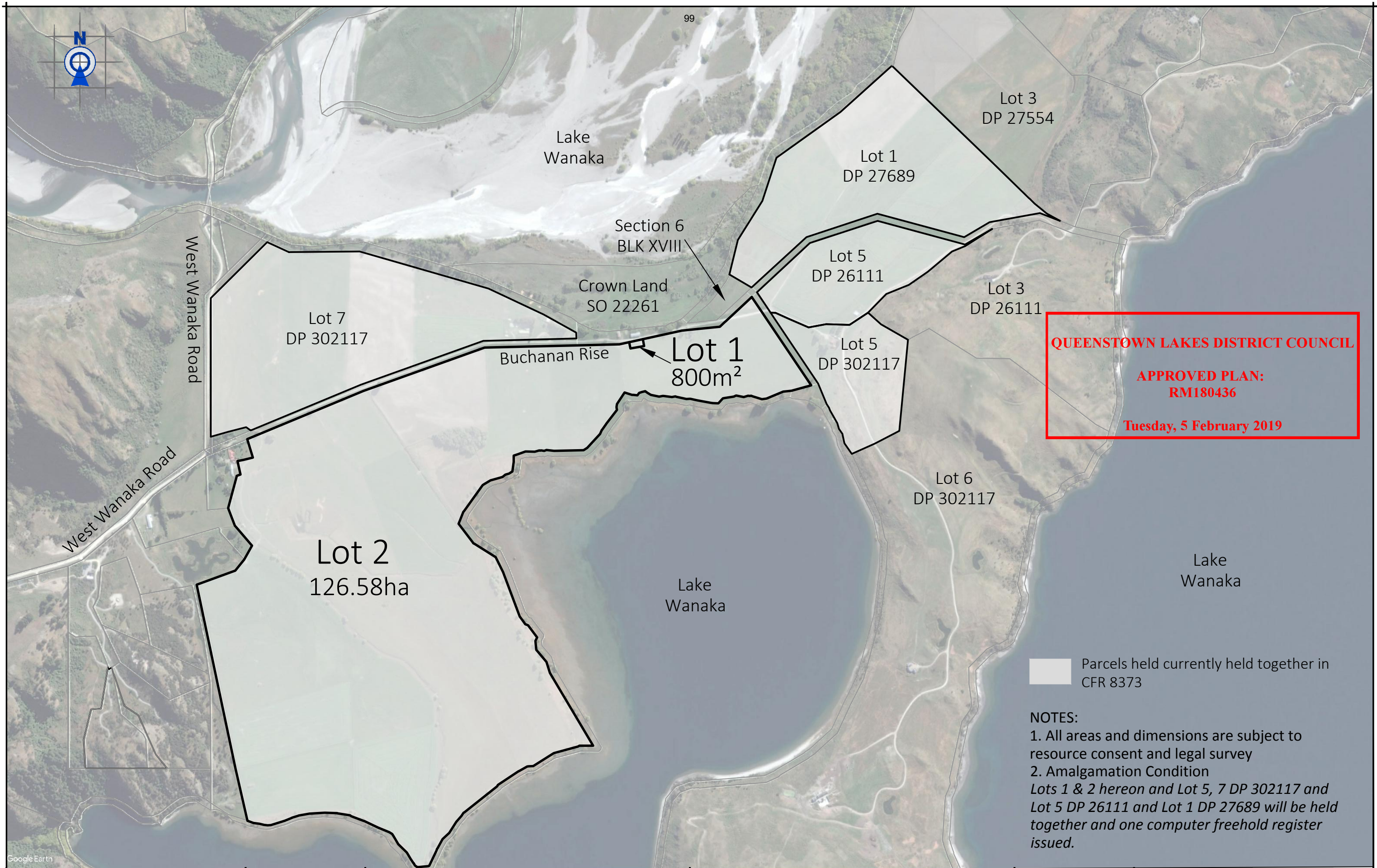
Client & Location:
Apres Domain Limited
Paddock Bay

Purpose & Drawing Title:
Proposed Carpark
Proposed Contours & Earthworks

Proposed Earthworks:
Methodology:
- Strip topsoil & remove from site
- Smooth existing ground, tie into surrounding levels
- Import & place GAP40 to 150mm compacted depth

Quantities:
Strip Topsoil (est 300mm deep) 240m³
Earthworks cut-fill n/a
Import & place GAP40 to 150mm compacted depth 120m³

Surveyed by:	DA	Original Size:	Scale:
Designed by:	--	A3	1:150 @ A1
Drawn by:	DA		1:300 @ A3
Checked by:	AGT		DO NOT SCALE
Approved by:	AGT		
Job No:	W5027	Drawing No:	008
		Sheet No:	202
		Revision No:	0
		Date Created:	18/01/2019



QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM180436

Tuesday, 5 February 2019

Parcels held currently held together in
CFR 8373

NOTES:

1. All areas and dimensions are subject to resource consent and legal survey
2. Amalgamation Condition
Lots 1 & 2 hereon and Lot 5, 7 DP 302117 and Lot 5 DP 26111 and Lot 1 DP 27689 will be held together and one computer freehold register issued.

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Client & Location:

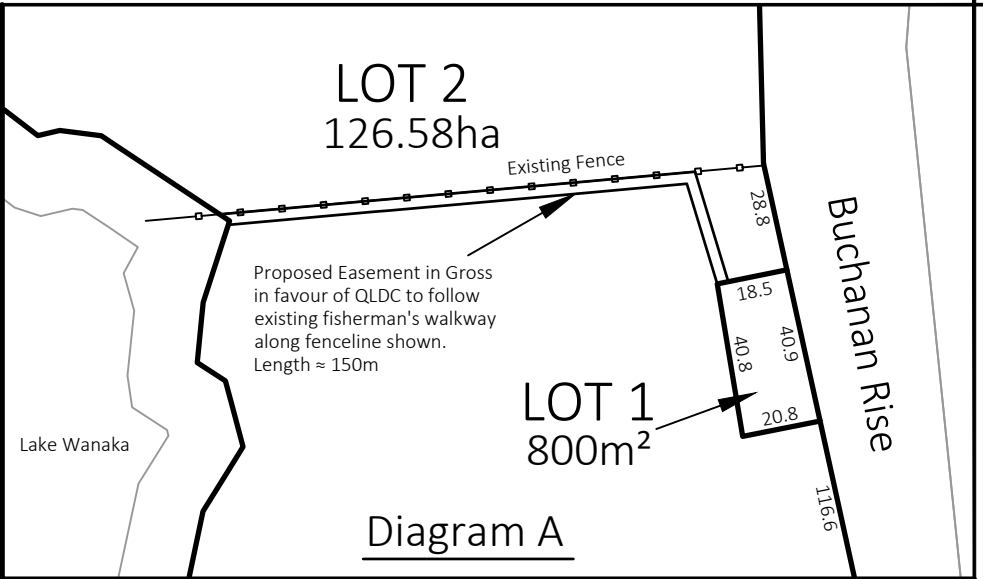
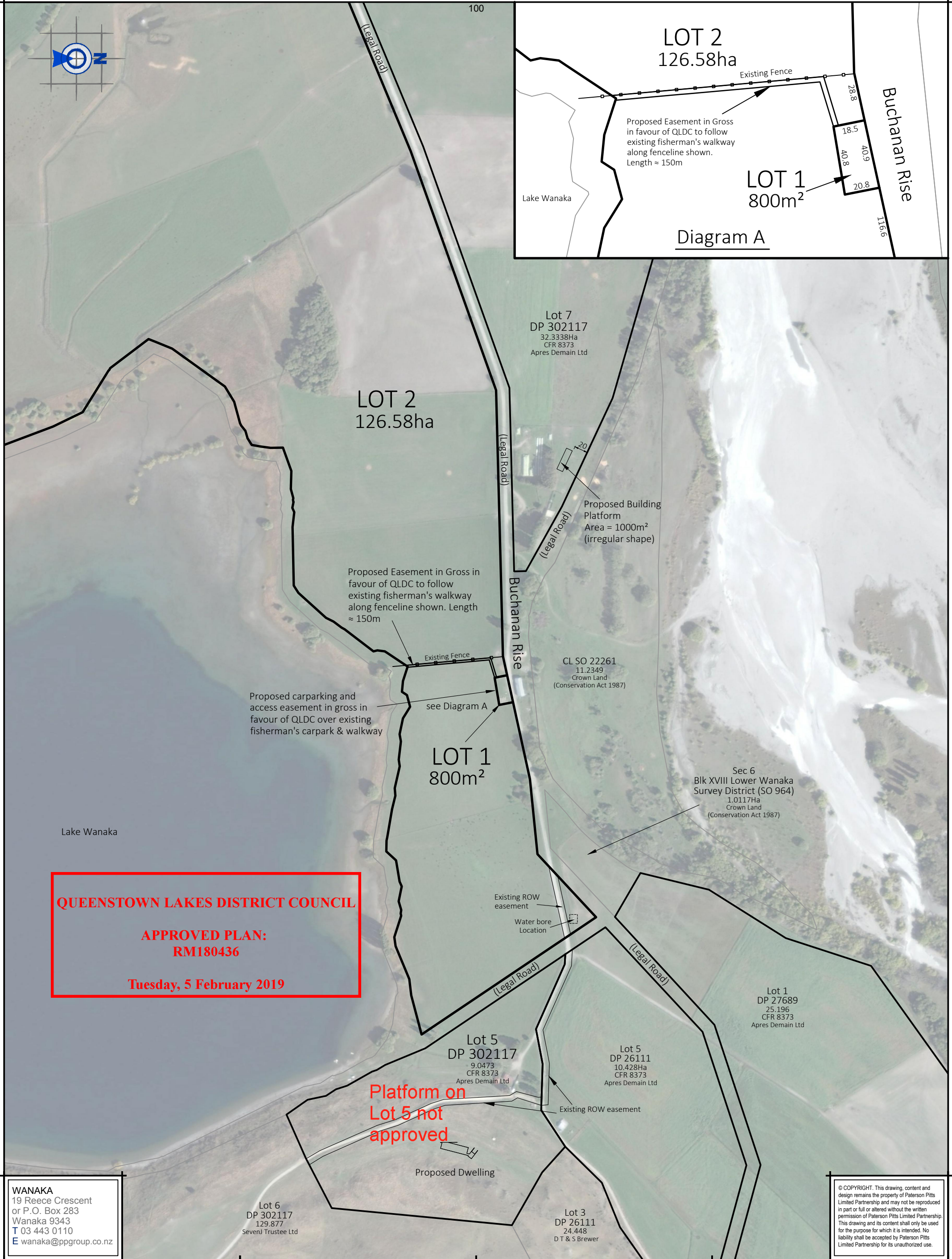
Apres Demain Limited
Paddock Bay

Purpose & Drawing Title:

Lots 1 & 2 Being a Proposed
Subdivision of
Lot 4 DP 302117

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Surveyed by:	AGT	Original Size: A3	Scale: 1:10,000	
Designed by:	--			
Drawn by:	KMB		DO NOT SCALE	
Checked by:	AGT			
Approved by:	AGT			
Job No: W5027	Drawing No: 004	Sheet No: 100	Revision No: 5	Date Created: 05/12/2018



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Client & Location:

Apres Demain Limited
Paddock Bay

Purpose & Drawing Title:

Lots 1 & 2 Being a Proposed
Subdivision of
Lot 4 DP 302117

Surveyed by:

AT

Designed by:

JEA

Drawn by:

ATKMB

Checked by:

AT

Approved by:

AT

Job No:

W5027

Drawing No:

004

Original Size:

A3

Scale:

1:5000 @ A3

DO NOT SCALE

Revision No:

5

Date Created:

05/12/2018

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