



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	D Smith and G Mirkin
RM reference:	RM180872
Location:	275 Malaghans Road, Wakatipu Basin
Proposal:	To undertake a four lot subdivision, creating proposed Lot 1 of 4150 m ² , Lot 2 of 3540 m ² , Lot 3 of 3270 m ² and Lot 4 of 3120 m ² including the identification of a 300 m ² residential building platform, which is inclusive of a 50 m ² garage, on each lot. It is proposed that the balance lot, proposed Lot 100 comprising 21.2 hectares, be retained in pastoral use and be held together with the proposed four lots. Shared access is proposed from the currently unformed legal road.
Type of Consent:	Subdivision and Land Use
Legal Description:	Section 57 and Section 72, Block IV, Shotover Survey District – Record of Title OT7D/609; Part Section 52, Block IV, Shotover Survey District – Record of Title 548446; and Section 5, Block IV, Shotover Survey District and Section 8 Survey Office Plan 431042 – Record of Title 548445.
Zonings:	Rural General - Operative District Plan Rural - Proposed District Plan (Stage 1 decision deferred) Wakatipu Basin Rural Amenity (Malaghans Valley Landscape Character Unit-Proposed District Plan Stage 2)
Activity Status:	Discretionary Activity
Public Notification:	27 September 2018
Commissioners:	Jane Taylor and Jane Sinclair
Date of Decision:	12 June 2019
Decision:	CONSENT IS GRANTED SUBJECT TO CONDITIONS

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of an Application to **QUEENSTOWN LAKES DISTRICT COUNCIL** by **D SMITH & G MIRKIN**

Council Reference: **RM180872**

**DECISION OF COMMISSIONERS JANE TAYLOR AND JANE SINCLAIR APPOINTED BY
QUEENSTOWN LAKES DISTRICT COUNCIL PURSUANT TO SECTION 34A OF THE
RMA 1991**

The Hearing and Appearances:

Hearing Date: Wednesday 14 March 2019, in Queenstown

Appearances for the Applicant:

Mr Graeme Todd, Legal Counsel;

Mr Paddy Baxter, Landscape Architect and director of Baxter Design Group;

Mr John Edmonds, Planning Consultant and director of John Edmonds and Associates Ltd.

Appearances for the Council:

Ms Wendy Baker, consultant Resource Management Planner;

Ms Renee Davis, consultant Landscape Architect of 4Sight Consulting Ltd;

Mr Steve Hewland, consultant Resource Management Engineer; and

Ms Charlotte Evans, Hearings Secretary.

Appearances for the Submitter in Opposition, Mr and Mrs Hall:

Ms Maree Baker-Galloway, Legal Counsel;

Mr Steve Skelton, Landscape Architect and director of Patch Ltd; and

Mr James Hall.

Abbreviations:

The following abbreviations are used in this decision:

D Smith and G Mirkin	'the Applicant'
Queenstown Lakes District Council	'the Council'
The Operative Queenstown Lakes District Plan	'the ODP'
The Proposed Queenstown Lakes District Plan	'the PDP'
Assessment of Environmental Effects	'AEE'
Resource Management Act 1991	'RMA'
Wakatipu Basin Land Use Planning Study	'WBLUPS'
Residential Building Platform	'RBP'
Visual Amenity Landscape	'VAL'

The land subject to this application is referred to as "the site".

The hearing was closed on 11 June 2019, following receipt of the requested information, supplied in writing on behalf of the Applicant.

INTRODUCTION

1. This decision is made of behalf of the Queenstown Lakes District Council ("the Council") by Independent Hearings Commissioners Jane Taylor and Jane Sinclair, appointed and acting under sections 34 and 34A of the Resource Management Act 1991 ("the RMA") to hear and determine the application by D Smith and G Mirkin, ("the Applicant").
2. In considering and reaching this decision we have considered:
 - (i) The application, its AEE and all its supporting documents;
 - (ii) The Council officer's s 42A report, along with the attached supporting reports;
 - (iii) The pre-circulated evidence from the Applicant;
 - (iv) The Applicant's evidence at the hearing;
 - (v) The submissions received by the Council;
 - (vi) The submissions presented at the hearing;
 - (vii) The responses to our questions during the hearing;

- (viii) The Applicant's right of reply;
- (ix) The site visit; and
- (x) The relevant provisions of both the Operative and Proposed Queenstown Lakes District Plans, including reports (Wakatipu Basin Land Use Planning Study) and recommendations of the Independent Hearing Panel Commissioners on hearings of submissions of the Proposed District Plan.

SITE DESCRIPTION

3. The site is described in detail within the AEE. In summary, the proposed development is located on the northern side of Malaghans Road, approximately 500m west of the intersection of Malaghans and Dalefield Roads. The site is vacant and comprises 22.88 hectares currently used for pastoral farming purposes. The site adjoins Malaghans Road to the south and an unformed legal road is located to the east, which connects with the site along the northern boundary. It is proposed to access the site from this unformed legal road. The site is surrounded by the Dagg family farm to the north, east and west and is currently managed as part of this farm.

THE PROPOSAL

4. The application as notified is described in detail within the AEE and involves the subdivision of a 22.88 hectare rural site. The subdivision was presented as a tightly clustered design comprising four lots ranging in net size from 3120 m² to 4150 m² with each of the four lots containing a proposed 300 m² residential building platform (RBP), inclusive of a 50 m² garage. A balance lot of 21.2 hectares is proposed, which is to be held in common by the four lots. A covenant was volunteered, which will retain the balance lot as an open pastoral paddock and prevent further subdivision and/or development on this land.
5. It is proposed that the lots be served by forming an accessway within the unformed and unnamed legal road that passes to the north. The access will be formed to be 3.5m wide and include passing bays.
6. Restrictive design controls are proposed for future residential buildings located on the RBPs, which are intended to achieve house designs that are consistent in style and appearance and that integrate into the landscape. The principal design controls include a maximum height of 3.8m, limited choice of dark wall claddings and dark roofs, a restrictive planting palette and no fencing on internal boundaries.
7. Further, the proposal requires land use consent to carry out 28,000m³ of earthworks to create earth mounds as part of the required visual mitigation and to form the driveway. In addition, land use consent is required to locate water tanks outside the RBPs.
8. The proposal includes infrastructure to service the development and landscaping.

Amendments to the application

7. A number of amendments have been made to the application since it was notified, which were drawn to our attention at the hearing. These amendments included:
 - (i) The proposed balance lot, Lot 100 will be held together by the four proposed lots as tenants in common rather than as part of one lot (proposed Lot 4);
 - (ii) Amended landscaping plans;
 - (iii) A new Curtilage and Site Management Plan;
 - (iv) The legal road to be formed with chip seal rather than asphalt as stated; and
 - (v) Amended earthworks plans.
8. We are of the view that the proposed changes are within the scope of the application as notified.

NOTIFICATION AND SUBMISSIONS

9. The application was publicly notified on 27 September 2018, with submissions closing on 26 October 2018. Two submissions were received within the timeframe for lodging a submission, of which one submission was in support and the other submission neutral. One opposing late submission was received after the close of the submission period. In a separate Memorandum issued by the Commission, dated 17 December 2018, we considered the late submission and made a decision that this submission be accepted.
10. The submissions have been summarised in the s 42A report prepared by Ms Baker and we adopt this summary.

AFFECTED PARTY APPROVALS

11. Written approvals were provided from the following parties:
 - (i) D Merigold (Lot 5 DP24219) property located to the south of the site on the southern side of Malaghans Road;
 - (ii) M Reid (Lot 6 DP 24219) property located to the south of the site on the southern side of Malaghans Road;
 - (iii) A & R Speakman (Lot 6 DP 24219) property located to the north on the southern side of Coronet Peak Station Road; and
 - (iv) Mackeral Holdings Limited (Part Lot 2 DP22379) property located to the north of the site.

THE HEARING, SITE VISIT AND APPEARANCES

12. We undertook a site visit (which included viewing the site from the submitters' property) on the afternoon of 13 March 2019, before the commencement of the hearing. We are satisfied that we obtained a good understanding of the subject site and the receiving environment.
13. Pre-circulated expert evidence was received from the Applicant and the opposing submitter before the hearing.
14. The Applicant presented legal submissions at the hearing, following which each expert witness provided a written summary of their evidence. Following the presentation of their summary statements, each witness answered questions from the Commission.
15. The submitter in opposition was represented by legal Counsel who presented legal submissions. Their expert landscape witness was available for questioning by the Commission. The landowner, Mr Hall, was also present and read a written statement in opposition to the application and answered questions from the Commission.
16. 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.

Appearances for the Applicant

17. **Mr Todd**, legal Counsel, presented opening legal submissions addressing the proposal; the location; zoning; supporting evidence; balance land; affected party approvals obtained; the context of the site; a summary of the assessment; the PDP including the Wakatipu Basin Land Use Planning Study and the appropriate weight to be afforded to this plan, and an overall summary.
18. He helpfully acknowledged that the key issue under debate was the opposing landscape opinions between the landscape architects with respect to the effects of the proposal on the landscape and visual amenity values.
19. Mr Todd informed us that the subject site is zoned Rural General in the Operative District Plan (ODP) and classified as Visual Amenity Landscape (VAL). He acknowledged that the site is located at the higher end of VAL continuum and is adjacent to an Outstanding Natural Landscape (ONL). Under the Proposed District Plan (PDP) he advised that the site is zoned Wakatipu Basin Rural Amenity Zone (WBRAZ), located in Landscape Character Unit 1 (LCU1) in the Wakatipu Basin Land Use Planning Study (WBLUPS). He advised that WBLUPS was completed in 2017 and adopted as part of Stage 2 of the PDP, and comprised a comprehensive study of the Basin's landscapes and their various abilities and capacity to absorb development.

20. Mr Todd advised that the recommendation of the Hearings Commission is to retain an 80 hectare minimum lot size for the WBRAZ. This decision was adopted by the Council on 7 March 2019 and is to be notified on 21 March 2019, meaning that the rules will have legal effect from that date. He advised that the appeal period would close in May 2019. He submitted that given the number of submissions on Stage 2 there are likely to be numerous appeals, and that little weight should therefore be applied to the PDP and the associated WBLUPS.
21. Mr Todd acknowledged that the visibility of the development will depend on where the site is viewed from. He acknowledged that the site is visible from Malaghans Road, Dalefield Road, Coronet Peak Road, the unformed legal road, elevated parts of Malaghans Ridge and the trails to the north. He submitted that the site had a unique topography, which allows the development to be screened from Malaghans Road.
22. With regard to the differences of landscape opinion, Mr Todd submitted that Mr Baxter's evidence demonstrates the proper context within which to view the site and the correct photographic imagery of the views. He submitted that the proposal represents a low impact development in regard to infrastructure requirements and that the development will be a small component of the larger Arcadian landscape that surrounds the site. He further submitted that it is important to recognise that there are pockets of rural residential development in this landscape and that this is recognised in the description contained in the WBLUPS for LCU1. He explained that in this context, there will be no cumulative effects, no over-domestication and that the proposed development will not create a precedent.
23. Mr Todd addressed the Hall's opposing submission, acknowledging that the Halls would see parts of the development and that it was unrealistic for them to expect no development in the VAL/LCU 1.
24. Mr Todd was critical of Mr Skelton's evidence, as it relied on a photograph that was not reflective of what a viewer would see because it had been cropped and enlarged. He submitted that a similar, if not greater effect could be created by a single large dwelling.
25. Mr Todd further submitted that Mr Baxter's, Ms Davis', Mr Edmonds' and Ms Baker's assessments should be preferred and that the proposal will have positive effects associated with the covenant protecting landscape pastoral character. Finally, Mr Todd submitted that the proposal is consistent with Part 2 of the RMA and that consent should be granted.
26. **Mr Baxter**, Landscape Architect presented a summary of the design and layout, the landscape assessment, and responded to Mr Skelton's landscape evidence.

27. Mr Baxter submitted that the development includes a prescribed form, layout and character across the four subdivided lots, which includes organic screen mounding and planting patterns, accessway and dwelling locations. He stated that the development is unique and tailored to the site. In his opinion, the development will not be visible from Malaghans Road as it is screened by the proposed mounding and is visually integrated into the surrounding pastoral landscape. He acknowledged that the development will be visible from Coronet Peak and from some houses on Malaghans Ridge. However, due to the sensitive architectural and landscaping design and the distance and elevation of those views, any adverse visual effects would be minor. In his opinion the visual and landscape effects of the proposed development will be perceived as a minor alteration to the wider existing pastoral landscape.
28. Mr Baxter submitted that the proposal has been uniquely crafted to respond to the landscape within which it sits. He acknowledged the susceptibility of the wider landscape to residential development; however, by way of response, the design has been guided by the assessment matters of the ODP and as a result, the layout and form is unique in this pattern. He noted that this scale of dwelling and landform has not been undertaken anywhere else in the District.
29. He was critical Mr Skelton for not acknowledging the site-specific detailed design response and the restrictive size and design controls proposed. In response to matters raised by Mr Skelton, Mr Baxter presented further computer modelling to accurately place that model on the photographic views supplied by Mr Skelton to produce a completed computer render over a photograph.
30. Mr Baxter clarified that as the proposed access is located on a legal road it is a permitted activity. With regard to views from the legal road he was of the opinion that the development would be substantially screened from public views until immediately adjacent to the site.
31. Mr Baxter acknowledged that minor portions of the roof lines will be visible from Dalefield Road; however, based on the viewing distance any adverse effects would be low.
32. Mr Baxter took us through the Landscape Architecture Practice Guide with regard to the concept of 'Human Field of View' and advised that this was generally accepted as being 124 degrees horizontal and 55 degrees vertical. He was of the opinion that the setting justifies a full panoramic approach to the photography, as all of the views are panoramic. In his opinion, Mr Skelton's photographic evidence depicts a narrow, cropped portion of a wide panorama that has been enlarged, distorting and exaggerating the potential effects.
33. Mr Baxter acknowledged that the proposed development, and parts of the dwelling, would be visible from the Halls' residence, but taking into account the viewing distance, the minor area of the panorama occupied and the restrictive design controls, he considered that adverse effects will be low to moderate. Further, in his opinion the physical change to the landscape will be low.

34. Mr Baxter addressed the proposed mounding and the effect it will have on natural character. He stated that the proposed mounds would not appear as regimented mounding and would be of a naturalistic form, rolling and shaped to mimic the existing hummocks on site. He submitted that once grass cover is established, grazed and weathered the new mounds will be indistinguishable from natural forms. Further, he explained that the south and east side of the mounds would be grazed to ensure that the visible outcome matches the existing tawny brown amenity.
35. Mr Baxter addressed visibility of the proposed lawns, stating that they will not be highly visible, as they will comprise a mix of browns and mid greens. He drew our attention to his photographic images that show a number of residences and that none of these showed any adverse effects associated with parked cars. With regard to smoke, Mr Baxter stated that this effect is often raised but never supported by evidence, and that if this was a concern it could be addressed by an appropriately worded condition.
36. Mr Baxter addressed density and submitted that lot size was irrelevant, as the proposed restrictions on the RBPs, including design controls as well as a prohibition on internal fencing, would ensure that the effects would remain the same if lot sizes were larger.
37. Mr Baxter agreed that the site would be visible from Coronet Peak Road, partially visible from elevated properties to the south, but not visible from Malaghans Road. His evidence concluded that the development would be a minor addition to the landscape. He was of the opinion that adverse effects will be minor and that a more traditional residential development, for example one large house, substantial exotic planting and associated structures, could have significant adverse effects. Finally, he addressed cumulative effects stating that there is no consented development in the vicinity. Further, the adjoining land to the west and extending to the east, which comprises 342 hectares, is owned by the Dagg Family, and together with Coronet Peak Station represents some of the largest land holdings in the Basin.
38. **Mr Edmonds**, planning consultant, presented a summary statement of his pre-circulated evidence and updated the Commission on Stage 2 of the PDP. He advised that under the ODP the site is zoned Rural General and requires a discretionary activity consent for subdivision of rural land. The earthworks require a separate land use consent as a restricted discretionary activity under Chapter 22 - Earthworks. He explained that under Stage 1 of the PDP the site was zoned on the notified planning maps as Rural and that the associated Rural Chapter (21) did not propose any rules that would affect the proposed subdivision, although it did include a revised set of objectives and policies. Mr Edmonds submitted that none of these were relevant to the application as they were focused towards managing the effects from rural activities. He directed us to the notified subdivision Chapter 27, which identified that all subdivision activity requires a discretionary activity under rule 27.4.2 and that the Rural zone has no minimum lot size. He explained that there was no decision for the zoning of this land in Stage 1. He drew our attention to a statement at 27.4.2 that any earthworks undertaken as part of a subdivision does not require separate resource consent but should be considered against the matters of control or discretion of the earthworks chapter.

39. Mr Edmonds advised us that Stage 2 of the PDP included a new set of planning maps for the Wakatipu Basin which identified the site and surrounding land as Wakatipu Basin Rural Amenity Zone. He advised that the corresponding Chapter 24 - *Wakatipu Basin* includes a Variation to the subdivision chapter which sets a minimum lot size of 80 hectares, and that subdividing below this requires a non-complying activity consent.
40. Mr Edmonds' evidence included a helpful table of the various planning provisions.
41. Finally, Mr Edmonds concluded that the principal issue is landscape, and the effects on landscape character and visual amenity. He acknowledged that the landscape is recognised as an open rolling pastureland with scattered signs of domestication. In his opinion, the proposal will maintain the landscape character by locating the lots and RBPs a significant distance from Malaghans Rd and by clustering built form. The proposed hummocky shaped earth mounds, which mimic existing landform and screen development from Malaghans Road, will allow only partial views from elevated locations. He concluded that the proposal is consistent with the objectives and policies of both the PDP and ODP. Further, the amended conditions are appropriate and will ensure adverse effects will remain minor.
42. Mr Edmonds concluded that the application will give effect to the purpose of the RMA 1991.

Appearances for the Submitters

43. **Ms Baker-Galloway**, legal Counsel for the submitter in opposition, Mr & Mrs Hall, presented written legal submissions opposing the proposal. She explained that the Halls are particularly concerned with the adverse effects of the proposed development on the landscape character and visual amenity values of Malaghans Valley. She submitted that the proposal is contrary to the objectives and policies of the ODP, PDP Stage 1 and the recommendations of the Independent Commission on the PDP Stage 2, as well as Part 2 of the RMA.
44. Ms Baker-Galloway addressed landscape character, submitting that the proposal will be inconsistent with the existing rural character, as it will sit in the middle of an otherwise open pastoral landscape, with the exception of occasional single dwellings or farm buildings associated with pastoral farming activities. She submitted that the tight cluster, with a density similar to a rural residential development, will be out of place and will interrupt the rural landscape resulting in domestication. Further, the effects of the four dwellings, with their associated domestic activities, are not suitable and cannot be absorbed into this landscape. She further submitted that the effects on landscape character are not limited to Lots 1 to 4, as the proposal to seal the unformed legal road will be highly visible and will appear out of place. She raised the issue of the lack of a defined curtilage area, and that there was uncertainty as to whether residential activities could occur on the balance lot.

45. Ms Baker-Galloway submitted that the area between Malaghans Road and Coronet Peak is an important buffer zone, that the development will interrupt the foreground of the Outstanding Natural Landscape, and that this line of sight is significant. She submitted that when viewed from various parts of Coronet Peak Road, the Skippers Road lookout and from Coronet Peak Ski Field, the development will be prominent in the open pastoral landscape and will be the only residential cluster in sight. Relying on Mr Skelton's evidence, she submitted that adverse effects on landscape character will be more than minor.
46. She addressed visual amenity effects from public places, submitting that the development from Coronet Peak and along Coronet Peak Road would be highly visible and that these views are popular with both residents and visitors. In addition, she submitted that the existing wilding pines that screen the development from parts of Coronet Peak Road should not be taken into account, as they are likely to be removed. Further, the development will be highly visible from the unformed legal road and will break the skyline view towards the back of Queenstown Hill and Ben Lomond.
47. Ms Baker-Galloway addressed visual amenity from private places, specifically the Halls' residence located at 88 Mountain View Road. She submitted that the Halls will have a direct view of the proposed development and that adverse effects will be more than minor, as their view is of uninterrupted pastoral land in the foreground of the ONL. Further, she submitted that as some properties had not provided affected party approval, it is not just the effects on the Hall property that are relevant to our considerations.
48. Ms Baker-Galloway submitted that the development will result in a significant change and will be a disruption to the existing landscape. She acknowledged that the mounding and planting will be helpful in screening the development but is not sufficient when viewed from elevated locations and will draw more attention to the development. Further, the location of the development on top of a natural terrace will exacerbate the adverse effects. She submitted that the adverse effects on visual amenity and landscape, as viewed from the Hall residence, have not been adequately considered by Council experts or the Applicant. Ms Baker-Galloway was critical that no visual simulations have been submitted that show the proposed development from public and private places.
49. With regard to the planning framework, Ms Baker-Galloway submitted that the development is contrary to the objectives and policies of the ODP, the PDP as notified, the PDP Stage 2 recommendations adopted by Council, and Part 2 of the RMA. She submitted that the proposal fails to satisfy the objectives and policies of Parts 4 and 5 of the ODP and will not protect the character and visual amenity values of the site and surrounding landscape. She drew our attention to Objective 4.2 *Landscape and Visual Amenity*, Part 5, Objective 1 *Rural Areas – Character and Landscape Value*, and Objective 3 – *Rural Amenity*, submitting that development will result in adverse effects on landscape character and visual amenity and that the effects cannot be suitably avoided, remedied or mitigated due to the elevated location and the various public and private view points that look down over the site.

50. With regard to the PDP, Ms Baker-Galloway submitted that the relevant provisions of Chapters 3 and 6 were 3.2.5, 3.2.5.2, 3.3.22, 3.3.23, 3.3.24, 3.3.32, 6.3.4, 6.3.7, 6.3.19, 6.3.20, 6.3.23, 6.3.26 and 6.3.27. She submitted that the proposal is contrary to the objectives and policies of Chapters 3 and 6 because the development will not assist in retaining the District's distinctive landscapes, the site does not have the capacity to absorb the proposed change, the development is not compatible with rural character as the lot densities are more urban in nature and density, that there will be adverse visual effects when viewed from public and private places and that the development, including the proposed mitigation, will adversely affect the openness of the area. She submitted that the provisions of the PDP go further than the ODP in terms of rural landscape protection, as they require the rural character and amenity values to be 'maintained or enhanced', that subdivision and development of rural land is unsuitable in many locations and that rural areas which cannot absorb further development are identified and these areas are to be avoided.
51. Ms Baker-Galloway submitted that the PDP sets a strong policy direction that cautions against non-rural development in the rural zone and that non-rural development will be the exception, and only permitted when rural character and amenity values can be maintained or enhanced. She submitted that this is not the case with this application, and that as this area is one of the few remaining areas in the Basin that is still productively farmed, rural residential development may result in reverse sensitivity issues.
52. Ms Baker-Galloway addressed the decisions on Stage 2 PDP Wakatipu Basin Variation, which has zoned the site Wakatipu Basin Rural Amenity Zone and included the site within LCU 1, Malaghans Valley. She advised us that the Council have adopted the recommendations and that these decisions are to be notified on 21 March, from which date the rules of the variation have legal effect. Ms Baker-Galloway advised that the variation is considered part of the PDP and that decision makers are required to have regard to objectives, policies and methods in a proposed plan from the date the proposed plan is publicly notified. She submitted that the weighting applied to this plan is dependent on a number of factors including but not limited to, the extent to which the proposed plan has been exposed to testing and whether there has been a significant shift in Council policy. Ms Baker-Galloway submitted that the variation is a significant shift in Council policy, as Council has established an entirely new planning regime for the Wakatipu Basin for the maintenance and enhancement of the Basin's rural and character and landscape values. She submitted that significant weight should be given to the provisions and zoning of the variation, in particular to Objective 24.2.1 with its associated relevant policies. Further she submitted that Chapter 24 seeks to maintain and enhance rural character and landscape values primarily through a minimum lot and density regime of 80 hectares, and that to grant consent the development would be contrary to Council's planning framework.

53. Ms Baker-Galloway advised us that LCU 1 Malaghans Valley is identified as having a very low capacity to absorb additional development and is characterised by a sense of openness and spaciousness and is therefore considered highly sensitive to additional development. Ms Baker-Galloway drew our attention to Policies 3.3.23, 24.2.1.3 and submitted that the proposal was contrary to these provisions. She further submitted that rural living is provided for in the Basin in land zoned Wakatipu Basin Lifestyle Precinct, where land has been identified as having sufficient capacity to absorb rural living development. She submitted that it was clear that in almost all circumstances rural living should be limited to Wakatipu Basin Lifestyle Precinct only, and that it is not intended to be enabled in the WBRAZ. Finally, she submitted that development is wholly inconsistent with the PDP and Council's intended direction for Malaghans Valley.
54. Ms Baker-Galloway submitted that approving the development would set a precedent for future subdivision and development in Malaghans Valley and that the policies of Chapter 6 of the PDP require an assessment of adverse cumulative effects. In particular, she set out Policies 6.3.21, 6.3.22 and 6.3.23 and submitted that development of this nature and scale in the context of the site will result in adverse cumulative effects, and that this LCU does not have the capacity to absorb the development. She advised that there are other applications currently before Council for development within the LCU which, combined with this development, would irreversibly change the landscape character. She stated that the applicant also owns additional properties in the area where they may seek to undertake development.
55. Finally, Ms Baker-Galloway submitted that there was uncertainty with regard to the legal status of balance Lot 100 and the restrictions intended to be put in place for this lot.
56. **Mr James Hall**, presented a written statement addressing three matters: community, process and personal perspective. He was of the opinion that the PDP and the ODP represent the desires of the community and that the recommendations of the Independent Commissioners (now ratified) have reinforced the community's desire to maintain and enhance the aesthetics of the current land use as it relates to the foreground of the ONL. He was of the view that the site and surrounding area represents a desirable rural buffer between the developed areas of Dalefield and the ONL, as well as a rural interlude between Queenstown and Arrowtown. Mr Hall submitted that the community, through the ODP and PDP, recognises that the area cannot support intensification and that there will be adverse cumulative effects if consent is granted, as well as setting a precedent for future subdivision in the Malaghans Road rural corridor.
57. Mr Hall was critical of Council's process with respect to the management of the application. In particular, that the Halls were not directly notified, that the profile poles were only fleetingly in place during the notification period and that the public notice was erected in an inappropriate location. Further, the Council processing staff had not visited his property and that the effects on Malaghans Ridge had not been taken into account in the section 95 notification determination report. Mr Hall stated that the adverse effects on his property will be significant and that the intensification and precedent effects are not welcomed by the community.

58. **Mr Skelton**, Landscape Architect, spoke to his landscape evidence. He did not differ markedly from Mr Baxter's and Ms Davis' description of the landscape context but drew a very different expert opinion on landscape effects, particularly regarding the effects when viewed from elevated locations. Mr Skelton explained where he considered the assessments prepared by Ms Davis and Mr Baxter were deficient, in particular the assessment on landscape character, consideration of domestic effects, assessment of cumulative effects, the scale of effects used, that WBLUPS and the inadequate assessment of the PDP, that the photographic images presented do not employ any set focal length or disclose the focal length used, that no domestic curtilage area is proposed and that both Mr Baxter and Ms Davis refer to a covenant but no details of the covenant have been provided.
59. He concluded that if granted the proposal would change the character of the District's last truly open, working, pastoral landscape. He considered that the application proposes a pocket of clustered urban development in a highly valued and visible rural landscape and that the proposal will result in adverse effects on visual amenity from public places ranging from low to high. From private places, he considered that the proposal will result in high adverse effects on visual amenity. Overall, he considered that the proposal has not been adequately assessed by Ms Davis or Mr Baxter and that it would result in unacceptably high adverse effects on landscape character and visual amenity.
60. **Mr Mark Williams**, representing Queenstown Trails Trust, advised the Commission that the Trust supports the provision of new trail opportunities as a component of new developments for the benefit of the wider community. He confirmed that the Trails Trust is seeking a link from the unformed road along the base of Coronet Peak to Malaghans Road to complete the Arrowtown to Arthurs Point trail, and that if granted the easement would provide a vital option. Mr Williams explained that the Trust is also investigating the potential for the trail to be located further to the north, which would be the preferred route but this has not yet been secured. He advised that if consent is granted the trail would be secured by an easement in favour of the QLDC.

Council Officers

61. **Mr Hewland**, consultant engineer, addressed engineering matters associated with the development. His assessment addressed the means of access from Malaghans Road including gradient, intersection with Malaghans Road, road naming, lot access and cycle and pedestrian access. He also addressed earthworks, natural hazards, project information and relevant information on the certificates of title. In Mr Hewland's oral response, he clarified that some conditions required amending, that a site management plan was not necessary for the earthworks and that signage would be required on the gate to ensure public access is not restricted.
62. In response to questioning by the Commission, Mr Hewland confirmed that an on-site technical solution that meets the required Lake Hayes catchment environmental and water quality standards was available for the treatment of effluent and wastewater. As this may require resource consent from the Otago Regional Council, an advice note should be included to this effect if consent is granted.

63. Mr Hewland recommended that some changes were needed to his previously recommended conditions as a result of the further evidence presented at the hearing.
64. **Ms Davis** addressed landscape effects and concluded that the proposed development will have a range of visual effects from low to moderate in the short term, reducing to low in the medium to long term. She submitted that the unique topography of the site will screen the proposed development, and the ability to retain the overall perception of an Arcadian pastoral landscape and planting can be contextualised within the background vegetation of the adjacent Outstanding Natural landscape. She considered that the proposed development will be visually absorbed within the existing landscape without any loss of landscape value and, although it will be discernible element, it will not detract from the overall qualities of the landscape. She was of the opinion that building and landscape controls are appropriate but noted further clarification is required on the entry gate and road style.
65. In her verbal response, Ms Davis confirmed that she had now visited the Hall property, as well as other elevated properties along the Ridge, and that the effects varied from low to moderate. She was of the opinion that from the Hall property adverse effects will initially be moderate and over time will reduce to low to moderate. She did not agree that the proposed buildings would break the skyline when viewed from the legal road located to the east. She agreed with Mr Skelton that the native beech trees should be retained on the landscape plan, as they would assist with mitigating the form of the buildings. Ms Davis advised that although there are slight differences in the images presented by both the Applicant and the submitter, they are both reliable simulations in terms of bulk and scale and mounding. Ms Davis agreed with Mr Baxter that, with careful design and construction, the proposed mounds will integrate into the landscape. Finally, she advised that some changes were required to the recommended conditions, including avoiding the use of black, that a defined curtilage area should be identified and changes to the landscape plan to incorporate the use of native beech.
66. **Ms Baker** addressed planning matters. She advised the Commission that the WBLUPS was a relevant document to consider but cautioned on the amount of weight that should be applied to it. Ms Baker accepted that a land use consent is required for the earthworks and that the location of the RBP closer than 15 metres to the boundary did not trigger the internal boundary setback rule, as this rule is related to buildings. She advised that a further resource consent would need to be obtained for any proposed dwelling, and that if it was proposed to be located closer than 15 metres from an internal boundary this would be considered at this time.
67. Ms Baker agreed with Mr Edmonds that predominate weight should be given to the ODP, as it is likely that the 80 hectare minimum lot size will be subject to a number of appeals and that whilst we should have regard to the Decisions Version of the PDP, dominant weight should be applied to the ODP. Ms Baker advised that an assessment under Part 5 would not add a lot to the assessment and that the important considerations were contained in Part 4. Finally, she supported the proposed covenant for no further subdivision or development and noted that her previously recommended conditions required further refinement.

Right of Reply

68. **Mr Todd** submitted a written right of reply and attached a further draft set of conditions and plans. He confirmed that the balance lot will now be held by the four proposed lots as tenants in common. Mr Todd accepted that further land use consents would be required for future dwellings and that proposed design control conditions, including no further subdivision or development together with restrictions on the use of the proposed balance lot, have been volunteered. He also accepted that it is likely that a land use consent would be required for any breach to internal boundaries and that future lot owners will need to apply for a land use consent to discharge wastewater to land, as the sites are located within the Lake Hayes Protection Zone identified by the Otago Regional Council. Additional resource consents may be required if it is intended to take more than 25,000 litres of water a day for potable or irrigation supplies. Mr Todd agreed that the activity status is discretionary and that it was correct to apply the Part 5 assessment matters as well as the assessment matters contained in Part 15.
69. Mr Todd reiterated that the site is zoned WBRAZ under the PDP and that subdivision as proposed would, under that Plan, have non-complying activity status as the lots are below 80 hectares. He submitted that the right to erect a dwelling on a lot existing at the time of the decision is a restricted discretionary activity, as is the right to erect a dwelling within the RBP of a lot previously created, and that this is important given the subject site comprises three existing titles. Mr Todd agreed that it is likely that Council will receive a number of appeals on the proposed 80 hectare minimum lot size and that whilst we must have regard to the PDP provisions, dominant weight should be given to the ODP.
70. In terms of the Queenstown Trails Trust, Mr Todd advised that an easement has been proposed to provide a connection to the existing unformed legal road. However, he understands that the Queenstown Trails Trust are pursuing an alternative route and that what is proposed by this application is a “back up” position.
71. Mr Todd submitted that the location and the clustered design gains support from the assessment matters contained in both the ODP and the PDP. He reiterated that the landscape is classified as VAL, which the ODP describes as “*landscapes which wear a cloak of human activity much more obviously pastoral (in the poetic and picturesque sense rather than the functional sense) or Arcadian landscapes with more houses and trees and greener introduced grasses and tend to be in the District’s downlands, flats and terraces*”. He submitted that such landscapes are clearly modified and inhabited landscapes.

72. He acknowledged that it was not possible to screen or hide the development from elevated locations and that the relevant policies of the ODP only require screening by vegetation “whenever possible” (Policy 4.2.5.9(b)). He noted that the provisions of the plan do not expect development to be completely invisible. Mr Todd submitted that contrary to Mr Skelton’s simulations, the real-life views enjoyed from the elevated locations over Malaghans Road Valley and beyond is of a wide expansive view and that when viewed from Coronet Peak Road, residential development is clearly visible. Mr Todd referred us to case law *Lakes Rural Landowners Society Incorporated v Queenstown Lakes District Council (C75/2001)*, where the Court found that residents in the Rural General zone are not entitled to have open space all around them and that in the VAL a resident should not be able to insist that a neighbouring landowner retain the whole of their pasture. Further, according to the policies contained in Parts 4 and 5 residents are entitled to rural amenities which include naturalness (if not openness) and exclude over domestication and urbanisation.
73. Mr Todd submitted that while the site is adjacent to an ONL, the visual effects will not compromise the open nature of the ONL or impact on the natural or Arcadian pastoral character of the surrounding VAL. He further submitted that the proposal will not lead to urbanisation or over domestication, openness of the landscape will be maintained as no urban type infrastructure is proposed, existing topography screens the development, that the proposal will not restrict the ability for surrounding land to be farmed and that views will be maintained. He submitted that the proposed covenant is a significant positive effect given the existing title structure. Mr Todd reminded the Commission that Policy 4.2.5.4 is concerned with the adverse effects on the wider VAL landscape not just the subject site.
74. Mr Todd submitted that the granting of consent would not create a precedent effect, as the characteristics of the site will distinguish it from other sites. He further submitted that the site, which is to be protected from any further development by a covenant, is surrounded by a single large land holding and that it would be difficult to replicate a similar situation.
75. Mr Todd reiterated that the proposed strict design controls will be protected by conditions and a consent notice, and that a further land use consent is required for the design of the dwellings. Overall, these measures will ensure that the intention of the subdivision design will be achieved.
76. Finally, Mr Todd submitted that Mr Baxter’s and Ms Davis’ evidence should be preferred over Mr Skelton’s, as their evidence is more objective and reflective of the real world and that the application should be granted. Lastly, he advised that a condition of consent should be imposed to ensure that the earthworks are completed before any application for land use be given effect to.

THE DISTRICT PLAN AND RESOURCE CONSENTS REQUIRED

The Operative District Plan

77. The site is zoned Rural General under the ODP.

There was agreement between the planners that the subdivision and associated earthworks be assessed as a **discretionary activity**. We agree with this conclusion.

78. For completeness, we set out below the consents that we consider are required under the ODP:

Subdivision

- (i) A **discretionary activity** resource consent pursuant to Rule 15.2.3.3(vi) for subdivision in the Rural General zone and the location of residential building platforms;

Land Use

- (ii) A **restricted discretionary activity** consent pursuant to Rule 22.3.2.3(a) for earthworks exceeding 1000m³ maximum total volume within one consecutive 12 month period;
- (iii) A **controlled activity** resource consent pursuant to Rule 15.2.21.1 for the proposed earthworks associated with the subdivision;
- (iv) A **discretionary activity** resource consent pursuant to Rule 5.3.3.3(i)(b) for the identification of building platforms; and
- (v) A **discretionary activity** consent pursuant to Rule 5.3.3.3(i) in regard to buildings, in this case the water tanks, being located outside of the RBP.

Overall we have assessed the activity as a **discretionary activity**.

79. There was agreement between the planners that the relevant provisions of the ODP were Part 4 (District Wide), Part 5 (Rural General) and Part 15 (Subdivision, Development and Financial Contributions). In addition, Mr Edmonds briefly addressed Part 14 (Transport) and Chapter 22 (Earthworks). We agree with this analysis.
80. There was some discussion at the hearing as to whether the assessment matters of Part 5 were relevant to our considerations. Neither Ms Baker or Mr Edmonds included an assessment of 5.4.2.2(3) VAL in their respective assessments. After questioning both planners on this issue, there was acceptance that as the assessment matters contained in Part 5 include reference to 'subdivision', the 'identification of residential building platforms' and 'earthworks' and these activities are included in the definition of 'proposed development' and are therefore subject to the assessment matters contained in Part 5, as well as those contained in Part 15.

The Proposed District Plan

81. In her s.42A report Ms Baker advised that Council notified Stage 2 of the PDP (Stage 2 Notified Version 2017) on 23 November 2017, and that under these provisions the site is proposed to be rezoned Wakatipu Basin Rural Amenity Zone. Further we were informed that on 15 February 2019 Council released its Hearings Panel decision and recommendations on the Wakatipu Basin, which recommends that the subject site retain its recommended zoning of Wakatipu Basin Rural Amenity Zone. We understand that these recommendations were adopted by full Council on 7 March 2019 and publicly notified on 21 March 2019, and are now subject to an appeal period. There was no disagreement between the parties in relation to this understanding, and as such we have considered the ODP and the PDP's policy framework (objectives and policies) with what we consider to be the appropriate weight, a point that we will return to later in the decision.
82. At the time of writing the decision, we understand that under the PDP, resource consent is also required for the following activities. We further understand that although these rules are now triggered, they do not affect the overall activity status of the application.
- (1) With regard to subdivision, a **non-complying activity** resource consent is required pursuant to Rule 27.5.1.9 for a subdivision that does not comply with the minimum lot areas set out in Part 27.6 (Standards for Minimum Lot Areas). Part 27.6 provides that the minimum lot area for the Wakatipu Basin Rural Amenity Zone is 80 hectares.
 - (2) With regard to the land use, a **restricted discretionary activity** resource consent is required pursuant to Rule 25.5.11.1 for earthworks over a contiguous area of land shall not exceed 2500 m² where the slope is 10 degrees or greater. Council's discretion is restricted to the matters set out in Part 25.7 and include 25.7.1.1 Soil erosion, generation and run-off of sediment; 25.7.1.2 Landscape and visual amenity; 25.7.1.3 Effects on infrastructure, adjacent sites and public roads; 25.7.1.4 Land stability; 25.7.1.5 Effects on water bodies, ecosystem services and biodiversity; 25.7.1.6 Cultural, heritage and archaeological sites, 25.7.1.7 Nuisance effects, 25.7.1.8 Natural hazards; and 25.7.1.9 Functional aspects and positive effects.
 - (3) With regard to the construction of buildings for residential activity in relation to the water tanks only, a **restricted discretionary activity** resource consent pursuant to Rule 24.4.7, with Council's discretion limited to a) Landscape character, b) Visual amenity values; c) Access; d) Infrastructure; e) Landform modification, landscaping and planting; and f) Natural hazards.
83. The planners agreed that the most relevant chapters of the PDP are Chapter 6 and Chapter 24. Ms Baker also considered that Chapters 3, 21 and 27 were relevant. We agree with her analysis in this respect.

Operative Regional Policy Statement

84. Ms Baker directed us to Part 5 Land of the Operative Regional Policy Statement.

Proposed Regional Policy Statement

85. Ms Baker-Galloway helpfully set out the relevant provisions of the Proposed Regional Policy Statement. We understand that this 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.
86. The relevant objectives and policies are found in Chapters 1 and 5. These generally align with the Operative Regional Policy Statement.

RELEVANT STATUTORY MATTERS

The Resource Management Act 1991

87. As a **discretionary** activity, the application must be considered in terms of sections 104 and 104B of the RMA. Under section 104B we may grant or refuse consent. Further, section 106 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.
88. Finally, sections 108 and 220 empower the Commission to impose conditions on land use and subdivision consents if granted.
89. We address Part 2 later in this decision.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (“NES”)

90. Ms Baker was satisfied that no consent is required under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES). We agree with Ms Baker and are satisfied that the site is not a HAIL site and that no consent is required under the NES.

PERMITTED BASELINE AND RECEIVING ENVIRONMENT

91. Under section 104(2) of the Act, we have the discretion to take into account the permitted baseline when considering the effects on the environment of the proposed development.
92. In terms of the permitted baseline we agree with Ms Baker that given all forms of residential development and subdivision require consent, there is no relevant permitted baseline for us to take into consideration as part of this decision. We also agree with Ms Baker that the receiving environment includes the unformed legal road (proposed to be used for the access) and that this road can be formed by the Council at any time.

PRELIMINARY MATTERS

93. Having read and heard the evidence and submissions presented, before turning to the assessment of effects and our assessment of the relevant objectives and policies, it is first necessary to make findings on two matters over which the parties disagreed. These matters are central to the assessment of the proposal, as they relate to the context within which we should consider the effects of the development. These matters are:
- a) The relevance of the Wakatipu Basin Land Use Planning Study; and
 - b) The weight to be given to PDP Stage 2 decisions.

Relevance of the Wakatipu Basin Land Use Study

94. The Wakatipu Basin Land Use Planning Study (WBLUS) is a report commissioned by the Council as part of the review of the District Plan. It is a comprehensive study of the landscape of the Wakatipu Basin, identifying landscape units (geographic areas) that could 'absorb' development. By absorb, the report refers to the ability of the character area to accommodate landscape and visual change.
95. The subject site is located in Malaghans Valley Landscape Character Unit 1 (LCU 1). The summary of the report states this Landscape Character Unit has a very low capacity to absorb change.
96. We are aware that Councils routinely undertake studies (landscape or otherwise) of areas or resources that suggest a certain direction that development should take but these studies do not always end up being implemented. However, we understand that the purpose of this particular study was to assist the Panel considering submissions on the PDP to decide on the appropriate zonings of areas. In the *Stage 2 Report and Recommendations of Independent Commissioners regarding Chapter 24*, Report 18.1 at paragraphs 98 to 113, the Panel explained the genesis of the WBLUS and the weight that had been given to its conclusions. At paragraphs 101 to 110 the Panel stated:

101. During the course of its hearing of submissions on the chapters of the Proposed District Plan containing the rules implementing this general structure, the Stream 2 Hearing Panel formed the view that further work was required to evaluate the extent to which the Proposed District Plan (as notified), as it affected the floor of the Wakatipu Basin, was the most appropriate method to manage the natural and physical resources within that area. More specifically, in a Minute dated 1 July 2016, the Hearing Panel stated:

102. In the course of the hearing, based on the evidence from the Council and submitters, we came to the preliminary conclusion that continuation of the fully discretionary development regime of the Rural General Zone of the ODP, as proposed by the PDP, was unlikely to achieve the Strategic Direction of the PDP in the Wakatipu Basin over the life of the PDP. We are concerned that, without careful assessment, further development within the Wakatipu Basin has the potential to cumulatively and irreversibly damage the character and amenity values which attracts residents and other activities to the area."

103. The Hearing Panel recommended to the Council that a detailed study of the floor of the Wakatipu Basin was required, among other things, to:

"Determine whether, given the residual [sic] development already consented, there is any capacity for further development in the Wakatipu Basin floor and, if there is, where it should be located and what form it should take."

The Council accepted that recommendation with the result that submissions relevant to subdivision and development of the Wakatipu Basin were deferred and were not the subject of recommendation or decision as part of the Stage 1 Proposed District Plan, pending the results of the study that the Council commissioned.

104. The resulting Wakatipu Basin Land Use Planning Study concurred with the Hearing Panel's preliminary conclusion quoted above. Having undertaken a comprehensive analysis of the Wakatipu Basin, the report writers identified 25 landscape character units (LCUs) with varying capacity to absorb additional development; ranging from very low to high. The Report recommended a rating of moderate-high as an appropriate threshold for upzoning and expressed the opinion that up-zoning units with lower ratings ran the risk of "...detracting from the high amenity values of the study area; undermining the impression of informal nodes of rural residential development interspersed with swathes of more open, rural areas; and/or detracting from the neighbouring ONFL [Outstanding Natural Features and Landscape] context.

105. This Report (which we will refer to hereafter as the WB Landscape Study) provided the methodological basis for Chapter 24 and the accompanying planning maps, the subject of the submissions we heard. Specifically, the WB Landscape Study provided the basis for the Wakatipu Basin Rural Amenity Zone ("Rural Amenity Zone") with a specified minimum lot size of 80 hectares and buildings requiring consent as a restricted discretionary activity, but subject to the Wakatipu Basin Lifestyle Precinct ("Precinct") being embedded within the broader Rural Amenity Zone with a significantly smaller lot size and its own additional objectives, policies, rules and assessment criteria (replacing the Rural Residential and Rural Lifestyle Zones previously applying to discrete areas within the Wakatipu Basin). The descriptions in the WB Landscape Study of each LCU, including their respective absorptive capacities, are annexed to Chapter 24 and cross referenced in the text of the chapter.

106. The WB Landscape Study is an impressive piece of work and we were assisted by being able to discuss the landscape considerations underpinning it with one of its principal authors, Ms Gilbert. She provided evidence explaining some of the differences between recommendations in the WB Landscape Study and the notified Stage 2 Proposed District Plan provisions. Among other things, Ms Gilbert explained to us the further analysis that led to the recommendation that the minimum lot size in the Precinct should be 6000m² rather than 4000m².

.....

107. Understandably, a number of submitters with interests in the land the WB Landscape Study had recommended form one or other of these two precincts sought to rely on the reasoning of the WB Landscape Study in key respects. We discuss those submissions in much greater detail in the relevant reports.

108. More generally, the evidence we heard from submitters largely accepted the methodology the WB Landscape Study had employed although it was suggested to us that the study was too broad brush and needed to have provided more finely grained recommendations as to the particular areas deserving greater protection.

109. We record specifically that the criticisms of the WB Landscape Study in the submission of the Darby Partners LP, among other things, that suggested it was so flawed that Chapter 24 should be withdrawn, were not backed up by expert evidence, or pursued when the submitter appeared. We compare the expert evidence of Ms Yvonne Pflüger, who advised us that in her opinion, the WB Landscape Study was well done, and she supported its conclusions.

110. Clearly, the WB Landscape Study was not accepted on all points. A number of other aspects of the WP Landscape Study were the subject of evidence challenging specific aspects of the study. The competing expert evidence we heard, however, tended to focus on the specific areas the subject of submission and its immediate environs, rather than putting the landscape issues in the broader context of the entire Basin. While we accept that a compartmentalised analysis of landscape issues is useful, and in some cases might be determinative, the absence of a broadscape review, showing how the more detailed analysis fitted into the bigger picture, rather lessened the weight we felt we could give to that evidence in many cases where it conflicted with Ms Gilbert's more comprehensive analysis of the issues. The exception in this regard was Ms Rebecca Hadley who, although not able to present her views as those of an

independent expert, did give us an alternative overall concept (to that of Ms Gilbert) to ponder in respect of the central area of the Basin.”

97. It is apparent from the Panel’s Report that the WBLUS has been the subject of extensive expert evidence and testing through the Stage 2 hearings process. At paragraph 106 the Panel described the Study as “an impressive piece of work” and it can therefore be inferred that the study carried considerable weight in their analysis and final decision.
98. Further, it is also apparent the Panel has accepted the general scope of the Landscape Unit Classifications determined by WBLUS in reaching their decision, as is evident from the decision version of Chapter 24.
99. We therefore find that the WBLUS has been integral to the decision of the Panel and that the findings of this land use study, which were tested in evidence before the Panel, have been incorporated into Chapter 24 to the extent that they are relevant at this stage of the process.
100. Accordingly, we have concluded that although the general recommendations of the study may be considered, to the extent that these are relevant they have been captured in the Chapter 24 decision. It is not therefore necessary for us to take the WBLUS into account further in our decision, other than as context for our interpretation of Chapter 24 as applicable.

Weight to be given to Stage 2 of the PDP

101. Following on from the above matter is consideration of the appropriate weight to be given to Stage 2 of the PDP Wakatipu Basin Variation, which was notified on 23 November 2017. On the 18 February 2019, the Independent Hearing Panel’s recommendations on the variation were released. The Council subsequently adopted the recommendations on 7 March 2019, as of which date the rules contained in the variation have legal effect.
102. We concur with Ms Baker-Galloway that decision makers are required to have regard to the objectives, policies and methods in a proposed plan from the date that the plan is publicly notified.
103. The weighting to be accorded to the proposed plan depends on a number of factors as determined by the courts, of which the *Keystone Ridge*¹ decision is apposite. It is plain from this judgment that the importance of the proposed plan depends on the extent to which it has proceeded through the objection and appeal process. The Court also considered that the extent to which the provisions of the proposed plan are relevant should be considered “*on a case by case basis*” and might include factors such as “*the extent to which the proposed plan has been exposed to testing and independent decision making*” and “*the extent to which a new measure, or the absence of one, might implement a coherent pattern of objectives and policies in a plan*”.

¹ *Keystone Watch Group v Auckland City Council*, A007/01, Environment Court, Auckland at [45].

104. In *Mapara Valley Preservation Society v Taupo District Council*,² the Court considered that: “*where there has been a significant shift in Council policy and the new provisions are in accord with Part 2 of the Act, the Court may give more weight to the proposed plan*”. case
105. Both Mr Todd and Mr Edmonds, as well as Ms Baker, submitted that the ODP remained the dominant document due to the PDP still being formulated, with both Stage 1 and Stage 2 currently subject to appeals. They argued strongly that, as a result, the PDP should carry little weight in our analysis and that we should base our principal consideration of effects, and objectives and policies, on the Operative District Plan.
106. Ms Baker-Galloway, on the other hand, was of the view that notwithstanding the likelihood of appeals, the recommendations represent “a significant shift in Council policy” and that Council has, in effect, “established an entirely new planning regime for the Wakatipu Basin, which sets clear policy direction for the maintenance and enhancement of the Basin’s rural character and landscape values”. She submitted that, as a result, the provisions and zonings of the variation should be given substantial weight in our decision.
107. Chapter 24 seeks to maintain and enhance rural character and landscape values primarily through the imposition of a minimum lot density of 80 hectares in the Wakatipu Basin Rural Amenity Zone (WBRAZ), outside of the Precinct, under Policy 24.2.1.1. Subdivision to higher densities is a non-complying activity.
108. Under Chapter 24 of the PDP, the subject site is zoned WBRAZ, which provides for a minimum lot size of 80 hectares. Further, it is part of LCU 1, Malaghans Valley, which has been identified as having a very low capacity to absorb, and highly sensitive to, additional development.

Stage of the process

109. Both Mr Todd and Ms Baker-Galloway noted that, at the time of the hearing, it was difficult to assess which provisions may or may not be appealed. However, both Counsel agreed that the 80 hectare minimum lot size is likely to be the subject of a number of appeals, given that there are very few lots in the Wakatipu Basin greater than 160 hectares (an estimate of 3 such large lots was made).
110. At the hearing Mr Edmonds was critical of the inclusion of the 80 hectare minimum lot size as a policy rather than a rule, as it is in essence a method, and observed that in his experience the court is “very quick to knock methods out of policies”. Accordingly, in his view there is considerable doubt as to whether the 80 hectare “policy” would survive the appeals process in its current form.
111. Accordingly, we find that although the proposed plan has been tested by an independent hearing panel, and notwithstanding the decision of Council to adopt the panel’s recommendations on 21 March 2019, there is considerable uncertainty in relation to the extent to which key provisions that relate to the zoning of the subject site will endure following the appeal process.

² *Mapara Valley Preservation Society v Taupo District Council*, A083/07, Environment Court, Auckland at [39].

Policy Shift by Council

112. The second relevant consideration is the extent to which the proposed plan represents a significant shift in Council policy.
113. In her Section 42A analysis, Ms Baker considered the identification of minimum lot sizes within Chapter 24 (Stage 2) of the PDP to represent a “significant shift” in policy. However, although she considered that the weight to be given to the PDP had now increased (as compared to decisions prior to 21 March 2019), she remained of the view that *“as appeals are likely with regard to such a significant policy shift, the certainty that they will be retained is limited”*. Accordingly, she concluded that more weight should be given to the ODP.
114. Ms Baker-Galloway submitted that the scheme of the objectives and policies was such that *“it is clear that in almost all circumstances, rural living development should be limited to the Wakatipu Basin Precinct Zone (WBPZ) only and is not intended to be enabled in the WBRAZ”*. However, while it is certainly true that the WBRAZ appears to be intended to be more restrictive in relation to residential development than WBPZ, we are not persuaded that the plan goes quite this far. Indeed, the purpose of Chapter 24 states that *“the balance of the Rural Amenity Zone is less enabling of development, while still providing for a range of activities suitable for a rural environment”*. This plainly does not rule out all development in the Zone but envisages that the objectives, policies and rules will be less supportive in this respect, as is arguably the current position with respect to the Rural General Zone in the ODP.
115. Our view is supported by what appears to be a right to erect a dwelling on a lot in the WBRAZ that existed at the time the plan was notified. Relevantly, Mr Edmonds advised that under the proposed plan, the right to erect a dwelling on a lot existing at the time of the decision (21 March 2019) is a Restricted Discretionary activity, as is the right to erect a dwelling within a residential building platform of a lot that has previously been created. This would potentially mean the establishment of one dwelling per title as a Restricted Discretionary activity, which is arguably less restrictive than the current provisions of the ODP, which requires all development in the Rural General Zone to be assessed as a Discretionary activity.
116. In response to questioning by the Commissioners at the hearing, Mr Edmonds expressed the opinion that he does not view the PDP as a “significant policy shift” from the ODP; rather the form (as opposed to the substance) of the narrative had subtly changed to focus more on outcomes. Although there has been a change in approach from the “no minimum lot size” policy in the rural general zone of the ODP to a 80 hectare minimum in the WBRAZ, the fundamental thrust of the ODP and the PDP in terms of their objectives and policies and the outcomes anticipated was similar. Rather, it is the methods by which this may be achieved that differ in approach (in particular the 80 hectare minimum net site area policy).

117. We accept Mr Edmond's evidence in this respect and conclude that the PDP does not represent a significant shift in Council policy with respect to development within the Wakatipu Basin; rather, the proposed plan attempts to tighten up landscape protection through specific policies that seek to control development in a different way to that of the ODP. However, it is arguable whether, in its current form, this will be achieved.
118. Accordingly, we find that the while the objectives and policies of the PDP are relevant, they should be given little weight in our analysis.

PRINCIPAL ISSUES IN CONTENTION

119. It was common ground between the parties that landscape and visual amenity effects were the principal effects in contention. We agree with this. Mr Edmonds, based on Mr Baxter's landscape evidence, was of the view that adverse effects would be minor. Ms Baker, based on Ms Davis' landscape evidence, concluded the same. In contrast, Mr Skelton was of the view that adverse effects will be more than minor.
120. The other principal issue in contention was whether the proposal is contrary to the objectives and policies of the ODP and PDP.

MAIN FINDINGS ON THE PRINCIPAL ISSUES IN CONTENTION

121. Our main findings on the principal issues in contention, and the reasons for our findings are set out as follows.

Effects of the Activity on the Environment

122. We note for completeness that issues associated with transportation, servicing (including stormwater), wastewater, water, power and telephone, natural hazards, socio-economic effects, reverse sensitivity, life supporting capacity of soil, vegetation and water were not in contention between the parties. We agree, and find that subject to conditions, any adverse effects associated with these issues can be adequately avoided, remedied or mitigated.
123. There was agreement that the site is zoned Rural General and classified as Visual Amenity Landscape (VAL) under the Operative District Plan. The experts also agreed that the site sits at the higher end of the VAL continuum. The relevant assessment matters are found in:
- *5.4.2.2(3) Visual Amenity Landscapes; and*
 - *15.2.3.6(b) Subdivisions of Land in the Rural General, Rural Lifestyle, Gibbston Character, Bendemeer Zones and the Rural Residential Area north of Lake Hayes, and the Quail Rise zone.*

124. While the experts agreed on the relevant landscape provisions, there was significant disagreement with respect to the degree of adverse effects and how the provisions should be interpreted and applied.
125. Although not covered by the experts, we note that the ODP contains a guiding principle set out in 5.4.2.2(3) relating to existing vegetation. We find this principle is not particularly relevant to this site. Further, we are mindful of section 1.5.3 of the ODP which states:

Section 1.5.3 Status of Activities

iii Discretionary activities require a resource consent and may be subject to standards specified in the Plan. Activities have been afforded such status:

...

(iv) because in visual amenity landscapes the relevant activities are inappropriate in many locations; ...

126. Our interpretation of this section indicates the need for what we would term a 'cautious' approach to defining minor effects.
127. Of particular relevance is section 4.2.3(3) *Maintenance and Enhancement of Visual Amenity Values*, which states:

That the key resource management issues for the visual amenity landscapes are managing adverse effects of subdivision and development (particularly from public places including public roads) to enhance natural character and enable alternative forms of development where there are direct environmental benefits.

128. There was agreement between the planners that Policy 4 of 4.2.5 Visual Amenity Landscapes was a key policy for our consideration. This policy states:

(a) To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes which are highly visible from public places and other places which are frequented by members of the public generally (except any trail defined in this plan); and visible from public roads;

(b) To mitigate loss of or enhance natural character by appropriate planting and landscaping;

(c) To discourage linear tree planting along roads as a method of achieving (a) and (b) above.

129. There was also agreement between the planning experts that other relevant policies include Policy 1 - Future Development; Policy 8 - Avoiding Cumulative Degradation; Policy 9 – Structures; Policy 12 – Transport Infrastructure and Policy 17- Land Use.

130. 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 required. In terms of the assessment required by Step 3, the ODP states:

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.

131. In our view, when applying the District Plan as required above, consideration of the proposal against the prescribed assessment matters, the reason for making activities discretionary, as well as a general assessment of the frequency with which appropriate sites for development will be found in the locality are important steps in determining whether the proposed activity is appropriate in the landscape.
132. We are guided by the assessment matters for the VAL (section 5.4.2.2(3)) which are grouped under the following headings:

- (i) Effects on Natural and Pastoral Character;*
- (ii) Visibility of Development;*
- (iii) Form and Density of Development;*
- (iv) Cumulative Effects of Development on the Landscape; and*
- (v) Rural Amenities.*

133. We note that these assessment matters direct that the matters set out above “be taken into account”.

Assessment Matter (a) Effects on Natural and Pastoral Character

134. This assessment matter looks at whether adverse effects on the natural and pastoral character are avoided, remedied or mitigated taking into account: (i) if the site is adjacent to an ONL or ONF, and if visual effects will compromise the open character of these landscapes; (ii) if the scale and nature proposed compromises the natural or Arcadian pastoral character of surrounding VAL; (iii) if the development will degrade natural or Arcadian pastoral character by causing over-domestication; and (iv) whether adverse effects can be avoided, remedied or mitigated by appropriate subdivision design.
135. Potential adverse effects on natural and pastoral character was a principal issue in contention.

136. Part (i) of the assessment matter addresses effects on adjacent ONL or ONF landscapes, and whether the open character of these landscapes will be compromised. The landscape experts agreed that the escarpment located to the north of the site is an ONL which acts as a backdrop to the site. They also agreed that although future built form would not be visible, the proposed southern side of the mounds would be seen when viewed from Malaghans Road. There was disagreement on the extent of visibility and the degree of adverse effect of the proposed mounds as well as other domestic elements associated with the development, such as vehicle movements and the proposed accessway. The landscape experts also agreed that the views from Malaghans Ridge are dominated by the views of the ONL and Skyline.
137. Mr Baxter and Ms Davis were of the opinion that the development will not compromise views of the ONL, when viewed from Malaghans Road, as the moundings will screen the future dwellings and have been designed to replicate the existing topography and integrate into the pastoral landscape. They both agreed that the development will be a minor part of a much larger and more complex view.
138. Mr Skelton considered the proposed mounding would reduce naturalness and the legibility of the landscape. He considered that the site acts as a 'frontispiece' to the ONL, and that although the buildings would not be visible, other domestic elements would be. In his opinion, the adverse effects would be moderate. He described the terrace as a glacial meltwater remnant, legible in its formative processes, and that the constructed mounds will not appear natural, sitting on top of a terrace where no hummocks exist, diminishing the naturalness and reducing the legibility of the landscape.
139. We prefer the evidence of Mr Baxter and Ms Davis that the lower hillslopes of Coronet Peak and Mount Dewar are dominated by exotic trees and shrubs and find that while the upper slopes of these landscapes have an open character; the lower slopes do not. We find that the ability for the proposed development to be absorbed within the landscape is improved due to this vegetated backdrop, including the vegetation that surrounds Downeys Dam, and that this existing vegetation of the ONL provides context for the proposed screen planting. We also agree with Ms Davis and find that the proposed development sits at the very lower portion of the view to the ONL and will not detract from the open character of the ONL.
140. Assessment matter (ii) is concerned with the effects on the surrounding VAL. Both Mr Baxter and Ms Davis agreed that the scale of the development is minor in comparison to the wider property and that clustering the development towards the rear of the property ensures that the natural pastoral and rural characteristics of the surrounding VAL are retained. In addition, they both agreed that the proposed design controls, earthworks and the volunteered covenant will ensure the property does not become over domesticated.
141. Mr Skelton's contrasting opinion was that establishing four residential lots in the centre of this landscape, together with their associated domestic effects, would result in effects being four-fold beyond what would occur if a single dwelling was proposed. He considered that although the density as a whole would be rural, elements of the subdivision design, such as clustering and setback between building platforms, will create a pocket of development more urban in character.

142. It was common ground that the surrounding VAL has an open pastoral character. We accept this. However, we prefer the evidence of Mr Baxter and Ms Davis and find that although the proposal will result in the establishment of four dwellings, adverse effects are mitigated or avoided by locating and clustering the lots and RBPs a significant distance from Malaghans Road, the proposed design controls, the proposed earth mounds designed to provide screening from Malaghans Road and partial screening from elevated locations. These features of the development, together with the covenant, will ensure that natural and pastoral character values will not be compromised.
143. Assessment matter (iii) is concerned with whether the development will cause over-domestication. Mr Baxter and Ms Davis were of the opinion that the location, scale, the subdivision design, the design controls and the proposed covenant will ensure that the property will not become over- domesticated.
144. Mr Skelton was of the opinion that the site has a very low ability to absorb additional development and that the proposal will result in adverse cumulative effects which cross a threshold with respect to the landscapes ability to absorb change, adversely affecting its rural characteristics.
145. While we accept that parts of the site have a low ability to absorb development; overall we find that the proposed subdivision design protects the Arcadian and pastoral character through the clustered location of the lots and RBPs, the scale of built form, height, design controls and covenant.
146. Assessment matter (iv) relates to whether adverse effects can be avoided, remedied or mitigated. We find that adverse effects on natural and pastoral character have been appropriately avoided, remedied or mitigated by the subdivision design and volunteered design controls.

Assessment Matter (b) Effects on Visibility of Development

147. The effects on visual amenity was a principal issue in contention.
148. This assessment matter requires us to consider whether the proposed development will result in a loss of the natural or Arcadian pastoral character, having regard to whether and the extent to which: (i) the development is highly visible when viewed from public places or visible from public roads; (ii) if the proposed development is visually prominent, will it detract from public or private views otherwise characterised by natural or Arcadian pastoral landscapes; (iii) opportunities for screening or other mitigation which does not detract from or obstruct views of the existing natural topography or cultural plantings, (iv) if the site and the wider VAL is enclosed by vegetation or topography; (v) if building platforms will result in structures breaking the line and form of any skylines, ridges, hills or prominent slopes; (vi) if proposed roads, earthworks and landscaping will change the line of the landscape or affect naturalness; (vii) if new boundaries and boundary planting will create arbitrary lines and patterns; (viii) if boundaries follow natural lines of the landscape; and (ix) if the development constitutes sprawl of built development along roads.

Visibility from Roads and Public Places

149. The landscape architects agreed that the development would be visible from various public places including Malaghans Road, the northern end of Dalefield Road, Coronet Peak Road; Coronet Peak; the first part of Skippers Road; the public trails located to the north and the unformed legal road. However, there was disagreement on the extent of visibility. Mr Skelton considered the proposal would be highly visible from some public places, whereas Mr Baxter and Ms Davis opined that although visible, the development would not be obvious due to its scale, design and location.

Malaghans Road

150. There was agreement that the proposed future buildings will not be visible but that the proposed moundings would be visible from Malaghans Road. There were also differing opinions on the visibility of other associated domestic elements, such as vehicle movements, the driveway, children's play equipment, smoke and light spill. Mr Baxter and Ms Davis opined that the proposed mounds would screen the accessway and associated vehicle movements, whereas Mr Skelton was of the opinion that these elements would be visible.
151. We accept and find that future built form will not be visible from Malaghans Road. We also find that although the proposed mounding will be visible, it will over time be integrated into the landscape, once grasses become established. We prefer the evidence of Mr Baxter and Ms Davis that the proposed mounding will largely screen the accessway and vehicle movements and that the proposed design of the subdivision will ensure that the curtilage areas are not visible.

Coronet Peak Road and Coronet Peak

152. There was agreement that from the upper mountain slopes the proposal will be well absorbed within views of the wider Wakatipu Basin and that adverse effects would, accordingly, be low. We agree and accept this evidence. However, the experts had opposing views on the extent of visibility and the degree of adverse effect when viewed from the lower mountain slopes, including from Coronet Peak Road and the trails located on the lower slopes.
153. Mr Baxter acknowledged that the development would be visible but would not be highly discernible, due to viewing distance, elevation of views and the scale of development in comparison to the surrounding landscape, proposed mounding, planting and design controls. He considered that the proposed planting would appear contiguous in the landscape and be seen in the context of the existing vegetation located on the lower mountain slopes and around Downeys Dam.

154. Ms Davis generally agreed with Mr Baxter, but opined that there was more variability in the degree of effects and acknowledged that there would be short term effects while the proposed landscaping and moundings were established. She described the view from Coronet Peak Road as 'fleeting', as people are either driving along the road or parked in the layby for short periods. In her opinion, the adverse effects would be low to moderate. She agreed that the views are a small component of a much wider view, and the addition of built form and vegetation will have minor adverse effects. Further, she acknowledged that the proposed mounding and vegetation will not significantly contribute to reducing effects, as the addition of those elements, while assisting to provide integration of the built form, will contribute to a change in view and landscape character.
155. Mr Skelton was of the opinion that from these locations the site would be viewed in closer proximity, and that views would not be fleeting. He also acknowledged the popularity of the mountain bike collection areas and the layby areas located on Coronet Peak Road. In his opinion, the open landscape will be bisected with the proposed road and any intrusion will be highly visible, degrading the amenity of the view and changing the perception of the working farm. Further, he considered that the proposed vegetation will appear anomalous in the pastoral landscape and appear domestic in character.
156. After considering the evidence, we find that the development will be visible, as it is not possible to screen or hide the development from these elevated mountain slopes. With regard to the visual effects of the proposed road, we accept Ms Baker's advice and find that while the road will draw attention to the future development, the formation of the legal road is part of the receiving environment and therefore the adverse effects of the road itself are not relevant to our decision. We prefer the evidence of Mr Baxter and Ms Davis and find that based on viewing distance, elevation of views, the scale of the development, the clustered design, the proposed design controls and the proposed covenant will ensure adverse effects remain minor.

Dalefield Road

157. Mr Baxter and Ms Davis agreed that the development will be visible from Dalefield Road, however adverse effects would be low to moderate in the short term, reducing to low in the long term, taking into account proposed screening, the fleeting nature of the view and travelling speed.
158. In contrast, Mr Skelton considered the development would be highly visible. He acknowledged that the wider pastoral and natural landscape is not visible from the tree lined road corridor and while the proposal will be framed by these trees, adverse effects on visual amenity will be moderate.
159. We prefer the evidence of Mr Baxter and Ms Davis and find that although visible, adverse effects will be minor due to proposed screening, the fleeting nature of the view and the travelling speed of vehicles.

Unformed Legal Road

160. The landscape experts disagreed on the extent of visibility from the unformed legal road.

161. Mr Baxter and Ms Davis opined that although the development would be visible, adverse effects would be low due to the natural topography, viewing distance and proposed planting.
162. In a contrasting view, Mr Skelton opined that the development would be highly visible and will be visible on the ridgeline, as well as break the skyline. He considered that the public use of the road would increase if the road was sealed and that the proposal will have high adverse effects on users of this road. Ms Davis disagreed that there would be a break to the skyline or the view to the mountains beyond.
163. We find that although the development will be visible at various places along the road, the adverse effects will be minor due to natural topography, design controls including proposed maximum height, viewing distance and proposed planting. We will return to the ridgeline and skyline issue later.
164. Assessment matter (ii) addresses visual prominence and whether a development will detract from public or private views otherwise characterised by natural or Arcadian pastoral landscapes. This was a key issue for Mr and Mrs Hall as they have a direct view of the site and the surrounding landscape from their property. The experts agreed that the Halls' dominant views are of the wider mountain slopes and skyline, and that these views will be largely unaffected. We accept this. The disagreement was over the effect the development would have on the lower portion of the views towards the open pastoral landscape and valley floor.
165. Both Mr Baxter and Ms Davis acknowledged that parts of the roofs and cladding will be visible, however the proposed dark colours, restrictive materials and scale will ensure that the development is not visually dominant, nor detract from the existing landscape. Both experts agreed that although the south side of the proposed mounding will be visible, the proposed natural forms will blend with the existing topography. Further, Mr Baxter submitted that the recessive landscaping, architectural design, distance and elevation at which the proposal will be viewed, will ensure the development would be seen as small in scale in comparison to the view of the surrounding open landscape and will not detract from the wider views, and that adverse effects will be low to moderate.
166. Mr Skelton's opinion was that the proposal will be visible and that domestic elements will not be screened or visually integrated by the proposed mounds or planting. He considered that views of the open pastoral landscape will not continue to be characterised by the existing pastoral foreground and that instead, the eye would be drawn to the anomalous pocket of buildings and associated domestic effects and that adverse effects would be moderate. He considered the proposal will be highly visible from the Hall property, including from inside the residence, and that elements of domestication cannot be screened or visually integrated. He opined that the proposal will significantly change the composition of views resulting in moderate adverse effects.

167. We accept the landscape evidence and find that from the elevated private properties the dominant views of the wider mountain slopes and skyline will not be adversely affected. We also agree that from these properties the open pastoral landscape and valley floor are visible and that parts of the development will be visible. However, we prefer the evidence of Mr Baxter and Ms Davis and find that although parts of the future built form will be visible, they will not be prominent nor detract from the view due to viewing distance, height, scale, design controls, mounding and planting.
168. Assessment matter (iii) addresses opportunities for screening or other mitigation which does not detract from or obstruct views of the existing natural topography or cultural plantings.
169. There was disagreement as to the degree of effect the proposed mounding and planting would have on the existing topography and how long it would take for the mounds to be integrated. Both Mr Baxter and Ms Davis considered that the form and scale of the proposed mounds replicate the existing rolling landform and will visually integrate into the landscape, screening future dwellings associated vehicles and the accessway. They also considered that the established planting on the lower hillslope of Coronet Peak and Mount Dewar and around Downeys Dam provide context and that, accordingly, the landscaping will appear contiguous.
170. Mr Skelton considered that there would be short term effects associated with the proposed mounding in that they will appear as a modified part of the landscape, however he did agree that once the grass is established, the mounds would be visually integrated. Mr Skelton considered, however, that the proposed vegetation will appear anomalous in the landscape and highlight the proposed development.
171. We prefer the evidence of Mr Baxter and Ms Davis and find that the proposed mounds have been designed to integrate into the landscape. We agree with Mr Skelton that there will be some short term effects while the grasses establish, however these effects will be temporary. We find that the proposed mounds and vegetation, once established, will not detract from or obstruct views of the existing topography. We also find that the landscaping will be viewed in the context of the existing vegetation located in the vicinity.
172. Assessment matter (iv) addresses whether the site and the wider VAL is enclosed by vegetation or topography.
173. The experts agreed that to the north and west of the site are the steep sided mountains of Coronet Peak and Mount Dewar, and to the south is Malaghans Ridge. Although both Mr Baxter and Ms Davis agreed that the site and wider landscape is open, they considered that the site is still relatively well contained and located behind existing mounding that will further be enhanced with additional constructed mounding. Mr Skelton considered that the site is one of the last widely open pastoral landscapes in the Basin.
174. We agree that the wider landscape is open and that parts of the site are relatively contained by the existing mounding and existing landscaping located to the north.

175. Assessment matter (v) addresses whether building platforms will result in structures breaking the line and form of any skylines, ridges, hills or prominent slopes. Mr Skelton's opinion was that the development will be visible on the ridgeline and break the skyline when viewed from the unformed legal road. Ms Davis disagreed that there would be a break to the skyline or the view to the mountains beyond, which is consistent with our observations during our site visit. Accordingly, we prefer Ms Davis' evidence and find that the location of the RBPs is appropriate.
176. Assessment matter (vi) addresses if proposed roads, earthworks and landscaping will change the line of the landscape or affect naturalness. We accept that the formation of the legal road is a permitted activity. We agree with Mr Baxter that it is preferable to use the existing legal road to access the site, rather than create a long driveway across the open pastoral landscape. The effects of the proposed earthworks and proposed planting have been discussed above and, to avoid repetition, our findings will not be repeated here.
177. Assessment matter (vii) is concerned with new boundaries and boundary planting creating arbitrary lines and patterns. We find that the subdivision has been designed to avoid the creation of arbitrary lines and patterns and that the new boundaries follow natural lines of the landscape. We also find that locating the RBPs a significant distance from Malaghans Road will avoid any sprawl of built development along Malaghans Road.

Assessment Matter (c) Form and Density of Development

178. In considering the appropriateness of form and density we are directed to take into account (i) if existing natural topography will ensure that development is not highly visible from public places; (ii) if built form has been aggregated to utilise common access ways including pedestrian linkages, services and open space; (iii) if development is concentrated in areas where it can absorb development while retaining areas that are more sensitive; (iv) where a development is visible, that it does not introduce densities which reflect urban characteristics.
179. We have previously found that the proposed built form will not be visible when viewed from Malaghans Road, however the proposed mounding will be. We prefer the evidence of Mr Baxter and Ms Davis and find that although visible from some elevated public places, the development would not be highly discernible due to existing topography, viewing distance, elevation from which it is viewed, scale of the development, proposed mounding, proposed planting and the recessive architectural forms, materials and colours.
180. With regard to (ii), we find that the subdivision design, which incorporates clustered lots and built form, a shared driveway and the protection and retention of open space, satisfies this assessment matter.
181. Assessment matter (iii) is concerned with concentrating development in areas that have a higher potential to absorb change, whilst retaining areas that are more sensitive in their natural or Arcadian state. The landscape architects had opposing views on the absorption capacity of the site. Mr Baxter and Ms Davis opined that the proposal has been design to locate built form in an area that has a higher ability to absorb development, whilst protecting the more sensitive open pastoral landscape as viewed from Malaghans Road.

In contrast, Mr Skelton was of the opinion that the landscape cannot absorb the level of development proposed.

182. We find that the design controls and proposed mounding, together with the existing natural land formations, will ensure built form is integrated into the landscape and concentrated in an area that has a higher ability to absorb development. We also find that the large balance lot to be protected by covenant will ensure that the more sensitive part of the site is protected.
183. Assessment matter (iv) addresses whether, if the development is visible, would it introduce densities that reflect characteristics of urban areas. We have previously found that the development will be visible from various elevated sites. Mr Baxter and Ms Davis were of the opinion that the proposed form and density will not dominate nor detract from the broader Arcadian landscape. Mr Skelton considered that the clustered design creates a pocket of development which is more urban in character.
184. We find that the location, clustered design and density gains support from the assessment matters and that the development would not result in urban densities. We also find that the infrastructure proposed is not reflective of an urban environment.

Assessment Matter (d) Cumulative Effects

185. The District Plan assessment matters are concerned with whether development will give rise to cumulative effects on the natural and Arcadian pastoral character of the landscape, with particular regard to inappropriate domestication of the landscape. This directs consideration of:
 - The nature and extent of existing development;
 - Whether the development will lead to further degradation or domestication, such that it represents a threshold of the vicinity's ability to absorb development;
 - Whether it will visually compromise the existing natural and Arcadian pastoral character;
 - Can it be contained in a discrete landscape unit so as to control the spread of development that might occur adjacent to and in vicinity of the site;
 - Whether it requires infrastructure consistent with urban landscapes to accommodate increased population and traffic, and
 - Whether the potential to cause adverse cumulative effects is to be avoided, remedied or mitigated by way of controls on future building or landscaping.
186. We agree that there are no other consented developments on the northern side of Malaghans Road in the vicinity of the site, although there are existing dwellings located to the east and to the west, and that the site sits within an Arcadian pastoral landscape. We accept Mr Todd's submission that it is important to recognise that there are existing pockets of rural residential development in the landscape, which is also recognised in the description of LCU 1 of the WBLUPS.

187. With regard to further degradation or domestication, Mr Baxter and Ms Davis opined that the proposed development will not lead to further degradation or domestication of the surrounding landscape, as the proposed covenant will protect the existing open pastoral character of the land. Mr Skelton was of the opinion that the site has a low ability to absorb development and that the development will cross a threshold with respect to the landscape's ability to absorb change, diminishing its rural character.
188. We agree with Mr Skelton that the establishment of four dwellings will break up the open pastoral landscape. Nonetheless, we agree that although the existing vicinity's ability to absorb change is not at a threshold, the landscape is sensitive to change and has a low ability to absorb development without changing the landscape character. However, we find that the subdivision has been designed to locate the lots and associated RBPs in an area that has a higher ability to absorb development, whilst ensuring that the development is not visible from Malaghans Road and that the more sensitive part of the site is maintained in pastoral use and protected from further subdivision and development. We also find that the modest size of the RBPs and 3.8m maximum height, as well as the other very restrictive design controls, will ensure that the landscape will not be visually compromised. We also agree that the proposal avoids accentuating property boundaries that would further highlight fragmentation.
189. The find that the development would not result in the need for infrastructure consistent with urban landscapes.

Assessment Matter (e) Rural Amenities

190. This assessment matters directs that when considering potential effects on rural amenities we are required to take into account matters such as (i) the proposal maintains adequate and appropriate visual access to open space and views across Arcadian pastoral landscapes from roads and other public places and from adjacent land where views are sought to be maintained; (ii) if the proposal will compromise the undertaking of agricultural activities on surrounding land; (iii) if infrastructure consistent with urban landscapes is required; (iv) if landscaping is consistent with traditional rural elements; and (v) if building platforms are adequately setback from property boundaries.
191. With regard to (i), it was common ground between Mr Baxter and Ms Davis that as the proposed development is located either behind existing mounding, or partly behind existing mounding as well as constructed mounds, views from Malaghans and Dalefield Roads will be maintained. Mr Skelton considered that visual access to open space will be reduced when viewed from elevated locations. With regard to views from adjacent land, we find that although the Halls have sought that their view be retained, we do not consider this submitter to be adjacent to the property as directed by the assessment matter and, further, no other submitter has sought that views be maintained from adjacent land. We have previously made findings on the views from the Hall property and will not repeat these here.

192. With respect to (ii), the relevant matter is concerned with whether the proposal will compromise the undertaking of agricultural activities on surrounding land. Both Mr Baxter and Ms Davis agreed that concentrating the development on the upper terrace will allow agricultural activities to continue on surrounding land. They both agreed that the proposal retains an overall rural character and provides for a large paddock area where agricultural activity can and will still occur as secured by the covenant. Mr Skelton's evidence was silent on this matter. We accept Mr Baxter and Ms Davis' evidence, and agree that the proposal will not compromise the undertaking of agricultural activities on surrounding land.
193. With regard to (iii), we have previously found that the development will not require urban type infrastructure.
194. With regard to (iv), we accept that the landscaping and fencing treatment will be consistent with traditional rural elements.
195. With regard to (v), we accept that the proposed residential building platforms have been adequately set back from property boundaries.
196. For completeness, assessment matter 15.2.3.6(b) raises similar matters as 5.4.2.2(3) which we will not repeat here. Where they differ is on matters relating to heritage values, life supporting capacity of soil, vegetation and water, and public access to and along lakes and rivers. We find that there are no listed heritage features on the property. We agree with Mr Edmonds and find that Downeys Dam is located in the vicinity of the unformed legal road and that access to this water feature may be enhanced by the formation of the access located along the unformed legal road.
197. Returning to the section 5.4.2.1 *Landscape Assessment Criteria – Process, Step 3 Application of Assessment Matters* requires the application to be considered with respect to the prescribed assessment criteria, followed by recognising and providing for the reasons for making the activity discretionary (section 1.5.3) and lastly the frequency with which appropriate sites for development can be found in the locality.
198. Having applied the assessment matters, we find that the proposal is able to satisfy the prescribed matters for a VAL and that subject to conditions, any adverse effects have been avoided, remedied or mitigated. With regard to section 1.5.3, we find that the subdivision and land use activity has been designed in such a way to be appropriate in this location. Finally, with regard to frequency of other appropriate sites, we find that the characteristics of the site (three certificates of title, locating the lots and RBPs a significant distance from Malaghans Road, ability for topography to screen development, background vegetation, ability to access the site from the adjacent legal road, dominance of the ONL, and that the site is surrounded by a significant surrounding land holding in single ownership) distinguishes the site from other sites in this locality. Overall, we have concluded that, on the basis of these findings, the proposed development is appropriate in this VAL.

199. There are also a number of general assessment matters under Rule 5.4.2.3. The first of these concerns nature conservation values, but this has not arisen as an issue with respect to the application site. Similarly, we heard no evidence that natural hazards were an issue in the development of this particular site. We do not consider that the other assessment matters under this rule are relevant in this case, or that they are already covered under the matters set out above.
200. For completeness, the assessment matters for earthworks are set out in Rule 22.4 and of relevance to this application address (i) Nature and scale of the earthworks; (ii) Environmental protection measures; (iii) Remedial works and re-vegetation; (iv) Effects on rural landscape and visual amenity values; (v) Land stability and flooding; (vi) Water bodies; and (vii) Impacts of sites of cultural heritage values. Issues associated with environmental protection measures, land stability and flooding, water bodies and cultural heritage values did not arise as issues with respect to the application site. Issues associated with nature and scale, remedial works and re-vegetation and effects on rural landscape and visual amenity values have already been covered under the matters set out above.
201. We understand that the assessment matters in the PDP are subject to appeal, and consequently only limited weight can be applied to them. We have for this reason followed an ODP-led assessment. We also consider that there are a number of similarities with those matters currently contained within the ODP, such as ensuring landscape treatment complements existing landscape character, that visual amenity values and wider amenity values are considered, that alignment of lot boundaries is appropriate, ensuring that buildings and accessways are integrated, that appropriate planting occurs, that the proposal incorporates design controls, that new public walkways/cycleways are provided for, that legal instruments are used to protect landscape character and visual amenity outcomes, that visual amenity is maintained from public places, and to cluster built form to maintain openness and to achieve integration. This to end, our discussion and findings above address most of these assessment matters.
202. As the PDP matters are under appeal, and to avoid excessive duplication we find that it is neither desirable nor necessary to undertake a 'line by line' analysis of every PDP assessment matter, as this would involve a significant amount of repetition without materially advancing our analysis of the application.

Objectives and Policies

Operative District Plan

203. Ms Baker and Mr Edmonds have each carried out a very comprehensive analysis of the relevant objectives and policies of the ODP and the PDP. We note that the submitter in opposition, Mr and Mrs Hall, did not provide planning evidence in this respect.
204. As set out in paragraphs 101 to 118 above, we have determined that while the objectives and policies of the PDP are relevant, they should be given little weight in our analysis for the reasons that have been previously explained.

205. We agree with Mr Edmonds that the higher order ODP matters are focused on landscape (Objective 4.2). We accept that the suite of policies reflects the landscape hierarchy and that, in the case of VAL landscapes, the relevant policies are 1, 4, 8, 9, 12 and 17, of which Policy 4 is the key policy. Policy 4 is set out as follows:
- (a) To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes which are:*
 - *highly visible from public places which are frequented by members of the public generally (except any trail as defined in this Plan); and*
 - *visible from public roads.*
 - (b) To mitigate loss of or enhance natural character by appropriate planting and landscaping.*
 - (c) To discourage linear planting along roads as a method of achieving (a) or (b) above.*
206. Policy 4(a) is concerned with the avoidance, mitigation or remedy of the adverse effects of subdivision and development of VAL landscapes that are highly visible from public places (with the exception of defined trails) and visible from public roads. As set out in our analysis above, the development proposes a tight cluster of relatively small buildings, served by a common accessway and manoeuvring area. The buildings and the vehicle access area will be mostly screened from Malaghans and Dalefield Roads through the introduction of additional natural mounds and hummocks that are consistent with the surrounding features.
207. We agree with the evidence of Mr Edmonds and Mr Baxter that the proposed dwellings will not be highly visible in views from Coronet Peak Road, a distance of approximately 1 km, and the ski area, which is located approximately 4 km to the north of the site. These views will predominantly be of roofs and the small curtilage areas to the north of the proposed houses. A condition has been introduced to limit the size of curtilage to minimise any adverse effects in this respect.
208. With respect to the unformed roads in the vicinity of the site, we accept Mr Edmond's evidence that should these roads remain in their current alignment and subsequently be formed as public trails, the recessed position of the proposed houses on the terrace site will mitigate views from these unformed roads.
209. Policy 4(a) also encourages the enhancement of natural character in visual amenity landscapes. We agree with Mr Edmonds that the most apparent aspect of natural character is the landform rather than vegetative cover, in particular, the elevated terrace (as viewed from Malaghans Road) and the hummocks located on that terrace. Although the application proposes to make modifications to the natural character, the hummock shapes will be continued, and we agree with Mr Baxter that these will appear natural in the environment. We accept that the proposed 'open pastoral character' covenant placed over the balance lot will assist in maintaining the existing pastoral character and is consistent with the intention of Policy 4.

- 210. Policy 4(c) is concerned with linear tree planting along roads as a method of achieving policy 4(a) and (b). No linear tree planting has been proposed, with the only planting limited to that around the dwelling sites, which are more than 400 m from Malaghans Road.
- 211. Accordingly, we find that the development is consistent with the key Policy 4 of the ODP.
- 212. We accept Mr Edmonds and Ms Baker's evidence that the proposed development is also consistent with the other relevant objectives and policies contained in Chapters 4.2 and 5, and the objectives and policies in Chapters 14 (Transport) and 22 (Earthworks).
- 213. Overall, we find that the development is consistent with the objectives policies of the Operative District Plan.

Proposed District Plan

- 214. We agree with Ms Baker and Mr Edmonds that the objectives and policies of both Stages 1 and 2 of the PDP have legal effect and must be considered. Both Ms Baker and Mr Edmonds have carried out a comprehensive analysis of the relevant PDP objectives and policies, and are generally in agreement as to their interpretation, relevance and weight to be ascribed. Accordingly, we have adopted their analysis for the purposes of this decision. We summarise our main findings as follows.
- 215. The proposed development is consistent with the applicable objectives and policies contained in Chapters 3 and 6 of the PDP and, accordingly, is generally consistent with the strategic outcomes sought for the District.
- 216. Although Chapter 21 is relevant it has been given little weight, as Council's policy direction is reflected by the Chapter 24 Variation (Stage 2), which removes the subject site from the Rural General zone. Notwithstanding this, we accept the planners' evidence that the proposal is consistent with the objectives and policies of Chapter 21, together with the outcomes sought by the PDP, as only a relatively small area of land will be removed from farming and its rural amenity will be maintained.
- 217. We agree that Chapter 24 (Stage 2) is particularly relevant, although we have concluded for the reasons set out earlier that this variation can be given only limited weight. Objective 24.2.1 seeks to protect, maintain and enhance landscape amenity values. Supporting Policy 24.2.1.1 seeks to implement a minimum average lot size of 80 hectares in the WBRAZ to achieve this, although we note Mr Edmond's scepticism of the merits of attempting to mandate this as a policy rather than a method, and the very high likelihood of appeals as a result. Notwithstanding that we have some sympathy for this argument, we agree with Ms Baker that as the policy (as it stands) specifies a minimum lot size of 80 hectares, the proposal is plainly contrary to this policy. However, we agree that the remainder of the policies supporting Objective 24.2.1 are more general and, given our earlier conclusion that the landscape character and visual amenity will be maintained, we accept Ms Baker's conclusion that the proposal is consistent or neutral with respect to the remainder of policies.

218. We note also that the Rules - Standards contained in part 24.5 (as they currently stand) cast some doubt on the achievement of the 80 hectare minimum lot size policy. Rule 24.5.1.4 provides that for any certificate of title issued prior to 21 March 2019 with respect to any site in the WBRAZ located wholly outside the Precinct and with an area of less than 80 hectares, a maximum of one residential unit per title is permitted as a Restricted Discretionary activity. We understand Mr Todd, Mr Edmonds (as discussed above) and Ms Baker-Galloway to have provisionally agreed with this interpretation. We note that as the site currently comprises three separate titles, up to three residential dwellings could, ostensibly, be consented on this land provided that the matters over which discretion has been reserved are met. We accept Mr Edmonds' evidence that the location of such dwellings, given the configuration of the existing titles, could potentially have significantly greater adverse effects than the proposed development given the more lenient activity status (Restricted Discretionary as opposed to Discretionary) of any application.
219. We agree that the development is consistent with Objective 24.2.3, which relates to avoiding or mitigating reverse sensitivity effects.
220. Objective 24.2.4 seeks to maintain and enhance water quality, ecological quality and recreation values while ensuring the efficient provision of infrastructure. We are satisfied that the development will not raise any adverse effects on water quality or ecological quality. Further, the provision of a public trail, if this proceeds, will enhance recreation values. Accordingly, we agree with Ms Baker that the proposal will assist in achieving this objective.
221. We accept the evidence of Ms Baker and Mr Edmonds that the proposal is consistent with Chapter 27 of the PDP. The development will enable quality environments and will assist to ensure that the District is a desirable place to live, visit work into play (Objective 27.2.1). The proposal is consistent with Objective 27.2.2, as it is clear that the subdivision design will achieve benefits for the developer and for future residents. Although the wider community will not necessarily benefit from the development, we accept that it will not be disadvantaged in any material way. The development is consistent with Objective 27.2.5, as servicing is proposed.

Conclusion on Objectives and Policies

222. Overall, we agree with Ms Baker that the proposed development is aligned with the relevant objectives and policies of both the ODP and the PDP, with the exception of Policy 24.2.1.1 of the PDP. However, for the reasons given above, we have ascribed very little weight to this provision, noting also that the proposal is consistent or neutral with regard to the remainder of the policies in Chapter 24.
223. Accordingly, we have concluded that the proposal is consistent with the relevant objectives and policies of the District Plan.

Precedent

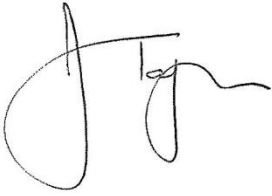
224. We accept the submissions of Mr Todd, based on the evidence of Mr Edmonds, that a grant of consent to this development will not raise any issue of precedent, as the characteristics of the site, together with the unique features of the development, will distinguish it from other potential development sites in this locality. We further note that the site, which is to be protected from any further development by a covenant, is surrounded by a single large land holding and that it would be difficult to replicate this development within this general location.

PART 2 OF THE RMA

225. With respect to Part 2 of the Act, we are satisfied that the proposal (as modified) will promote the sustainable management of natural and physical resources. In forming this conclusion, we are mindful that the proposal will enable the land to be utilised for rural residential living, allowing the owner and future residents to provide for their social and economic well-being. As concluded above, the proposal will not adversely affect the life-supporting capacity of air, water, soil or ecosystems, and we are satisfied that any adverse effects on the environment are either avoided or mitigated. With respect to section 6 of the Act, we accept Ms Baker's evidence that the adjacent ONL not be adversely affected or to a very minimal extent (if at all). Further, having had regard to the relevant matters in section 7, which include (c) *the maintenance and enhancement of amenity values*, and (f) *the maintenance and enhancement of the quality of the environment*, we are satisfied that the proposed development maintains the amenity and quality of the environment. Having considered all of the evidence before us, we have concluded that the proposal, as modified by the conditions of consent, will promote the purpose of the Act.
226. When making decision on a resource consent application, an overall broad judgment based on a weighting of factors contained within Part 2 is required to be undertaken, recognising the hierarchy of considerations within Part 2. Any decision-making process should focus on the avoidance, remediation or mitigation of adverse effects in order to promote sustainable management. Having considered the matters in Part 2, we have concluded that the proposed development achieves the purpose of the Act

DECISION

227. In exercising our delegation under Sections 34 and 34A of the Act, and having regard to the matters discussed above under Sections 104 and Part 2 of the Act, we have determined that consent to the discretionary application for development be **GRANTED** for the reasons given above and **subject to the conditions** set out below, noting that certain conditions have been amended since the hearing in accordance with the closing submissions of Counsel for the Applicant, the further information supplied and our findings above.

A handwritten signature in black ink, appearing to be 'JT' with a stylized flourish extending to the right.

Jane Taylor

For the Hearings Commissioners (Jane Taylor and Jane Sinclair)

12 June 2019

APPENDIX 1 – Consent Conditions

APPENDIX 1 – CONSENT CONDITIONS

General Conditions

1. That the development must be undertaken/carried out in accordance with the following plans:
 - Clark Fortune McDonald & Associates, Job no 13386 “Lots 1-4 and 100 being a Proposed Subdivision of PT SEC 52, SEC 53, PT SEC 57 and SEC 72 BLOCK IV Shotover SD” referenced Drawing No 2, Sheets 001 and 002, both Revision B, dated 31.05.;
 - Clark Fortune McDonald & Associates, Job no 13386, drawings 03-01, 03-02, 03-03, 03-04, 03-05 and 03-06 all relating to access, dated 7 June 2018;
 - Baxter Design Drawing 2721- SK09, dated 27/03/2018 Attachment A Site Wide Plan;
 - Baxter Design Drawing 2721-SK23, dated 25/02/2019 Attachment B Dwelling Master Plan;
 - Baxter Design Drawing 2721-SK24, dated 25/02/2019 Attachment C Design Controls: Landscape Summary – RFI;
 - Baxter Design Drawing 2751-SK25, dated 25/02/2019 Attachment D Earthworks Plan;
 - Baxter Design Drawing 2721-SK16, Design Controls: Landscape Summary;
 - Baxter Design Drawing 2721-SK60, dated 18/03/2019, Attachment O, Curtilage and Site Management Plan.

stamped as approved on 12 June 2019

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

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 (“QLDC”) 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 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.
5. Prior to commencing works on the Malaghans Road intersection, the consent holder shall submit a traffic management plan to the Road Corridor Engineer at QLDC for certification. The Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor. All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Traffic Management Plan. A copy of the approved plan shall be submitted to the Manager of Resource Management Engineering at QLDC prior to works commencing.

6. 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. Only clean-fill material shall be brought on to the site.
7. Prior to commencing works on the site, the consent holder shall obtain 'Engineering Review and Acceptance' from the Queenstown Lakes District Council for development works to be undertaken and information requirements specified below. The application shall include all development items listed below unless a 'partial' review approach has been approved in writing by the Manager of Resource Management Engineering at Council. The 'Engineering Review and Acceptance' application(s) shall be submitted to the Manager of Resource Management Engineering at Council for review, prior to acceptance being issued. At Council's discretion, specific designs may be subject to a Peer Review, organised by the Council at the applicant's cost. The 'Engineering Review and Acceptance' application(s) shall include copies of all specifications, calculations, design plans and Schedule 1A design certificates as is considered by Council to be both necessary and adequate, in accordance with Condition (3), to detail the following requirements:
 - a) Provision of a minimum supply of 2,100 litres per day of potable water to the building platforms on Lots 1-4 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 Design Certificate submitted by a suitably qualified design professional for the Water Booster Pump Station required for the water reticulation. The certificate shall be in the format of IPENZ Producer Statement PS1 or the QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.
 - c) The provision of stormwater management and secondary flow paths to contain overland flows in a 1 in 100 year event so that there is no inundation of any buildable areas on Lots 1-4, and no increase in run-off onto land beyond the site from the pre-development situation.
 - d) The provision of a communal stormwater management system for primary flows, or confirmation that individual lots will discharge to individual soak pits within each lot.
 - e) The provision of a shared cycling trail as shown on the landscaping plans submitted with the application, from the northwest corner of the subdivision near Downeys Dam to a connecting point on Malaghans Road. This shall be in accordance with the QLDC 2016 Cycle Trail and Track Design Standards and Specifications.
 - f) The provision of new access road, within the legal road reserve, from Malaghans Road. The new road shall meet the following requirements:
 - i) The formed access shall be within the unformed legal road reserve.
 - ii) The gradient shall not exceed 1:6.
 - iii) The road shall have a formed metal carriageway width of no less than 3.5 metres.
 - iv) The carriageway shall have a minimum cross-fall of 4% to prevent stormwater ponding on the carriageway surface.
 - v) Drainage swales shall be provided for stormwater disposal from the carriageway. The invert of the water channel shall be at least 200mm below the lowest portion of the subgrade. These shall discharge to soakpits within the road reserve of the new road.
 - i) The minimum standard for carriageway formation shall be either a single granular layer consisting of a minimum compacted depth of 150mm AP40 metal.
 - ii) Passing bays/road widening shall be provided at intervals not greater than 50m.
 - iii) A turning head to be provided in accordance with Council's standards.

- g) The formation of the sealed intersection of the new road with Malaghans Road, in accordance with the latest Austroads intersection design guides. Provision for rubbish bin collection shall be provided in this location.
- h) The provision of a right of way access to Lots 1-4 from the newly constructed access road. The RoW shall have a minimum formation standard of 150mm compacted AP40 with a 3.5m minimum carriageway width. Provision shall be made to continue any roadside drainage.
- i) The provision of Design Certificates for all engineering works associated with this subdivision/development submitted by a suitably qualified design professional (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.

To be monitored throughout earthworks

- 8. No permanent batter slope within the site shall be formed at a gradient that exceeds 1(V):2(H).
- 9. 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.
- 10. No earthworks, temporary or permanent, are to breach the boundaries of the site with the exception of works required to construct the access within legal road reserves.

To be completed before Council approval of the Survey Plan

- 11. 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.
 - b) The Survey Plan shall show the location of the Building Platforms on proposed Lots 1, 2, 3 and 4.
 - c) The provision of underground electricity and telecommunication connections.

Amalgamation Condition

- 12. The following shall be registered with Land Information New Zealand (CSN XXXXX): That Lot 100 RM180872 be held as to 4 undivided one-fourth shares by the owners of Lots 1-4 hereon as tenants in common in the said shares and that individual Computer Registers be issued in accordance therewith.

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

13. 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 provide 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development to the Subdivision Planner at Council. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Roads (including right of ways and access lots), Water, Wastewater and Stormwater reticulation (including private laterals and toby positions).
 - b) The completion and implementation of all certified works detailed in Condition (7) above.
 - c) The consent holder shall submit to the Subdivision Planner at Council 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>).
 - d) In the event that the test results required in Condition 14(c) 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 Council 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:
 - i) 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 Council prior to installation and shall be implemented prior to the issue of section 224(c) certification for the subdivision.
- OR
- ii) A consent notice shall be registered on the relevant Computer Freehold Registers for the lots, subject to the approval of Council. The consent notice 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 RM180872 subdivision consent. The final wording of the consent notice shall be reviewed and approved by Council's solicitors prior to registration.
 - e) The consent holder shall establish a suitable management organisation which shall be responsible for implementing and maintaining the on-going maintenance of all common lots, shared roading, the access formation over the unformed legal road noting consent notice condition obligations and limitations hereon, shared potable water infrastructure, any common stormwater infrastructure and/or facilities associated with the subdivision. The legal documents that are used to set up or that are used to engage the management company are to be checked and approved by the Council's solicitors at the consent holder's expense to ensure that all of the Council's interests and liabilities are adequately protected.

- f) The consent holder shall provide the Subdivision Planner at Council with a copy of the operation and maintenance manuals for the private water supply and any communal wastewater treatment system, or shall provide evidence that this has been made available to the management organisation.
- g) All geotechnical investigations and any fill certification shall be carried out under the guidance of suitably qualified and experienced geotechnical professional as described in Section 2 of the Queenstown Lakes District Council's Land Development and Subdivision Code of Practice. At the completion of onsite earthworks the geo-professional shall incorporate the results of ground bearing test results for each residential allotment within the subdivision regardless of whether affected by development cut and fill earthworks and include the issue of a Geotechnical Completion Report and Schedule 2A certificate covering all lots within the subdivision, with the Schedule 2A certification including a statement under Clause 3(e) covering Section 106 of the Resource Management Act 1991. The completion report shall include a slope stability analysis of the building platforms on Lots 1-4 identifying any building platforms that have minimum crest setbacks for building construction. In the event the Schedule 2A includes limitations or remedial works against any lot(s) the Schedule 2A shall also include a geotechnical summary table identifying requirements against each relevant lot in the subdivision for reference by future lot owners. Any remedial works outlined on the Schedule 2A that requires works across lot boundaries shall be undertaken by the consent holder prior to 224(c) certification being issued.
- h) Written confirmation shall be provided from the electricity network supplier responsible for the area, that provision of an underground electricity supply has been made available (minimum supply of single phase 15kva capacity) to the boundary of all saleable lots created and that all the network supplier's requirements for making such means of supply available have been met.
- i) Written confirmation shall be provided from the telecommunications network supplier responsible for the area, that provision of underground telephone services has been made available to the boundary of all saleable lots created and that all the network supplier's requirements for making such means of supply available have been met.
- j) The submission of Completion Certificates from the Contractor and the Engineer advised in Condition (4) for all engineering works completed in relation to or in association with this subdivision/development (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of a Producer Statement, or the QLDC's Land Development and Subdivision Code of Practice Schedule 1B and 1C Certificate.
- k) Any signage shall be installed in accordance with Council's signage specifications and all necessary road markings completed on all public or private roads (if any), created by this subdivision.
- l) All earthworks are completed in accordance with Baxter Design Drawing 2751-SK25 dated 25 February 2019 Attachment D Earthworks Plan.
- m) All earth worked and/or exposed areas created as part of the subdivision shall be top-soiled and grassed, revegetated, or otherwise stabilised.
- n) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

- o) A digital plan showing the location of building platforms on proposed Lots 1, 2, 3 and 4 as shown on the survey plan / Land Transfer Plan shall be submitted to the Subdivision Planner at Council. This plan shall be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.
- p) The landscaping plan approved in condition 1 of this consent shall be implemented and the plants shall thereafter be maintained and irrigated in accordance with that plan.

Ongoing Conditions/Consent Notices/Covenants

14. In the event that the Engineering Acceptance issued under Condition (7) contains ongoing conditions or requirements associated with the installation, ownership, monitoring and/or maintenance of any infrastructure subject to Engineering Acceptance, then at Council's discretion, a consent notice (or other alternative legal instrument acceptable to Council) shall be registered on the relevant Computer Freehold Registers detailing these requirements for the lot owner(s). The final form and wording of the document shall be checked and approved by Council's solicitors at the consent holder's expense prior to registration to ensure that all of the Council's interests and liabilities are adequately protected. The applicant shall liaise with the Subdivision Planner and/or Manager of Resource Management Engineering at Council in respect of the above. All costs, including costs that relate to the checking of the legal instrument by Council's solicitors and registration of the document, shall be borne by the applicant. [Note: This condition is intended to provide for the imposition of a legal instrument for the performance of any ongoing requirements associated with the ownership, monitoring and maintenance of any infrastructure within this development that have arisen through the detailed engineering design and acceptance process, to avoid the need for a consent variation pursuant to s.127 of the Resource Management Act].
15. In the event that the Schedule 2A certificate and Geotechnical Completion Report issued under Condition 13(g) contains limitations or remedial works required, then a consent notice shall be registered on the relevant Computer Freehold Registers detailing requirements for the lot owners. This is likely to include minimum floor levels for flood protection and cut off drain and/or debris flow hazard bund protection/maintenance requirements on some lots.
16. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant Titles by way of Consent Notice pursuant to s.221 of the Act.
 - a) All lot owners shall establish and maintain a management entity at all times for the purpose of implementation and maintenance of all private service infrastructure and facilities associated with the development.
 - b) In the absence of a management entity, or in the event that the management entity established is unable to undertake, or fails to undertake, its obligations and responsibilities stated above, then the lot owners shall be responsible for establishing a replacement management entity and, in the interim, the lot owners shall be responsible for undertaking all necessary functions.
 - c) A consent notice condition pursuant to s.221 of the Resource Management Act 1991 shall be registered on the Computer Freehold Register for the relevant lots providing for the performance of any ongoing requirements for protection of secondary flow paths or minimum floor levels for buildings, where deemed necessary by Council to satisfy Condition 7(c)) above. The final wording of the consent notice instrument shall be checked and approved by the Council's solicitors at the consent holder's expense prior to registration to ensure that all of the Council's interests and liabilities are adequately protected.

- d) If a communal stormwater management system has not been installed at the time of subdivision, at the time a building is erected on the lot 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 Council prior to implementation and shall be installed prior to occupation of the residential unit. This shall include:
 - i) Percolation testing shall be undertaken at the individual soak pit locations to confirm soakage. A copy of the test results shall be provided to Council and shall be in general accordance with the "Acceptable Solutions and Verification Methods for New Zealand Building Code Clause: E1 Surface Water".
 - ii) The final design and sizing of each soak pit shall be based on the individual percolation test results and provided to Council for acceptance prior to installation of the individual soak pit infrastructure.
- e) At the time a residential unit is erected on Lots 1-4, 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 a secondary treatment level 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 Railton Contracting, dated 19/12/18. The proposed wastewater system shall be subject to Council review and acceptance prior to implementation and shall be installed prior to occupation of the residential unit. The wastewater disposal field 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.
- f) At the time that a residential unit is erected on Lots 1-4, the owner for the time being is to treat the domestic water supply by filtration and disinfection (if required) so that it complies with the Drinking Water Standards for New Zealand 2005 (revised 2008).
- g) The formed access to Lots 1-4 from Malaghans Road shall in no way obstruct the right of public passage on this or any unformed sections of the legal Road.
- h) The owners of Lots 1-4 shall not inhibit, obstruct, delay or prevent in any way the formation of the Road by the Queenstown Lakes District Council at any time in the future.
- i) The owners of Lots 1-4 shall be responsible for the ongoing maintenance of the private access from Malaghans Road formed to Lots 1-4 within the legal road reserve. This access has been formed to the standard of a private Right of Way only. Council shall not be responsible for any ongoing maintenance associated with this access until such time as the access is upgraded to the standard of a public road or until an alternative agreement is obtained with Council for the maintenance of this access.
- j) At the time a residential unit is erected on Lots 1-4, domestic water and firefighting storage is to be provided. A minimum of 20,000 litres shall be maintained at all times as a static firefighting reserve within a 30,000 litre tank (or equivalent). 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 residential units. In the event that the proposed residential units 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 (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 FENZ 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 residential unit is approximately 11km 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 residential unit.

- k) All future buildings shall be contained within the Building Platforms as shown on the Survey Plan approved in accordance with Condition 1.
- l) Any future building shall be designed in accordance with the following Design Controls:
 - i) Building Design - General
 - 1) No deck, porch, veranda or similar exterior-built surface where part of the building shall extend beyond 4 metres from the building.
 - 2) The maximum building height shall be 3.8m from floor slab to the top of the roof (refer 450.5masl datum levels on building platform plans).
 - 3) All dwellings: horizontal roof form with a pitch no greater than 10%.
 - 4) Parapet roof style allowed.
 - 5) Roof colours: LRV between 7 - 20%.

- 6) Roof materials shall be restricted to the following materials only:
 - i) Steel tray in Resene (or similar) black, dark browns or dark greys with matt finish,
 - ii) Membrane flat roof systems with black or dark grey mineral chip,
 - iii) Resene (or similar) black, dark browns or dark greys stained timber or weathered timber rain- screen over membrane roofing system,
 - iv) Green roof with appropriate light weight growing medium and Carex buchananii, Carex comans or other locally sourced plants in keeping with the wider planting scheme.
 - 7) Note: 'black' colour will be used as a highlight only and not exceed 20% of the area of the roof.
- ii) Windows and Glazing
- 1) Glazing on the south elevation is limited to no more than 10% of the wall area.
 - 2) Glazing on the north elevation is limited to no more than 60% of the wall area.
 - 3) All glazing to be anti-reflective.
 - 4) All window and door joinery and gutters and downpipes shall be coloured to match the roof or cladding material or be natural timber.
- iii) External Wall Cladding
- 1) Cladding colour: LRV between 7 - 27%.
 - 2) The exterior wall materials shall be limited to two materials on any single elevation. External wall materials shall be restricted to the following materials only:
 - i) Timber: Resene (or similar) black, dark browns or dark greys stained timber cladding,
 - ii) Steel tray in Resene (or similar black, dark browns or dark greys with matt finish,
 - iii) Concrete: either in situ or precast. Low light reflection coefficient to be achieved through texture or oxide additive,
 - iv) Machine stacked stone.
 - 3) Note: 'black' colour will be used a highlight only and not exceed 20% of exterior wall cladding.
- iv) Landscape Design
- 1) Native planting adjacent to the dwellings will be protected with fencing (refer to fencing controls in (vi) of this Consent Notice).
 - 2) All residual land (identified on the Clark Fortune McDonald plan ref 13386, Dwg 02, dated 31-05-18 as Lot 100) will be mowed biannually or controlled by light grazing.
- v) Curtilage Area
- 1) No structures are permitted outside of the curtilage area except for the water tanks that are identified on the Baxter Design Group Plans (2751 – SK16, SK24, SK25, SK60).
 - 2) Structures permitted within the curtilage area are restricted to:
 - i) Play equipment (no bright colours permitted).
 - ii) One Garden shed, which:
 - Shall not exceed 2.5m² in footprint
 - Shall not exceed 2m in height and be subject to principal dwelling colours and material controls
 - iii) Small, discreet sculptures or garden art (no bright colours and not requiring a resource consent).
 - 3) No other permanent structures are permitted within the curtilage area.

vi) Fencing and Gates

- 1) One metre high fencing is required on the boundaries of pastoral grazing.
- 2) Lot entrance features shall be limited to a standard farm gate of timber or steel not exceeding 1.2m in height.
- 3) No fences shall be established between the houses.
- 4) Rabbit proofing mesh is required to protect areas of native planting.
- 5) Fencing around the landscaped areas shall be discrete and will be located on the northern side of the mounding to ensure minimal visibility from the surrounding context.
- 6) Fencing shall be substantially screened by planting at plant maturity.
- 7) Fencing materials shall be restricted to the following materials only:
 - Post and wire (with rabbit proofing mesh where required),
 - Waratah and wire (with rabbit proofing mesh where required).

vii) Earthworks and Retaining

- 1) Mound heights are a maximum of 3 metres high, with a maximum grade of 1:3
- 2) Mound forms shall be a natural shape and contour and blend with the existing topography and landscape.
- 3) There will be two layers of mounding which will be staggered to mitigate views of the dwellings, these placements include:

Primary mounding:

- i) Located adjacent to the dwellings on the south-western side to mitigate views of the neighbouring dwellings, garage and forecourt. These mounds will be planted with tussock, all noxious weeds will be controlled by lot owners. The mounds are to be set back 1.2 metres from the dwelling to allow access.
- ii) Retaining walls are required at 1 metre high to ensure the mounds can reach an adequate height to mitigate views of the dwelling.
- iii) The finish of retaining shall be restricted to the following materials only:
 - Timber: Resene (or similar) black, dark browns or dark greys stained timber,
 - Concrete: Low light reflection coefficient to be achieved through texture or oxide
 - additive.

Secondary Mounding:

- i) Located south of the driveway to mitigate views of the driveway and dwelling. These mounds will be planted with tussock on the northern side. The mounding beyond the fencing shall be maintained by pastoral grazing to blend with the surrounding context.

viii) Driveway and Parking

- 1) The surface of the shared entry driveway and parking courtyards is restricted to either compacted basecourse or chip seal only.
- 2) Each vehicle parking courtyard shall not exceed 350 m², excluding driveway access.
- 3) Vehicle courtyards shall be set back a minimum of 5 metres from the shared driveway.

ix) Outdoor Living Areas

- 1) Maximum overall surface area of 70 metres of hard surface outdoor living area.
- 2) All outdoor living areas shall be connected to the dwelling.
- 3) Materials shall be restricted to the following materials only:
 - Schist paving,
 - Mid to dark concrete or mid to dark natural stone paving,
 - Exposed aggregate, using local aggregate,

- Natural weathered decking.
 - 4) Swimming pools are not permitted.
 - 5) Any sculptures or garden art shall be discrete and within the colour range of the cladding/roofing.
 - 6) Any solar panels must be located on the north side of mounds south of the driveway and be below the crest of the mounds to ensure panels are not visible from Malaghans Rd.
- x) External Lighting
- 1) Any external lighting shall be restricted to downlighting only and no higher than 1.2 metres. Lighting will be used for the purpose of illuminating the dwelling entries and outdoor living areas only. Lighting shall be low lux level and directed downwards. Light sources are to be LED, incandescent, halogen or other 'white light'. Sodium vapour or other coloured lighting is not permitted.
- xi) Utilities
- 1) Air conditioning units, meter readers or any other electronic units relating to the house shall be painted to match house cladding or screened with planting if deemed appropriate to the unit.
 - 2) No air conditioning units, or other units of any kind are permitted to be mounted on the roof. These must be flush mounted where appropriate.
 - 3) All exterior service areas must be placed within the building platform allocated for each lot.
 - 4) All site utilities such as gas supply, electrical supply, storm water piping, foul sewer, and telecommunications, shall be underground or contained within the building structure.
 - 5) Water tanks will be located on the southern side of the shared driveway and buried under mounding.
- xii) Planting
- 1) Plant categories and location are specified in the landscape summary plan, each category of planting shall include an even mix of species. Plant species shall be limited to the following only:
 - i) *Tall native shrub mix*:
 - Broadleaf, *Griselinia littoralis* (PB5 @ 1.4m centres)
 - Koromiko, *Hebe salicifolia* (PB5 @ 1.6m centres)
 - Mingimingi, *Coprosma propinqua* (PB5 @ 1.4m centres)
 - Mountain Beech, *Nothofagus solandri* var. *cliffortioides* (80L, planted in clusters)
 - ii) *Native shrub mix*:
 - *Hebe odora* (PB5 @ 1.2m centres)
 - *Hebe cupressoides* (PB5 @ 1.4m centres)
 - Tree Daisy, *Oleria odorata* (PB5 @ 1.4m centres)
 - Tussock:
 - Red tussock, *Chionochloa rubra* (PB2 @ 1.2m centres)
 - 2) No exotic trees or plants are permitted aside from a small herb or vegetable garden, not exceeding 5 m².
 - 3) Noxious weeds shall be controlled.
 - 4) Native planting shall be fenced for pest control.
- m) All vegetation and mounding shown on the approved landscape planting plan shall be retained and managed in good health; and shall be replaced by a similar species with similar character (height, form, foliage density, evergreen/broadleaf) when they die or are removed.
- n) All earthworks mounding to the south of the vehicle manoeuvring area (shown as mounds S1, S2 and S3 on the Baxter Design Group Plan – *Attachment D – Earthworks Plan – 2751*

- SKK25) and mitigation planting associated with those mounds shall be completed before any land use that is granted for buildings.

- o) The balance lot (identified on the Clark Fortune McDonald plan ref 13386, Dwg 02, dated 31-05-18 as Lot 100) shall be managed by either biannual mowing or by light pastoral grazing. Grazing will be managed by post and wire fencing, cattle stops and gates.
 - p) There shall be no further subdivision and/or development or landscaping of the balance lot (identified on the Clark Fortune McDonald plans titled "Lots 1-4 and 100 being a Proposed Subdivision of PT SEC 52, SEC 53, PT SEC 57 and SEC 72 BLOCK IV Shotover SD" referenced Drawing No 2, Sheets 001 and 002, both Revision B, dated 31.05.18 as Lot 100), other than that identified in Baxter Design Drawing 2721-SK16, Design Controls: Landscape Summary, which shall be retained for pastoral farming purposes.
17. Prior to 224(c) certification, the consent holder shall register the following conditions on the Records of Title for proposed Lots 1, 2, 3, 4 and 100 as a covenant pursuant to Section 108(2)(d) of the Resource Management Act 1991 to be complied with in perpetuity and to ensure fulfilment of Condition 16 and of the following matters:
- i) That there shall be no further subdivision and/or development of the balance lot, Lot 100 (identified on the plans prepared by Clark Fortune McDonald & Associates titled "Lots 1-4 and 100 being a Proposed Subdivision of PT SEC 52, SEC 53, PT SEC 57 and SEC 72 BLOCK IV Shotover SD" referenced Drawing No 2, Sheets 001 and 002, both Revision B, dated 31.05.18); and
 - ii) That Lot 100 be retained for pastoral farming purposes; and
 - iii) That there be no further landscaping of Lot 100 other than that shown on Baxter Design Drawing 2721-SK16, Design Controls: Landscape Summary.

The covenant parties shall be the Queenstown Lakes District Council, the owners of Lots 1 to 4 and, provided their consent is obtained, the submitter, Mr and Mrs Hall and/or their successors in title to Lot 2 DP 26713. For the avoidance of doubt, the refusal of the submitter to be a party to the covenant will not invalidate this provision. The consent holder must give the submitter (or their successor) 30 working days notice of the required documentation to become a party. If no response is received in 30 working days, the consent holder may proceed without the submitter.

Advice Notes

1. *The consent holder is advised that it may be necessary to undertake chemical and bacterial tests of the water supply to ensure that the water supply complies with the Drinking Water Standards for New Zealand 2005 (Revised 2008). The testing must be carried out by a Ministry of Health recognised laboratory. Refer to:
<http://www.drinkingwater.esr.cri.nz/mohlabs/labmain.asp>*
2. *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.*
3. *The consent holder is advised to obtain any necessary consents from the Otago Regional Council for the water supply (noting a consent is required for any bore structure) and for effluent/wastewater disposal.*


PROPOSED EASEMENT IN GROSS			
PURPOSE	SHOWN	SERVIENT TENEMENT	GRANTEE
Right of Way (Pedestrian and Cycle)	A	Lot 100	Queenstown Lakes District Council

PROPOSED EASEMENT			
PURPOSE	SHOWN	SERVIENT TENEMENT	DOMINANT TENEMENT
Right of Way	B	Lot 4	Lot 3 Lot 2 Lot 1
	C	Lot 3	Lot 2 Lot 1
	D	Lot 2	Lot 1

AMALGAMATION CONDITION
That Lot 100 hereon be held in 1 undivided 1/4 share by the owner of Lots 1 - 4 hereon. (see CSN request XXXXXX)



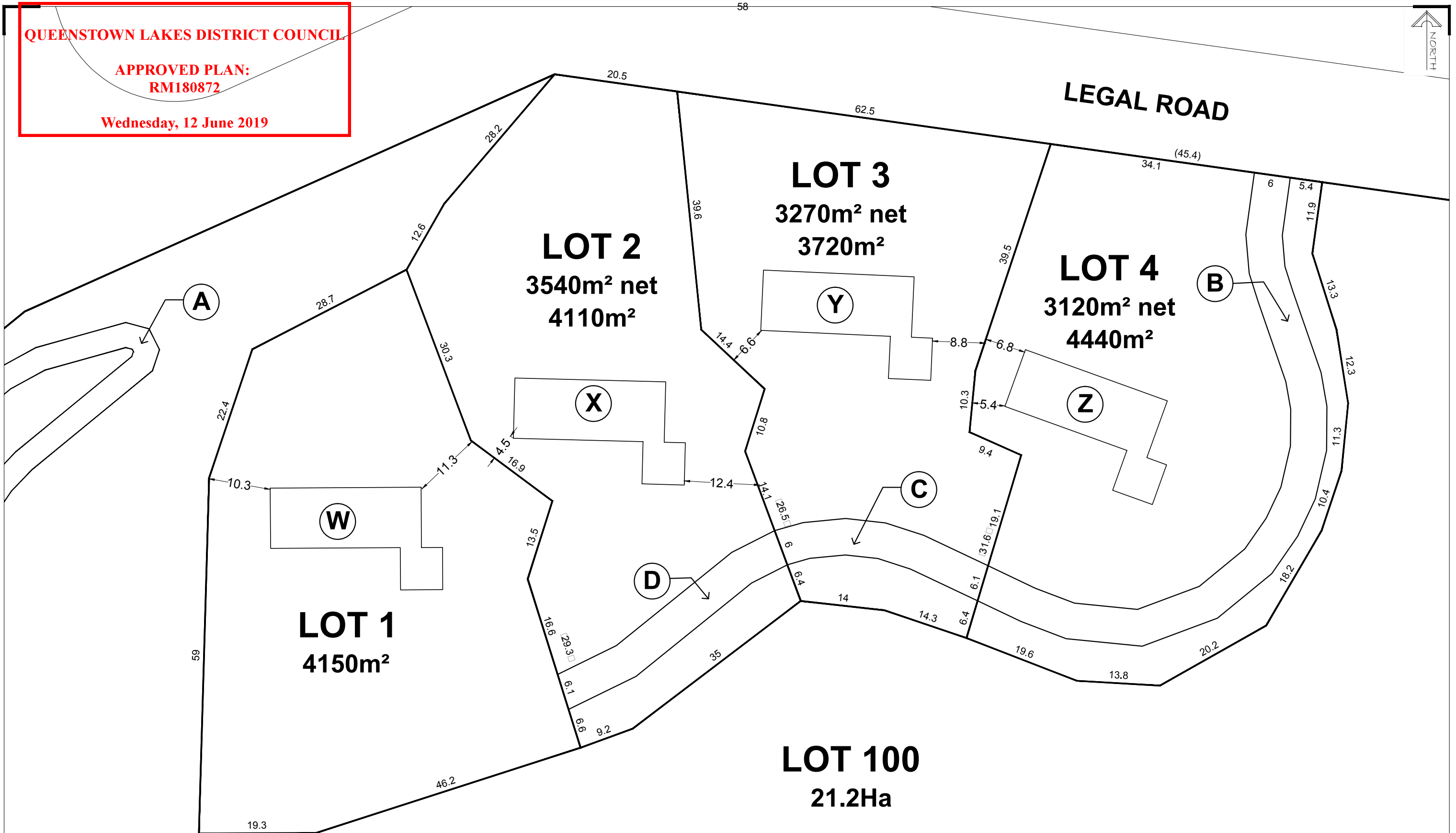
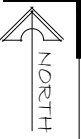
CLIENT REVIEW 31.05.18

	Clark Fortune McDonald & Associates Licensed Cadastral Surveyors - Land Development - Planning Consultants		Shotover Design Limited trading as		Rev.	Date	Revision Details	By			
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					B	11.12.18	Ped ROW amended	HK			
Shop 2, Otago House, 475 Moray Place, P.O. Box 5960 Tel. 03 470-1582, Fax 03 470-1583, Email admin@cfma.co.nz				<div>LOTS 1 -4 AND 100 BEING A PROPOSED SUBDIVISION OF PT SEC 52, SEC 53, PT SEC 57 AND SEC 72 BLOCK IV SHOTOVER SD</div>							
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							Designed	Signed	Date	Datum & Level	Rev.
							-		-	NZGD2000 MSL	B
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*Areas W, X, Y, Z will be subject
to consent notice provisions*

CLIENT REVIEW 31.05.18

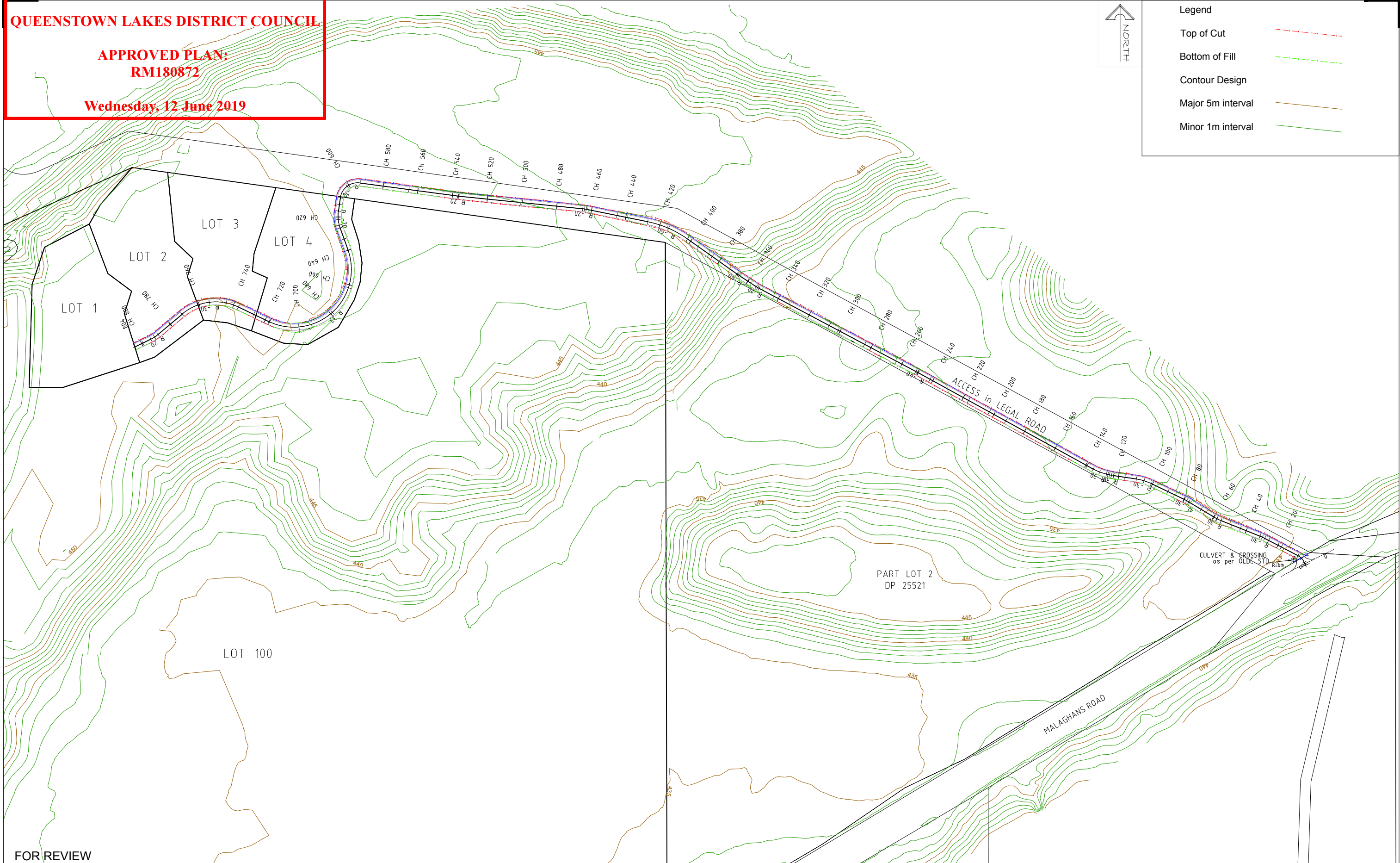
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LOTS 1 -4 AND 100 BEING A PROPOSED SUBDIVISION
OF PT SEC 52, SEC 53, PT SEC 57 AND SEC 72 BLOCK IV
SHOTOVER SD

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								Sheet	002		
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Designed	-	Signed	-	Date	-	Datum & Level	N GD2000 MSL			Rev.	B



- Legend
- Top of Cut
 - Bottom of Fill
 - Contour Design
 - Major 5m interval
 - Minor 1m interval



FOR REVIEW



Clark Fortune McDonald & Associates

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[illegible]

LAYOUT PLAN OF ACCESS

Client
JOHN EDMONDS & ASSC

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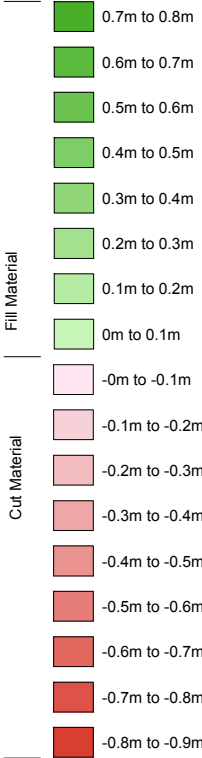
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Wednesday, 12 June 2019

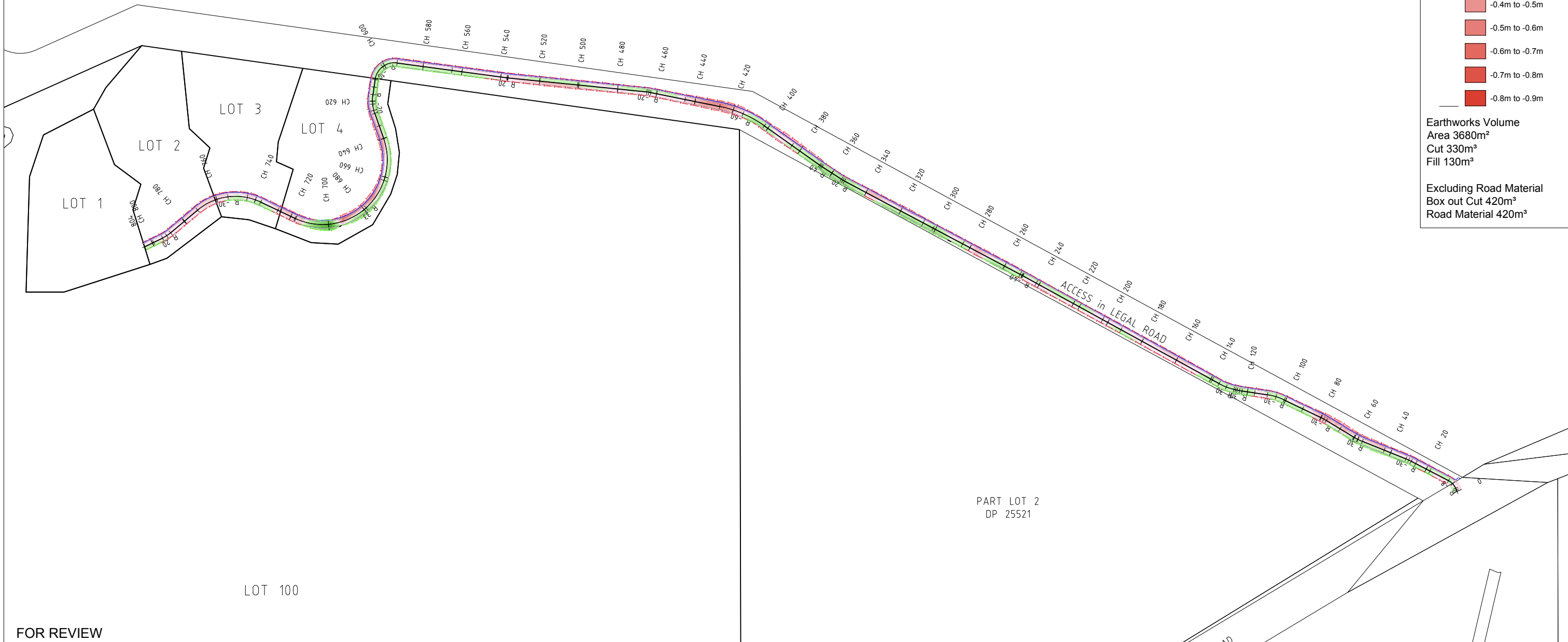


LEGEND
EARTHWORKS



Earthworks Volume
Area 3680m²
Cut 330m³
Fill 130m³

Excluding Road Material
Box out Cut 420m³
Road Material 420m³



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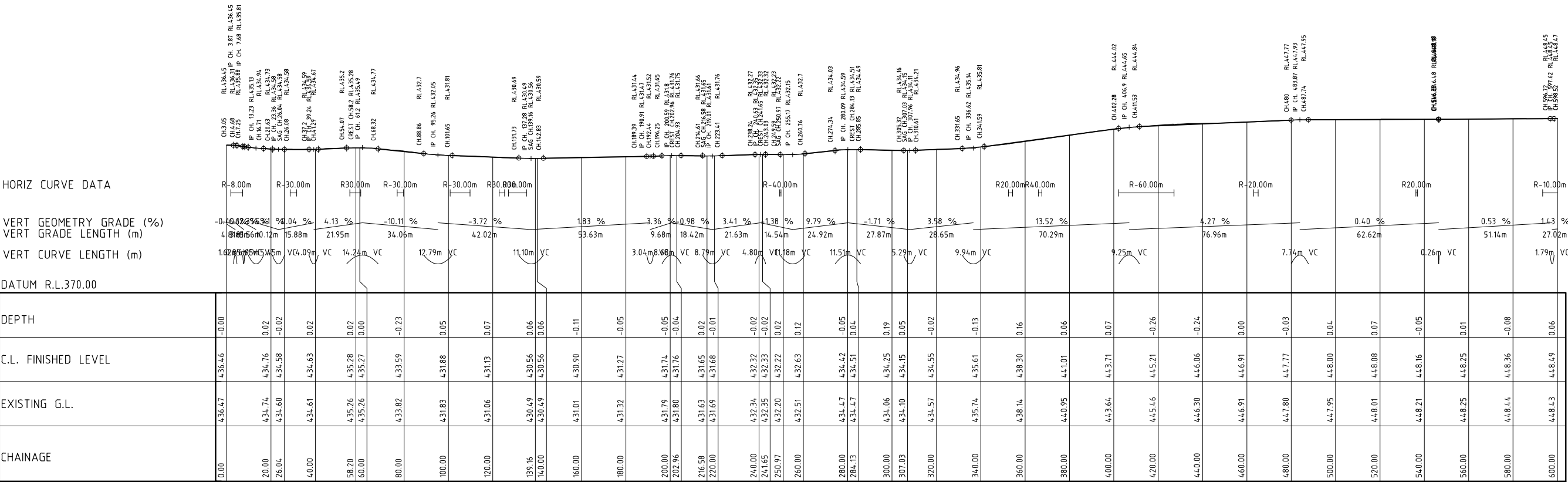
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LONGSECTION - 3 180606 Accessway

FOR REVIEW



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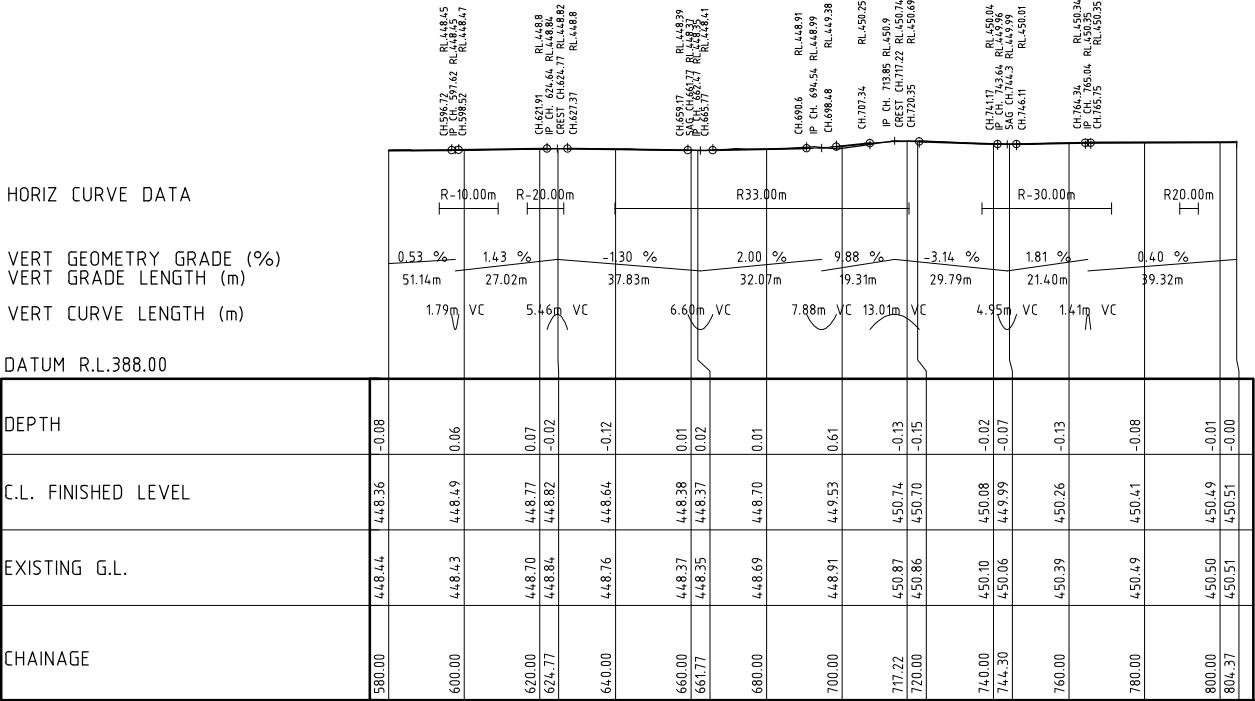
LONGSECTION OF ACCESS

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LONGSECTION - 3 180606 Accessway

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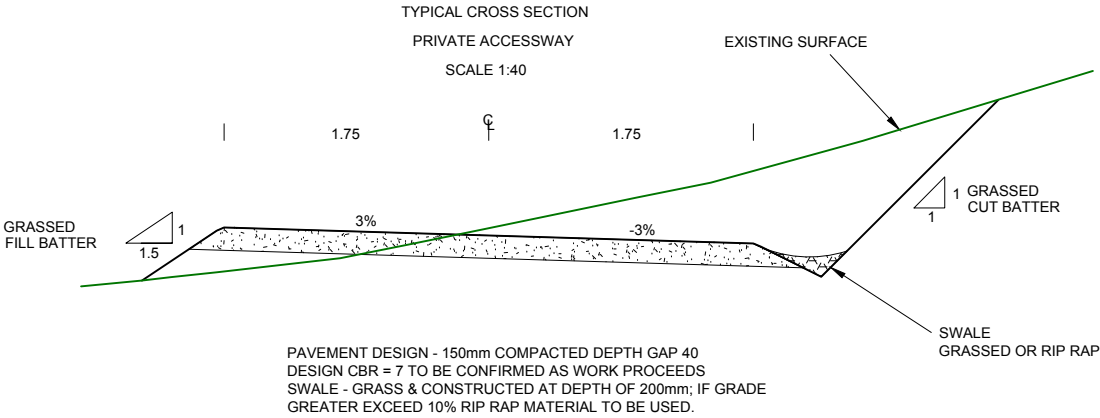
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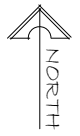
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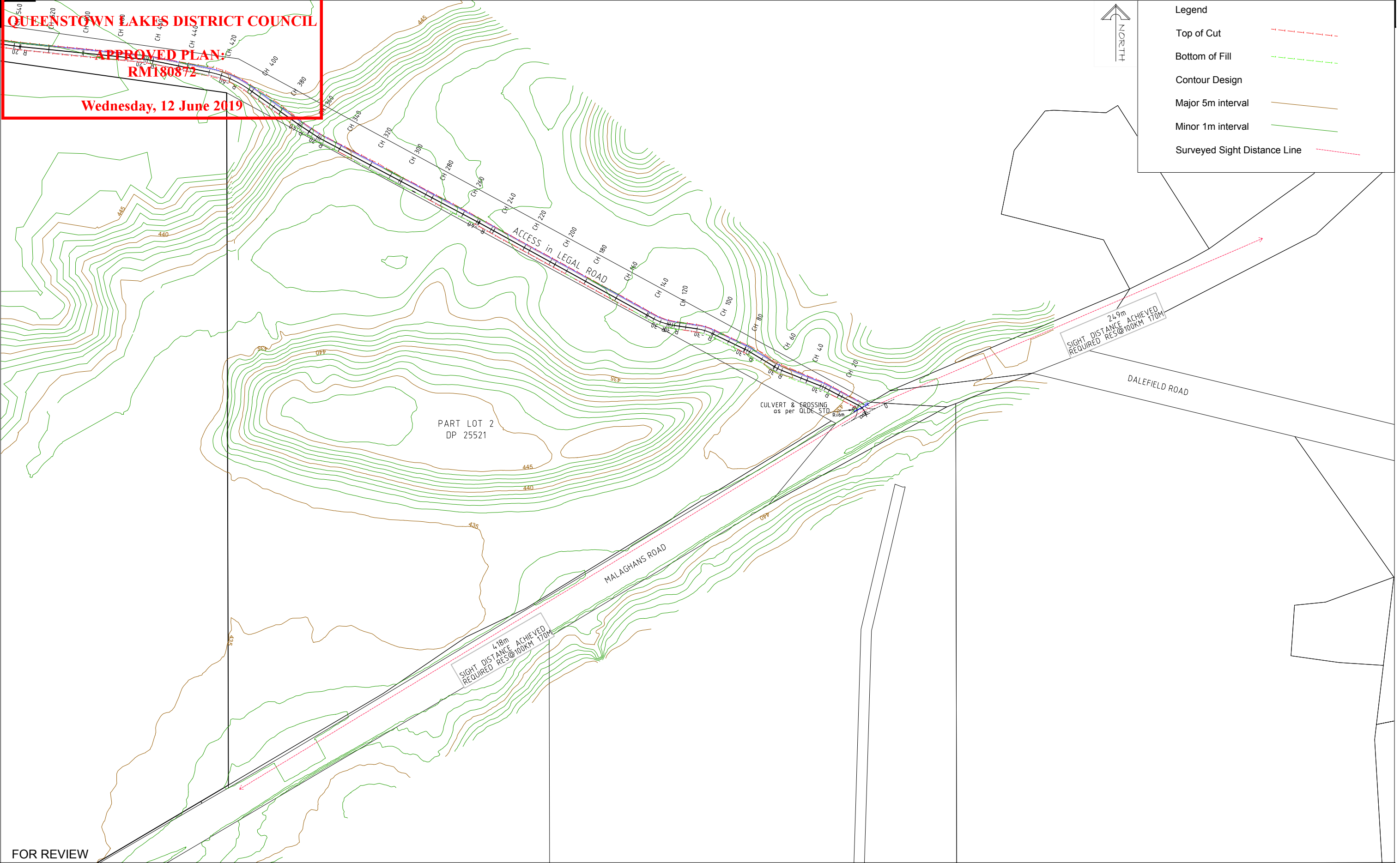
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Wednesday, 12 June 2019



- Legend
- Top of Cut
 - Bottom of Fill
 - Contour Design
 - Major 5m interval
 - Minor 1m interval
 - Surveyed Sight Distance Line



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S:\JOBS\13300\13386\acad\13386 03 Access Design.dwg Plotted: 08.06.2018

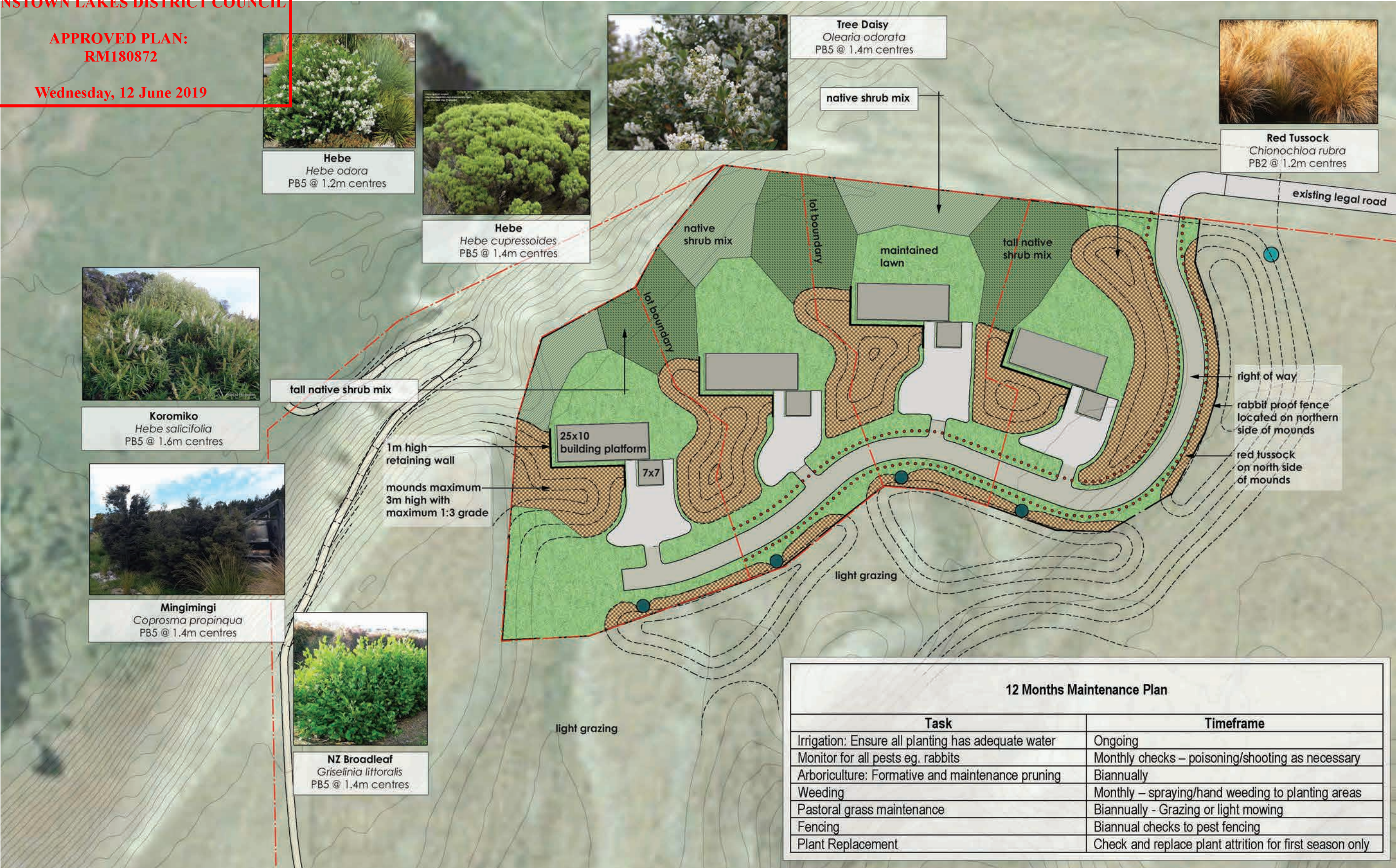
Rev.	Date	Revision Details	By

SIGHT DISTANCES & VEHICLE CROSSING

Client		Surveyed	Signed	Date	Job No.	Drawing No.
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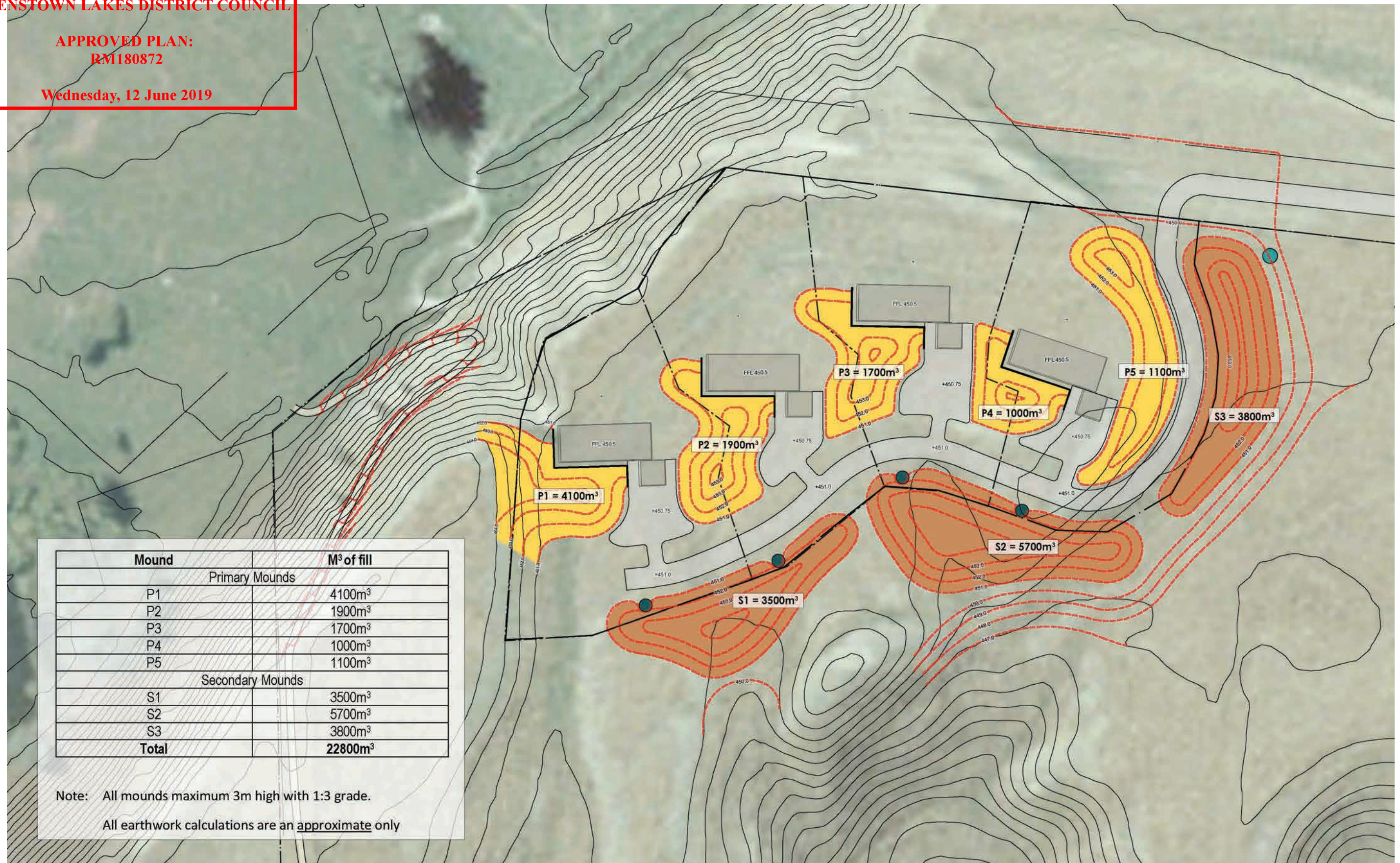
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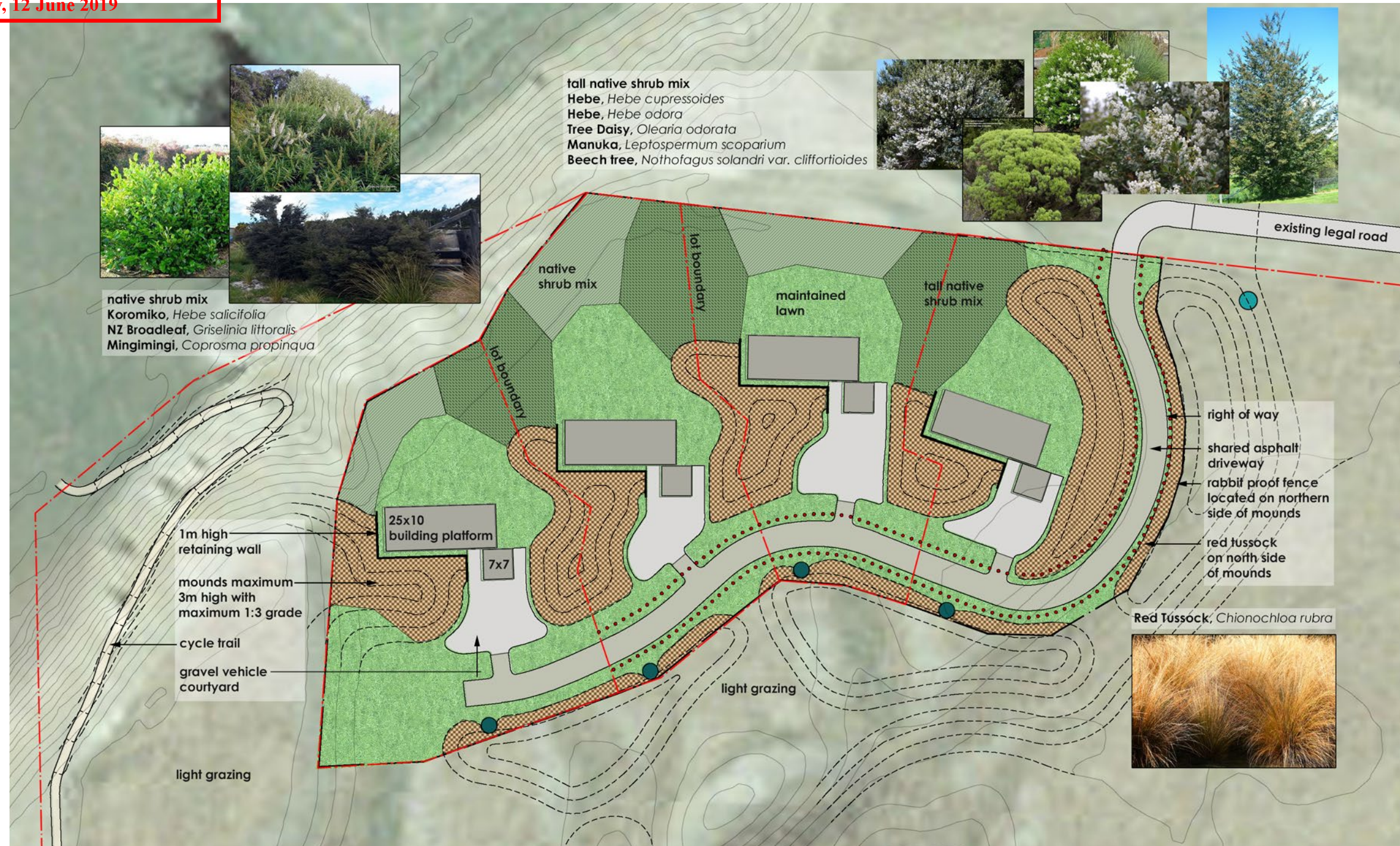
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