



## **DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL**

### **RESOURCE MANAGEMENT ACT 1991**

<b>Applicant:</b>	Teat Family Trust
<b>RM Reference:</b>	RM180335
<b>Location:</b>	42 and 46-50 Brownston Street, Wanaka
<b>Proposal:</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) to establish a food truck village and retail activity along with associated earthworks, landscaping, signage and to exceed District Plan noise levels
<b>Legal Description:</b>	Lot 1 Deposited Plan 12117 held in Computer Freehold Register OT7C/1002; and  Section 6 Block XXV Town of Wanaka held in Computer freehold Register OTB2/486
<b>Operative Zoning:</b>	High Density Residential (Subzone C)
<b>Proposed Zoning:</b>	Medium Density (Town Centre Transition Overlay)
<b>Activity Status:</b>	Non-complying
<b>Notification:</b>	9 August 2018
<b>Commission:</b>	Bob Nixon and Tony Hill
<b>Date of Decision:</b>	19 December 2018
<b>Decision:</b>	<b>Granted with Conditions</b>

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

Of an Application to **QUEENSTOWN LAKES DISTRICT  
COUNCIL by the TEAT FAMILY TRUST**  
**(RM 180335)**

**DECISION OF COMMISSIONERS ROBERT CHARLES NIXON AND TONY HILL APPOINTED BY  
QUEENSTOWN LAKES DISTRICT COUNCIL**

## **The Hearing and Appearances**

### **Hearing Date:**

Wednesday 21 November 2018 at  
the Edgewater Resort, Wanaka

### **Appearances for the Applicant:**

Ms Bridget Irving, Legal Counsel

Mr Dan Curley, Planning Consultant

Mr Casey Teat, Applicant

Mr Stephen Arden, Acoustic  
Consultant, Marshall Day Acoustics  
Ltd

Mr Marc Magee, Burrito Craft

### **Appearances for the Queenstown Lakes District Council**

Mr Simon Childs, Planner

Mr Cam Jones, Engineer

Mr Stephen Chiles, Consultant  
Acoustic Engineer

### **Appearances for Submitters:**

Mr Graeme Todd, Counsel for  
submitters John Smith and Dinah  
Smith, John Arbuckle and Vicki  
Arbuckle, Michael Williamson,  
Christine Williamson, Helen  
Williamson, John Williamson, Arlene  
Bradley and Gary Nixon, Markus  
Koops and Karen Skinner

Mr Colin Wollstein, submitter

Mr John Smith, submitter

Mr John Arbuckle, submitter

Ms Karen Smith

## **Abbreviations**

The following abbreviations are used in this decision:

The Teat Family Trust

“the Applicants”

Queenstown Lakes District Council

“the Council”

The Operative Queenstown Lakes District Plan

“the ODP”

The Proposed Queenstown Lakes District Plan

“the PDP”

The Resource Management Act 1991

“the RMA”

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

## INTRODUCTION AND BACKGROUND

1. The application seeks consent to establish a food truck village on a site located at 46 – 50 Brownston Street Wanaka. The site has a legal description of Lot 1 DP 12117 and Section 6 Block XXV Town of Wanaka, with a total area of 3036m<sup>2</sup>. The site contains three buildings, a dwelling at the western end of the Brownston Street frontage which does not form part of the application, and a cottage and garage towards the rear of the property which are intended to be used for ‘pop-up’ retail spaces.
2. The site is located adjacent to the town centre of Wanaka, the commercial area of which is located on the northern (or opposite) side of Brownston Street (this includes an area opposite the application site containing some existing food trucks). The southern side of the street containing the application site comprises a mixture of residential and commercial properties including dwellings and flats on the eastern and southern boundaries of the site. A notable physical feature of the site is Bullock Creek which enters the site on its western boundary and flows diagonally across the site under Brownston Street on the northern frontage. Further complicating the situation is the presence of a spring fed tributary (also described as a drain) which enters the property from its southern boundary and joins with Bullock Creek above the frontage with Brownston Street. The properties on the eastern and southern boundaries are slightly elevated above the application site.
3. By way of background, we note that RM 160139 was granted on 14 April 2016 for earthworks undertaken within 7m of Bullock Creek, alongside an approval from the Otago Regional Council (RM 15.199) to carry out earthworks within Bullock Creek and along the spring fed tributary on the site. These earthworks have been completed.
4. Resource consent RM 040641 was approved for visitor accommodation complex on the site, which was subject to subsequent variations. This consent was not given effect to, and has now lapsed.

## THE PROPOSAL

5. As notified, the proposed development seeks to provide a permanent space for current and future food truck stalls. At this point we note that these could take the form of trucks or small relocatable buildings. The application as notified comprised the following key features:
  - A dining space containing initially 4 – 5 food trucks (with potential to expand to 8 – 10) in a quadrant on the southern side of Bullock Creek, in the form of a ‘garden’ environment with furniture and grassed areas provided, rather than a ‘traditional’ more informal food truck environment;
  - ultimately up to 100 patrons on site at peak times based on 8 – 10 trucks/stalls.



- an element of retail sales being goods not produced on the site, such as drinks and snacks and the eventual sale of alcohol;
- some further landscaping in addition to the extensive landscaping work already undertaken along the margins of Bullock Creek;
- hours of operation dependent on individual vendors, however would fall within the period 7:30 AM to 10 PM, Monday to Sunday;
- Compliance with the district plan daytime noise limits, with an up to 4 dB exceedance at immediately adjacent sites between 8 PM and 10 PM, and between 7:30 AM and 8 AM. This would include the playing of background music;
- a 1.8 m high acoustic fence on all boundaries except the street boundary and a low stone wall along the site frontage;
- vehicular access from the north eastern end of the Brownston Street frontage to a staff only car parking area, accommodating six cars and a turning bay;
- pedestrian access will be provided using the existing vehicle crossing;
- the provision of bicycle parks;
- approximately 1300 m<sup>2</sup> of earthworks involving approximately 500m<sup>3</sup> of cut and 300 m<sup>3</sup> of fill, a maximum 'height of cut' of approximately 1.5m, with some earthworks being undertaken within 7m of Bullock Creek;
- a branded development sign at the main pedestrian entrance with a maximum area of 2m<sup>2</sup> made of steel or wood, along with a directory sign up to 2m high and 1m wide. In addition each food truck/stall would have advertising painted on them, up to 75% of the 'street facing side' of the vehicle/stall;
- on-site lighting designed to avoid glare and directed away from Brownston Street or any neighbouring properties.

### **Amendments to the Application**

6. At this point it is necessary to record a number of amendments made since the application was notified, which were drawn to our attention at the beginning of the hearing.
7. These amendments were as follows:
  - an increase in size of the car parking area from 6 to 8 car parks along with an increase in the size of the turning area;
  - the provision of a waste plan;
  - a change in the scale of the proposed earthworks to a required volume of 800 m<sup>3</sup>, and a maximum 'height of cut' of 1.2 m; and a maximum fill of 1.0m;
  - application for signage platforms for the food trucks, for a directory sign on the site, and for a sign to be placed at the entrance on the boundary wall;
  - clarification that provision is being sought for a maximum of 10 food trucks/stalls;
  - the provision of toilets on site for staff and patrons.

## NOTIFICATION AND SUBMISSIONS

8. The application was limited notified on 9 August 2018, with submissions closing on September 6 2018.
9. The applicants obtained the written consent of Michael Barton, Brownston Investments Ltd of 4/32 Brownston Street, and J and P Phillips, Freedom Wins Trust, of 5/32 Brownston Street.
10. 2 submissions were received in opposition to the application, although one of these represented a number of neighbouring property owners. The primary concerns expressed about the proposed activity were as follows:
  - noise, acoustic fence will be inadequate, especially given the hours of operation.
  - cooking odours
  - the scale of the application
  - adverse effects on privacy
  - lack of detail about external appearance and signage
  - waste storage and collection
  - activity not anticipated on the site
  - lack of clarity about retail provision
  - lack of parking.

### *Minute of the Hearings Panel and Closing of the Hearing*

11. At the conclusion of the hearing, the Hearings Panel advised that it would issue a Minute requesting that the applicant and the Council confer on an agreed set of conditions, should we be minded to grant consent to the application. A Minute was issued on Monday 26 November. An agreed set of conditions was received on Monday 10 December, at which time we were also advised by Counsel for the applicant that they did not wish to exercise any further right of reply. Accordingly the hearing was declared closed as of Monday 10 December.

## STATUTORY MATTERS

### **(1) OPERATIVE DISTRICT PLAN (ODP)**

12. The subject site is zoned High Density Residential Sub Zone C under the ODP and the proposed activity requires resource consent for the following reasons:

A **controlled** activity resource consent pursuant to Rule 7.5.3.2(iii) for the proposed new non-residential building. Council's control is with respect to:

*(a) The location, height, external appearance and methods of construction to avoid or mitigate adverse effects on:*

*(i) the street scene;*

*(ii) adjoining or surrounding buildings;*

*(iii) public open space, amenity linkages and view corridors;*

*(iv) the visual amenity of open spaces, streets and the surrounding landscape.*

*(b) The relationship of the building to its neighbours in terms of its built form, and to other built elements in the Zone, including public open spaces.*

*(c) The relationship of parking, access and manoeuvring areas in respect of access point options for joint use of car parking and the safety of pedestrians.*

*(d) The extent and quality of any landscaping proposed and the effectiveness of proposed planting in enhancing the general character of the area, screening car parking areas, and the impact on residential uses.*

*(e) Compatibility with the New Zealand Urban Design Protocol, having regard to those assessment matters under 7.7.2 xiii Urban Design Protocol.*

A **restricted discretionary** Activity pursuant to Rule 7.5.3.4 (vi) for a breach of site standard 7.5.6.2 (i)(a) in regard to a requirement for the operation to have no more than one permanently employed staff member that does not reside on the site. Each of the proposed food stalls will have staff members that do not reside on the site.

A **restricted discretionary** Activity pursuant to Rule 7.5.3.4 (vi) for a breach of site standard 7.5.6.2 (i)(b) in regard to the use of over 40m<sup>2</sup> of Gross Floor Area (GFA) for retail activities. It is proposed to use a 54m<sup>2</sup> cottage and a 41.2m<sup>2</sup> garage as a pop-up retail space.

A **restricted discretionary** activity pursuant to Rule 22.3.2.3 as the proposal breaches site standard 22.3.3(i) in regard to earthworks volume over a 12 month period that exceeds 300m<sup>3</sup>. It is proposed to undertake a total cut and fill volume of 800m<sup>3</sup>. Council's discretion is restricted to;

- The nature and scale of the earthworks
- Environmental protection measures
- Remedial works and revegetation
- The effects on landscape and visual amenity values
- The effects on land stability and flooding.
- The effects on water bodies
- The effects on cultural and archaeological sites
- Noise

A **restricted discretionary** activity pursuant to Rule 22.3.2.3 as the proposal breaches site standard 22.3.3(ii)(ii) in regard to earthworks where the vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary. It is proposed to undertake earthworks cut that will meet the south east and north east site boundaries. Council's discretion is restricted to;

- Environmental protection measures.
- Remedial works and revegetation

- The effects on landscape and visual amenity values
- The effects on land stability and flooding
- The effects on water bodies
- The effects on cultural and archaeological sites
- Noise

A **discretionary** activity resource consent pursuant to Rule 7.5.3.4(iii) for retail sales. It is proposed to sell food and beverage products from up to 10 separate food stalls on the site and from a pop-up store to be established in an existing 54m<sup>2</sup> cottage and a 41.2m<sup>2</sup> garage.

A **discretionary** activity pursuant to Rule 18.2.5 and Activity Table 2(1) (Residential Areas), as the proposed signage will exceed the 0.5m<sup>2</sup> permitted per site. A total of 12(twelve)2m<sup>2</sup> signage platforms are proposed with a total area of 20m<sup>2</sup> of signage, comprising up to 10 platforms associated with the food stalls, a directory sign and an entrance sign.

A **non-complying** activity pursuant to Rule 7.5.3.5 for a breach of zone standard infringement under Rule 7.5.6.3 (xi) in respect of having more than one heavy vehicle associated with non-residential activities stored overnight. It is proposed to use heavy vehicles as stalls.

A **non-complying** activity pursuant to Rule 7.5.6.3 (vii) for a breach of zone standard 7.5.6.3(vii) in respect of non-residential noise exceeding 50 dB LAeq (15 min) from 0800 - 2000hrs and 40 dB LAeq(15 min) / 70 dB LAFmax from 2000 – 0800hrs.

A **non-complying** activity under Rule 7.5.3.5 for a non-residential zone standard infringement under Rule 7.5.6.3 (v)(a)-(c) as the site will have equipment (outdoor furniture such as tables and chairs) that will be stored outside.

A **non-complying** activity under Rule 7.5.3.5 for an infringement of Rule 7.5.6.3 (iv) in respect of hours of operation of non-residential activities between 2000hrs and 0730hrs. The proposed retail activity will occur until 10pm.

#### **PROPOSED DISTRICT PLAN - STAGE 1 DECISIONS**

13. The Council notified its decisions on Stage 1 of the Proposed District Plan (**Stage 1 Decisions Version 2018**) on 5 May 2018. The subject site is zoned Medium Density Residential (Town Centre Transition Overlay) by the Stage 1 Decisions Version 2018 and the proposed activity requires resource consent for the following reasons:

A **restricted discretionary** Activity pursuant to Rule 8.4.8 for buildings in the Wanaka Town Centre Transition overlay.

A **non-complying** resource consent under Rule 36.5.2 as the proposal breaches noise standard 36.5.4 in respect of non-residential noise exceeding 50 dB LAeq (15 min) from 0800 - 2000hrs and 40 dB LAeq(15 min) / 75 dB LAFmax from 2000 – 0800hrs.

#### **PROPOSED DISTRICT PLAN - STAGE 2 NOTIFIED VERSION**

14. The Council notified Stage 2 of the Proposed District Plan (Stage 2 Notified Version 2017) on 23 November 2017. The proposed activity requires resource consent for the following reasons:

A **restricted discretionary** activity as the proposal breaches standard 25.5.19 in regard to earthworks undertaken within 10m of a water body. It is proposed to undertake earthworks within 10m of Bullock Creek.

A **restricted discretionary** activity as the proposal breaches standard 25.5.21 in regard to earthworks that expose groundwater or causes artificial drainage of a groundwater aquifer. It is proposed to undertake earthworks in the vicinity of an aquifer.

15. Overall, the application is considered to be a **non-complying** activity under the ODP and a **non-complying** activity under the PDP, Stage 1 Decisions Version 2018.

## EVIDENCE

### *For the Applicant*

16. Ms Irving introduced the case for the applicant. She explained amendments had been made to the application taking into account submissions from neighbours, including consolidating the food vendor platform towards the front of the site, clarifying that a 2m high screen would be established and maintained between or behind the vendors units, and that toilet facilities would be provided for patrons and staff.
17. She said the proposal would implement a landscape plan to enhance the amenity values of Bullock Creek and the Brownston Street frontage. Acoustic screening would be provided along the boundary of neighbouring properties, and the development would result in minimal built form, thus maintaining the open character of the site. She said that noise generation would be at a level generally consistent with ambient noise levels in the area.
18. She clarified that the applicant wanted to preserve the ability to seek a liquor license in the future and to have ability to play background music in the food truck area<sup>1</sup>. (We assessed the application on the basis that a liquor licence would be sought, and the effects that this would generate). Attention was drawn to previous consents, albeit not yet implemented, at 68 Brownston Street, for either a cafe or a smaller relocatable vendor stall operation similar to the current proposal, and that there was already a food truck operation and car yard on the opposite side of Brownston Street from the application site.
19. A key matter she emphasised (and which was also noted by the Council's planner) was the implications of the Wanaka Town Centre transition Overlay zoning under the PDP. She said that while the overlay zoning had been appealed, the relief sought was to have the area rezoned to Wanaka Town Centre, the same zoning applying to the commercial centre of Wanaka north of Brownston Street. The key matter arising from this was that the overlay zoning already allowed for a very liberal range of activities, and from a practical perspective in the future, this situation would prevail unless the appellant's case succeeded and the even more liberal Town Centre zoning were to take effect. On this basis she concluded that the PDP should be given more weight than the ODP.<sup>2</sup>

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<sup>1</sup> Legal Submissions, B Irving paragraph 10, Evidence D Curley, paragraph 16

<sup>2</sup> Ibid, paragraph 35

20. In his planning evidence, Mr Curley noted that the serving of alcohol between the hours of 8 AM and 11 PM is a permitted activity under both the High Density Residential Zone in the ODP and in the Proposed Medium Density Residential Wanaka Town Centre Transitional Zone in the PDP. He added that while the proposed activity was noncomplying in status under both plans, it was only noncomplying under the PDP as a consequence of the breach of the night time noise standards, and would otherwise be restricted discretionary in status<sup>3</sup>.
21. He went on to explain that the on-site signage would only be visible from the direction of Brownston Street and not from neighbouring properties. In his view the proposed development would exhibit a high level of amenity given the landscaping of Bullock Creek (which would become more accessible to the public) and add to the vibrancy of the Wanaka Town Centre. He argued that the location and orientation of the 10 mobile vendor outlets close to the frontage of Brownston Street would successfully protect the amenity of adjoining properties from potential adverse noise issues in particular. He added that another advantage of the proposal was that it avoided the establishment of significant level of built form on the site, such as that which might occur with a commercial development such as offices, visitor accommodation, or residential development.
22. He stated that privacy concerns raised in submissions had to be assessed in the light of the potential of the site for more intensive built development which might otherwise occur as of right. He said the area already experienced significant ambient noise from the sound of the creek and particularly traffic on Brownston Street. He concluded that he was broadly in agreement with the conditions proposed by Mr Childs in his S 42A report, subject to clarifying that the number of vendors be limited to 10; that the boundary fencing would have a height of 1.9m; the establishment of a 2m high acoustic barrier between and behind the food stalls; the preparation of a Management Plan; and limiting the hours of selling alcohol<sup>4</sup> to between 11 AM and 10 PM.
23. Mr Arden's acoustic evidence assumed particular importance because of the dominance of potential noise issues as the key issue with the application during the hearing. He noted that the noise standards in the ODP and those in the PDP, were expected to remain the same notwithstanding the change in zone description<sup>5</sup>.
24. He noted that the noise performance standards under the ODP and PDP for the application site were 50dB  $L_{aeq}$  between 0800 and 2000 hours, 40 dB  $L_{aeq}$  between 2000 hours and 0800 hours. These were 10dB lower than the respective hours across Brownston Street in the Town Centre Zone.<sup>6</sup> From measurements he had undertaken, he concluded that ambient noise levels were between 11dB and 18dB higher than the permitted level specified in the ODP between 0730 and 0800 hours, between 2dB and 7dB higher between 0800 and 2000 hours, and between 7dB and 15 dB higher between 2000 and 2200 hours<sup>7</sup>.

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<sup>3</sup> Evidence S Curley, paragraph 24

<sup>4</sup> Ibid, paragraph 115 (h)

<sup>5</sup> Evidence S Arden, paragraph 4.25

<sup>6</sup> Ibid, paragraphs 4.22 – 4.23

<sup>7</sup> Ibid, paragraph 4.38

25. Turning to the matter of potential noise levels generated by the proposed activity, he calculated that the majority of the patrons on site were assumed to be generating noise levels typically associated with bar activities. For his calculations, he assumed a maximum of 75 patrons at any one time<sup>8</sup>, noting that this was 50% higher than what was allowed for by the proposed seating arrangements. He considered his assumptions to be conservative.
26. With respect to adjoining residential properties, he concluded that noise levels from the activities on site would comply with the requirements of the ODP at all locations between 0800 and 2000 hours. Outside of those hours (0730 – 0800 and 2000 – 2200) he predicted the noise levels would exceed the district plan standard at most of the adjacent sites<sup>9</sup>. The highest level he predicted was for the external environment for the rear unit across the adjoining eastern boundary at 36 – 38 Brownston Street, where he expected that noise levels would exceed the ODP standards by between 3dB and 4dB. In other circumstances he expected any increase in noise would be no more than 2dB, and in some cases actually fall by up to 3dB as a result of the introduction of the perimeter acoustic fence.
27. In his opinion an increase of between 3 and 4dB would only be just perceptible to the average listener, and that 2dB would not be perceptible at all<sup>10</sup>.
28. With particular regard to noise levels associated with amplified music, he calculated that provided there were no more than six external loudspeakers orientated towards Brownston Street, the music noise levels should be no more than 70dBA measured 1m from the loudspeaker, which obviated any need to impose a penalty for special audible characteristics. He considered that overall any increases in noise would be of a magnitude that would be difficult to perceive above ambient levels, and even at the first floor level of the rear unit of 38 Brownston Street, he considered that the effects would be “minor” outside daytime hours<sup>11</sup>.
29. Mr Magee’s evidence was based on his practical experience of operating a food stall. His current operation was diagonally opposite the application site in Brownston Street, alongside four other food trucks. He explained the food preparation was undertaken inside the trailer which was kitted out as a commercial kitchen with a filtered extraction system. He said that in his case the business normally closed about 9 PM, and that it generally took about an hour to pack and clean down at the end of the night. General waste was deposited into a commercial wheelie bin which was emptied daily, usually around 10 – 11 AM. Food waste is placed in a sealed bin which is picked up approximately every second day by a local person and fed to pigs and chickens. Other materials such as glass, plastic, and cardboard is recycled and emptied each day.<sup>12</sup>

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<sup>8</sup> Evidence S Arden, paragraph 4.52

<sup>9</sup> Ibid, paragraphs 4.59 – 4.60

<sup>10</sup> Ibid, paragraph 4.60

<sup>11</sup> Ibid, paragraph 4.67

<sup>12</sup> Evidence M McGee, paragraphs 2 – 4

30. He said customers generally spent a maximum of 15 minutes on site eating, and from his experience more people tended to sit and eat during the lunchtime period (somewhat less than half of all patrons) but a much lower proportion in the evening. He said music was played inside the trailer which was loud enough for customers to hear, but not loud enough to prevent food truck staff from be able to communicate easily. He noted that on occasions in the afternoon, buskers would come to play at the venue, subsequently confirmed by one of the submitters.
31. In response to submissions he said it was in the interests of each business to keep the site tidy and to regularly collect waste, and he was not aware of any issues regarding odour at its current location, or any problems associated with unruly patrons.
32. Mr Teat explained that the property had been acquired in 2015, but there was a family association with the site going back much longer than that. He noted that an earlier proposal to construct a 44 room visitor accommodation business on the site had not proceeded and that previous applications had been objected to, and appealed, by neighbours. He noted that after exploring an initial concept to create a mixed use residential and commercial development on the site, it became apparent that there were significant engineering challenges associated with the high aquifer levels on the site, a problem also known to exist elsewhere in Wanaka.
33. He said that on-site car parking had been restricted to the vendors only, to reduce on-site traffic noise, and was located at the rear of the site to enable retention of the landscape character of the site frontage and the visual quality of the street interface. The placement of the food trucks had been made with regard to protecting neighbours' privacy, and reducing noise through physical separation from boundaries. Visual impacts were addressed by orientating units towards the interior of the site and out onto Brownston Street, and limiting the size of the seating and grassed area to manage the number of patrons present on site.
34. He said it was intended to use both the cottage and garage as pop-up retail spaces, which he regarded as suitable for temporary businesses, and for people such as artists, fashion designers, boutique homeware retailers, or furniture designers. He said that collection bins for waste would be located throughout the site, and frequently checked and emptied throughout the day to reduce the chance of any overflow. Site bins and vendor bins will be emptied and stored at a dedicated storage point at the rear corner of the site which will be an enclosed facility. Collection services will be carried out by Waste Busters and All Waste, including glass collected in wheelie bins and stored within the dedicated rubbish storage area.
35. He also explained consultation he had undertaken with the neighbours of the property to describe what was intended through the application.



***For the submitters***

36. Mr Todd led the presentation of evidence for the various submitters he represented. The first, and primary cause of concern, was a perceived lack of detail and associated uncertainties with the proposal. This included a lack of certainty where the 10 food trucks would be located on the site, the appearance and signage on the trucks, and a lack of detail about the nature and intensity of use associated with the proposed pop-up stores. Associated with this concern was the matter of patron's access to any parts of the site at different times. Other issues included hours of operation, with the only detail being that associated with the operation of the food trucks, and what was meant by 'background' music.
37. In addition there were concerns about the overall management of the site, with the potential for up to 13 operators being involved, each with their own separate arrangements for the disposal of waste. The lack of outdoor storage was cited, and a proposed condition of consent that there be no outside storage was considered unrealistic. The noisy disposal of bottles and waste generally late in the evening was a matter of considerable concern and the lack of any Traffic Management Plan, or details about security lighting at night. It was considered that Mr Childs report on the application as notified was based on only five food trucks and no allowance had been made for amplified music, or for assessment of noise from buskers.
38. Mr Todd submitted that as the application was a noncomplying activity, both of the section 104D gateway tests had to be passed and based on the information available, it would not be possible to reach the conclusion that the application would satisfy either of required tests. He also contended that the proposal was contrary to the objectives and policies for the zone. It was asserted that the Council planner had not given enough consideration to the fact that surrounds of the site were still dominated by residential activity. A further point emphasised by Mr Todd was that the Council had not undertaken any urban design assessment of the proposal, as would typically be required for a site within the Town Centre Overlay. He noted that as consent runs with the land, the actions of future consent holders would need to be kept in mind.
39. Mr Smith expressed concern about the south-eastern corner of the site adjacent to his property, where previous site works had disturbed the aquifer. There were no details with the application as to how that issue would be addressed. Mr Arbuckle expressed concerns about potential cooking smells from the site.
40. Mr Wollstein gave evidence in his own behalf, being resident in Upton Street behind the site. He had purchased his property in 2001, and said he had no objection to the development, but did not want to sign a permitted party approval. He was concerned at the prospect of a 1.9 m high boundary fence, and would prefer a lower fence on his common boundary. He expressed some concern about cooking and cigarette smoke smells as a potential problem, given the prevailing wind direction. He felt that the applicant had made a fair presentation, but would not withdraw his submission without an adequate Noise Management Plan.

***For the Council***

41. Mr Childs placed considerable weight on the zoning of the site under the PDP, which provided for commercial activities, notwithstanding the presence of residential properties, on the basis that there were no outstanding objections or appeals that would prevent future commercial development. He was also of the opinion that the proposed development is appropriate for the site and *“.....would only marginally worsen any potential noise effects for those persons on the adjoining lots beyond those already experienced through existing ambient noise levels”<sup>13</sup>*. He was satisfied that through the application of a Management Plan, in conjunction with the proposed acoustic fence, while noise effects might be more than minor, noise levels would be acceptable given the site context and prevailing ambient noise levels.
42. He stated that under the PDP zoning, there would be no restriction on the hours of operation for non-residential activities except for alcohol consumption on site.
43. He stated that the proposed food trucks had been treated as buildings for the purpose of assessment on the basis that this would be required if they had a connection to council services. Otherwise the food trucks would be regarded as vehicles. He considered that the proposed stone walls and landscaping undertaken (and to be further developed) would provide a high standard of character and amenity. On-site parking loading and manoeuvring provisions complied with the requirements of the ODP in the PDP. In his opinion the development would not appear out of character having regard to the New Zealand Urban Design Protocol, and noting the presence of the existing food truck village opposite the site, and another approved at 68 Brownston Street. He noted the extensive presence of commercial development nearby in Brownston Street, citing the presence of the Paradiso Cinema, the Otago Daily Times Office, Adventure Consultants and a dentist.
44. He noted that the proposed earthworks had been assessed by the Council’s Land Development Engineer, Mr Jones. It was noted that the proposed development would breach earthworks standards having immediate legal effect under the PDP as works were proposed within 10m of Bullock Creek, but not the ODP standard which allowed 20m<sup>3</sup> within 7m of a water body. He was advised that Mr Jones was satisfied that the proposed earthworks would not result in any adverse effects beyond the site boundary. He said that Mr Jones concurred with the geotechnical report provided by the applicant which identified the site as being susceptible to liquefaction, but given the type of development with no additional residential activity, it would not exacerbate seismic risk.

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<sup>13</sup> S 42 a report, part 8.1.4.1

45. Mr Chiles attended the hearing, but did not present evidence specifically relating to noise effects, although we did have access to communication between himself, and the reporting planner, Mr Childs. Mr Chiles appeared to be generally comfortable with the noise effects of the proposed activity, although his views on those effects were somewhat more qualified than those of Mr Arden for the applicant. In his view, there was a potential for perceived noise effects to be greater after 2000 hours, particularly if the number of on – site patrons did not decline after that hour at the rate anticipated by the applicant. In addition, he considered that noise from the application site at that time of the evening would be distinguishable from background ambient noise. He said this would particularly apply at upper floor levels, where the perimeter acoustic fence would not be an effective form of mitigation.

## **ASSESSMENT OF EFFECTS**

### ***The nature and character of the site and the application***

46. We believe it is appropriate to begin our assessment of the application by considering these two factors.
47. The site may appear to offer a large area of land of more than 3000m<sup>2</sup> for development with a good ‘shape’ and generous dimensions. However it is a site that is significantly affected in both a positive and negative way by Bullock Creek, which diagonally traverses the site, part of which is also affected by a spring fed ‘drain’, and the presence of an underground aquifer. These characteristics act as a significant limitation on development within the site. Conversely, the creek is also an environmental asset in Wanaka, and public access to and along its margins would be clearly desirable.
48. We do not believe these limitations would prevent a building development on the site, but they do impose constraints, and the site’s physical features serve to distinguish it from many others in the vicinity. In our view, the site characteristics also tend to favour lower intensity development than would be the case on an otherwise unconstrained site having the same area and shape.
49. We also consider that the activity itself – food trucks – is a type of activity which is not anticipated by either the ODP or the PDP, and certainly there was no evidence put before us in terms of objectives, policies, and rules that would suggest otherwise. However it would seem that it is a kind of activity which is becoming increasingly common, and which needs to be located *somewhere*, and a location near a town centre (but not necessarily within it), would appear to be the logical place for it to occur.

50. In the notes prepared by Mr Todd for the submitters, he questioned whether the proposed activity is appropriate in a 'transitional zone' such as this, where the environmental context is predominantly residential or visitor accommodation<sup>14</sup>. We consider that an edge of town site such as this one, and which is a relatively low intensity activity on a site with significant physical constraints, is appropriate in this case. Alternatively, commercial or residential buildings of two stories in height would be a realistic alternative, subject only to an urban design assessment. Building development of this scale would have different effects on adjoining residents, but may well be adverse for other reasons, such as building bulk and scale.
51. We also believe it is important to acknowledge that a benefit of this proposal is that it will maintain public access to and along Bullock Creek, in a manner that would be preferable for public enjoyment to that which would occur if two storey buildings were built on either side of the creek. In addition, there is public space within the proposed development which will be available in addition to the margins of the creek itself, such as the 'garden style' eating area. Accordingly, we disagree with Mr Todd's conclusions that the activity is unsuitable as a transition between the Wanaka town centre and the residential area to the south. It is a development which is tailored to the constraints of the site. As Ms Irving commented in response to a question at the end of the hearing, the fact that the application is (relatively) unusual, does not mean that it is inappropriate.
52. We came to the view that the primary consideration was whether the effects of establishing the activity on site, and the adequacy of conditions to address such effects, was the more important matter for us to address.

***The weight to be given to the Operative and Proposed District Plans***

53. We accept that at the outset this application is for a noncomplying activity under both plans, and for that reason it must pass at least one of the two tests under section 104D of the RMA. This section provides (relevantly) that:

*104D Particular restrictions for noncomplying activities*

*(1) despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a noncomplying activity only if it is satisfied that either –*

*(a) the adverse effects of the activity on the environment will be minor, or*

*(b) the application is for an activity that will not be contrary to the objectives and policies of –*

*(i) the relevant plan if there is a plan but no proposed plan in respect of the activity; or*

*(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*

*(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

54. In this case subclause (b) (iii) applies.

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<sup>14</sup> G Todd Synopsis of Submissions, page 6.

55. The Council's case relied heavily on 'context', this being the provisions of the PDP and in particular Wanaka Town Centre Transition Overlay (to the Medium Density Zone). The overlay applies to a strip of land between Brownston Street and the approximate midway point between Brownston Street and Upton Street. It was noted that the only appeal against this proposed zoning was one seeking an even more liberal zoning, whereby the appellant is seeking that the land be added to the Town Centre Zone itself.
56. We note that the rules for the Wanaka Town Centre Transition Overlay provides for Commercial activities and Community activities as permitted activities<sup>15</sup>, subject to design criteria for buildings as a restricted discretionary activity.<sup>16</sup> We return to this issue shortly.
57. In her legal submissions, Ms Irving stated that<sup>17</sup>:
- "The Court in *Queenstown Central Ltd*<sup>18</sup> considered that understanding the future environment requires a 'real-world' approach to the future environment, particularly where a proposed plan may mean it will look different. It is submitted that the zoning of the site under the Proposed District Plan is highly relevant in this case".
58. As previously noted, the Council's evidence placed emphasis on the *context* of how the site and its surroundings would change under the PDP, and what was perceived to be an increasingly commercial environment and relatively high traffic volumes on Brownston Street. In contrast, with respect to the Council's evidence Mr Todd stated:
- "Mr Childs has context totally wrong in his S42a report and therefore his assessment is flawed".
59. The basis of Mr Todd's submissions appeared to be that the existing environment *adjoining* the site was predominantly residential, an observation with which we agree. However we prefer the opinion of Ms Irving in this case. Even allowing for the fact that there are chapters of the PDP which are yet to be decided (and in some cases even notified) it seems abundantly clear to us that at the very least the Wanaka Town Centre Transition Overlay will remain in place, and bearing in mind the growth of Wanaka, there will be a continuing transition towards commercial activities on Brownston Street. We are unsure whether the adjoining residents are aware of the implications of the decisions on the PDP for this land, but to a large extent these decisions have moved the 'frontier' between the town centre and the residential zones from the southern frontage of Brownston Street to the midpoint between Brownston and Upton Streets. We consider that much more weight needs to be placed on the PDP, than on the ODP, in this case.
60. We do wish to signal at this point however, that the likely movement to greater commercial development on the southern side of Brownston Street will be a transitional process. As such, we consider it is proper that we recognise that residents are still entitled to a degree of protection from adverse effects. We do not subscribe to a view that adjoining residents must simply acquiesce to unacceptable noise as a consequence of further commercial development.

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<sup>15</sup> Rules 8.4.1 and 8.4.2

<sup>16</sup> Rule 8.4.8

<sup>17</sup> B. Irving legal submissions, paragraph 19

<sup>18</sup> *Queenstown Lakes District Council versus Hawthorn Estate Ltd* [2006] NZRMA 424

### **Noise Management**

61. An application of this nature creates some difficulties in that it is difficult to determine with certainty the actual level of noise that will eventuate from the activities proposed on the site. One advantage of a building or buildings on the site, is that some or all of the noise can be internalised. In the case of this proposal, one cannot be certain how 'successful' the development will ultimately be in attracting patrons, particularly in the evening hours. Consequently some assumptions have to be made, as Mr Arden was required to do in undertaking his noise assessment. With noise and other aspects of this proposal, we are conscious that it will not be enough to rely on 'good intentions', albeit that we are satisfied that the applicant is committed to operating in an entirely responsible matter.
  
62. We do not believe that it will be possible, without dramatically scaling down the scale of the proposed development or confining it to daytime hours only, to achieve full compliance with the noise standards in the ODP and the PDP. However we believe that it will be possible to achieve noise levels which will provide a satisfactory outcome for nearby residents, by implementing conditions that:
  - (1) require an acoustic fence on all adjoining property boundaries to a height of 1.9m (except for the Wollstein property, where the submitter has requested a different height);
  - (2) limit the sale and consumption of food and alcohol to the defined Food Vendor Patron Area shown on a site plan, and restricting access for the members of the public to the Food vendor patron area only after 8 PM;
  - (3) establish a 2 meter high impermeable fence between or behind the food trucks or stalls located on the site, capable of enabling periodic removal of trucks/stalls but maintaining a continuous barrier;
  - (4) confining the location of speakers and setting a specific standard for sound levels from these;
  - (5) confining the transfer or removal of glass to between the hours of 8 AM and 6 PM;
  - (6) restricting the hours of operation, including those for the sale of alcohol and the playing of background music;
  - (7) implementing a Management Plan for the operation of the food truck village, including noise management.
  
63. However there is an additional amendment to the proposed conditions which we acknowledge has not been sought by the applicant or the Council. We consider that the hours of operation in the evening should be restricted to 9:30 PM rather than 10 PM, with a similar restriction for the sale of alcohol, and the playing of music. We consider such a measure is justified allowing time for packing up, noting that Mr Magee indicated that this process can take up to an hour. We also doubt that patrons would instantaneously leave the site at 10 PM, and despite the best will in the world, some may well take longer to leave the site. We are also conscious that the truck shop/stall operators will be leaving the site in their cars after this time, and the car park is located close to the boundary of residential properties. Our intention is to prevent an outcome whereby ongoing noise associated with the site extends beyond 10 PM.
  
64. We appreciate that the applicant has volunteered a review condition, all the more so, as such a condition is often resisted by other applicants in not dissimilar situations.

### ***Other Effects***

65. We consider that the Council was somewhat remiss in not undertaking at least a basic assessment of visual impacts associated with the site, in accordance with (unchallenged) Rule 8.4.8 of the PDP which applies in the Overlay. This provides an immediate difficulty however, as to whether the structures comprising the stalls, or the food trucks, are 'buildings'. However for completeness, we will treat them as such, as the matters of discretion also provide a useful framework for assessing other effects. Under the rule, we note that the Council's discretion is restricted to:
- a. external design and appearance including the achievement of a development that is compatible with the town centre transitional context, integrating any relevant views or view shafts;*
  - b. the external appearance of buildings, including that the use of stone, schist, plaster or natural timber be encouraged;*
  - c. privacy for occupants of the subject site and neighbouring sites;*
  - d. street activation*
  - e. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area;*
    - i. The nature and degree of risk to hazard (s) posed to people and property;*
    - ii. Whether the proposal will alter the risk to any site; and*
    - iii. the extent to which such risk can be avoided or sufficiently mitigated.*
66. In terms of criterion 'a', the 'buildings' on the site will consist of either food trucks or small structures with advertising over 75% of the external surface facing towards Brownston Street. This is a kind of development which is simply not anticipated by a matter of discretion which is clearly framed to address buildings. We are satisfied that the orientation of these stalls/vehicles is such that the primary effect of advertising will be directed towards Brownston Street which is significantly influenced by existing commercial development; in addition these buildings or vehicles are very small scale compared to commercial buildings that might otherwise be erected on the site, and would not obstruct views and outlook as would a 7m high building. We are satisfied that the development is a suitable transition between the town centre and the residential area to the south, particularly given the physical constraints of the site.
67. We also note that while the extent of advertising is significant given that it will be a feature of the vehicle/stalls on the site, we believe it will be perceived as acceptable given the unusual character of the activity itself, and the high level of landscaping proposed.
68. With respect to criterion 'b' we note that stone fencing is to be provided along the site frontage, along with extensive landscaping, which will enable Bullock Creek and its margins to be accessible to the public, and achieve a high standard of amenity. The improvements undertaken to the site were even commented on favourably by some of the submitters in opposition.
69. The fact that the activity will attract members of the public to a site which until now has not been used, will inevitably have some impact on the privacy of adjoining residents. However we consider this issue needs to be assessed in terms of an alternative building development on the site of up to 2 stories in height, which would have a significantly greater effect. We also consider that the impact on privacy will be reduced by containing the area for the consumption of food and alcohol to a defined area near the street frontage and away from neighbouring boundaries.

70. We consider the proposal would actively promote street activation, by providing a useful service to the public and enhancing street life, thus complementing the town centre. Even without this application, this is an outcome that is likely to occur as the Brownston Street environment gradually becomes even more commercial in character, and remains a busy thoroughfare.
71. Mr Smith raised significant concerns about issues arising with previous earthworks on the site and inundation with water from the aquifer. However the expert evidence before us was that the applicant had addressed site development issues and proposed earthworks through commissioning a geotechnical report, the results of which had been accepted by the Council's engineer. It would seem highly likely that the development of commercial or residential buildings on the site would have considerably greater potential to interfere with the aquifer, and as we were advised, any earthworks affecting the aquifer would require the consent of the Otago Regional Council, which is the body holding statutory responsibility. In addition, any developer of the site will now be very well aware of the issues that have arisen previously. This proposal has a relatively light footprint on the site compared to the alternative of residential or commercial development. We were not made aware of any other natural hazards that might apply to the site.
72. The proposed activity breaches two standards, these being earthworks undertaken within 10m of a water body (Rule 25.5.20) and the second the potential exposure of ground water or artificial drainage of a groundwater aquifer (Rule 25.5.21). We have considered the matters of discretion related to these rules. Mr Jones considers that these matters would be addressed through recommended conditions of consent for works to be undertaken in accordance with Council standards and the geotechnical report commissioned by the applicant. We were not made aware of any archaeological or cultural issues associated with the site, and no mention was made of a requirement for an accidental discovery clause for archaeological remains.
73. A number of other matters were raised in submissions. We were advised that the eight car parks proposed were compliant with the standards of the ODP and the PDP. The site adjoins the town centre and we would expect that many of its customers would be drawn from that area and already present within it. As most customer traffic will arrive on foot (with some by bicycle) we do not consider that traffic generation or congestion is likely to be an issue, at least independently of traffic issues in central Wanaka as a whole.
74. Concerns were also raised about the potential character of the 'pop-up' retail opportunities proposed for the garage and cottage on the south-western side of the site, which could accommodate activities of highly variable nature and scale. We accept that details as to the possible retail activities that might be undertaken are scant, but given the imposition of the Wanaka Town Centre Transition Overlay, and the (unchallenged) ability to establish commercial and community activities, we do not see any benefit in seeking to restrict the character of such activities.
75. We note that the change in use of the site activates a rule whereby the existing cottage breaches a 1.5 m internal setback on the south-western boundary. However given this is an existing building, and the extent of the non-compliance is very small, we place very little weight on this matter, and the effects are less than minor. We note that there will be a small enclosed structure in the south-eastern corner of the site for storage of collected waste, and toilets. We note that these will require building consent should they exceed 5 m<sup>2</sup> in area or 2 m in height.



76. Mr Todd outlined the possibility of a tavern or beer garden arrangement on the site attracting large numbers of people – a scenario which we accept is entirely possible. We believe that the imposition of appropriate conditions on the current application would restrict such an outcome with respect to the sale of food and alcohol. However should this application not proceed, then there would be no restriction (except in urban design terms) on a development of the type described by Mr Todd, being established on the site. This again emphasises that the result of the PDP hearings as an outcome which has the potential to substantially change the environment that has been enjoyed to date by adjoining residents.
77. A number of residents raised the issue of potential odours from cooking on the site. With the exception of Mr Magee, we heard very little evidence on this point. All we can say is that the area for cooking and consuming food is located close to the Brownston Street frontage rather than neighbouring properties.
78. The issue of waste disposal has already been touched on earlier in this decision with respect to glass waste, and we consider that conditions restricting the time within which rubbish can be collected, and the implementation of a Management Plan specifying detailed requirements as to the disposal of rubbish and recycling requirements, will be sufficient to address potential noise issues associated with this matter.
79. We do not consider construction noise will be a major concern, bearing in mind that the site would eventually be developed for some purpose, and the alternative of residential and commercial development would almost certainly result in much greater earthworks, intensity of construction activity, and the duration of such construction activity.
80. The positive effects of the proposed development include providing a wider range of food outlets for residents and visitors to Wanaka, and as noted earlier, provide public access to Bullock Creek and its margins.

## **OBJECTIVES AND POLICIES**

81. We begin this assessment of the objectives and policies by considering the provisions of Chapter 8 of the PDP, and specifically section 8.2 which relates to the Medium Density Residential Zone. We have attached considerable weight to the PDP as these provisions are beyond challenge. Some of these objectives and policies relate to different parts of the District or to the development of medium density housing, so we have focused on those provisions which are relevant to this application.
82. Objectives 8.2.1 and 8.2.3 and their attendant policies are primarily directed at the establishment of high quality living environments. Land within the Wanaka Town Centre Transition Overlay enables either commercial development or residential development, so neither of those objectives and their policies (which relate to residential development) have application to this proposal.
83. Objective 8.2.2 and its applicable policies state as follows:

*Objective – Development contributes to the creation of a new, high-quality built character within the zone through quality urban design solutions which positively respond to the site, neighbourhood and wider context.*

*Policies*

*8.2.2.1 Ensure buildings address streets and other adjacent public space with limited presentation of articulated blank walls or facades to the street (s) or public space (s).*

*8.2.2.2 Require visual connection with the street through the inclusion of windows, outdoor living areas, low-profile fencing or landscaping.*

*8.2.2.4 Ensure developments reduce visual dominance effects through variation in facades and materials, roof form, building separation and recessions or other techniques.*

*8.2.2.5 Ensure landscaped areas are well designed and integrated into the design of developments, providing high amenity spaces for residents, and to soften the visual impact of development, with particular regard to any street frontage (s).*

84. This application does not propose the erection of any new buildings, except to the extent to which the food trucks or other structures (including toilets and structure for storage of waste) may be defined as such. We consider that the development achieves Policies 8.2.2.2 and 8.2.2.5 through the provision of landscaped areas, and associated high quality amenity spaces. Because of the nature of the development, the proposal relates well to the street frontage and does not involve large buildings or blank walls. It is considered that the site layout responds well to the street frontage and the commercial neighbourhood on Brownston Street. We do not consider that the proposed development is contrary to this objective and its policies.
85. Objective 8.2.5 seeks that development efficiently utilises existing infrastructure and minimises impact on infrastructure networks. The related policies seek to ensure that access and vehicle parking is located and designed to optimise safety and efficiency, minimise adverse effects on parking on streets, and is integrated with the transport network. It also seeks connections to active transport networks such as trails, walkways, and cycleways. Policy 8.2.5.2 seeks to ensure that development is consistent with the capacity of existing infrastructure.
86. The Council have raised no concerns about the ability of infrastructure to accommodate the low intensity development proposed on the site, and development encourages pedestrian and cycle access. We consider that the proposed development is generally consistent with Objective 8.2.5 and its associated policies.
87. Objective 8.2.6 relates to “community activity” which is defined<sup>19</sup> as including the use of land and buildings for health, welfare, care, safety, education, culture and/or spiritual well-being. We do not consider that the proposed activity falls within the definition of a community activity.
88. Objective 8.2.7 and its policies are relevant to this application, as it is clearly a commercial activity. The objective and its associated policies state as follows:

*Objective – Commercial development is small scale and generates minimal adverse effects on residential amenity values.*

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<sup>19</sup> PDP, Chapter 2

### *Policies*

*8.2.7.1 Provide for commercial activities, including home occupation activities, that directly serve the day-to-day needs of local residents, or enhance social connection and vibrancy of the residential environment, provided these do not undermine residential amenity values or the viability of any nearby Town Centre.*

*8.2.7.2 Ensure that any commercial development is of low scale and intensity, and does not undermine the local transport network or availability of on street vehicle parking for non-commercial use.*

*8.2.7.3 Ensure that the noise effects from commercial activities are compatible with the surrounding environment and residential amenity values.*

*8.2.7.4 Ensure that commercial development is of a design, scale and appearance that is compatible with its surrounding residential context.*

89. Taking into account the large extent of open space that will remain on the site, and subject to detailed conditions, we are satisfied that the proposed activity can be regarded as small-scale and will not have any significant adverse effects on the surrounding environment. Having regard to noise impacts we regard the effects as being no more than minor, rather than “minimal”. We also separately make the observation that the rules framework will not necessarily result in activities being small-scale, as sought by the objective.
90. It would be difficult to determine with any certainty whether the activity will primarily service the day-to-day needs of local residents, although there is no reason to expect it would not do so in the same way as other food premises in central Wanaka. We consider most of the patrons will either walk or cycle to the site or will already be present in the town centre, so are unlikely to increase parking demand or traffic congestion. We note that at least some of the food trucks/stalls already located on the opposite side of Brownston Street may move to the new site.
91. We consider that with an appropriate set of conditions, the noise effects will be compatible with the surrounding environment, which already experiences relatively high ambient noise levels. The low intensity of ‘building’ development proposed on the site would provide a suitable transition between the town centre and the residential environment to the south, and also have the public benefit of providing public access to Bullock Creek. Overall, we consider that the proposal is not inconsistent with Objective 8.2.7 and its attendant policies.
92. Objective 8.2.9 and its attendant policies are relevant to this proposal, and state as follows:

*Objective – Non—residential developments which support the role of the Town Centre and are compatible with the transition to residential activities are located within the Wanaka Town Centre Transition Overlay.*

### *Policies*

*8.2.9.1 Enable non-residential activities to establish in a discrete area of residential zoned land adjoining the Wanaka Town Centre, where these activities suitably integrate with and support the role of the Town Centre.*

*8.2.9.2 Require non-residential and mixed use activities to provide a quality built form which activates the street, minimises the visual dominance of parking and adds visual interest to the urban environment.*

*8.2.9.3 Ensure the amenity values of the adjoining residential properties outside of the Wanaka Town Centre Transition Overlay maintained through design and the application of setbacks.*

93. We are satisfied that the proposed development will support the role of the Town Centre and provide a suitable transition to residential activities, also noting that over time a greater commercial presence is expected to develop on the southern side of Brownston Street in recognition of activities are permitted within the Overlay. The development does not take the form of a normal commercial or residential building development, but the extent of on-site parking is limited, and the development will provide visual interest to the urban environment. That part of the site where retail activities are to take place is focused towards Brownston Street and setback from boundaries, except for retail activities that are to be provided for within the existing small cottage and garage building.
94. We consider the proposed activity is consistent with Objective 8.2.9 and its policies.
95. Objective 8.2.10 and its policies concern noise, but are focused on protecting new or altered buildings and activities therein from road noise and aircraft noise, and is not relevant to this proposal.
96. Chapter 36 of the PDP contains provisions relating to Noise. Objective 36.2.1 and Policy 36.2.1.1 state as follows:

*Objective 36.2.1 – Noise Emissions*

*The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse noise effects between land use activities.*

*Policy 36.2.1.1 Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.*

97. We consider that there will be occasions on which noise from the activities on the site may be discernible to an adjoining residents. However we are satisfied that given the relatively high ambient noise levels affecting the site, and the range of conditions proposed to mitigate adverse effects (which in terms of compliance are confined to the evening), that the proposed development is not contrary to this objective and policy. We understand that the noise provisions in the PDP with relevance to this application are unlikely to be altered by the results of any appeals.
98. Other objectives and policies in the PDP only have very general or 'high-level' application. Policy 3.2.1.2 promotes the town centres of Queenstown and Wanaka as the hubs of the District's economy, while Policy 3.2.1.6 promotes diversification of the economic base of the district and the creation of employment opportunities through innovative and sustainable enterprises. To the extent that these provisions have application, we consider the proposed activity is consistent with them.

99. Under the PDP, the provisions of the Wanaka Town Centre Transition Overlay (or subject to appeal, possibly a Town Centre zoning) will inevitably come into effect over the subject site and its surrounds, and recognising this, we have placed very little weight on the provisions of the Operative District Plan, under which the site is zoned High Density Residential Sub Zone C. This zoning was intended to provide for the establishment of higher density residential and visitor accommodation activities. If the appeal were withdrawn, the provisions of section 86F RMA would apply, and the zone rules in the ODP could be disregarded entirely.
100. Perhaps unsurprisingly, the proposed development is not consistent with a number of the provisions under chapter 7 of the ODP, such as Policy 3.1 (to protect and enhance the cohesion of residential activity) and Policy 3.5 (hours of operation for non-residential activity). It is noted however that Objective 4 and Policy 4.1 of Chapter 7 do anticipate some non-residential activities in the residential area, subject to compatibility with residential amenity. While the immediate neighbouring properties of the subject site remain residential, the activity and noise environment in the balance of Brownston Street are not consistent with a purely residential environment.
101. Objective 1 for the High Density Residential Zones seeks to promote a high-quality high density residential environment through improving the aesthetic appeal of the built environment, ensuring building integrates well with the neighbouring locality, and providing pedestrian links, access ways and open space between buildings, and the provision of underground car parking. The proposed development is not consistent with these provisions, which are clearly intended to implement the outcomes sought under the ODP for this area, but which have changed as a result of decisions resulting from hearings on the PDP.
102. With respect to other objectives and policies, we are generally in agreement with the conclusions reached by the Council reporting officer, and Mr Curley for the applicant. Specifically, we do not consider that the proposal is contrary to objectives and policies with respect to traffic and earthworks.

#### **SECTION 104 AND SECTION 104D RMA**

103. Our overall conclusions taking account of the objectives and policies, is that the proposed activity is not consistent with the objectives and policies of the ODP, noting however that the relevant provisions of the ODP should be afforded very little weight given the procedural stage that the PDP zoning has reached with respect to the application site. We consider that the application is not contrary to the relevant objectives and policies of the PDP.
104. We consider that the proposed development, subject to conditions attached to this decision will not have effects on the environment that are more than minor. Accordingly we are satisfied that at least one of the two tests under section 104D has been passed.
105. Notwithstanding our conclusions with respect to section 104D, we still have discretion under section 104 to determine whether or not the application should be granted. The relevant provisions of that section are as follows:

#### *104 Consideration of applications*

*(1) when considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to –*

- (a) any actual or potential effects on the environment of allowing the activity; and*
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate any adverse effects on the environment that will all may result from allowing the activity; and*
- (b) any relevant provisions of –*
  - (i) a national environmental standard*
  - (ii) other regulations;*
  - (iii) a national policy statement;*
  - (iv) a New Zealand coastal policy statement;*
  - (v) a regional policy statement or proposed regional policy statement;*
  - (vi) a plan or proposed plan; and*
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

*(2) when forming an opinion for the purposes of subsection (1) (a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*

.....

*(3) a consent authority must not, –*

- (a) when considering an application, have regard to –*
  - (i) trade competition or the effects of trade competition; or*
  - (ii) any effect on a person who has given written approval to the application.*

.....

106. We do not consider the scope and scale of the application raises any matters of national importance under section 6 of the RMA, but we would make the observation that the application is consistent with subsection (d) in that it maintains and/or enhances public access to Bullock Creek. We consider any risk of natural hazards pursuant to subclause (h) can be sufficiently managed such that a 'significant risk' can be avoided.
107. In terms of section 7 of the RMA, we consider the development would make an efficient use and development of the land resource given the physical limitations of the site. We also consider that the proposed activity is consistent with subsections (c) – the maintenance and enhancement of amenity values and (f) the maintenance and enhancement of the quality of the environment, subject to the imposition of conditions to address the management of the proposed activities on the site.
108. Overall, we consider that the purpose of the Act under Section 5, would be better achieved by a grant of consent, and that potential adverse effects of the activity on the environment can be avoided through the imposition of conditions.
109. Earlier we have concluded that the actual and potential effects on the environment of allowing the activity will be no more than minor. We are not aware of any specific measures proposed by the applicant under subclause 104(1)(ab).

110. We do not consider that subclauses (b) (i –iv) have any application to this proposal. In terms of and the Operative Otago Regional Policy Statement, and the Proposed Otago Regional Policy Statement (subclause 104(b)(v)), we do not consider this application raises any matters of regional significance. We agree with Mr Child’s assessment in his S42 a report that the proposal is consistent with both regional plan documents.
111. Section 104(2) provides for the application of what is termed the ‘permitted baseline’. We consider that this has limited relevance to the current application, as while buildings on the site are clearly contemplated by the zoning under both the ODP and the PDP, they are a restricted discretionary activity with respect to urban design. Nevertheless, commercial and residential activities are clearly a permitted activity under the PDP, and such activities and larger buildings can reasonably be expected to be developed on the site even if this application were not granted.
112. We do not consider that matters of trade competition are a factor in this application.
113. Only two parties provided their written consent to the application, and we have disregarded any effects on them directly, noting that many of the neighbouring residents have lodged objections in opposition.

#### **DECISION**

114. We have resolved that pursuant to sections 104, 104D and 108 of the RMA, that consent be granted to the application subject to the conditions specified below.



Robert Charles Nixon

Chair, Hearings Panel

19 December 2018

#### **APPENDIX 1 – General Conditions**

## **APPENDIX 1 – GENERAL CONDITIONS**

1. That the development must be undertaken/carried out in accordance with the plans:
  - '42, 46-50 Brownston Street – Food Truck Garden: (Amended Plan) Cover Sheet [dated 5/11/2018]'
  - '42, 46-50 Brownston Street – Food Truck Garden: Context Plan [no 1.1 Rev 1.03] [dated 04/11/18]'
  - 42, 46-50 Brownston Street – Food Truck Garden: Site Plan [no. 1.2 Rev 1.03] [ dated 04/11/2018]
  - '42, 46-50 Brownston Street – Food Truck Garden: Urban Design/Planting Plan [no 1.3 Rev 1.03] [dated 04/11/18]'
  - '42, 46-50 Brownston Street – Food Truck Garden: Parking Plan, Vehicle Manoeuvring [no 1.4 + 1.5 Rev 1.03] [dated 04/11/18]'
  - '42, 46-50 Brownston Street – Food Truck Garden: Signage and Toilets [no 1.6 Rev 1.03] [dated 04/11/18]'
  - '42, 46-50 Brownston Street – Food Truck Garden: Proposed Earthworks [no 1.7 Rev 1.03] [dated 04/11/18]'
  - '42, 46-50 Brownston Street – Food Truck Garden: Site Management & Drainage Plan [no 1.8 Rev 1.03] [dated 04/11/18]'
  - '42, 46-50 Brownston Street – Food Truck Garden: Artist Impression / Street View & [no 1.9 Rev 1.03 [dated 04/11/.18]'
  - '42, 46-50 Brownston Street – Food Truck Garden: Lighting Plan / Examples [no.1.10 Rev 1.03 dated 2/12/2018]

**stamped as approved on 17 December 2018;**

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.
3. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.

### **Building Platforms**

4. The consent holder shall submit for certification to Council the plans, including signage, for each new food truck prior to it being installed on the site.
5. There shall be no more than 10 food trucks/relocatable vendor stalls on the site at any one time located within the Relocatable Vendor Platform identified on the Site Plan.

### **Hours of operation**

6. The hours of operation shall be limited to Monday to Sunday 7:30am to 9:30pm. Between the hours of 8:00pm and 9:30pm, access for members of the public shall be restricted to the food vendor patron area only.



7. No alcohol shall be sold from the premises outside of 11:00am to 9:30pm Monday to Sunday.
8. Consumption of food and beverages on site shall only occur within the Food Vendor Patron Area as identified on the '42, 46-50 Brownston Street – Food Truck Garden: Site Plan [no 1.2 Rev 1.03] [dated 04/11/18]'.

#### Landscaping

9. The landscaping plan approved by Condition 1 shall be implemented within the first planting season following the installation of the first food truck onto the site. The plants shall thereafter be maintained and irrigated in accordance with that plan. If any plant or tree should die or become diseased it shall be replaced within the next available planting season with the same species. Any changes to the approved species must be submitted to Council for certification prior to planting taking place.
10. Outside storage associated with the operation shall be limited to outdoor dining furniture within the seating area. This condition does not apply to the storage of waste within the waste collection area identified on the Urban Design, Planting Plan.

#### Lighting

11. External lighting must be established in general accordance with the 42, 46-50 Brownston Street – Food Truck Garden: Lighting Plan / Examples [no.1.10 Rev 1.03 dated 2/12/2018].
12. The final external lighting plan for the site must be submitted to Council for certification prior to the operation of the food trucks commencing to confirm that the external lighting does not result in more than 3.0 lux spill (horizontal and vertical) onto any adjacent residential lot. Any amendments to that external lighting design proposed for the site in the future shall also be submitted for certification prior to its installation on-site.
13. All external lighting shall be designed so as to avoid or minimise glare from any light source for any persons located on any adjacent residential lot.
14. All festoon and wash/spot lights (hardscape) as identified on – Food Truck Garden: Lighting Plan / Examples [no.1.10 Rev 1.03 dated 2/12/2018] shall be turned off by 9:30pm every day.

#### Waste

15. Rubbish must be collected from the site between 7:30am and 6:00pm.
16. Glass rubbish must not be transferred between bins in the Waste Collection Area outside of 8:00am and 6:00pm Monday to Sunday. This does not preclude full bins from the Food Vendor Patron Area being wheeled up to the Waste Collection Area after 6:00pm.

17. A Management Plan for the operation of the food truck village must be submitted to the Council for approval prior to commencement of the activity. The purpose of the management plan is to set out the methods that will be employed by the consent holder to manage the activity on the site to assist in mitigating the effects on neighbours. The Management Plan must include the methodology for managing the following:
- a) Management and disposal of rubbish and recycling including:
    - (i) Frequency of rubbish/recycling pick up
    - (ii) Management of rubbish bins within the Food Vendor Area to minimise the need for management to frequent the Waste Collection Area between 6:00pm and 7:30am the following day.
    - (iii) Identifying the route for moving bins to minimise noise created by this task such as avoiding the need to negotiate steps or uneven ground unnecessarily.
  - b) Provide a phone number and email address to provide the local community the ability to contact the site manager to register complaints about site management issues;
  - c) Vendor training requirements including dealing with difficult customers and understanding of the duty to minimise noise effects on adjoining residential properties.
  - d) Advice on music selection to avoid music with heavy base.
  - e) Procedures/responsibilities for vacating patrons from the site at 9:30pm, and vacating the peripheral areas of the site outside the food vendor patron area at 8:00pm.
  - f) Steps to be taken by staff to minimise noise created during pack down and while vacating the site after 9:30pm.
  - g) Responsibility for turning off the on-site lighting at the end of each evening.

#### Noise

18. Speakers associated with background music must be located in the locations identified on the '42, 46-50 Brownston Street – Food Truck Garden: Urban Design/Planting Plan [no 1.3 Rev 1.03] [dated 04/11/18]' and must be orientated towards Brownston Street. Music playing from them shall not exceed 75dB LAeq(5 min) measured at 0.6 metres from the loudspeaker.
19. All amplified sound on-site must cease by 9:30pm.

#### ***Prior to the operation of the food vendors***

20. If any of the approved plans listed in Condition 1 above have been varied to a minor extent following the issue of this consent, the amended plan/s shall be submitted to council for certification prior to the commencement of the operation of the food trucks on-site.
21. An appropriately qualified Acoustic Engineer shall review the mechanical services design of all proposed plant installations associated with each of the food vendor facilities to ensure the noise emissions comply with the noise limits where received at the boundaries of neighbouring properties, at all times.

22. The 1.9m acoustic fence shall be constructed on the boundary of the application site (above existing ground level) and maintained in accordance with the Urban Design and Planting Plan approved under Condition 1 (except as provided for in condition 23 below).
23. The acoustic fence constructed on the boundary of the application site and the property at 35A Upton Street and held in Certificate of Title OT16C/19 (The Wollstein Property) must be between 1.5m and 1.9m in height.
24. The Acoustic fences required under conditions 22 and 23 above shall be constructed to achieve a density of 10kgm<sup>2</sup> and have no gaps.
25. A 2m high impermeable fence shall be constructed and maintained between (or behind) individual food vendors in accordance with the Urban Design, Planting Plan approved under Condition 1. If a food vendor vacates the food vendor platform the vendor shall be replaced or the 2m fence shall be established in the vacant area to ensure that barrier remains contiguous at all times.
26. Prior to the commencement of the Food Truck activity on the site the applicant shall provide a report from a suitably qualified acoustic engineer confirming the noise level for the speakers specified in condition 18 above will be complied with.

#### Signage

27. Each food stall shall have a maximum of one signage platform that takes up no more than 75% of the street-facing side of the vehicle.
28. The main site sign and directory sign proposed at the front entrance shall each have a maximum area of 2m<sup>2</sup>.
29. The final designs for all signage shall be submitted to Council for certification prior to the commencement of the operation of the food trucks on-site. Any new sign design introduced to the site on a new food truck shall also be subject to the requirement for certification by council prior to installation.

#### Engineering

##### **General**

30. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 3rd May 2018 and subsequent amendments to that document up to the date of issue of any resource consent.

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

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

31. At least 7 days prior to commencing excavations, the consent holder shall provide the Manager of Resource Management Engineering at Council with the name of a suitably qualified professional as defined in Section 1.7 of QLDC's Land Development and Subdivision Code of Practice who is familiar with the GeoSolve Ltd report (GeoSolve ref 150411, dated August 2015) and who shall supervise the excavation and filling procedure. Should the site conditions be found unsuitable for the proposed excavation/construction methods, then a suitably qualified and experienced engineer shall submit to the Manager of Resource Management Engineering at Council new designs/work methodologies for the works prior to further work being undertaken, with the exception of any necessary works required to stabilise the site and/or prevent sediment entering Bullock Creek in the interim.
32. At least 5 working days prior to commencing work on site the consent holder shall advise the Manager of Resource Management Engineering at Council of the scheduled start date of physical works. Compliance with the prior to commencement of works conditions detailed in Conditions (34-36) below shall be demonstrated.
33. Prior to commencing works on site, the consent holder shall obtain and implement a traffic management plan approved by Council if any parking, traffic or safe movement of pedestrians will be disrupted, inconvenienced or delayed, and/or if temporary safety barriers are to be installed within or adjacent to Council's road reserve.
34. Prior to commencing any work on the site the consent holder shall install a construction vehicle crossing in the northern corner of the site, which all construction traffic shall use to enter and exit the site. The minimum standard for this crossing shall be a minimum compacted depth of 150mm AP40 metal that extends 5m into the site. Wooden planks or similar shall be provided to protect the footpath and kerb from damage caused by construction traffic movements, in accordance with '*A Guide to Earthworks in the Queenstown Lakes District*' brochure, prepared by the Queenstown Lakes District Council.

The construction traffic crossing shall be upgraded in accordance with Condition 42(b) on completion of works.

35. Prior to commencing any works on the site, the consent holder shall obtain 'Engineering Review and Acceptance' from the Queenstown Lakes District Council for all development works and information requirements specified below. An 'Engineering Review and Acceptance' application shall be submitted to the Manager of Resource Management Engineering at Council and 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 (31), to detail the following requirements:
  - a) A report, prepared by a suitably qualified engineer, providing details of how all groundwater and stormwater flows to and on the site will be affected by the development. This shall include details of all drainage necessary to collect all existing and potential groundwater seepage from the subject site and all existing groundwater and stormwater flows from neighbouring sites, and convey these flows to Bullock Creek. Any water flows into Bullock Creek shall be free of sediment. This shall include details of any clean and dirty water diversion channels, sediment detention ponds and dewatering pumping required during the proposed works as required to ensure that no sediment enters Bullock Creek.

- b) The consent holder shall submit a construction Site Management Plan. This shall detail measures to control and or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with (but not limited to) the with QLDC's Land Development and Subdivision Code of Practice and 'A Guide to Earthworks in the Queenstown Lakes District' brochure, prepared by the Queenstown Lakes District Council. These reviewed 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 exposed areas of earth are permanently stabilised. In addition the measures shall include, but not be limited to, the following:

#### *Dust Control*

- Sprinklers, water carts or other similar measures shall be utilised on all materials to prevent dust nuisance in the instance of ANY conditions whereby dust may be generated.

#### *Stormwater, Silt and Sediment Control*

- Retention ponds and associated silt traps (in the form of fabric filter dams) shall be in place prior to the commencement of works on site to trap stormwater sediments before stormwater is funnelled into Bullock Creek.
- Site drainage paths shall be constructed and utilised to keep any silt laden materials on site and to direct the flows to the retention ponds and/or silt traps.
- Stormwater flows into the site from neighbouring lots shall be managed during earthworks.
- Retention ponds and silt traps shall be replaced or maintained as necessary to ensure that they are effective in their purpose.
- All stormwater, silt and sediment control measures shall be in accordance with the recommendations of the report approved under Condition (36a).
- The principal contractor shall take proactive measures in stopping all sediment laden groundwater and/or stormwater from entering Bullock Creek. The principal contractor shall recognise that this may be above and beyond conditions outlined in this consent.

#### *Roading Maintenance*

- The consent holder shall ensure tyres remain free of mud and debris by utilising a shake-down grid, constructing a gravel hardstand area of sufficient depth, and any other measures as necessary.

#### *Traffic Management*

- Suitable site warning signage shall be in place on the road in both directions from the site entrance.
- Pedestrian routes shall be maintained along Brownston Street.
- Safety 'dayglo' vests or similar shall be worn by any staff working on the road.
- Safe sight distances and passing provisions shall be maintained.

#### *Construction Methodology*

- A detailed construction methodology, ensuring that all measures required to prevent sediment run-off into Bullock Creek are in place prior to each stage of works.

The measures outlined in this condition are minimum required measures only. The principal contractor shall take proactive measures in all aspects of the site's management to ensure that virtually no effects are realised with respect to effects on the environment, local communities or traffic. **The principal contractor shall recognise that this may be above and beyond conditions outlined in this consent.**

***To be monitored throughout earthworks***

36. The earthworks and batter slopes shall be undertaken in accordance with the recommendations of the report by GeoSolve Ltd (GeoSolve ref 150411, dated August 2015).
37. The site management shall be undertaken in accordance with the accepted report provided under Condition (36).
38. The Manager of Resource Management Engineering at Council shall be notified and work shall stop immediately if any cracking, movement, structural distress or damage to existing buildings, structures, underground services, public roads, pathways and/or surrounding land occurs.
39. 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.
40. No earthworks, temporary or permanent, are to breach the boundaries of the site except for the construction of an approved vehicle crossing.

***To be completed before operation of the food trucks***

41. Prior to the operation of the food trucks, the consent holder shall complete the following:
  - a) Certification from a suitably qualified geo-professional experienced in soils investigations shall be provided to the Manager of Resource Management Engineering at Council, in accordance with NZS 4431:1989, for all areas of fill within the site. Note this will require supervision of the fill compaction by a suitably qualified geo-professional.
  - b) The submission of 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this development at the consent holder's cost. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all stormwater reticulation (including all internal drainage).
  - c) The provision of a sealed vehicle crossing that shall be constructed to the site in accordance with the approval granted on the 10 November 2017 to Council's standards.
  - d) The construction of all vehicle manoeuvring and car parking areas to Council's standards. Provision shall be made for stormwater disposal from all impermeable surfaces.
  - e) The completion and implementation of all certified works detailed in Condition (36) above.
  - f) All earthworked areas shall be top-soiled and revegetated or otherwise permanently stabilised.

- g) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

#### Review

43. Within ten working days of each anniversary of the date of this decision the Council may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
  - a) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
  - b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
  - c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.
  - d) To address any unanticipated effects arising from the external appearance of any food truck that is inappropriate for the context of the site; such as very bright or reflective colours or materials and/or inappropriate imagery/text
  - e) With respect to the following conditions:
    - (i) Conditions 4-19 in relation to the operation of the facility and associated noise levels.

#### **Advice Note**

1. The consent holder is advised to familiarise themselves with the Otago Regional Council's Regional Plan: Water and undertake all works in accordance with the Rules therein.
2. In the event that any food truck requires a connection to Council's wastewater reticulation, a Building Consent will be required. Even if a Building Consent is not required, all building work should comply fully with the NZ Building Code, including any relevant accessibility requirements.
3. Please note that any food vendors on the site are subject to the relevant provisions of the Food Act 2014 and section 29 of the Health Act 1956.

4. The consent holder is advised to undertake a pre-construction condition survey, including photographs, to record the existing condition of all neighbouring buildings, landscaping and roads that lie within 5m of the proposed works. The extent of the pre-construction survey is related to the site and its surrounds and the associated potential risks. The existing condition of roading, landscaping and structures needs to be documented by way of photos, focusing on any damage that is already apparent. Items such as minor cracking in plaster will be very difficult to identify, and in these cases other methods would need to be employed to determine if they were formed as a result of the consented works. The survey will never cover everything but it aims to provide a record that can be reviewed in the event of a complaint or issue being raised.

#### **For Your Information**

If your decision requires monitoring, we will be sending an invoice in due course for the deposit referred to in your consent condition. To assist with compliance of your resource consent and to avoid your monitoring deposit being used before your development starts, please complete the “[Notice of Works Starting Form](#)” and email to the Monitoring Planner at [RCMonitoring@qldc.govt.nz](mailto:RCMonitoring@qldc.govt.nz) prior to works commencing.

You may also have conditions that require you to apply for Engineering Acceptance. To apply for Engineering Acceptance, please complete the [Engineering Acceptance Application form](#) and submit this completed form and an electronic set of documents to [engineeringacceptance@qldc.govt.nz](mailto:engineeringacceptance@qldc.govt.nz) with our monitoring planner added to the email at [RCMonitoring@qldc.govt.nz](mailto:RCMonitoring@qldc.govt.nz).

If your decision requires a development contribution (DC) charge, we will be sending a notice in due course. To answer questions such as what is a DC charge, when a DC charge is triggered and timing of payments, please refer to this link. <http://www.qldc.govt.nz/planning/development-contributions/> If you wish to make a DC estimate calculation yourself, please use this link: <http://www.qldc.govt.nz/planning/development-contributions/development-contributions-estimate-calculator/> And for full details on current and past policies, please use this link: <http://www.qldc.govt.nz/council-online/council-documents/policies/policy-on-development-contributions-and-financial-contributions/>



QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM180335

Monday, 17 December 2018

42, 46 - 50 BROWNSTON STREET

FOOD VENDOR GARDEN  
(AMENDED PLAN)  
05/11/2018  
TEAT FAMILY TRUST

Pg	INDEX
1.1	CONTEXT PLAN AND BROWNSTON ST CROSS SECTION
1.2	SITE PLAN
1.3	URBAN DESIGN AND PLANTING PLAN
1.4	PARKING PLAN, VEHICLE MANOEUVRING
1.5	PARKING PLAN, VEHICLE MANOEUVRING
1.6	SIGNAGE & TOILETS
1.7	PROPOSED EARTHWORKS
1.8	SITE MANAGEMENT & DRAINAGE PLAN
1.9	ARTIST IMPRESSION / STREET VIEW
1.10	LIGHTING PLAN/EXAMPLES



KEY	
<div></div>	VISITOR ACCOMMODATION
<div></div>	RESIDENTIAL USE
<div></div>	RETAIL/COMMERCIAL
<div></div>	RETAIL/OFFICES
<div></div>	WATER WAYS
<div></div>	MOBILE FOOD VENDORS



CONTEXT PLAN AND  
LAND CROSS SECTION

THE SURROUNDING  
LAND NATURALLY FALLS  
TOWARDS BULLOCK  
CREEK. THE PROPOSED  
SITE SITS LOWER THAN  
ALL NEIGHBOURING  
PROPERTIES.

NEIGHBOURING PROPERTY

The surrounding properties comprise  
of a mix of commercial and residential  
activities. Retail, Motels, Backpackers,  
Residential flats and family homes

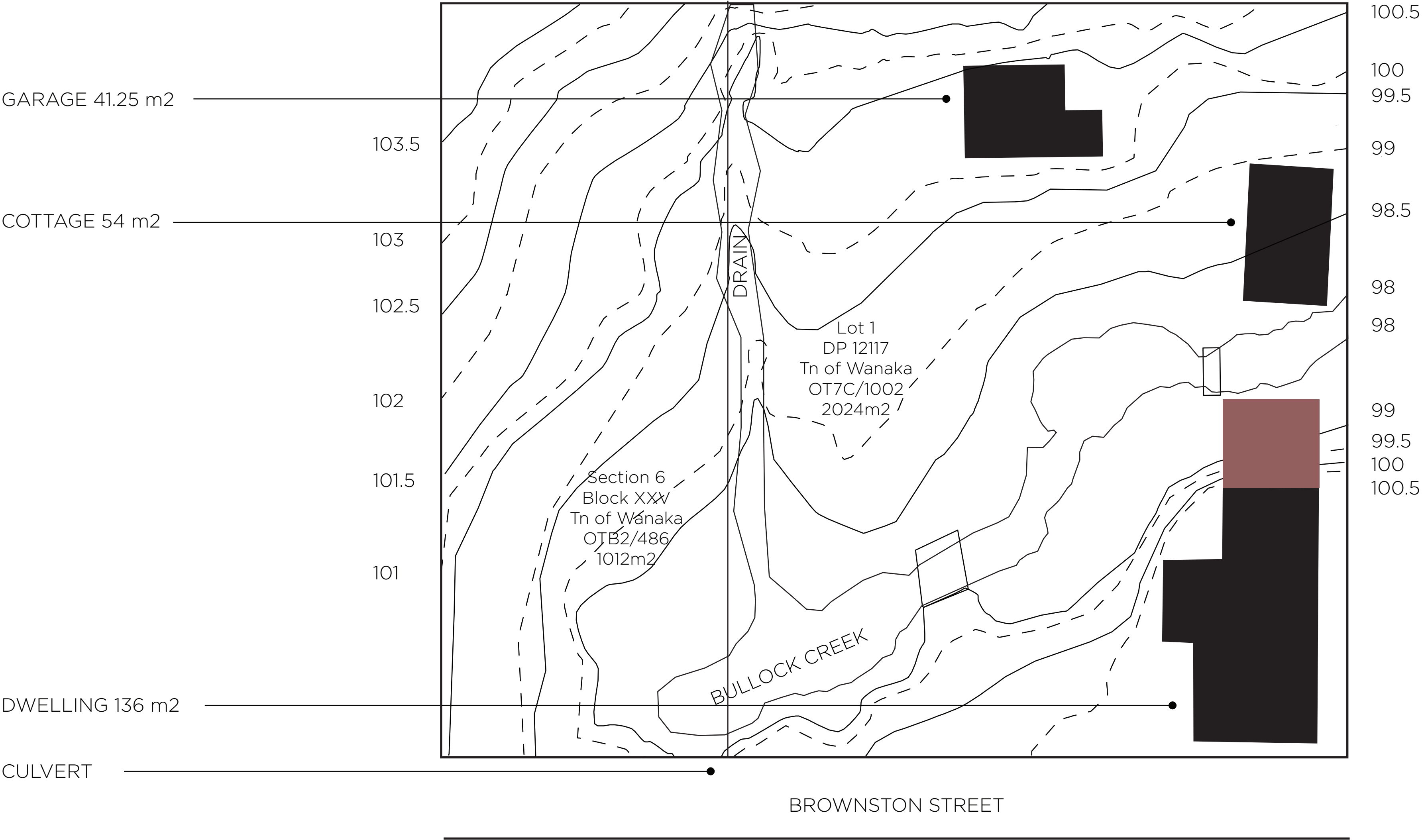
Currently mobile food vendors are situated  
on opposite side of Brownston Street.

BROWSTON STREET  
CROSS SECTION

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM180335

Monday, 17 December 2018



CURRENT SITE COVERAGE

**SITE SIZE:** 3,033 m2

**BUILDING COVERAGE:** 231.25 m2

**Building 1:** House 136 m2

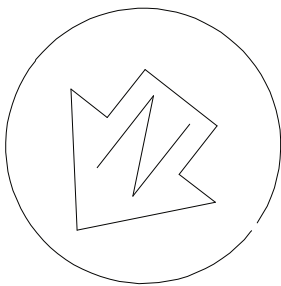
**Building 2:** Cottage 54 m2

**Building 3:** Garrage 41.25 m2

LANDSCAPING

3 Existing Mature Trees  
Improvements and  
development of Bullock Creek  
(Water Way)  
2 Pedestrian Bridge

RECENTLY DEMOLISHED  
SECTION OF DWELLING



CASE

**JOB:**  
42, 46-50 BROWNSTON STREET

**CLIENT:**  
TEAT FAMILY TRUST

**DRAWING TITLE:**  
CONTEXT PLAN

**DATE:**  
04/11/2018

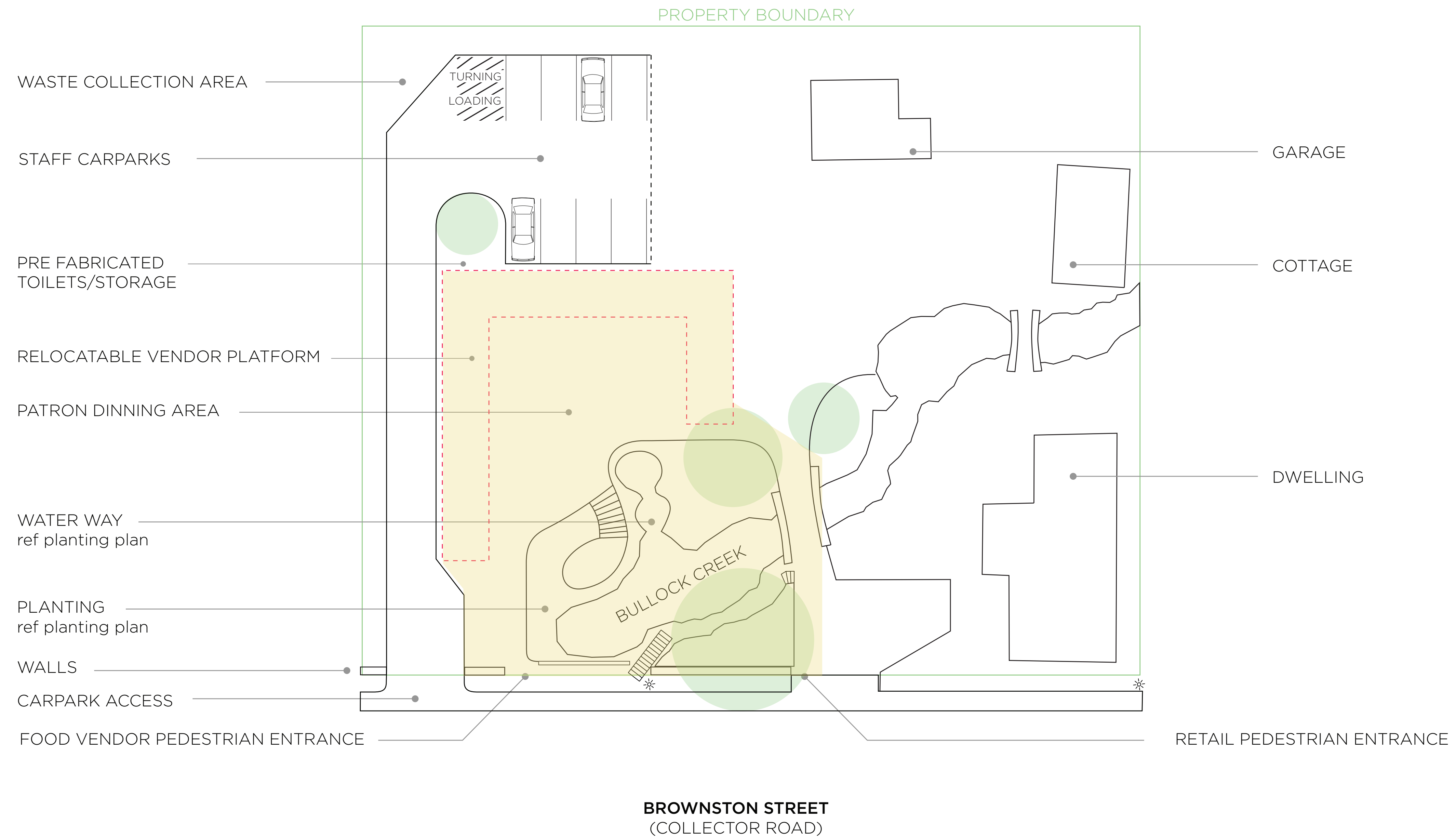
**REV:**  
1.03

**SCALE:**  
NOT TO SCALE

**DRAWING No:**  
1.1

**DESIGNED BY:**  
CASEY TEAT






- ESTABLISHED TREES  
ref planting plan
  - RELOCATABLE VENDOR PLATFORM
  - FOOD VENDOR PATRON AREA
- An internal screening/acoustic fence will be located between or behind vendor stalls forming a boundary to the food vendor patron area.

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**APPROVED PLAN:  
RM180335**

**Monday, 17 December 2018**

SITE COVERAGE (approx)	m2
SITE SIZE	3,033 m2
AVERAGE VENDOR SIZE	9.45 m2
CAR PARKING & ROADING	332 m2
DINNING/WAITING AREA	144 m2

- ACCESS/PATHS:
-  WHEEL CHAIR ACCESS  
Wide entrance and level dining area
- 3m wide entrance
  - 1m deep ordering platform allocation
  - 2m wide pedestrian thoroughfare
- DINNING/WAITING AREA:
- Central courtyard and creek side.
- AVERAGE VENDOR STALL SIZE:
- 4.5m x 2.1m
  - 9.45m2
- VENDOR QUANTITY:
- Maximum of 10 stalls



EXAMPLES OF INTERNAL ACOUSTIC FENCING

The fence will be made of plywood panelling or board and batten.

CASE	
JOB: 42, 46-50 BROWNSTON STREET	
CLIENT: TEAT FAMILY TRUST	
DRAWING TITLE: SITE PLAN	
DATE: 04/11/2018	REV: 1.03
SCALE: 1:200 @ A1	DRAWING No: <b>1.2</b>
DESIGNED BY: CASEY TEAT	





- WHEEL CHAIR FRIENDLY  
Wide entrance and level dinning area
- TABLE
- RELOCATABLE VENDOR
- SPEAKERS (six speakers)
- ACOUSTIC FENCE
- INTERNAL ACOUSTIC FENCE/SCREENING

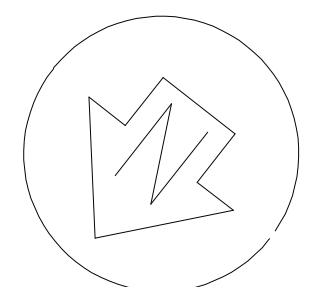


EXAMPLE OF BOUNDARY ACOUSTIC FENCE

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM180335

Monday, 17 December 2018

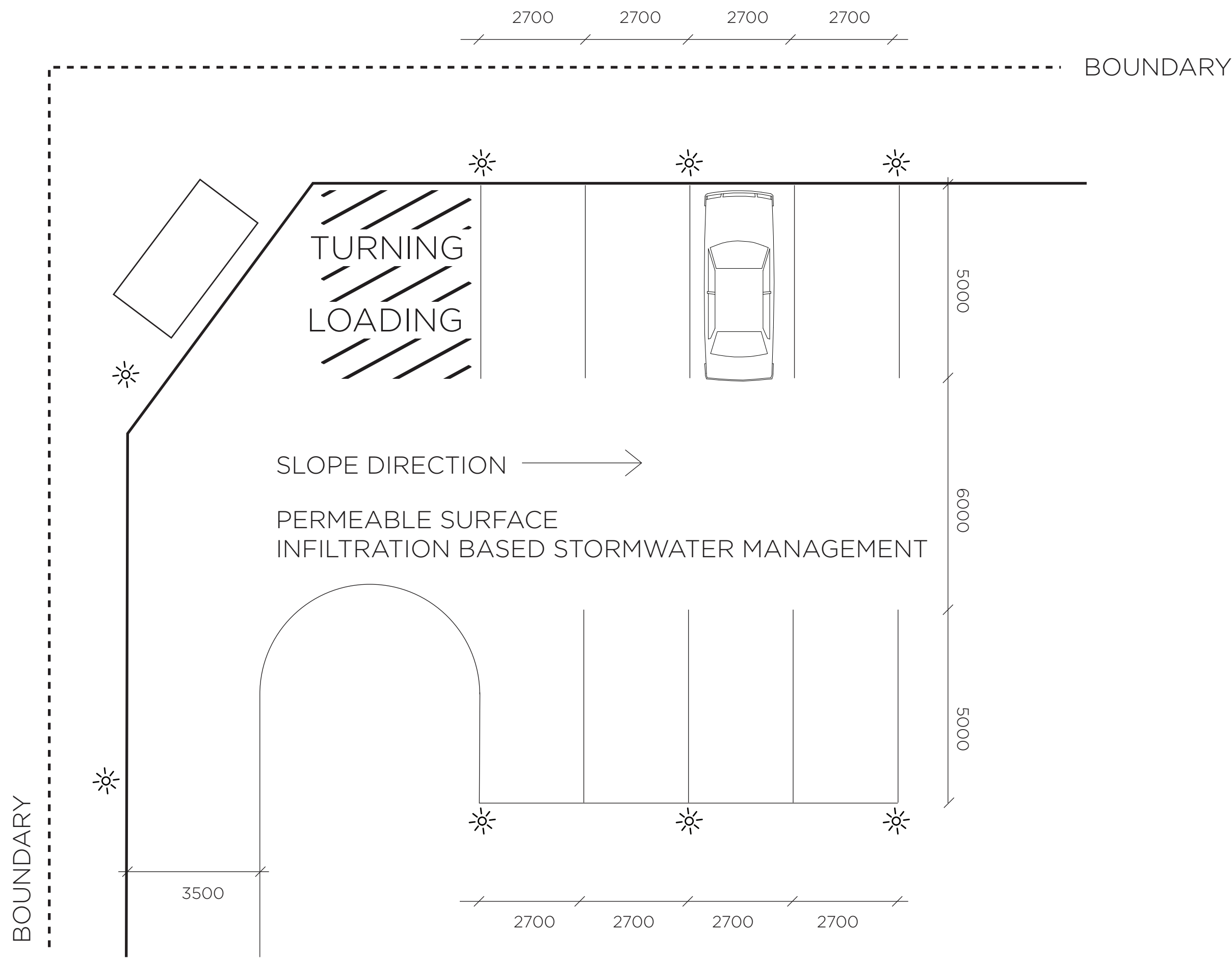


SITE PLANTING LEGEND	
SYMBOL	PLANT/MATERIAL
	WINDMILL PALM
	AECULUS & CARNEA PLANTIERENSIS
	ALBIZIA JULIBRISSIN ROSEA
	WHITE EVERGREEN AZALEA
	RHODODENDRON spiced honey 2m

	STREAMSIDE MIX, GUNNERA FERNs, RODGERSIA, JAPANESE IRIS, HOSTA
	CRAB APPLE (Existing)
	MAGNOLIA GRANDIFLORA (Existing)
	WALNUT (Existing)
	CABBAGE TREE (Existing)
	MALUS RED JADE STANDARD

	HEDGING: Michela Velvet & Cream Under planted with Ophiopogon & Bulbs (Mondo Grass)
	CORDYLINE CARDINAL
	GRASS
	FINE GRAVEL/PERMIABLE SURFACE
	WATER/STREAM
	SEALED SURFACE

CASE	
JOB: 42, 46-50 BROWNSTON STREET	
CLIENT: TEAT FAMILY TRUST	
DRAWING TITLE: URBAN DESIGN, PLANTING PLAN	
DATE: 04/11/2018	REV: 1.03
SCALE: 1:100 @ A1	DRAWING No: <b>1.3</b>
DESIGNED BY: CASEY TEAT	



**PARKING PLAN**

SCALE 1:100

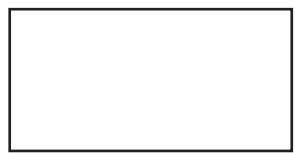
PARKING PROVIDED

- 0 GUEST PARKS
- 1 TURNING/LOADING BAY
- 8 VENDOR CAR PARKS

LIGHTING BOLLARDS



RUBBISH COLLECTION

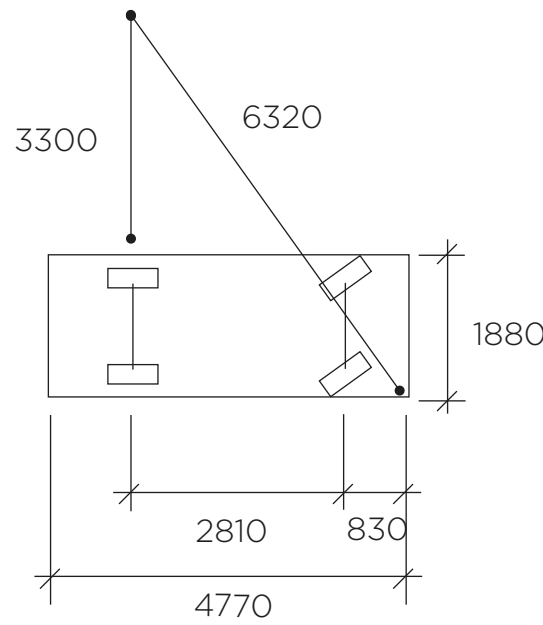


**RUBBISH**

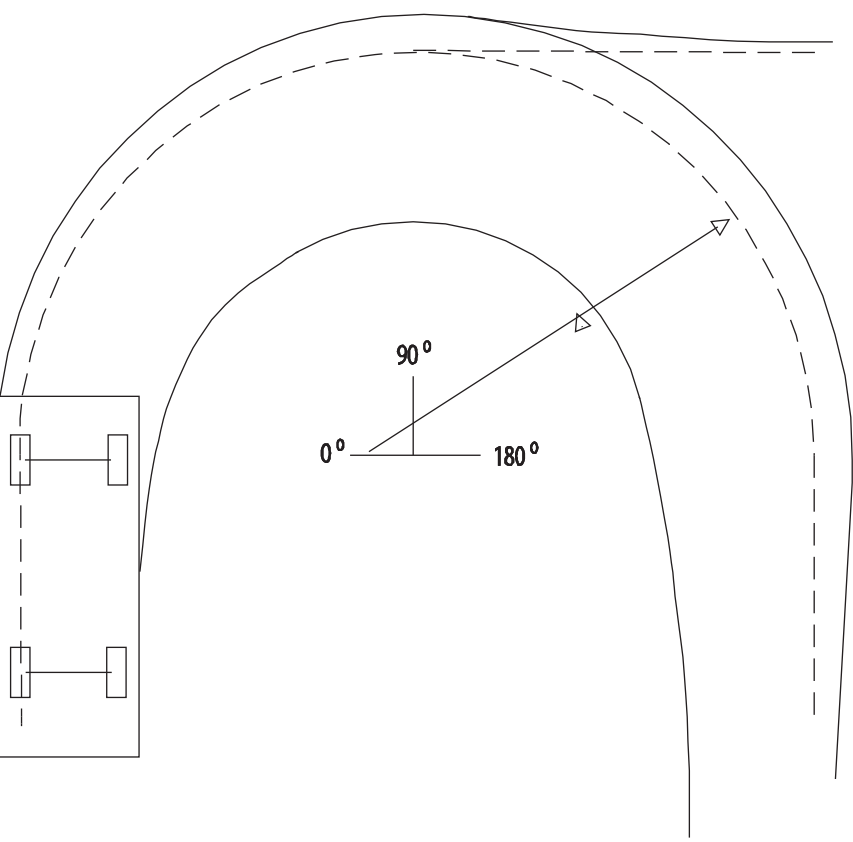
SITE COLLECTION POINT FOR GLASS, PLASTIC, CARDBOARD AND ORGAINC MATERIAL UNTIL PICK UP BY WASTE BUSTERS.  
STORAGE FOR GENERAL WASTE PRIOR TO ROADSIDE PICK UP BY ALL WASTE.

INDIVIDUAL RUBBISH BINS WILL BE LOCATED WITHIN THE GARDEN TO ENSURE PUBLIC WASTE IS COLLECTED.  
THIS WASTE WILL THEN BE TRANSFERED TO THE SITE WASTE COLLECTION POINT.

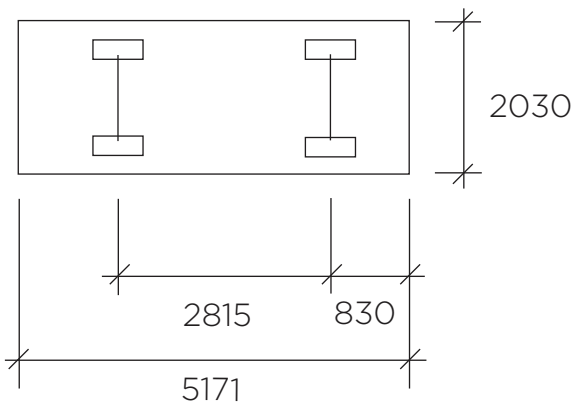
**90TH PERCENTILE VEHICLE**  
VEHICLE DIMENSIONS:



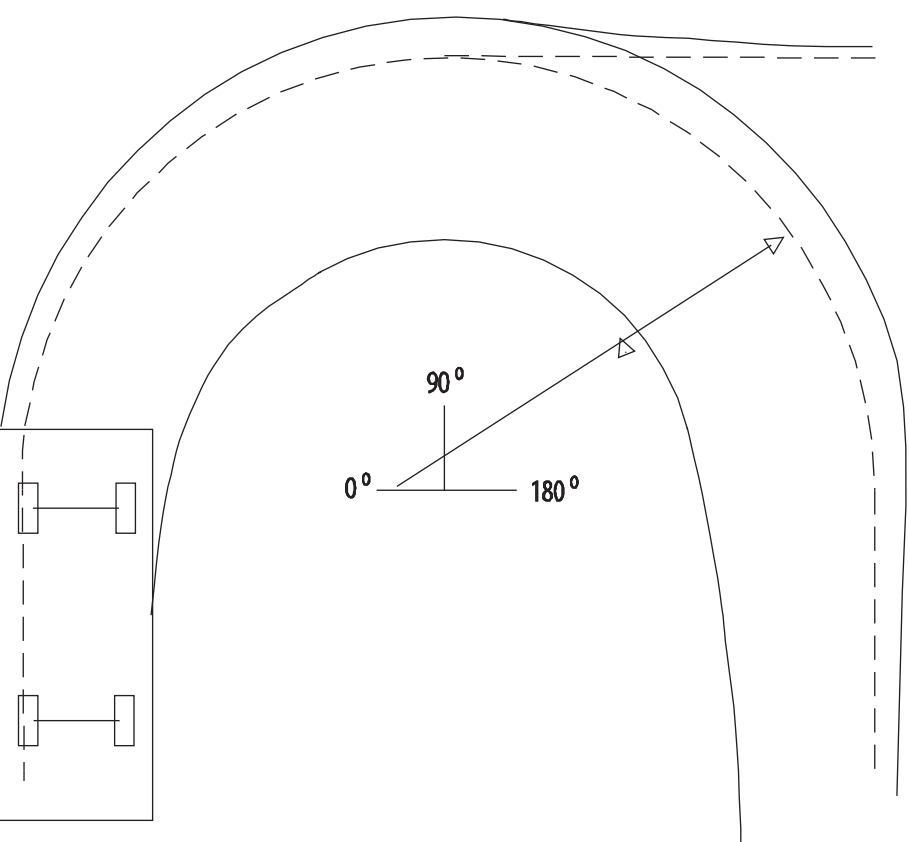
TURNING RADIUS: 6320



**GOODS DELIVERY/WASTE COLLECTION VEHICLE**  
**MITSUBISHI CANTER**  
VEHICLE DIMENSIONS:



TURNING CIRCLE: 11400



**QUEENSTOWN LAKES DISTRICT COUNCIL**

**APPROVED PLAN:  
RM180335**

**Monday, 17 December 2018**

CASE

JOB:  
42, 46-50 BROWNSTON STREET

CLIENT:  
TEAT FAMILY TRUST

DRAWING TITLE:  
PARKING PLAN, VEHICLE MANOEUVRING

DATE:  
04/11/2018

REV:  
1.03

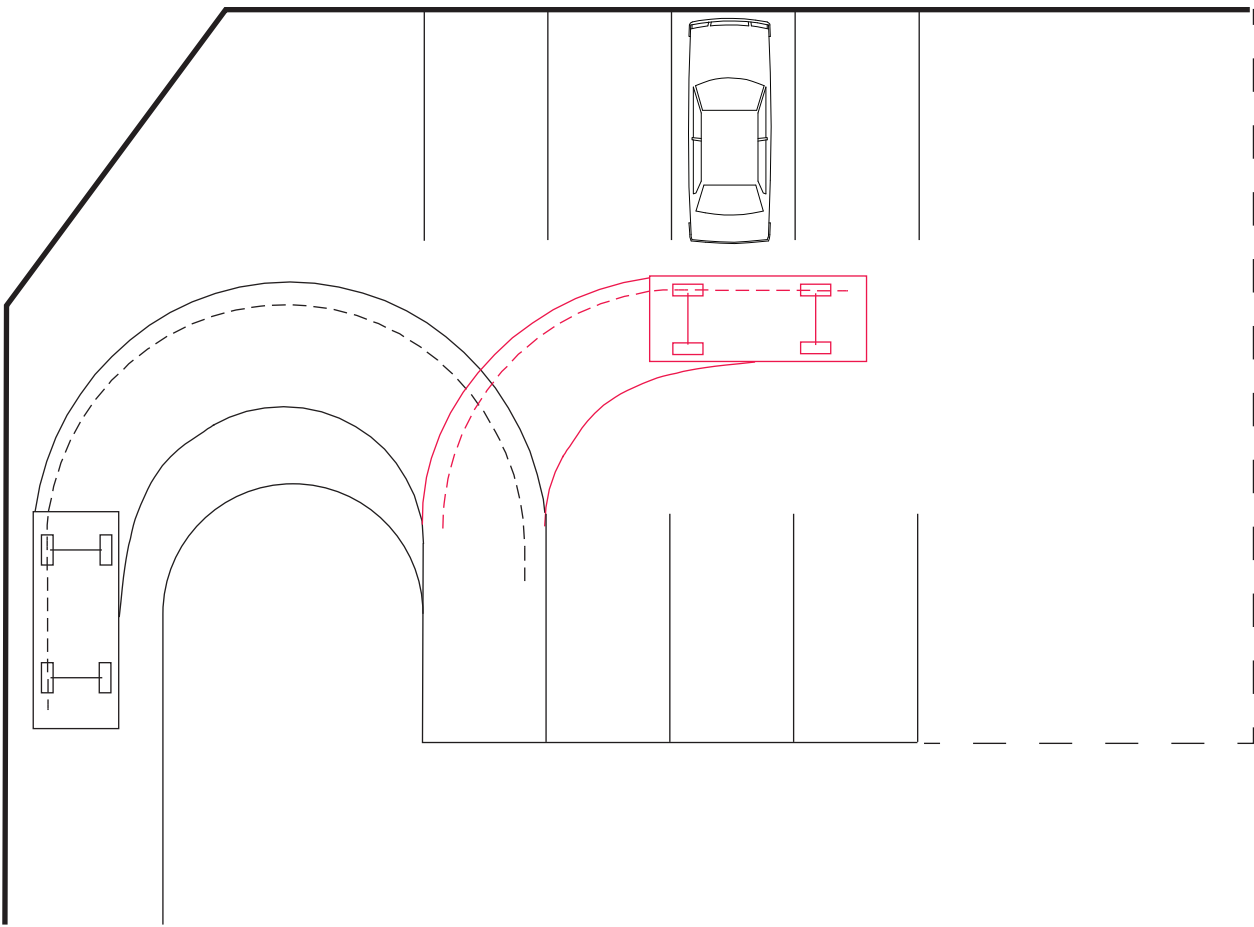
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DRAWING No:  
**1.4**

DESIGNED BY:  
CASEY TEAT

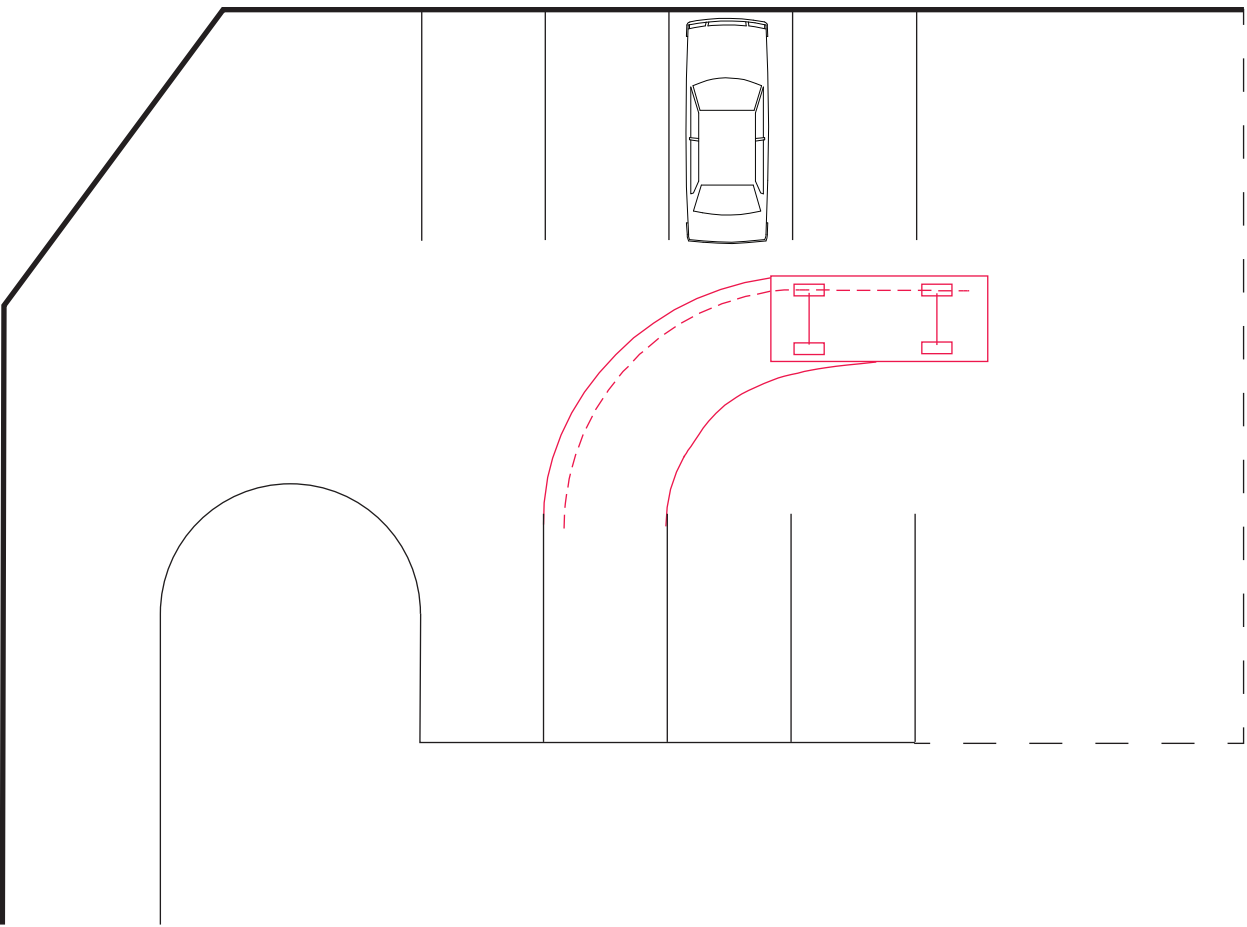


90TH PERCENTILE VEHICLE



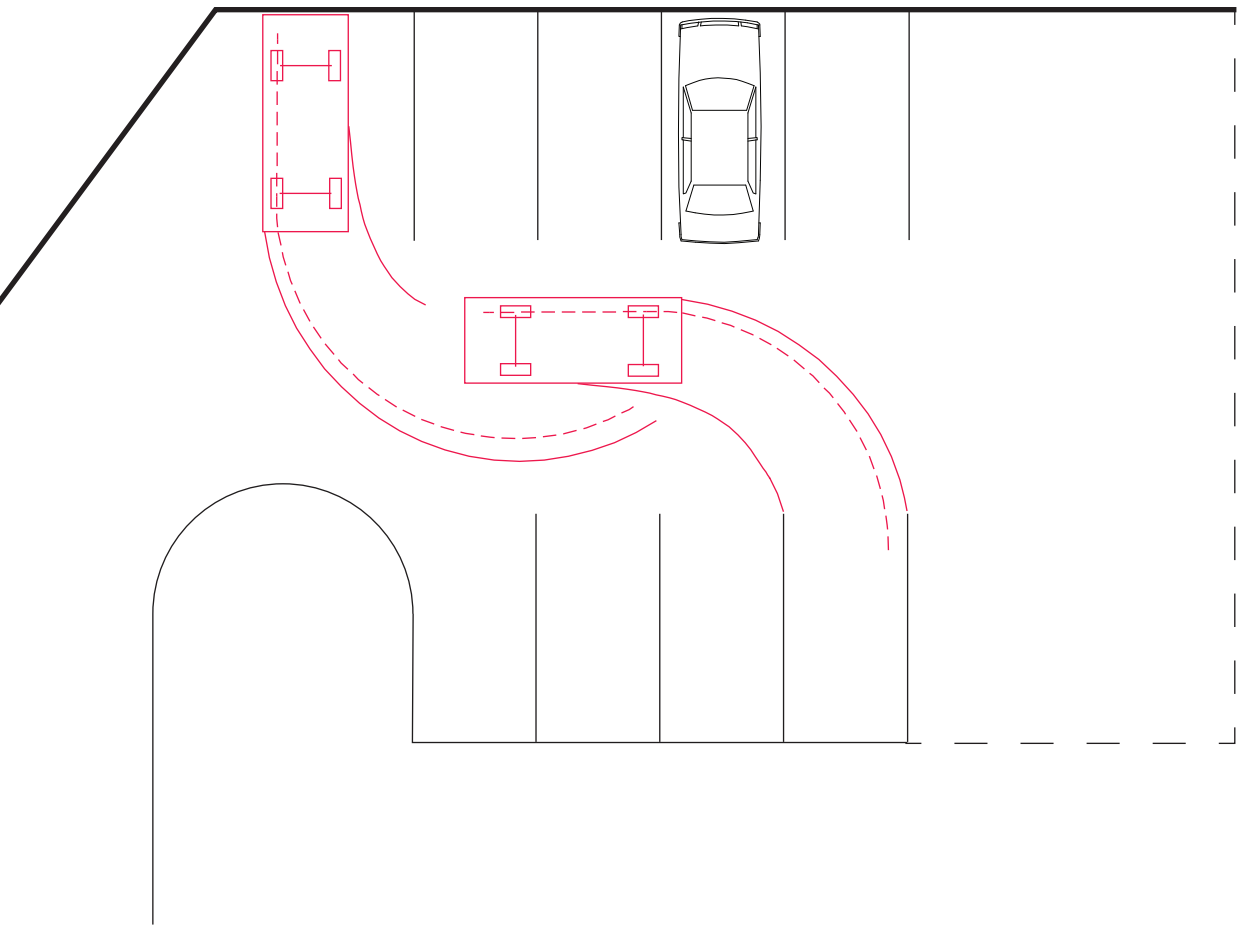
PARK 1: 1 REVERSE MANOEUVRE

90TH PERCENTILE VEHICLE



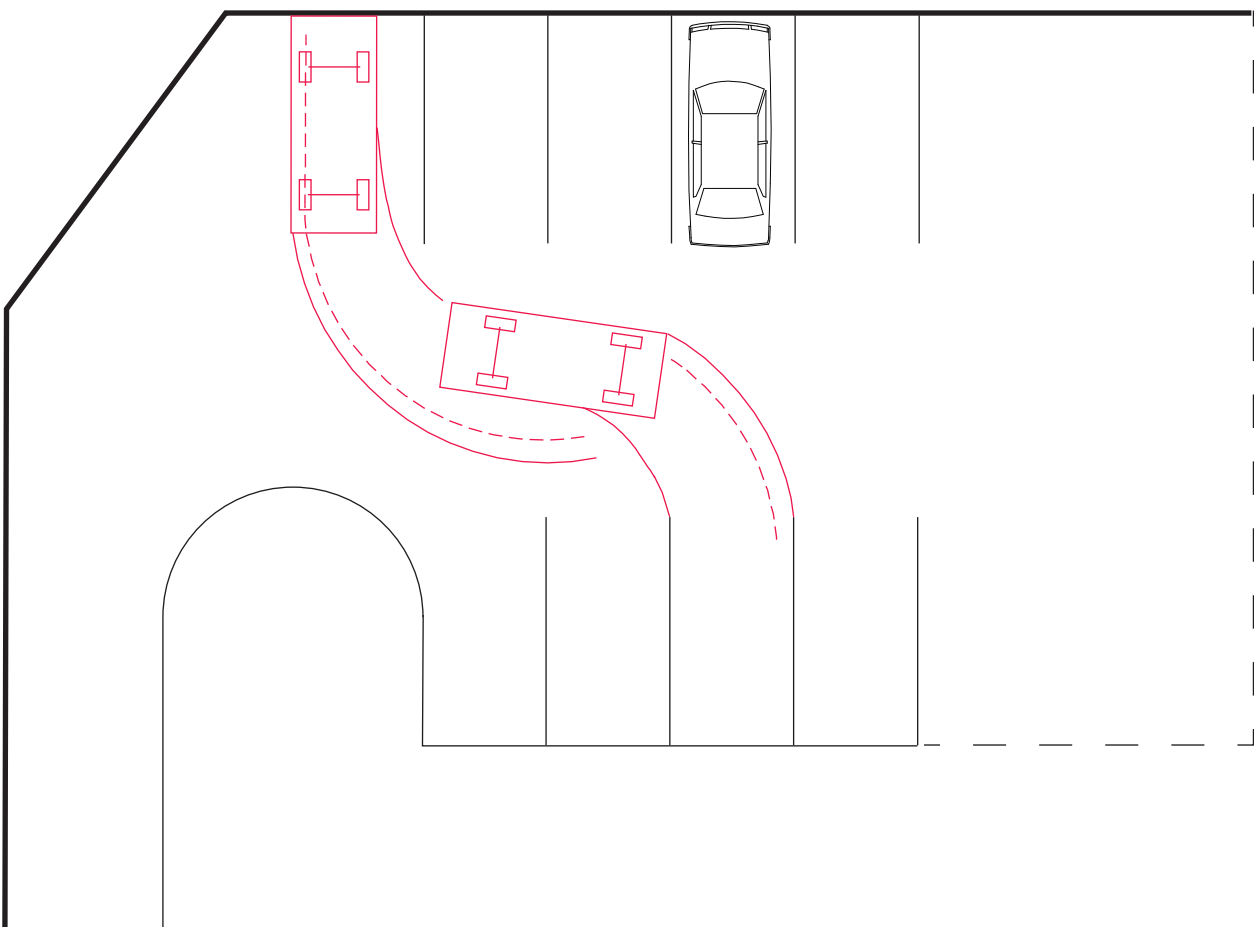
PARK 2: 1 REVERSE MANOEUVRE

90TH PERCENTILE VEHICLE



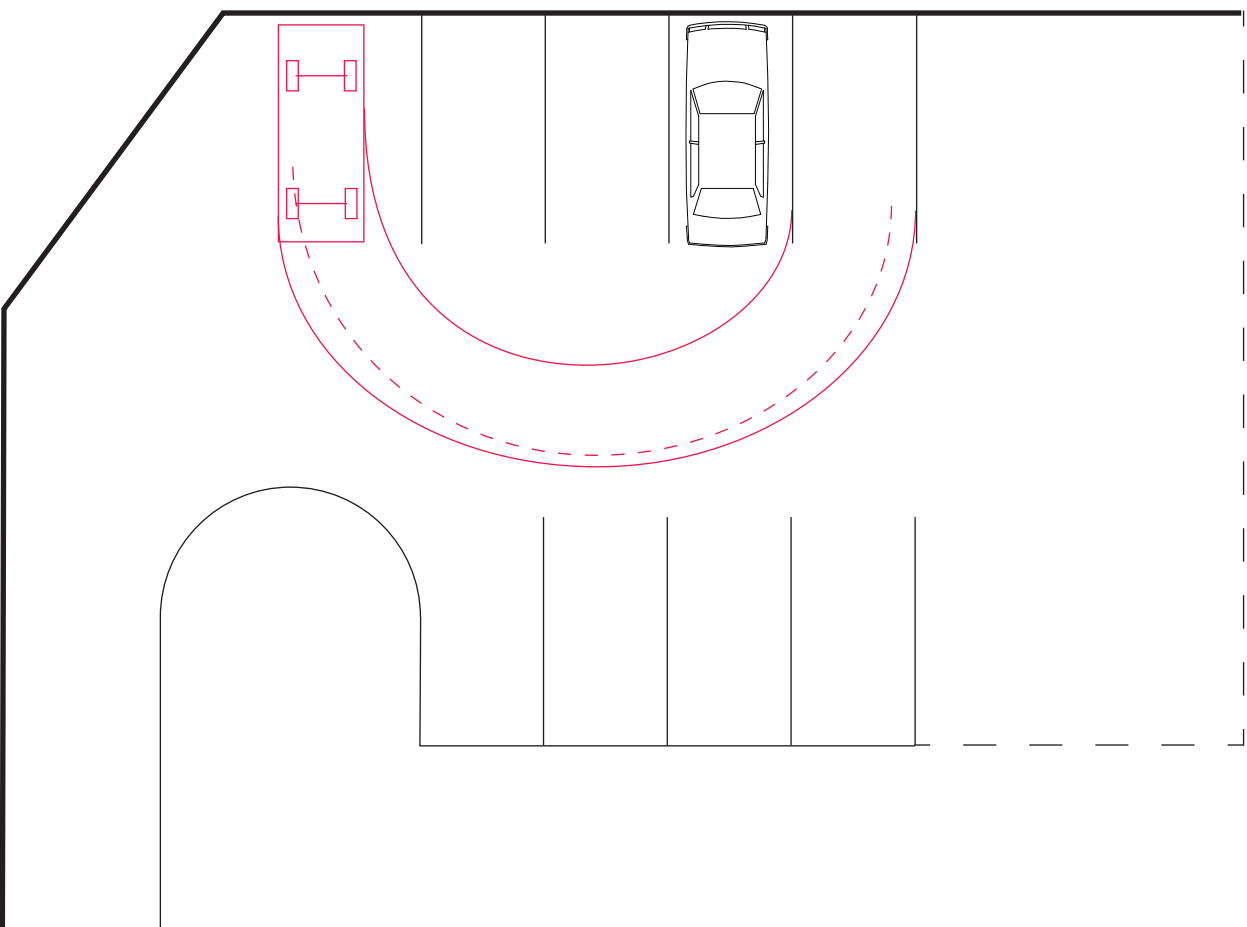
PARK 3: 1 REVERSE MANOEUVRE

90TH PERCENTILE VEHICLE



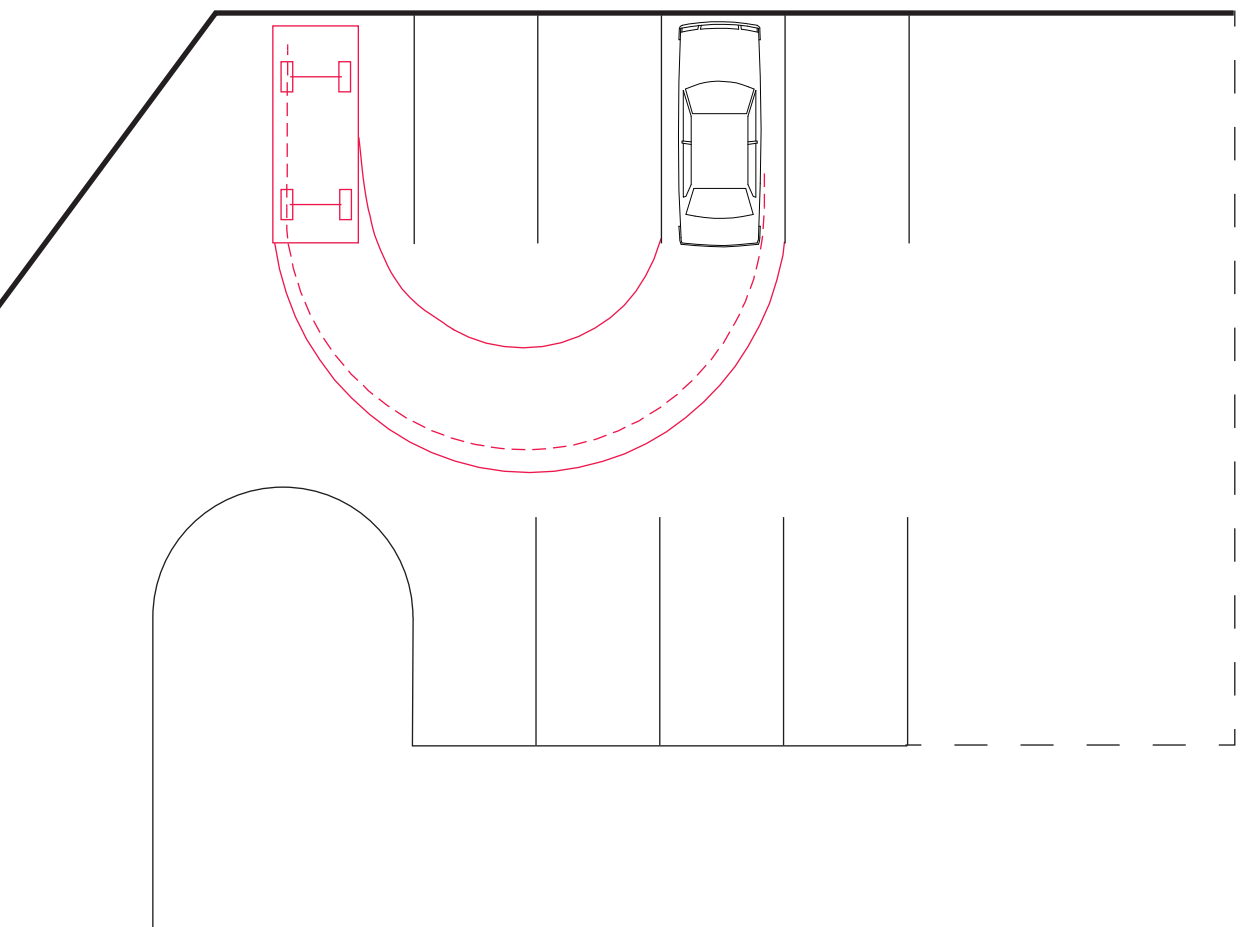
PARK 4: 1 REVERSE MANOEUVRE

90TH PERCENTILE VEHICLE



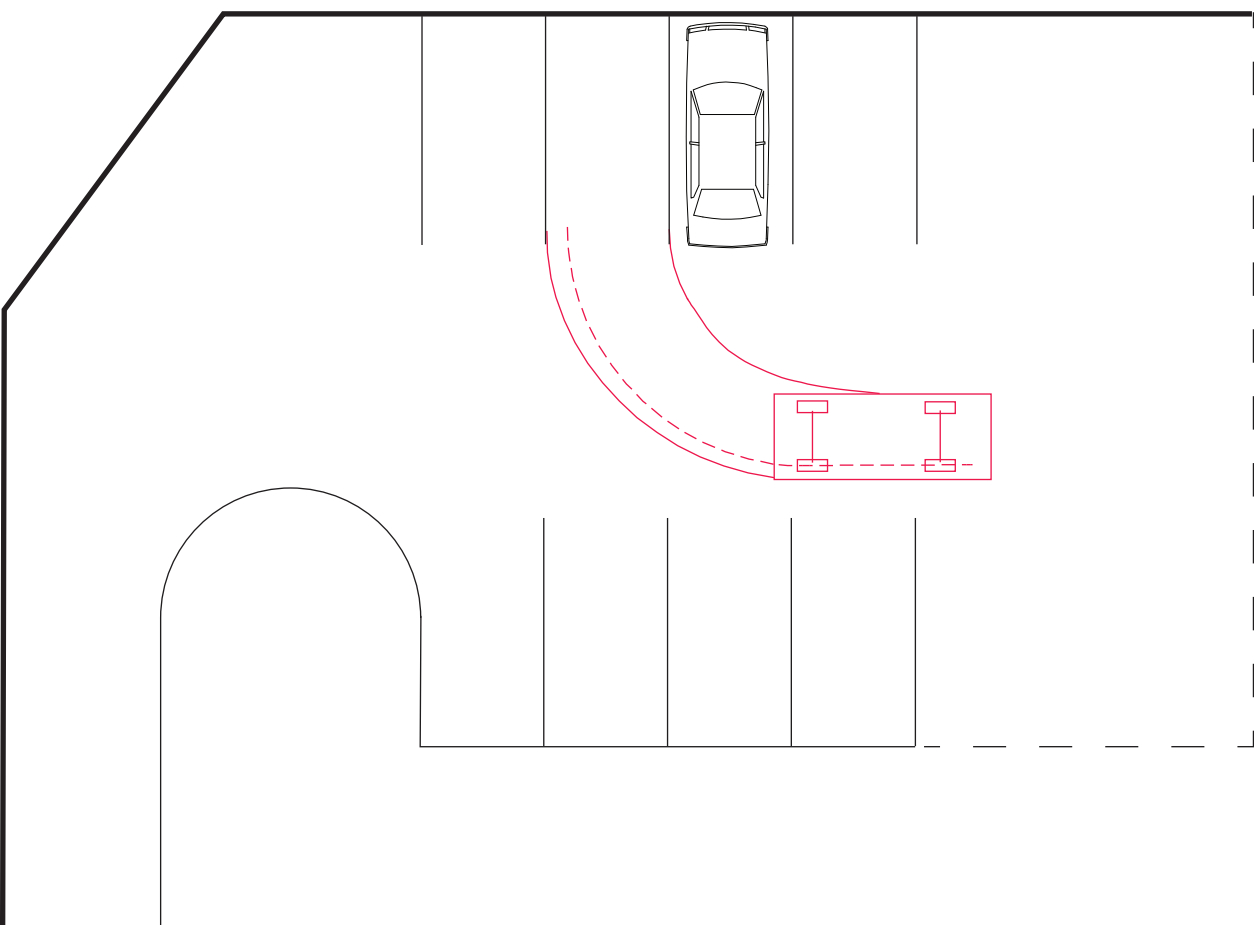
PARK 5: 1 REVERSE MANOEUVRE

90TH PERCENTILE VEHICLE



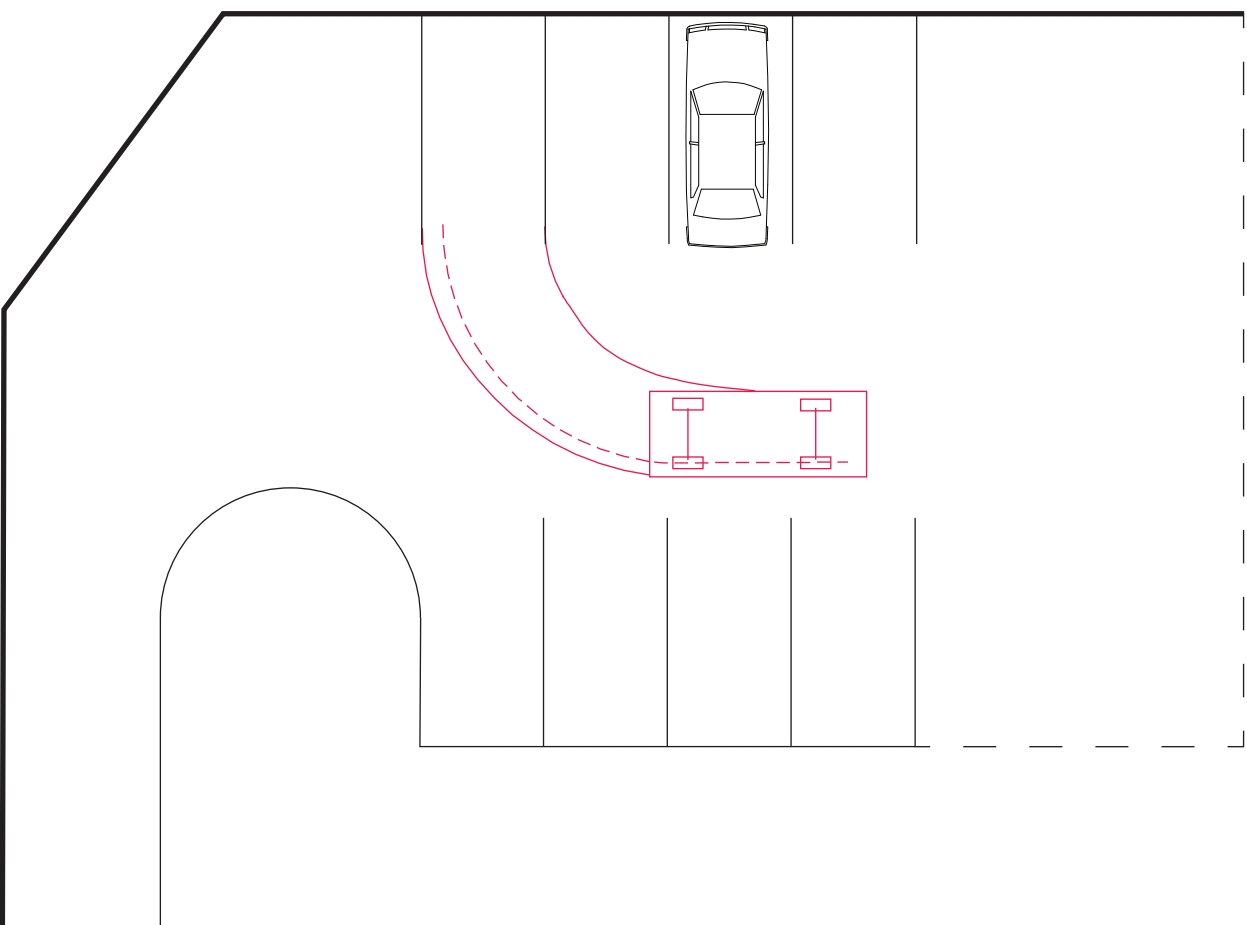
PARK 6: 1 REVERSE MANOEUVRE

90TH PERCENTILE VEHICLE



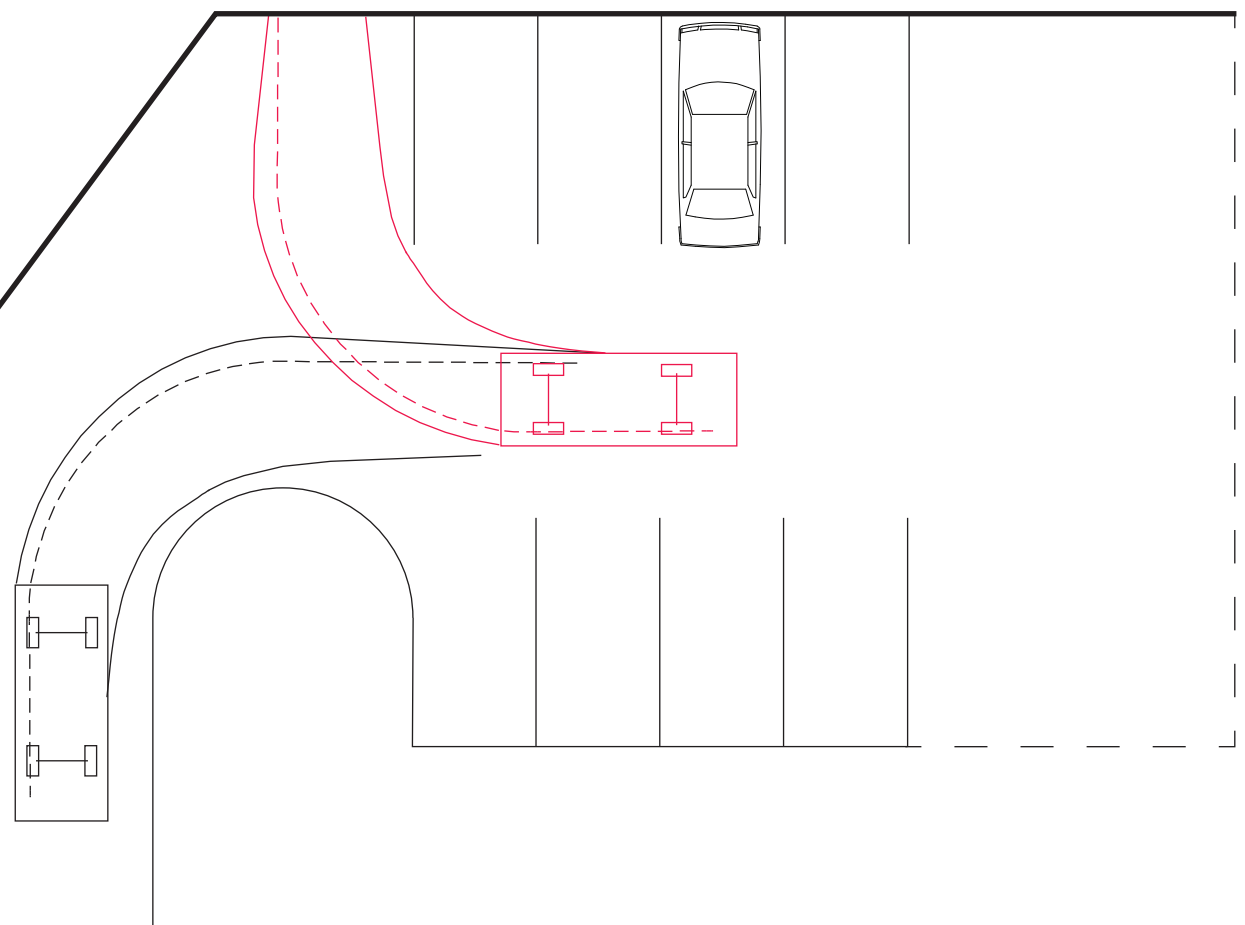
PARK 7: 1 REVERSE MANOEUVRE

90TH PERCENTILE VEHICLE



PARK 8: 1 REVERSE MANOEUVRE

GOODS DELIVERY/WASTE COLLECTION VEHICLE



LOADING/TURNING ZONE: 1 REVERSE MANOEUVRE

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**APPROVED PLAN:**  
**RM180335**

**Monday, 17 December 2018**

CASE

JOB:  
42, 46-50 BROWNSTON STREET

CLIENT:  
TEAT FAMILY TRUST

DRAWING TITLE:  
PARKING PLAN, VEHICLE MANOEUVRING

DATE:  
04/11/2018

REV:  
1.03

SCALE:  
1:100 @ A1

DRAWING No:  
1.5

DESIGNED BY:  
CASEY TEAT



**SIGNAGE:**

- PLEASE NOTE, DEVELOPMENT SIGNAGE HAS NOT BEEN DESIGNED YET

**DEVELOPMENT SIGN:**

- BUILT OF WOOD OR CORETEN STEEL
- ATTACHED TO BOUNDARY WALL
- WILL BE NO LARGER THAN 2m2
- BACK LIGHTING

**DIRECTORY SIGN:**

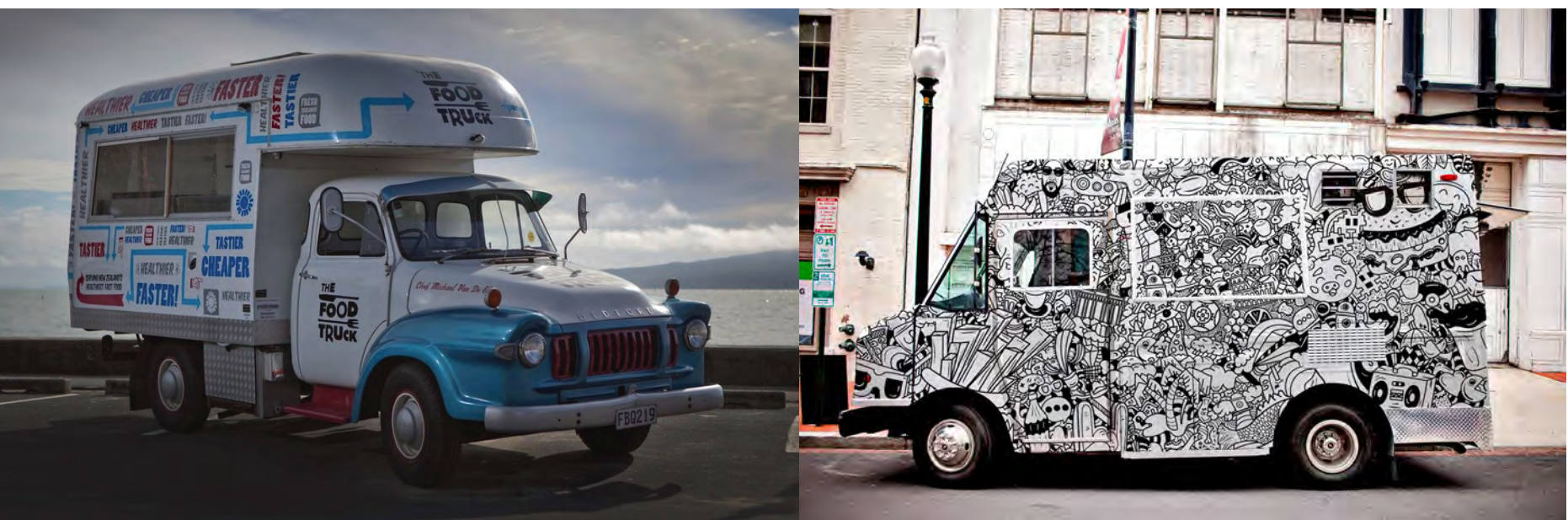
- BUILT OF WOOD OR STEEL
- LOCATED ON ENTRANCE INSIDE PROPERTY



EXAMPLES OF DEVELOPMENT SIGNAGE

**VENDOR SIGNAGE:**

- IT IS PROPOSED THAT EACH VENDOR IS ALLOWED MORE THAN 2m2 OF SIGNAGE.
- THIS IS PROPOSED DUE TO THE NATURE OF FOOD TRUCKS/STALLS,
  - THEIR BRAND IS LARGELY RELIANT ON THEIR VISUAL IDENTITY.
  - THEY ARE RELIANT ON THEIR EXTERNAL SURFACES TO CREATE THEIR CORPORATE BRANDING.
  - THIS IS CREATED THROUGH POTENTIAL MURALS, PATTERNS, STALL SHAPE OR COLOUR.



EXAMPLES OF VENDOR SIGNAGE/MURALS



EXAMPLES OF PRE FABRICATED TOILETS/STORAGE

**TOILET FACILITY:**

- TOILETS WILL BE AVAILABLE FOR PATRONS OF THE FOOD GARDEN AND VENDOR OPERATORS

- PLEASE NOTE, THESE FACILITIES HAVE NOT BEEN DESIGN YET BUT WILL BE SUBJECT TO BUILDING CONSENT APPROVAL.

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**APPROVED PLAN:  
RM180335**

**Monday, 17 December 2018**

**CASE**

**JOB:**  
42, 46-50 BROWNSTON STREET

**CLIENT:**  
TEAT FAMILY TRUST

**DRAWING TITLE:**  
SIGNAGE & TOILETS

**DATE:**  
04/11/2018

**REV:**  
1.03

**SCALE:**  
NOT TO SCALE

**DRAWING No:**  
**1.6**

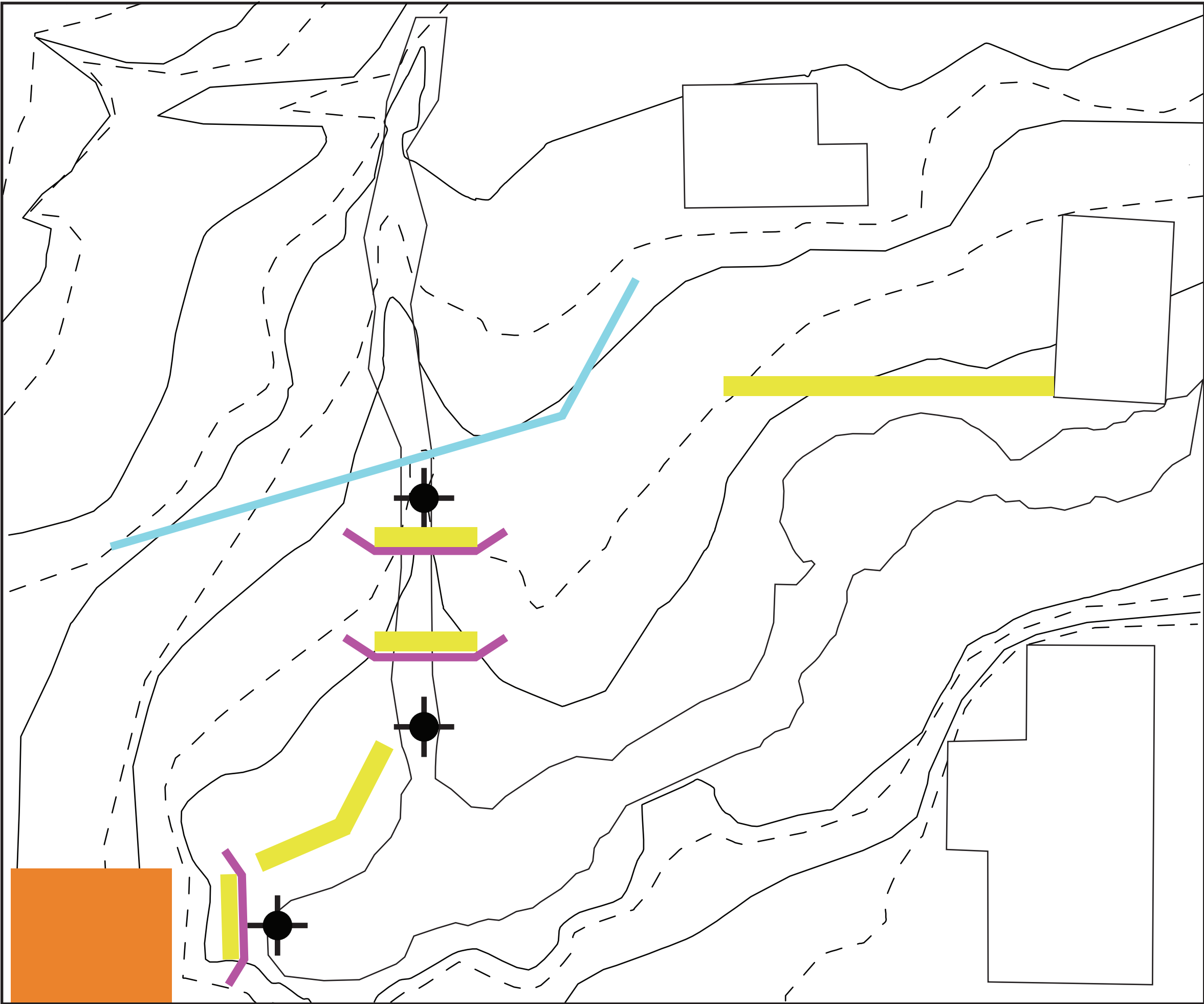
**DESIGNED BY:**  
CASEY TEAT





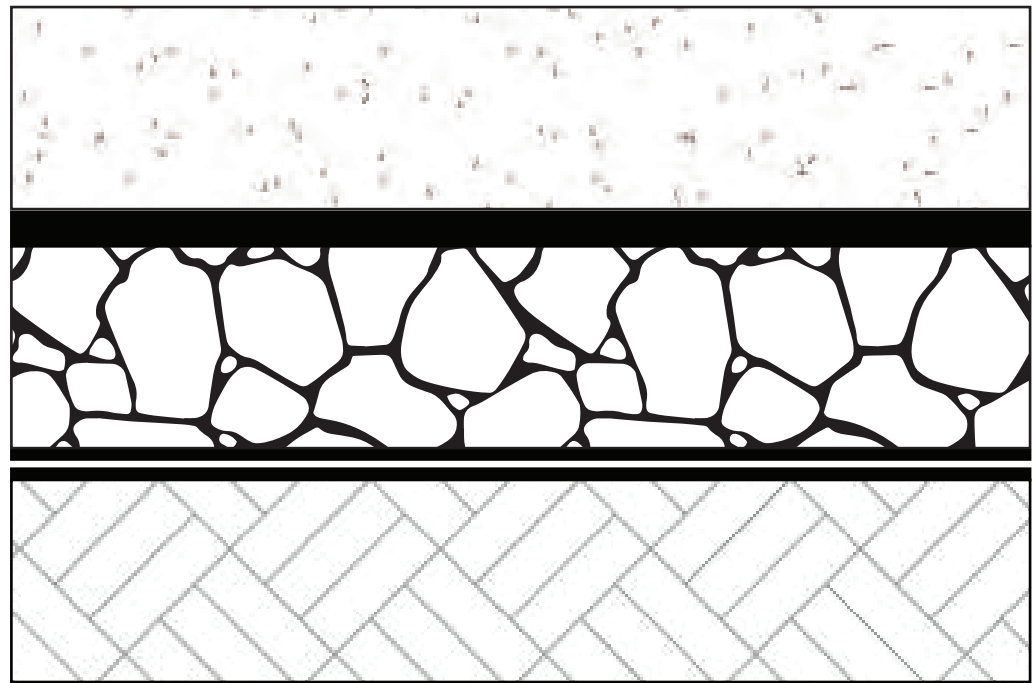


SITE MANAGEMENT SEDIMENT PLAN



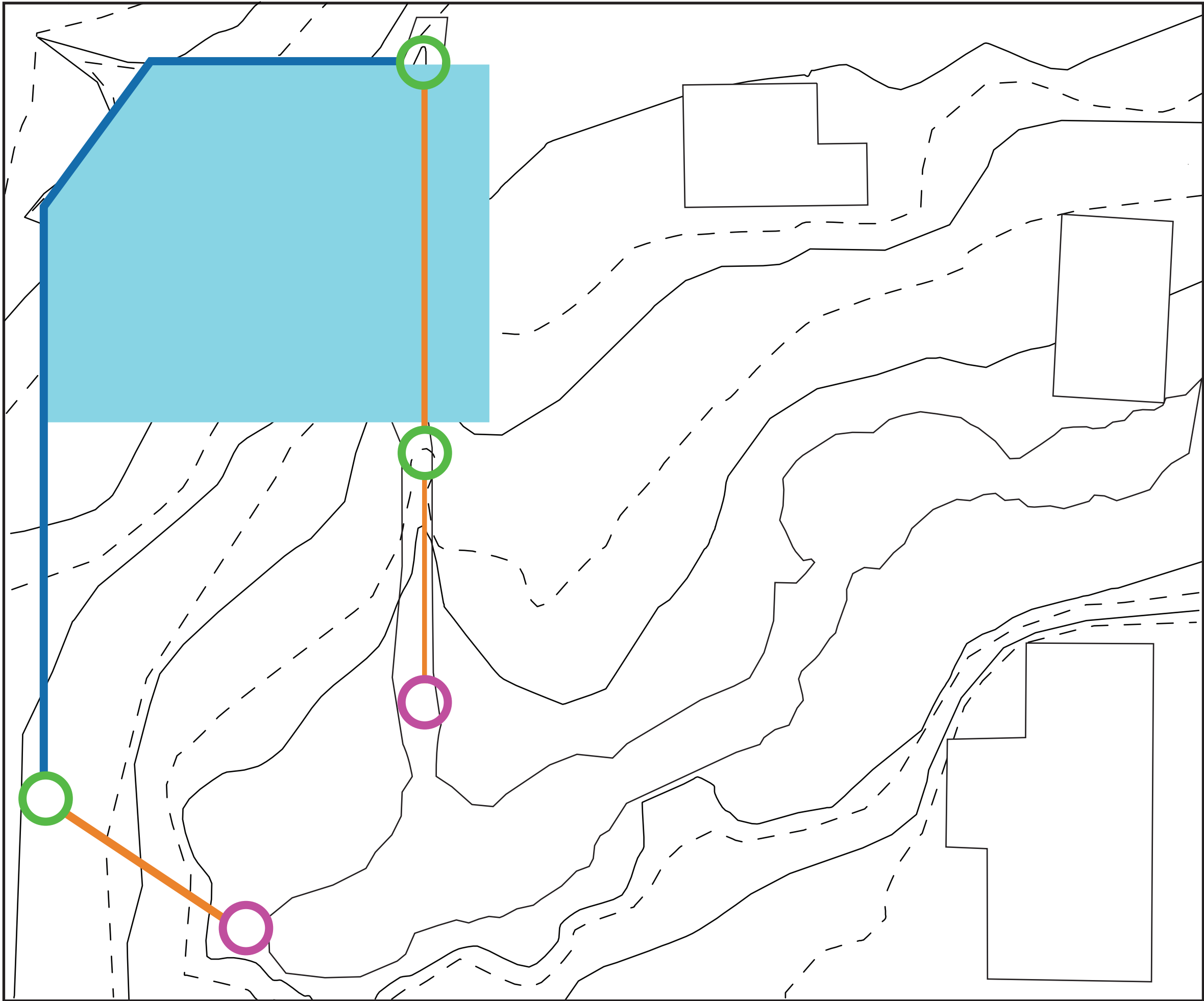
KEY	
	SILT FENCE (400mm HIGH)
	SUPERSILT FENCE (900mm HIGH)
	HAY BALES, PINNED
	MONITORING POINT
	STABILIZED CONSTRUCTION ENTERANCE 150mm, 40/60 GRAVEL

PERVIOUS CAR PARK

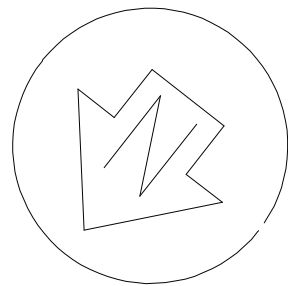


- ← 100MM AP40 GRAVEL LAYER AS TOP COURSE
- ← GEOFORCE SEPERATION BIDIM LAYER
- ← 100MM OF DRAINAGE MATERIAL (CLEAN 20-40 BALLAST ROCK)
- ← GEOFORCE (A29) OR SIMILAR BIDIM LAYER
- ← TENSAR TRIAX GRID LAYER
- ← SUBGRADE MATERIAL

DRAINAGE PLAN



KEY	
	100mm NOVA DRAIN PERFORATED SUBSOIL DRAIN 20-50 CRUSHED BALLAST CHIP DURAFORCE BIDIM WRAPPED
	150MM UPVC PIPE COLLECTOR NETWORK
	600MM DIAMETER COLLECTION MANHOLE
	ROCK LINED OPEN SWALE DROP TO CREEK
	PERVIOUS CAR PARK



QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM180335

Monday, 17 December 2018

CASE

JOB:  
42, 46-50 BROWNSTON STREET

CLIENT:  
TEAT FAMILY TRUST

DRAWING TITLE:  
SITE MANAGEMENT & DRAINAGE PLAN

DATE:  
04/11/2018

REV:  
1.03

SCALE:  
1:200 @ A1

DRAWING No:  
1.8

DESIGNED BY:  
MAUNGATUA CO

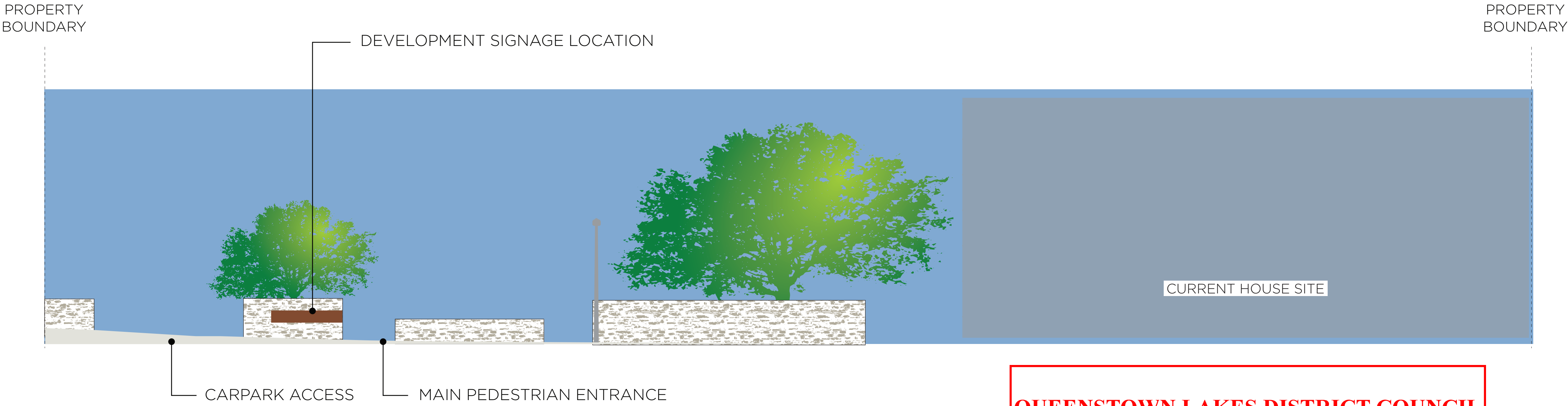




ARTIST IMPRESSION, BROWNSTON STREET VIEW AND PEDESTRIAN ENTRANCE



ARTIST IMPRESSION, ELEVATED BROWNSTON STREET VIEW



BROWNSTON STREET VIEW

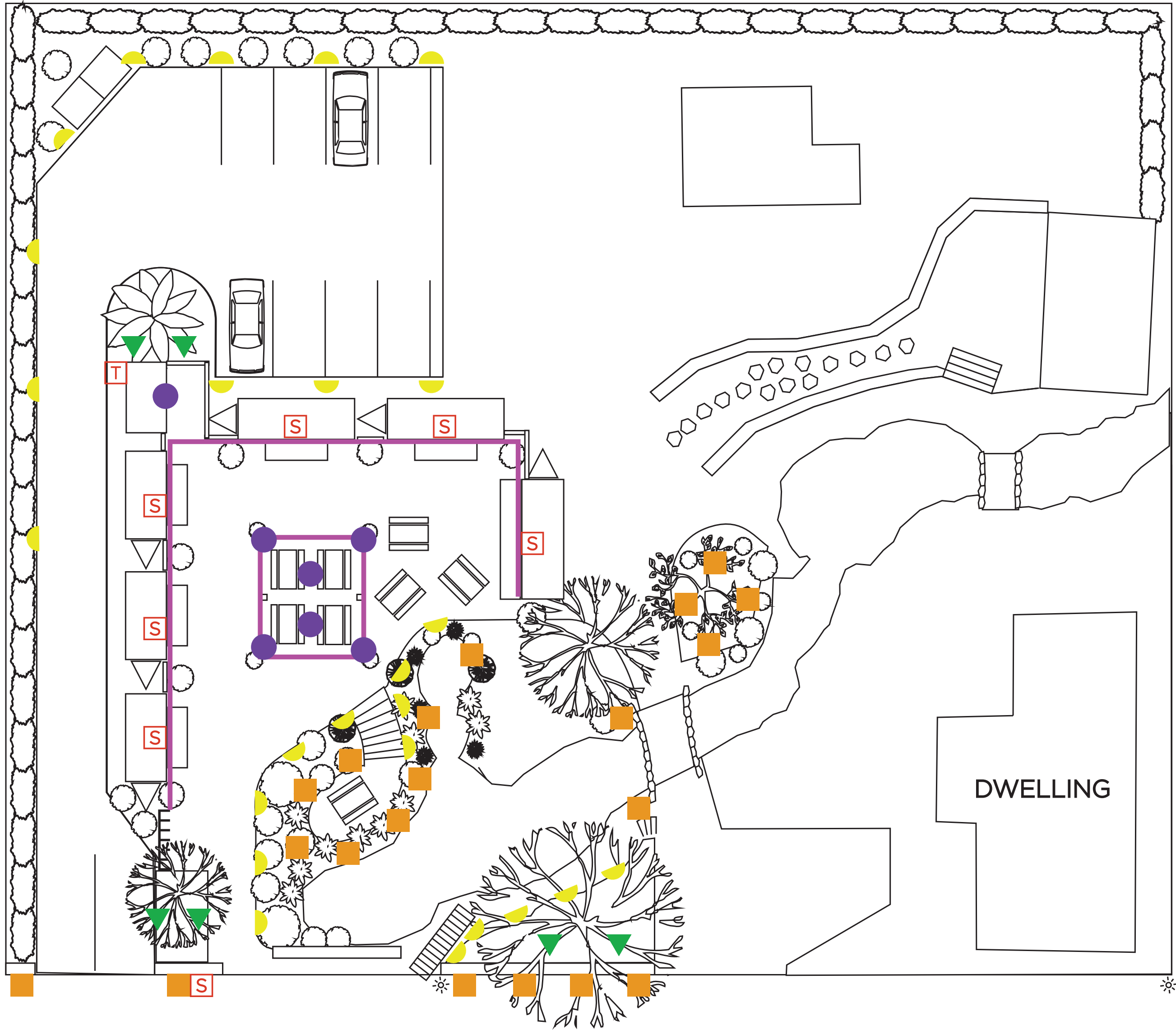
**QUEENSTOWN LAKES DISTRICT COUNCIL**

**APPROVED PLAN:  
RM180335**

**Monday, 17 December 2018**

CASE	
JOB: 42, 46-50 BROWNSTON STREET	
CLIENT: TEAT FAMILY TRUST	
DRAWING TITLE: ARTIST IMPRESSION / STREET VIEW	
DATE: 04/11/2018	REV: 1.03
SCALE: NOT TO SCALE	DRAWING No: 1.9
DESIGNED BY: CASEY TEAT	





LIGHTING LEGEND

Note: Landscape lighting, Low Voltage Fixtures 12v

- SPOT/WELL LIGHT (up, feature tree)
- PATH LIGHT/BOLLARD (path/car park)
- WASH/SPOT LIGHT (up, garden/wall)
- WASH/SPOT LIGHT (hardscape)
- TRANSFORMER
- SIGNAGE (front/back lit)
- FESTOON LIGHTING
- STREET LIGHT

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM180335

Monday, 17 December 2018



FESTOON

LIGHTING EXAMPLES



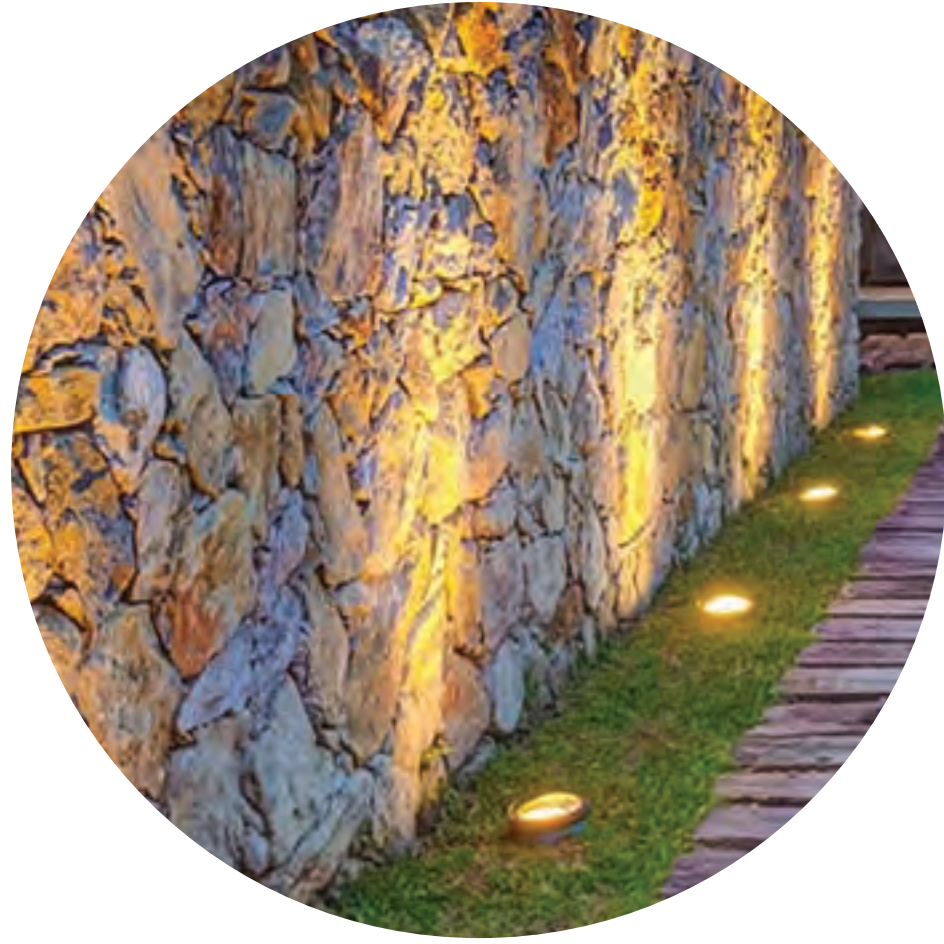
DINNING/TOILET



FEATURE TREE



PATH/CAR PARK



WALL/GARDEN

CASE	
JOB: 42, 46-50 BROWNSTON STREET	
CLIENT: TEAT FAMILY TRUST	
DRAWING TITLE: LIGHTING PLAN/EXAMPLES	
DATE: 02/12/2018	REV: 1.03
SCALE: NOT TO SCALE	DRAWING No: <b>1.10</b>
DESIGNED BY: CASEY TEAT	