



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

| | |
|---------------------------|--|
| Applicant: | Pro-Invest NZ Property 1 Limited Partnership |
| RM reference: | RM170260 |
| Location: | 11, 13 & 17 Stanley Street, 21 & 25 Sydney Street, Queenstown |
| Proposal: | Construct and operate a 227 guest room hotel with associated car parking, earthworks and access. |
| Legal Description: | Lot 1 Deposited Plan 6038 contained in Computer Freehold Register OT318/139; Deposited Plan 7355 contained in Computer Freehold Register OT357/88; Section 4, Section 9, Part Section 5 and Part Section 8 Block XXXVI Town of Queenstown contained in Computer Freehold Register OT357/89 |
| Operative Zoning: | High Density Residential (Sub-Zone A) |
| Proposed Zoning: | High Density Residential |
| Activity Status: | Non-complying |
| Notification: | Public Notification |
| Commission: | Commissioner R Nixon and Dr L Beattie |
| Decision: | 27 November 2017 |

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

Of an Application to **QUEENSTOWN LAKES DISTRICT COUNCIL** by **PRO-INVEST NZ PROPERTY 1 LIMITED PARTNERSHIP**

(RM 170260)

**DECISION OF COMMISSIONERS ROBERT CHARLES NIXON AND DR LEE BEATTIE APPOINTED BY
QUEENSTOWN LAKES DISTRICT COUNCIL**

The Hearing and Appearances

Hearing Dates:

Wednesday 17 October and
Thursday 18 October in
Queenstown

Appearances for the Applicant:

Mr Mike Holm, Legal Counsel

Mr Tim Sherlock, Managing Director
of Pro – Invest Developments

Mr Preston Stevens Architect

Mr Jeremy Trevathan, Acoustic
Consultant

Mr Scott Edgar, Planning
Consultant, Southern Land

Mr Chris Rossiter, Traffic Engineer

Mr Scott Freeman, Planning
Consultant¶

Appearances for the Queenstown Lakes District Council

Ms Erin Stagg, Senior Planner

Mr Ulrick Glasner, Chief Engineer,
Property and Infrastructure

Mr Michael Wardill, Resource
Management Engineer

Mr Steven Chiles, Acoustic
Consultant

Mr Garth Falconer, Urban Design
Consultant

Appearances for Submitters:

Ms Lauren Semple, Counsel for
Millennium Hotel

Mr Karl Luxon

Ms Lynne Armitage, submitter

Abbreviations

The following abbreviations are used in this decision:

Pro – Invest New Zealand Property 1 Ltd Partnership “the Applicants”

Queenstown Lakes District Council “the Council”

The Operative Queenstown Lakes District Plan “the ODP”

The Proposed Queenstown Lakes District Plan “the PDP”

Millennium Hotel (Millennium and Copthorne Hotels New Zealand Limited)
“Millennium”

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

Minute of Hearings Commissioners

On 24 October we issued a Minute following evidence presented on the day of the hearing by the applicant, which presented various perspectives taken from the apartment of the submitters Armitage/Oellermann illustrating effects of the proposed hotel building on views from their property. We took this step, after advising the parties at the hearing, as we were concerned that the submitters had not had sufficient opportunity to consider this information. Responses were received on 3 November 2017.

The hearing was closed following receipt of the reply in writing on behalf of the applicant, on 7 November 2017.

INTRODUCTION AND BACKGROUND

1. The application site is located at 11, 13 and 17 Stanley Street, and 21 and 25 Sydney Street Queenstown. It has a legal description of Lot 1 DP 6038, DP 7355, Section 4 and Section 9, Part Section 5 and Part Section 8 Block XXXVI Town of Queenstown. The site comprises a total area of 5615m².
2. The site is located close to the centre of Queenstown and has three street frontages. The south-western frontage is to Stanley Street, the main entry point into the town, and part of State Highway 6A. The north-west frontage is to Sydney Street, and the north-east frontage is to Melbourne Street. The site's only directly shared property boundary is to the Millennium Hotel on the south-eastern boundary. The site slopes upwards from Stanley Street to Melbourne Street with a height difference of approximately 5.6metres.
3. A former backpackers lodge occupies the Melbourne Street/Sydney Street corner of the site and is proposed that this building will be demolished to enable development to proceed. The balance of the site was largely undeveloped, except for a former doctor's residence built in the 1880's which was in very poor condition and recently demolished. There are a small number of trees on the property which would be removed upon development of the site.
4. The surrounds of the site are strongly dominated by the presence of visitor accommodation. In addition to the Millennium site of 7560 m² to the south-east, there is the Scenic Suites site across Sydney Street to the north-west of 3940 m², and the Blue Peaks site across Stanley Street of 3960 square metres¹. Properties on the opposite side of Melbourne Street comprise a mixture of remaining single storey residences, apartment developments and visitor accommodation, and further to the west, St Josephs Church and school.

THE PROPOSAL

5. The proposed development is intended to be a 'Holiday Inn Express' hotel and was described in detail in the application. As modified at the hearing, the application comprises the following key features:
 - a total of 227 guestrooms;
 - two primary accommodation 'wings' each parallel to Stanley Street and Melbourne Street respectively;
 - a smaller central building component set back from both Sydney Street and the Millennium with a courtyard and main public access from Sydney Street;
 - a three storey facade facing Melbourne Street with a broken roof line, and a similar styled four storey facade facing Stanley Street;
 - a through vehicular accessway between Sydney Street and Melbourne Street adjoining the Millennium, providing bus parking for three buses;
 - on-site car parking for 45 cars, with 39 contained in an underground car park accessed from Sydney Street, with an additional six car parks at street level;
 - and accompanying landscape plan including tree planting along the street frontages.

¹ Evidence of Preston Stevens, paragraph 32

6. The proposed hotel would not be a 'full-service hotel' in the sense that it would not contain conference facilities or a restaurant, the reasoning being the close proximity of facilities in the town centre.

Amendments to the Application

7. At this point it is necessary to record a small number of amendments made since the application was notified, which were drawn to our attention at the beginning of the hearing.
8. MWA/Stantec² had prepared an assessment of traffic and parking proposals notified with the application, which revealed a number of concerns including about the configuration of internal car parking arrangements. As a result, the applicant has amended the plans to provide 39 basement car parks instead of the 44 originally proposed, and including six external car parking spaces, for a total of 45 guest and staff parking spaces. A number of these are tandem spaces which will remain (for staff). The amendments were made to address issues that the narrow dimensions of the car parks as notified would make use of, and access to, the car parking spaces difficult. Taking these amendments into account, there is a shortfall of 24 car parking spaces compared to the requirements under the ODP.

NOTIFICATION AND SUBMISSIONS

9. The application was publicly notified on 9 August 2017, with submissions closing on 6 September 2017.
10. The applicants obtained the written consent of the owners of the site (Three Beaches Limited) and of the New Zealand Transport Agency³, albeit that the latter lodged a 'neutral' submission.
11. 18 submissions were received on the application, as listed in **Attachment 1** to this decision. Of these, 13 were in opposition seeking that the application be amended or declined. Nine were 'conditional' to the extent that if consent were granted, amendments be made to the proposal, primarily that parking be increased or the building redesigned to contain fewer rooms. Four submissions supported the application and sought that it be granted. The primary concerns expressed about the proposal were as follows:
 - development too large
 - noise (Millennium)
 - visual amenity and urban design (Millennium)
 - shading (Millennium)
 - building height
 - loss of views
 - traffic effects
 - need to provide more on-site parking
 - loss of on street parking
 - provision of a wider loading area

² MWH/Stantec report dated 6 April 2017

³ Evidence of Scott Freeman, paragraph 76

At the hearing, the submission in opposition of Robert Enright and Tara Hotop of 15/2 Melbourne Street, was withdrawn in writing (letter dated 17 October 2017). Five other submitters who indicated their wish to be heard were contacted by the Council, but did not respond.

STATUTORY MATTERS

12. The site is zoned High Density Residential – Sub Zone A, under the ODP. The noncompliances were specified in detail in the reporting officers report, as set out below:

Land use consent is required in terms of the following provisions of the High Density Residential Zone;

Rule 7.5.3.2 (ii) – the establishment of visitor accommodation in the zone requires consent as a controlled activity, with the Council’s control restricted to:

- (a) The location, external appearance and design of buildings;
- (b) The location, nature and Scale of activities on site;
- (c) The location of parking and buses and access;
- (d) Noise; and
- (e) Hours of operation

Rule 7.5.3.3 (i) – the construction, alteration to, or addition to any buildings where the result will exceed three units, including visitor accommodation units, the Council’s discretion restricted to the provisions of the New Zealand Urban Design Protocol.

Rule 7.5.3.3(ii) – the construction of new buildings with a maximum building footprint of more than 500m² requires consent as a discretionary activity, with the Council’s discretion restricted to the provisions of the New Zealand Urban Design Protocol.

Rule 7.5.3.4(vi) and 7.5.5.2(iii)(b) – the construction of a building within the 4.5m road setback requires consent as a restricted discretionary activity. The road setback on Sydney and Melbourne streets is proposed 2.3 m into the setback and to me to retaining wall is also proposed within the setback, with the Council’s discretion restricted to matters relating to the setback.

Rule 7.5.3.4(vi) and 7.5.5.2(vii)(a) – the establishment of visitor accommodation requires consent as a discretionary activity in the event of non-compliance with the minimum continuous building length rule. This stipulates that a building should not exceed an unbroken length of more than 16m; although the proposed building has breaks in length, these are less than 4m long.

Rule 7.5.3.4(vi) and 7.5.5.2(vii)(b) – in addition under this rule, the establishment of visitor accommodation requires consent as a restricted discretionary activity in the event of non-compliance with the restriction on the aggregate length of buildings. This stipulates that a building should not exceed an aggregate length of more than 30m; and in this case the proposed building has an aggregate length of 58m.

Rule 7.5.3.4(ii) – the sale of liquor from a visitor accommodation activity requires consent as a discretionary activity.

Rule 7.5.3.5 and 7.5.5.3(v) – consent is required as a noncomplying activity where building breaches a building height of 8m, and/or breaches the recession plane. The proposed building has a maximum

height of 14.54m and will exceed the height recession plane by a maximum distance of 10.16m. *(subject to subclause (b) as the site is deemed to be flat as it has a ground slope less than 6° or one in 9.5)*

Rule 7.5.3.5 and Rule 7.5.5.3 (xii)(a) – consent is required where proposal breaches the zone standard for noise. The application indicated that the proposal would breach the noise limits on the boundary of the Millennium with regard to the use and parking of coaches on-site.

Rule 7.5.3.5 and Rule 7.5.5.3 (xii)(c) – consent is required where there is a breach of construction noise standards, and a breach has been identified on the application relating to one part of the construction activities.

Rule 14.2.2.3 ii and Site standard 14.2.2.1(i) – consent is required where the number of proposed carparks and bus parks is less than the level required under Table 1 – (Parking Space requirements). For development of the scale, 54 guest carparks, 19 staff car parks, and five coach parks are required. It is proposed to provide 45 carparks and three bus parks, requiring consent as a restricted discretionary activity. Discretion is restricted this specific matter.

Rule 14.2.2.3 ii and Site standard 14.2.2.1(iv)(b) – consent is required as a restricted discretionary activity as noise levels exceeded the site standard with respect to noise from heavy vehicles on the boundary of the Millennium. Discretion is restricted to the specific matter.

Rule 14.2.2.3 (ii) and Site standard 14.2.2.1(xi) – consent is required with respect to on-site queuing space, where the required queueing space from the access point to Sydney Street is not provided. Discretion is restricted to this specific matter.

Rule 18.2.5 and Activity Table 2 – consent is required as a discretionary activity where the maximum size of visitor accommodation signage exceeds 2 m². It is proposed to erect three signs, two with an area of 2.75m² each, and a third with an area of 1.6m².

Rules 22.3.2.3 (a) and 22.3.3 (i) (a) – consent is required as a restricted discretionary activity as the proposed earthworks exceed the threshold set under Site Standard 22.3.3 (i)(a) and Table 22.1 relating to the volume of earthworks permitted as of right, being 400 m³. It is proposed to undertake 7274m³ of earthworks. The Council's discretion is restricted to this particular matter.

Rule 22.3.2.3 (a) and Site standard 22.3.3(ii)(b)(i) – consent is required as a restricted discretionary activity as the proposed earthworks exceed 2m in height, requiring consent as a restricted discretionary activity. The maximum height of cut proposed is 3.3 m. The Council's discretion is restricted to this particular matter.

Rule 22.3.2.3 (a) and Site standard 22.3.3(ii)(b)(iii) – consent is required as a restricted discretionary activity, as earthworks are proposed up to the boundary of the site. The Council's discretion is restricted to this particular matter.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ("the NES").

Detailed site investigations undertaken by the applicant indicates that the proposed activity is to be undertaken on a piece of land that is, or is more than likely to be, a *HAIL* site. Accordingly, consent is required as a controlled activity pursuant to Clause 8 of the NES.

13. On the above assessment, the activity overall must be assessed as a ***noncomplying activity***.

The Proposed Plan

14. There are no applicable rules in the PDP which have immediate legal effect.
15. We were advised by the Council's legal advisers that the provisions of the 2017 amendments could not be taken into account as the application was notified before these amendments passed into law.
16. The PDP was notified on 26 August 2015. We requested that the reporting officer provide an outline of the status of the Proposed Plan at the commencement of the hearing. We were advised that the provisions within the zone applying to visitor accommodation were withdrawn by the Council on 23 August 2015 pending incorporation in a subsequent variation. We understand notification was imminent just prior to the date this decision was forwarded to the Council for issue.

17. LEGAL SUBMISSIONS AND EVIDENCE

For the Applicant

18. **Mr Mike Holm** introduced the application with brief legal submissions. He emphasised that a smaller hotel would not be economically viable, and consequently while the scale of the proposed hotel necessitated breaching some of the bulk and location rules in the ODP, this was offset by the high standard of design. He stated that dialogue with the Millennium was ongoing, and that the evidence would demonstrate that noise and shading effects on their adjoining hotel could be mitigated. He said that an offer had been made to the Millennium for acoustic treatment of their windows if desired. With respect to the submission by Armitage and Oellermann, he asserted the additional effects on the submitters view would be minor when compared to a permitted structure. We return to his right of reply later.
19. **Mr Timothy Sherlock** explained the role of the Pro—Invest Group, the basis for the proposed development and site selection criteria, and the benefits claimed for the development. He said that the Group had extensive experience in international hotel development and developing, operating, and owning Holiday Inn Express facilities across Australia and New Zealand, in partnership with the Intercontinental Hotels Group. He drew attention to the tourism boom currently underway in Queenstown, the lack of supply and outdated hotel stock available. He added that the limited number of hotel rooms, with little growth since 2011, had resulted in increased prices which were not justified by the quality of the accommodation available. He said that the construction of the hotel would generate approximately 750 jobs, while 20 to 35 jobs would be created for the local economy following completion.
20. He said the site chosen was close to nearby food and beverage amenities, noting that the hotel was not intended to contain a full-service restaurant. He said it was a highly visible site, provided easy site access and was not encumbered by any significant existing on-site activities. Provision would be made for on-site living for some staff. He also commented that the number of rooms proposed represented a 'bottom-line' with respect to the economic viability of the development.

21. **Mr Preston Stevens** is a Director and Principal in the firm of McAuliffe Stevens Ltd, the architectural designers for the proposal. The design and scale of the proposed buildings on site was a key issue with this proposal, so his evidence had particular significance.
22. Mr Stevens conceded that the proposed development did not meet the performance standards for visitor accommodation, and was critical of the rules under the ODP. He was particularly critical of rules relating to height and recession planes, which he argued were not consistent with the 'high density' outcomes anticipated within the 'High Density Residential sub – zone A'. He said there were significant variations in built character and scale of buildings around the site, and that one had to consider whether the actual bulk and location provisions of the zoning in the ODP actually facilitated the outcomes expected in the zone⁴.
23. In this context, he noted that the site was very close to the town centre and adjacent to the main traffic route into the town. For these reasons he considered that with respect to visitor accommodation, the location and scale of development, albeit noncomplying, was entirely appropriate. He drew particular attention to plans presented to the hearing showing the location of visitor accommodation in the vicinity, and the dominance of this land-use activity within the environs of the site⁵. He maintained that further large-scale hotel development would not be incongruous in this location.
24. He also noted, as did other witnesses, that the character of Melbourne Street was likely to change in the future as a result of the 'Inner Links Project' whereby the Council was investigating realigning the main entrance to Queenstown along parallel Melbourne Street, rather than Stanley Street as at present.
25. Although described as a 'flat site' in terms of the ODP, he noted that given the relative height difference between Stanley and Melbourne Streets, it was possible to have a design whereby the third floor level at Stanley Street could be at the same level as the ground floor at Melbourne Street. He stated that the design objective was that the guest rooms achieve a consistent standard of amenity including access to natural light and outlook, and ready access to hotel facilities within the site. He stated that the design solution adopted was to avoid "repetitive fenestration"⁶ often associated with hotel designs, with guest rooms being 'double loaded' (placed on each side of a central corridor). In his view the design of existing visitor accommodation in the vicinity offered few design cues for the proposed building.
26. To prevent what he described as a "cookie cutter" design outcome⁷, the basis of the architectural design was explained to us as inspired by large-scale randomly deposited glacial boulders, a local geological feature left behind following glacial retreat. This led to a building design having an erratic profile, with variations in roofline and building form to avoid a monolithic structure.
27. A consequence of this approach (in addition to economic considerations), was that compliance with the height and recession plane requirements of the ODP could not be

⁴ Evidence of P. Stevens, paragraphs 39 and 40

⁵ Evidence of P. Stevens, para 24 and Figures 2 and 3

⁶ Evidence of P. Stevens, paragraph 47

⁷ Evidence of P Stevens, paragraph 46

reasonably achieved. For this reason, it was decided that it would be preferable to proceed even on the basis of the application being assessed as a noncomplying activity. An example of the district plan design constraints cited by Mr Stevens, were the recession planes applying from the street, and not just neighbouring properties, as was commonly the case. Controls of this nature were inimical to creating a strong 'street edge', an accepted principle of good urban design⁸. He added that even allowing for the slope of the site, the height restrictions were such that an appropriate scale of development could not be economically achieved.

28. In summary, Mr Stevens described the hotel as having the following features that made it appropriate to its site;
29. *(a) the design provides a built form edge to Stanley and Melbourne streets, in line with good urban design practice. In doing so, the building addresses the nature and function of these streets as the main arterial travel route into central Queenstown, as currently, or as may exist in the future.*
(b) in providing this edge, the building's height and the scale of its elements are adjusted to respect the different character of each of the streets, again as currently exists or may exist;
(c) the design engages with the more passive character of Sydney Street by provision of a contained and highly landscaped courtyard space, orientated to the north-west so it is sheltering and welcoming.
(d) the design includes contrasting and unique feature elements that respond to the adjoining street intersections and resonate with the wider landscape;
*(e) the design response to the alignment of its most immediate neighbour the Millennium Hotel*⁹.
30. In response to concerns in submissions that the proposal adversely affected the residential character and amenity of the surrounding area, and especially Melbourne Street, he submitted that the north-east side of Melbourne Street contained "*.....five single residential units, three multi-unit residential complexes and four visitor accommodation activities, plus a church and its amenities*"¹⁰. He asserted that this meant that the street had a greater presence of visitor accommodation activities than residential.
31. In terms of bulk and dominance, he stated that the development was of a similar character to other nearby visitor accommodation facilities, which reflect the dominance of this land use activity south of Melbourne Street. In acknowledging the greater height of the proposed Holiday Inn, he contended that the height limits do not reflect the intention of the zoning framework. Instead, he argued that the design attempted to mitigate the potential effects of non-compliance through addressing the relevant *assessment matters* for visitor accommodation in the High Density Zone instead. At the hearing however he produced renders (visual perspectives) taken from the Armitage/Oellermann apartment showing how the proposed hotel would affect their views, which we discuss later.
32. In terms of shading effects on the Millennium, he concluded that:

⁸ Ibid, para 55

⁹ Ibid, para 77

¹⁰ Ibid, para 84

- 21 March – Autumn Equinox. Shade effects would only commence in the second half of the day and affect only 50% of the elevation of the Millennium;
 - 21 June – Winter Solstice. The Millennium only experiences direct sunlight for approximately four hours per day at that time of the year, and any effects would be confined to the north-western end of the hotel;
 - 21 October – Spring Equinox . Shading effect would only commence at 2 PM and be limited to 50% or less of the elevation of the Millennium on the internal boundary;
 - 21 December – Summer Solstice. Shading effects commence at 3:30 PM and only affect the elevation adjacent to internal boundary.
33. He stated that only 24 Millennium guestrooms, out of a total of 220, have a main window facing the proposed hotel, of which 8 face the existing retaining wall on the internal boundary.
34. On the above basis, he asserted that the adverse effects on the Millennium from shading would be less than minor.
35. **Mr Michael Rossiter** addressed the traffic and parking effects associated with the proposed development. He noted that Stanley Street was part of State Highway 6A, a two lane road with parking only permitted opposite side the proposed hotel. Traffic volumes on this road as reported by NZTM were 17,863 movements per day in 2016¹¹, and from Mr Rossiter’s own measurements, a two way traffic volume of up to 1100 vehicles per hour. He estimated a traffic volume of up to 1400 vehicles per hour during the peak summer season. Traffic was separated by a 2m wide flush median. The volume of traffic on the street was such that it was difficult on occasions to make right turn movements from Sydney Street towards the town centre, but in his view the majority of movements from the hotel would be left turn movements towards other attractions in the district ¹². Mr Rossiter was of the view that while a small increase in waiting times for traffic to enter Stanley Street could be expected, he did not think this increase would be noticeable to drivers.
36. Sydney Street is a local road with a single traffic lane in each direction and unrestricted kerbside parking on both sides of the road. Melbourne Street has been constructed with a 13 – 14m wide carriageway, has no road markings, and provides for unrestricted kerbside parking on both sides. On street parking is free on Sydney and Melbourne Streets.
37. The application proposes the removal of 13 car parks on the opposite side of Sydney Street in order to provide for public coach parking, and to avoid an elongated crossing point along the Sydney Street frontage of the proposed hotel. The removal of vehicle crossings into the existing site off Melbourne Street will result in an additional three car parking spaces on that street, but there would still be an overall loss of 10 car parking spaces. *(Towards the conclusion of the hearing, the applicant and the Council indicated may be possible to retain a few additional spaces in Sydney Street when providing for bus parking).*
38. Mr Rossiter arranged a parking survey of on street parking demands in Melbourne Street and on Sydney Street north of Stanley Street in April 2017. This indicated on – street parking

¹¹ Evidence of M.Rossiter, paragraph 16

¹² Evidence of M.Rossiter, paragraph 38

capacity for 122 vehicles¹³. Parking demand increased towards a peak at about 1 PM at 90% occupancy and then slowly declined before reaching an evening peak about 10 PM.

39. Mr Rossiter calculated coach and car parking demand derived from the hotel operator's indication that 60% of guests would be independent travellers, 25% group travellers, and 15% corporate travellers. Based on this, in his opinion the actual coach travel associated with the hotel would not amount to more than two coach loads at any one time. He estimated traffic generation for a hotel of this type to be approximately 70 vehicles per hour during the morning peak, and 90 vehicles per hour in the evening peak¹⁴.
40. Turning to parking demand, and following a discussion of parking demand at other surveyed hotels, he estimated that the peak parking demands of the hotel were likely to be in the range of 60 to 73 spaces¹⁵. His assumptions were based on a detailed parking survey undertaken of a 190 room Christchurch hotel, less any variables such as the presence of a large conference room, and an anticipated occupancy rate in the range of 80 to 90%, which he understood to be the contemporary reality in Queenstown.
41. Notwithstanding the reduction in on – street car parking, and the deficiency in car parking with respect to the requirements of the ODP, Mr Rossiter considered there were mitigating factors that had to be taken into account. He noted that some of the existing on street parking demand had been generated by the backpackers building on the site which was to be demolished. He also contended that during the late afternoon and early evening available on-street car parking increases as commuters leave, which coincides with the time that visitors are likely to return to their hotel (in other words the peak parking times for commuters and hotel guests did not coincide). Furthermore, he understood that the Council was contemplating the early introduction of parking restrictions and/or parking charges in the streets adjacent to the hotel.
42. Mr Rossiter noted that there would be a charge for guests wishing to use the on-site car parks¹⁶. Perhaps anticipating reaction to this, it was his opinion some guests will choose to park on the street regardless of whether or not there was spare capacity in the hotel car park; and that accordingly, increasing on-site car parking will not necessarily reduce on street parking demands.
43. **Mr Jeremy Trevathan** presented evidence on the potential noise impacts of the development. In his report prepared at the time of notification, he noted that the relevant standards in the ODP were as follows:
- (i) daytime (0800 to 2000 hours) 50dB L_{Aeq} (15mins)*
 - (ii) night time (2000 to 0800 hours) 50dB L_{Aeq} (15mins)*
 - (iii) night time (2000 to 0800 hours) 70dB L_{AF} (max)*

¹³ TDG Reference 14281 dated 12 May 2017, and M.Rossiter paragraph 20

¹⁴ Ibid paragraph 29

¹⁵ Ibid, paragraph 35 and Tables 2 and 3

¹⁶ Evidence of M. Rossiter, paragraph 52

44. He proposed that a 2m high acoustic fence be erected along the common boundary between the Millennium and the proposed Holiday Inn building. This would ensure compliance with the noise standards of the ODP at the first and second floor levels of the Millennium.
45. His evidence indicated there were two circumstances in which the noise standards in the ODP were likely to be exceeded. Firstly, with respect to coach movements and parking, it was proposed to locate this within the site and directly adjacent to the boundary between the two hotels. However any access to this area by coaches would be precluded between 2000 and 0800 hours, so that any noise breaches would relate to the daytime noise standard set out above. Mr Trevathan's evidence was that any coach movement in a single 15 minute period would result in a noise level of 54dB L_{Aeq (15mins)},¹⁷ and in the event of movement by three coaches at once, 59dB L_{Aeq (15mins)}.¹⁷
46. By way of mitigation, he submitted that regard needed to be had to the noise levels in the vicinity of the Millennium facade adjacent to Stanley Street which he expected to range between 58 and 64 dB L_{Aeq (15mins)} during the daytime¹⁸. Secondly, he stated that part of the facade of the Millennium would be screened from this external noise by the new hotel building. He also understood only one coach movement at a time was anticipated and no more than three each day, and that adoption of a management plan could further mitigate effects. Finally, he commented that both the new hotel and the Millennium have (or will have) coach parking adjacent to the existing buildings, an example being the parking of coaches adjacent to the facade of the Millennium on Melbourne Street.
47. During the course of the hearing, brief mention was made of how restrictions on coach access to the site at night would be implemented. It was noted that from urban design perspective, gates were not preferred by Mr Stevens as a means of barring entry to coaches in the evening. Rather other less visually obtrusive methods, such as retractable bollards, were considered to be more appropriate.
48. The second non-compliance relates to construction noise. Mr Trevathan outlined construction of the hotel as having four phases – demolition, site works, construction and internal fit out, and final site works and landscaping. It was during this fourth phase that asphaltting would be undertaken along the laneway adjacent to the Millennium, and that a noise exceedance of up to 10dB might be expected for a short period of time while this work was done.
49. He considered that all other potential noise sources, including mechanical plant noise on the rooftop, and noise from service and goods delivery vehicles, would comply with either the noise standards in the ODP, or with construction noise standards during the establishment of the new hotel. With respect to vibration, he said that no blasting or sheet piling would need to be involved to construct the hotel. He added that a Construction Noise and Vibration Management Plan should be prepared, as recommended in the draft conditions.
50. **Mr Scott Freeman** presented planning evidence for the applicant. He sought to emphasise three key factors. The first of these was that the High Density Residential Zone specifically anticipated visitor accommodation. By way of background, he noted that this was established

¹⁷ Evidence of J. Trevathan, paragraphs 18 and 19

¹⁸ Ibid, paragraph 21

through responses to submissions on the previous review of the ODP, and that provision for visitor accommodation was subsequently maintained under Plan Change 10 in 2010. He also noted that the ODP provides for (otherwise complying) visitor accommodation as a controlled activity under Rule 7.5.3.2 (ii)¹⁹. Like Mr Stevens, he was critical of the rules framework for rules such as height and recession planes, which did not reflect the high density outcomes anticipated within the zone. He noted that these deficiencies were sought to be rectified in the PDP, but that the withdrawal of the provisions relating to visitors accommodation had (temporarily) interrupted this process, pending a variation to Stage 1 of the review of the PDP.

51. His second point was that the zone itself was characterised by the presence of a number of both small and large visitor accommodation facilities, and particularly those adjacent to the site itself.
52. His third point was to claim that based on the evidence presented, and the conditions proposed, there would not be significant adverse effects associated with on street car parking (because of the difference in time between commuter and hotel guest parking), or noise based on Mr Trevathan's assessment. He considered constraints on outlook and views would occur even with a complying development. He drew attention to the expansive street environments adjoining the site which provided a significant degree of separation.
53. He concluded that the proposal was not contrary to the objectives and policies, particularly in section 7 which contains objectives and policies relevant to the High Density Residential Zone. He acknowledged that Policy 1.2 sought to avoid visually dominant buildings that block views and degraded the built environment, and that Policy 1.5 sought to discourage the encroachment of large visitor accommodation developments into residential neighbourhoods. His response with respect to these matters was that any development would appear visually dominant and that "...predominant mountain views..."²⁰ would remain.

For the Submitters

54. **Ms Lauren Semple** presented legal submissions on behalf of the Millennium and Copthorne Hotels New Zealand Limited (Millennium). She stated that her client remained opposed to a grant of consent, on the basis that there was a shortfall of on-site coach and car parking provision, the effects of potential construction noise and most importantly, noise impacting on hotel guests as a result of the service lane/coach parking area being sited immediately adjacent to the southern (Millennium) boundary.
55. Relying on the evidence of her witness Mr Luxon, she was critical of the evidence presented by Mr Trevathan on potential noise impacts and that of Mr Rossiter relating to traffic and parking matters. She drew attention to Section 4, Policy 5.1 in the ODP, which she said required visitor accommodation to be managed to *avoid any adverse effects* on the environment²¹, drawing attention to the significance of this word in the context of the *King*

¹⁹ Evidence of S.Freeman, paragraph 92.

²⁰ Evidence of S.Freeman, paragraph 160

²¹ Submissions of L. Semple, paragraph 45

*Salmon*²² decision. It was her contention that the application could not satisfy either of the threshold tests under section 104D of the Act.

56. **Mr Karl Luxon** introduced himself as the Vice – President of Operations of Millennium and Copthorne Hotels New Zealand Limited. He began by explaining that while discussions had been undertaken with the applicant, their suggestion of acoustic treatment of windows facing the site was not satisfactory to him as they were uncertain as to the effectiveness of such mitigation.
57. Mr Luxon claimed that the area was congested in terms of traffic and on – street parking and that he was not satisfied that these issues would be adequately addressed. He was particularly opposed to the placement of the accessway and coach parking adjacent to the Millennium boundary. He was not satisfied with a restriction on the use of the accessway at night for coach access, on the basis that this would still leave the issue of potential noise effects on guests using hotel rooms during the day. He was adamant that the coach parking area needed to be relocated. While he agreed that a construction period of 12 months should be adhered to (should the application be granted) a start time of 8:30 AM on weekends and public holidays would be more reasonable.
58. **Ms L Armitage** presented a written statement of evidence on behalf of herself and Mr Karl Oellermann who are resident at 4/22 Hallenstein Street. They own a two level apartment in a complex which has an outlook to the south across the site.
59. The submitter was critical of the Council's planning report, and the failure of the planner and the applicant's professional advisers to visit their property and obtain a 'first-hand' perspective of the potential effects on their views prior to coming to their conclusions. She emphasised that they enjoyed views of both the lake and of Queenstown Bay itself, and effects on views of the latter were particularly important from both floors of their apartment. She rejected the assertion by both the reporting officer and the applicant that a complying development, or the eventual possibility of development of 17 Melbourne Street would have a comparable effect (17 Melbourne Street adjoins the submitter's property to the north and is in the foreground of their views across the site).
60. She also expressed concern that as affected submitters, they had not had the opportunity to consider the renders showing the effect of the development from various vantage points on the decks of their home (we note again this was the subject of a Minute from the Hearings Panel). They emphasised that the extent of the non-compliances with height, recession planes and length of building rules were substantial, not minor, breaches.
61. The submitters also claimed that a large hotel development was inconsistent with the residential intent of the ODP and the PDP, and stated that under the latter visitor accommodation would be a noncomplying activity. In their view the proposed hotel would displace residential activity²³. In addition, they considered that the Council had placed too much emphasis on the effects on commuter parking, and had understated the effects on

²² *Environmental Defence Society Inc v the New Zealand King Salmon Company Limited* [2014] NZSC 38

²³ Evidence of L.Armitage and K.Oellermann, paragraphs 36 and 37.

street parking for residents, given the extent of the non-compliance with the parking standards in the ODP.

62. The submitters also contended that the activity was contrary to the objectives and policies of the ODP, with respect to built character and amenity values, the avoidance of any adverse effects, the need to integrate new development with the neighbouring locality, avoiding visually dominant buildings, and discouraging establishment of large visitor accommodation developments in residential neighbourhoods. They also drew attention to Part 7, Clause 7.2.3 (Objectives and Policies, Queenstown Residential and Visitor Accommodation Areas), Policy 3 which made reference to the need to enhance established residential environments in terms of density, height, access to sunlight, privacy and views. They also drew attention to Objective 9.2.5 and Policy 9.2.5.1 which sought to generally discourage commercial development in the High Density Residential Zone, and to ensure commercial development was low scale, of limited intensity, and generated only small volumes of traffic.

The Council

63. **Ms Erin Stagg** had concluded in her section 42A report that the application would not have effects on the environment that were more than minor, and that the proposal was not contrary to the objectives and policies of the ODP²⁴. However during the hearing following the presentation of the applicant's case and submissions, and following a subsequent visit to the Armitage /Oellermann property, she changed her opinion and concluded that the effects were more than minor on the basis of effects on the submitter's views. However she maintained that the application was not contrary to the objectives and policies, and that for this reason one of the two threshold tests in section 104D was met. She still considered that the application should be granted.
64. Her conclusions were informed by reports from consultants for the Council or internal Council experts. She noted that the Council's Urban Design Consultant, Mr Garth Falconer, had reviewed Mr Steven's report and was of the view that the hotel design was creative and sensitive to its environment, and he considered that the 'bulk' of the building was compensated for by the quality of the design. Ms Stagg was of the view that while the proposed hotel would be higher than existing hotel buildings nearby, it was of similar bulk. She claimed that while the increased height would be noticeable, it would be softened by landscaping and in her opinion would not have a significant effect on the amenity or character of the streetscape and neighbourhood.
65. Mr Falconer's report dated 4 April 2017 was attached as Appendix 3 to the officer's report. In view of the importance of the issue of urban design as expressed in evidence to the hearing, his report notes that:
- "Against the Operative District Plan the proposal is larger than currently allowable, though the effects on neighbours and passers-by whether these are on the basis of character, privacy, building length or external appearance mitigated by well considered design treatment. The proposal is more fitting with the anticipated future proposed land use controls for the area under the Proposed District Plan".*

²⁴ s 42A report, pp 17 and 20 respectively

66. Mr Falconer's report also makes reference to the provisions of the PDP and concludes that it is compatible with the design principles under the Urban Design Protocol including the seven 'C's being "context, character, choice, connections, creativity, custodianship and collaboration".
67. We record that Mr Falconer briefly attended the hearing at our request to answer questions.
68. **Mr Michael Wardill** presented a report on engineering aspects of the proposal including traffic matters, but the latter was addressed in detail by a report prepared by Ms Kylie Huard of MWH/Standtec who had prepared a parking peer review which was attached as Appendix 5 to the section 42 a report. This report was critical of elements of the work undertaken by TDG (on behalf of the applicant) and submitted with the notified application. These criticisms included limited information about the extent of parking in nearby streets, the dimensions, accessibility, and the layout of a number of the parking spaces in the basement of the proposed hotel. It also raised concerns about likely parking demand that the hotel would generate. It was noted that:
- "The applicant has identified that parking demand may occasionally exceed capacity of the on-site car park (Section 7.2). We consider that parking demand will be regularly exceed capacity, and this overflow of both visitors and staff may be substantial. The Queenstown Town Centre Transport Strategy (2015) proposes three hour time restrictions for the surrounding streets of this development site. This will prevent commuter parking in the area, but will also restrict all day visitor and staff parking. Providing guest parking on-site is necessary, as it is not desirable for guests to drive into the centre of Queenstown, given the parking pressures in the town. We consider the applicant should meet the District Plan requirements for parking in this instance. Applicant to advise how staff and visitor parking overflows will be managed"*²⁵.
69. In response to this, TDG provided further information, and a response to this was forwarded to the Council by Ms Huard dated 25 May 2017. A further response was sent on to the Council (to Mr Wardill) on 29 June 2017 in relation to updated car parking plans prepared by TDG. From this, it was apparent that the reviewer was not entirely satisfied that all of their concerns had been addressed. A subsequent email message dated 21 July from Ms Huard stated that she was satisfied with the car parking dimensions and layout, apart from a detailed issue relating to access to staff bicycle parking. Such was the level of concern about configuration of car parking, that it was considered preferable to reduce the overall number of car parks and improve their layout and access, notwithstanding that this would increase the shortfall with the car parking numbers required under the ODP. However we understand that by the time of the hearing, the Council did not have any major concerns with effects on street parking, and have accepted the views expressed by Mr Rossiter.
70. There were no significant concerns raised with respect to other engineering matters such as water supply and effluent disposal.
71. Mr Ulrich Glasner, the Council Engineer, appeared at the hearing at our request to provide further explanation of the 'Inner Links Project' which had figured prominently in the applicant's evidence. He explained that this proposal was designed to relieve traffic

²⁵ MWA/Stantec report dated 6 April 2017, paragraph 15

congestion in the central part of Queenstown by relocating the main entrance to the town from Stanley Street to the parallel Melbourne Street above, and in turn connecting this with Man Street to the west and ultimately to the Fernhill roundabout. We understood that the Council had acquired land to give effect to this project, which appeared likely to proceed at some point but which had not yet been given formal approval as part of the Council's annual planning process, and was not yet designated. We noted that the applicant had contended that the site layout was flexible enough to accommodate such a change, which in turn would create more of a barrier between commercial and visitor accommodation activities to the south of Melbourne Street, and predominantly residential areas to the north.

72. Dr Chiles peer review was attached as Appendix 8 to the Council's section 42A report. He did not agree that road traffic noise on Stanley Street would mask the sound of vehicles in the accessway adjacent to the Millennium. However he noted coaches would only be present during daytime and for infrequent periods of time and duration. He considered that construction noise will be clearly audible and disturbing at times, but that subject to the appropriate standards for construction noise and the implementation of a noise and vibration Management Plan, the effects on neighbours should be acceptable. He recommended compliance with district plan noise limits other than daytime coaches and delivery vehicles, the preparation of a design report prepared by an acoustic specialist to be submitted to the Council, a gate or barrier at both ends of the coach parking area, a 2m high solid fence along the boundary with the Millennium, and recommended conditions for construction sound and vibration as appended to his peer review.
73. **Right of Reply**
74. Mr Holm submitted that application of the *Davidson*²⁶ decision would not preclude an exercise of judgement against the purpose of the Act under Part 2. He criticised what he termed the 'cherry picking' approach of counsel for Millennium, and in particular their submission that Policy 5.1 required Pro – Invest to avoid all adverse effects. In his submission there were distinguishing factors between *King Salmon*²⁷ and the application of objectives and policies concerning the avoidance of adverse effects, given the context of the 14-year-old ODP, and the New Zealand Coastal Policy Statement 2010, which had only been recently promulgated at the time that *King Salmon* was heard. He also submitted that the PDP does not oppose visitor accommodation, but rather is silent on it pending a future variation which he contended the Council was clearly committed to doing.
75. With respect to Ms Armitage evidence, he submitted that there was no absolute right for a property owner to have their views preserved, and that it was appropriate to take into account the type of development which had already occurred at 15 Melbourne Street, and which could be reasonably expected in the course of time on 17 Melbourne Street (both in the foreground of the submitter's property). He contended that a building at the maximum permitted height on 17 Melbourne Street would obscure their view²⁸. He asserted that the majority of the panoramic view enjoyed by the submitters would remain if his client's project proceeded.

²⁶ *R.J Davidson Family Trust v Marlborough District Council* [2017] NZCA 194

²⁷ *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014 NZ SC 38 at [144 – 145].

²⁸ *Reply submissions, paragraph 23*

76. He was critical of the evidence of Mr Luxon as being unsupported by expert evidence, with references to advice received from experts in his evidence as amounting to hearsay. He also sought that our decision record the non-attendance by Millennium at the hearing during presentation of expert evidence on behalf of Pro – Invest and Council concerning matters of noise and traffic.²⁹
77. Mr Holm also made the following submission points in summary:
- Millennium had confused the function of the Sydney Street bus loading bay with the service lane, which would be used merely for parking;
 - The evidence of Mr Rossiter relating to parking and traffic had been peer-reviewed and accepted by the Council;
 - Millennium’s claim of a 9 dB ‘ongoing’ noise exceedance was incorrect and would only affect a limited number of rooms for a very short period;
 - Rooms in the Millennium have mechanical ventilation enabling compliance with the (equivalent external) noise standards when windows were closed, and that the Millennium accepted external noise of up to 64 dB L_{Aeq} (15mins) on the Stanley Street frontage of their hotel. He also submitted that the evidence of Dr Chiles for the Council considered that the magnitude of noise exceedances would be minimal;
 - That any exceedance of construction noise would be for a very short period of two days within an 18 month construction timetable.

ASSESSMENT OF EFFECTS

Preliminary matters

78. It was common ground at the hearing that the application has to be assessed as a noncomplying activity under the ODP, and also under the PDP.
79. Even if an activity is considered to satisfy one or other of the tests under section 104D for a noncomplying activity, the consent authority still has a discretion as to whether or not consent be granted under section 104.
80. The applicable provisions of section 104 of the Act to this application are as follows:

104D Particular restrictions for non-complying activities

(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either -

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

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

(i)

(ii).....

²⁹ Reply submissions, paragraph 46 (g)

(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.

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 and 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 for any adverse effects on the environment that will or may result from allowing the activity;*

(b) any relevant provisions of –

.....

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

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

.....

(3) A consent authority must not, -

(a) when considering an application, have regard to –

(i) trade competition or the effects of trade competition; or

(ii) any effect on a person who has given written approval to the application.

The weight to be given to the operative and proposed plans

81. Stage 1 of the review of the PDP was notified on 26 August 2015. This notification included the zoning of the area within which the site is located, as 'High Density Residential', similar to the existing zoning under the ODP. This included provision for visitor accommodation as a controlled activity. However on 23rd of October 2015 the Council withdrew the provisions in the PDP as they relate to visitor accommodation, to address issues relating to the use of residential properties for accommodation purposes (e.g. Airbnb), and *not* to restrict visitor accommodation in the form of hotels in the High Density Residential Zone³⁰. However the withdrawal of the provisions relating to visitor accommodation generally also captured 'regular' visitor accommodation facilities such as hotels. A variation to Stage 1 of the PDP to reintroduce amended provisions relating to visitor accommodation with the subject of a report to the Council on 8 November 2017, and we understand notification expected to take place at the end of November 2017.
82. The applicant's case stressed that the scale and design of the proposed hotel recognised the planning regime that was expected to result from the plan review process, which would be significantly more liberal than the ODP, particularly with respect to matters such as height and

³⁰ Report for Agenda Item 3 to the QLDC, 8 November 2017, paragraph 9

recession planes. The AEE accompanying the application notes that through the Architectural and Urban Design Report prepared by the project architects, reference is made to a

“..... hotel that is respectful to its neighbours in the context of an evolving planning regime that is seeking to intensify development in close proximity to central Queenstown”³¹.

83. It goes on to state *“..... that the design of the hotel needed to respond not to only to the current urban context, but also fit into the potential future urban context that will be heavily influenced by the density aspirations of the PDP for the High Density Residential Zone and the Inner Links Project”³².*
84. From this, it was apparent that the applicant was placing some weight on the provisions of the PDP as providing a more sympathetic basis for the application. By way of contrast, both counsel for the Millennium and Ms Armitage also placed some weight on the PDP, but with very different conclusions.
85. From the reply to our Minute, we understand that Ms Armitage and Mr Oellermann had taken some advice from the Christchurch-based planning consultant. In addition, comment was also sought from a landscape architect regarding the techniques used to prepare the photo montages showing effects on their view. With respect to the latter point, it seems quite clear that the applicant’s photo montages demonstrate that there *will* be a partial loss of lake views experienced by the submitters, and we have proceeded on the basis that this is a fact.
86. Turning to the comments of Ms Armitage made at the hearing with respect to the weight to be given to the PDP, we note that she placed a great deal of significance on the withdrawal of the provisions providing for visitor accommodation from Stage I of the PDP. She correctly noted at the time of the hearing that there was no variation in place to address travellers accommodation, and then claimed there may never be one. On this basis, she concluded that *“the overall effect of the PDP for this zone is increased residential density – that aim is for residential not large hotel developments in this area”³³.*
87. We consider there is no basis for this conclusion.
88. Firstly, in considering the contrasting arguments put forward by *both* the applicant and by the submitter, our conclusion is that little weight, if any, can be placed on the PDP – whether in its current form without provision for visitor accommodation, or how it might be if subject to a variation. The notified provisions of the PDP with respect to visitor accommodation have not been subject to any hearing process, let alone Council decisions, so are at a very early stage of the review process.
89. In the absence of a variation, the withdrawal of the provisions relating to visitor accommodation in the PDP, but more particularly in Chapter 9 (High Density Residential Zone) may well raise an issue of natural justice. This is because the withdrawal of these provisions has the effect of negating any submissions that might, or might otherwise, have been lodged

³¹ Applicant’s AEE, March 2017, page 13

³² Ibid, page 35

³³ Evidence of L Armitage and K. Oellermann, paragraph 37

in support of visitor accommodation. This is a further reason why we place little weight on the provisions of Chapter 9 of the PDP with respect to visitor accommodation.

90. This brings us to the issue raised by the applicant, which was that the provisions in the ODP are essentially incoherent because the rules do not give effect to the objectives and policies. In particular, the applicant asserted that while the zone provisions anticipated both high density residential development and for visitor accommodation, the (inconsistent) rules framework made the achievement of this outcome difficult.
91. Visitor accommodation is a controlled activity within the High Density Residential Zone under the ODP. As such, visitor accommodation is clearly anticipated within the Residential High Density Zone. The issue that has made visitor accommodation noncomplying in this instance is not the fact that it is visitor accommodation, but the fact that the proposed building exceeds the height limit. A similar issue would arise with a residential building which exceeded the height limit.
92. Insofar as the ODP is concerned, we reject the contention that there is any preference for residential development over visitor accommodation in the Residential High Density Zone. Indeed, we note that the restrictions on residential development with respect to coverage, height and recession planes are the same as those which apply to visitor accommodation³⁴.
93. Furthermore, visitor accommodation is not a “commercial activity” under the ODP. Commercial activity is defined as follows:
“means the use of land and buildings for the display, offering, provision, sale or hire of goods, equipment or services, and includes shops, postal services, markets, showrooms, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, the sale of liquor and associated parking areas. Excludes recreational, community and service activities, home occupations, visitor accommodation, registered holiday homes and registered homestays”³⁵. (our emphasis)
94. Apart from more generous limits for site coverage, the rules with respect to height, setback, and recession planes are largely the same in the Residential High Density Zone as they are for lower density ‘suburban’ environments in the District. It was readily apparent from our site visit that the nature and scale of buildings which have been recently constructed in this zone close to the centre of Queenstown are very different in character from suburban housing. Most recent development comprises large buildings, and many are three storeys or higher. Regardless of whether the plan provisions should be taken as supporting or discouraging visitor accommodation, they appear to be poorly aligned and inconsistent.
95. We agree with the applicant that the rules relating to both residential and visitor accommodation do not sit comfortably with the outcomes anticipated by the zoning, as discussed below in our assessment of the applicable objectives and policies. The rules have the effect of encouraging low density ‘sprawling’ building forms which are inefficient in terms of land use. Worse, they act as a perverse incentive for both high density residential activities and visitor accommodation facilities to consume more land in an area close to the centre of

³⁴ ODP, Chapter 7 Rules 7.5.5.2 (i), Table 7.2; Rules 7.5.5.3 (v)

³⁵ ODP, Chapter 2, page D 3

Queenstown where there is a scarcity of vacant land resources. However notwithstanding that, we are caught with the plan provisions as they are.

96. In determining whether consent should be granted however, it is not simply a matter of identifying non-compliances, or even the extent of them, but how the proposed design adequately addresses adverse effects and potentially contributes to the wider townscape. We also consider the existing character of the built environment surrounding the site is a relevant issue. In this respect, even though the activity is noncomplying, the assessment matters required assessing visitor accommodation as a controlled activity are useful for guiding the decision-making process. These are contained under clause 7.7.2ii.

97. This clause reads as follows:

ii Controlled Activity – Visitor Accommodation

Conditions may be imposed to ensure that:

(a) Compatibility with amenity values of the surrounding environment considering the visual amenity of the street, neighbouring properties or views of the lake; and

(i) The character, scale and intensity of the proposed use and its compatibility in relation to surrounding and/or adjoining residential neighbourhoods

(ii) The nature of the development in the context of the permitted future uses on nearby sites

(iii) Loss of privacy

(iv) The proximity of outdoor facilities to residential neighbours

(v) Hours of operation

(vi) The ability to landscape/plant to mitigate visual effects

(vii) Whether the external appearance of the buildings complements the surrounding landscape and urban character, including when viewed from the lake

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

(b) Any adverse effects from the activity are avoided, remedied or mitigated in terms of:

(i) The adequacy and location of car parking for the site

(ii) Noise, vibration and lighting from vehicles entering and leaving the site

(iii) Pedestrian safety within the vicinity of the activity

(iv) Provision for coaches to be parked off-site

(c) Mitigation of noise emissions beyond the property boundary considering:

(i) The adequacy of mitigation measures, including the layout of outdoor activities (for example barbecues, spa pools), and the ability to screen those activities by vegetation, fencing or building

- (ii) *Measures that can be incorporated into the premises to provide for acoustic insulation and/or attenuation of noise emissions.*

98. In turning our minds to these issues set out within the assessment criteria:

Design and appearance

99. The assessment criteria provides clear direction that seeks to ensure any proposed development is appropriate and positively contributes to its context, with special regard given to views from the lake. It also refers us to the 'Seven C's' set out within New Zealand Urban Design Protocol. While, this is helpful, we do not believe a detailed consideration of each of the Seven C's would add value to meaningful evaluation of the proposal, save to say these issues have influenced our consideration of the proposal.
100. In terms of the proposal's impact on the character and amenity values of the surrounding local environment, while we acknowledge the concerns expressed by Ms Armitage and Mr Luxon we favour the evidence of Mr Stevens, Mr Edgar and Ms Stagg and believe that the design and appearance of proposal will positively contribute to the street scene when viewed in the short and long views and the local environment generally. We are the view that the proposal is appropriate in its scale, bulk, height and massing for its location in close proximity to the town centre and will not adversely affect the street scene, be out of character, or adversely impact the surrounding properties to a degree which is could be consideration more than minor. In reaching this view, we acknowledge that the local environment, bounded by Frankton Road, Stanley Street, Beetham Street and Melbourne Street is characterised by a high degree local of hotel / visitor accommodation, a point highlighted in the helpful 'figure ground' map given to us during the hearing by Mr Holm.³⁶ In saying this we are disappointed that the applicant did not take the opportunity to create a stronger positive statement on the corner of Stanley and Sydney Streets, which could have reinforced this corner, especially when travelling west to east on Stanley Street.
101. We agree with Mr Stevens's view that compliance with the district plan's development controls, including yard, height to boundary and the district plan's other amenity standards would have created a negative outcome for the site and the current proposal represents a significantly improved design solution. We support and agree with Mr Stevens about the need to create a strong positive urban edge in this location, which is achieved on all sides apart from the Stanley Street elevation, where the proposal provided for a 5 metre yard set-back, in compliance with the district plan's standards. Through questioning Mr Stevens, he stated this was in response to the concerns expressed by the Council's landscape consultant. While we accept this, and that the outcome on this elevation is acceptable in design term, in our view this is a lost opportunity to reinforce this edge on a significant urban street in the Queenstown's urban fabric.
102. The assessment criteria also seeks to ensure that built form is not inappropriate when viewed *from* the lake. In our view the proposal, while four stories in height, will sit comfortably within this part of Queenstown's townscape when viewed from the lake. The site is situated in a position elevated above the Queenstown's town centre, with a range of two/three/four story

³⁶ McAuliffe Stevens plan UDR23 Revision 1

buildings forming part of the visual background framing and sitting behind the town centre when viewed from the lake and its edges. This creates a degree of bulk and massing similar to that currently proposed and our view the proposal will not be out of character nor visually intrusive when viewed from the lake or other parts of the Queenstown town centre.

103. Finally, for completeness, while we acknowledge Ms Armitage's concerns that she will lose a part of her lake views, we prefer the evidence of Mr Edgar. We believe this impact will be no more than minor, a point confirmed by our own site visit, and we thank Ms Armitage for allowing access to her property. In reaching this view, we agree with Mr Edgar's view that the permitted baseline for development on Melbourne Street side of her site must be taken into consideration when considering this issue. We also agree with Mr Stevens that a 'complying' development in terms of height would create a significant roof elevation when viewed from the submitter's property.

Noise

104. The uncontested evidence was that with respect to the operation of the proposed hotel, any noncompliances with respect to noise were confined to the proposed accessway/bus parking area adjacent to the boundary of the Millennium, and with respect to the one aspect associated with construction noise – again potentially affecting the Millennium.
105. With respect to noise generally associated with construction activity, we consider this can be adequately managed – as is the case in nearly all projects of this nature – through conditions and compliance with standards relating to construction activity under *NZS6803: 1999 Acoustics – Construction Noise*. The majority of the site is vacant and would inevitably be developed for intensive residential or visitor accommodation facilities, and noise associated with construction activity will occur on a temporary basis whether associated with this proposal or any other future activity. In the longer term, we did not hear any evidence that established that the operation of this facility, any more than visitor accommodation activities generally, would generate noise effects, particularly in a location in close proximity to the centre of Queenstown.
106. Mr Luxon expressed concerns with respect to the effect of bus parking adjacent to the western facade of the Millennium. This would potentially affect guests in the third and fourth levels of the Millennium, based on projected measurements. The projected level of approximately 59dB $L_{Aeq}(15mins)$ for a coach with its engine running is approximately 9dB above the daytime noise standard under the PDP.
107. We are satisfied that through conditions requiring the installation of a gate (or perhaps on a more practical basis, retractable bollards), bus movements in the accessway during night time hours can be prevented. This can be effected through restricting access between the hours of 10 PM and 8 AM. Similarly, a condition should be imposed on any loading of buses in this location (to discourage prolonged idling), even in the unlikely event that the Holiday Inn sought to do so. We make this observation on the basis that the hotel design provides for primary access from the Sydney Street frontage and for a bus pickup zone located on the opposite side of that frontage, which has the Council's agreement as road controlling authority. Any issue of night – time noise noncompliances would accordingly not arise.

108. With respect to the effects of daytime noise associated with bus parking, we do not consider there is a great deal of weight in Mr Luxon's argument that Millennium guests in the rooms adjoining the accessway would be significantly disturbed during the day. While bus noise will be discernible at times to occupants of some Millennium adjacent to the accessway, as confirmed by Mr Chiles, we accept Mr Trevathan's opinion - in response to our questioning - that noise attenuation of at least 10dB can be expected within rooms, even without noise insulation to walls or windows. It also seems fanciful to suggest that the proprietors of the Holiday Inn, who would also have guest rooms adjacent to the bus parking area, would be any less concerned about the effects of noise on their guests than the proprietors of the Millennium. We also note that the area adjacent to the boundary within the Millennium property is not used as a outdoor space for hotel guests.
109. We do not consider that a condition requiring double glazing or any other acoustic measures with respect to the Millennium are in fact necessary. Even if we concluded that such an 'off site' condition was necessary, we could not impose a condition to that effect because this would require the consent of the proprietors of the Millennium, and there was no indication that such consent would be forthcoming.
110. During our visit to the area, we noted that buses are parked directly adjoining the facade of the Millennium on the Melbourne Street frontage, which we also consider somewhat diminished the force of Mr Luxon's concerns with respect to the noise from the Holiday Inn site. Queenstown is also a very 'vibrant' place, and relatively high background noise from traffic and other sources can be expected at levels above the daytime noise standard in the ODP. This would apply to the facade of any rooms facing Stanley Street in either the Millennium or the proposed Holiday Inn.
111. Perhaps most importantly, the duration during which the engines of buses would be running while entering and leaving the accessway would be short. This includes either long-term engine idling, or intermittent but frequent engine idling. It is in the self-interest of any prudent hotel operator to ensure that noise issues for their guests were adequately managed.
112. We are also mindful that the only technical evidence we heard with respect to noise issues was from Mr Trevathan, appearing for the applicant. While Mr Luxon sought to critique Mr Trevathan's evidence, its technical accuracy was not seriously challenged, and we are obliged to place more weight on the evidence of an expert witness. We consider that the submitter would have the resources to also call acoustic evidence should they have wished to do so.

Traffic Generation

113. A primary design feature of this proposal is the location of the public access to the Holiday Inn from Sydney Street, rather than the heavily trafficked Stanley Street frontage (State Highway 6) or from Melbourne Street. Melbourne Street would become the main access point into the town should the Inner Links Project come to fruition, which seems likely at some point in the future. However we do not believe that the construction of the Inner Links Project (should it eventuate) has a significant impact on the merits or otherwise of this proposal. Its primary significance is that the parking and access design of the proposed hotel can work equally well under either scenario.

114. Recognising that the site is identified for intensive residential or for visitor accommodation, we consider it is appropriate that the primary access to the site for cars and pedestrians be obtained from Sydney Street, given the current function of Stanley Street and potential future changes affecting Melbourne Street. In addition, the northern side of the Melbourne Street has a greater residential component than those portions of Stanley and Sydney Street adjoining the site, and an entrance to the site from Melbourne Street would cause greater disruption to the amenity of those properties. On the other hand, the opposite side of the site in Sydney Street is occupied by the Scenic Suites, another substantial accommodation facility.
115. While there were some concerns about the loss of 13 on-site car parking spaces on the western side of Sydney Street to provide for bus parking, we note that this arrangement is considered satisfactory to the Council, and has its endorsement in principle as road controlling authority. Further, it would be available for bus parking which would confer a wider benefit than simply to the proposed Holiday Inn.
116. Mr Rossiter observed that for right turning traffic from Sydney Street, there can be significant delays of up to a minute, which is only partly ameliorated by the 'platooning' effects of traffic movements in association with the operation of the traffic lights in Stanley Street. Mr Luxon picked up on this point and expressed that this was a further concern with the establishment of the Holiday Inn. Mr Rossiter stated that in his view (leaving aside any future improvements with the Inner Links Project) that the majority of vehicle movements associated with the proposed hotel would seek to turn left in the direction of the district's primary attractions. In addition, given the close proximity of the town centre and the ability to conveniently walk there, there is less need to rely on car transport.
117. We broadly accept his conclusions, and note that even if the site remained undeveloped, it is virtually inevitable that increases in traffic will occur on the road network in the vicinity of the proposed hotel. Even an alternative development involving a smaller scale hotel, or intensive residential development, would not reduce potential additional traffic movements to a degree that would avoid or delay the need for future changes to the road network and better management of on street parking demand. The site is, apart from the recent operation of the backpackers from the dwelling on the corner of Sydney and Melbourne Streets, is virtually undeveloped or the very least underdeveloped, and its location close to the commercial centre of Queenstown is such that we consider some form of intensive development of the site, and associated additional traffic generation, is inevitable.

Parking

118. This is a concern which was raised in 10 submissions. We consider this was an understandable reaction given that not only was there was a deficiency in the number of carparks to be provided on site, there is also an expected loss of carparks on street. We understand that the loss of 13 carparks on Sydney Street may be able to be reduced slightly with detailed design, but still leaving a deficiency – albeit that this loss may be partially compensated for by three additional spaces becoming available on Melbourne Street with the removal of old existing crossing points into the site.
119. We accept that there is high demand for car parking spaces in Sydney and Melbourne Streets, and extending up to Hallenstein Street. We observed that during the day there was a high

level of on street parking with only a few vacant spaces available. We do not have any information as to how many of these parks are those of residents (which could reasonably include friends and family), and commuters who were either visiting the town or working there. Car parking in this area is free, which whatever its benefits, would likely encourage commuter parking.

120. We did not find Mr Rossiter's evidence with respect to car parking issues entirely convincing. While we accept that there is some additional on street parking available once commuters leave later in the day, there is relatively little difference between peak parking numbers during the day and those during the evening. While the car parking survey revealed the availability of 122 car parking spaces³⁷ the survey results showed that over 110 of these were occupied at 1 PM, and even at 8AM and 5PM, approximately 100 of the carparks were still occupied³⁸.
121. This area is very close to the commercial centre of Queenstown – in fact within walking distance, qualified only by pedestrians facing a rather stiff uphill climb in places. As we noted above with respect to traffic generation, we have no doubt that with the growth of tourism and activity in Queenstown generally, there will be more pressure on parking in the area. Regardless of the outcome of this application, we consider that on street management of commuter parking will be required in the form of time restrictions or other measures.
122. We accept that there is some validity in Mr Rossiter's argument that commuters will tend to park in the area during the day, while tourists are more likely to visit attractions during the day and park overnight. Another factor requiring recognition is that the current parking regime has been affected by the presence of the backpackers facility, whose guests would have parked on the street rather than arrived by bus. We also wonder why there would be extensive demand for on – street resident car parking, given that older housing is associated with large residential sections, while recent residential development would be subject to the car parking standards in the ODP.
123. We do not consider there is any issue with the adequacy of coach parking, firstly because it seemed most unlikely to us that the ODP requirement of five on-site coach parking spaces would in practical terms be required, especially when the proposed coach parking area in Sydney Street was taken into account. Secondly, the proposal for coach parking on the western side of Sydney Street, with Council approval in principle, will in our view be more than sufficient to cater for coach parking needs, not only for the proposed Holiday Inn, but potentially for other nearby accommodation providers.

Other Effects

124. The application sought consent for the installation of signage, with two signs of 2.75 m² and one of 1.6 m². The issue of signage and its effects was scarcely raised at all during the course of the hearing, or in submissions. The assessment matters for signs (although the activity is fully discretionary) relate to design, location and size, the effects on residential character

³⁷ Melbourne Street and Sydney Street north of Stanley Street, April 2017, evidence of M.Rossiter, paragraph 20

³⁸ Evidence of M Rossiter, paragraph 20 and Figure 1

colour, and effects on traffic or pedestrian safety³⁹. These criteria are similar to those in clause Chapter 18 “Signs”, clause 18.1.2, Objective 1 and its associated policies.

125. Signage can have the effect of creating visual clutter where it is concentrated on narrow frontages and is cumulative to similar signage nearby. The site concerned has a very long street frontage, and in the context of that, the extent of signage proposed is modest by commercial standards. We are satisfied that any visual impacts of signage would be less than minor, including on residential amenity.
126. It is proposed that liquor would be able to be from a hotel bar between the hours of 8 AM and 12 AM the following day. This is a typical arrangement for many larger scale visitor accommodation premises, and we agree with the reporting officer that this would primarily be for the benefit of hotel guests. The proposed facility is in an area already containing visitor accommodation and we do not anticipate that this would have adverse effects on the residential neighbours to the north, also noting that public access will be from Sydney Street, not Melbourne Street⁴⁰.

Positive Effects

127. It is self-evident that the construction of this hotel would be timely and meet a demonstrable need for additional travellers accommodation, as described in the uncontested evidence of Mr Sherlock⁴¹. We have been conscious however, to avoid any conclusion that the benefits of this proposed hotel (and its scale) override any adverse effects which might follow from its establishment.
128. It is however appropriate to take positive effects into account and we acknowledge that a large hotel such as this in close proximity to the centre of Queenstown will add to both the quantity and quality of accommodation available to visitors, and have direct benefits to the local and national economy.

Conclusions on effects

129. Subject to the imposition of a range of conditions with respect to landscaping, the design and appearance of the buildings and structures, noise management and access/parking arrangements, and the inevitably long construction phase, we conclude that the proposed activity would not have a more than minor effect on the environment.

OBJECTIVES AND POLICIES

130. The relevant plan provisions in this case include the Operative District Plan, the Proposed District Plan, and any relevant provisions of the Otago Regional Policy Statement. Given the current status of the PDP, we consider that the ODP has primary importance in this case.
131. Under the ODP, both for the activity itself and for the location within which it is proposed, the objective and policy framework is very expansive and graduated from the district wide to the

³⁹ Rule 18.3.1 (iii)

⁴⁰ Section 42 a report, page 14

⁴¹ Evidence of T Sherlock, paragraph 13

specifically local level. Furthermore, a feature of the ODP at both the district wide and the local level is the integration of the policy framework for high density residential and visitor accommodation activities. Our discussion of the objectives and policies is accordingly somewhat extended of necessity, albeit focusing only on those still numerous provisions that have application to this proposal.

132. Under the ODP, Section 4 contains district wide objectives and policies. Objective 2 and its two accompanying policies state as follows;

“Objective 2 – Existing Urban Areas and Communities’

Urban growth which has regard for the built character and amenity values of the existing urban areas and enables people and communities to provide for their social, cultural and economic well being.

Policies

2.1 To ensure new growth and development in existing urban areas takes place in a manner, form and location which protects or enhances the built character and amenity of the existing residential areas and small townships.

2.2 To cluster growth of visitor accommodation in certain locations so as to preserve other areas for residential development”.

133. Given the matters that arose during the hearing, and in particular the relationship between residential and visitor accommodation at this higher level in the ODP, we consider it is appropriate at this early stage to identify the basis of the High Density Residential Areas as set out in Section 7.2 “Queenstown Residential and Visitor and Accommodation Areas”. We return to this matter again in considering the objectives and policies in chapter 7 below.
134. The statement under this section notes that these areas were formerly characterised by single unit dwellings and two or three level multiunit developments predominantly acting as visitor accommodation. It states:

“Redevelopments in the High Density Residential Zone are having a significant impact on the character, scale and density of the environment. These changes flow from the desirability of efficiently using the land resource to provide for visitor accommodation and high density residential development. Controls are required to ensure that the changes which are occurring will result in residential neighbourhoods and visitor accommodation clusters that protect and enhance the amenity of both. Increasingly multi-unit developments are starting to dominate with maximum density being achieved by combining lots, major earthworks in the creation of large bulky buildings on more than four levels. Although the zone is capable of absorbing some development of this size it is not appropriate for every lot. The Council recognises that there is a need to provide for high density accommodation to ensure suitable housing for residents and accommodation for visitors close to Queenstown and Frankton and adjacent to transport routes. The high density zone is intended to fulfil this function”.

135. It goes on to say:

“Much of the High Density Residential Zone is a zone of change where significant changes are anticipated as development takes place. The extent and nature of anticipated change varies in accordance with those differing characteristics. Therefore those differing characteristics are a starting point in determining the anticipated extent of change”.

136. We consider that the contents of the section quoted above are particularly prescient, noting that these were written approximately 15 years ago. It is readily apparent that the area has continued to change in the manner described above. An example is the extensive residential complex nearby on the corner of Beetham Street and Stanley Street. It is also readily apparent that development on “more than four levels” is continuing to occur. While this was anticipated at the time of the last plan review, we note that it also reflects an intensity of development in excess of the height, recession plane and setback standards that were applied within the zone under the ODP.
137. The central area of ‘historic’ Queenstown is quite confined, so we are not surprised that the scale of development reflects *“the desirability of efficiently using the land resource to provide for visitor accommodation and high density residential development”*. We consider it is quite unrealistic to expect development in this area adjacent to the town centre (recognising the intensive growth pressures of tourism in Queenstown) to meet the type of standards one would expect in a typical low density outer suburban residential environment. The former doctor’s residence on the site was one of the last survivors of this historic low density pattern, which the PDP clearly recognises as being within an area in a state of change.
138. We consider that this is a site, which as a result of its size and topography, makes it suitable for more intensive development than a smaller and more restrictive site. Although a reasonably large building, the proposed hotel would not in our opinion represent overdevelopment given the size, location, and topography of the site.
139. Turning to the “characteristics” of the zone in and around the site itself, we agree entirely with the applicant’s witnesses that it has changed significantly over recent years to the point where it is dominated by visitor accommodation and high density residential development. More intensive development, be it for residential or visitor accommodation purposes, is now an irreversible reality. The existing level of development on the site is now an anomaly, given the pattern of surrounding development that has emerged – both in terms of its nature and intensity.
140. On this basis, we conclude that the proposed Holiday Inn development is *not* contrary to Objective 2 and Policies 2.1 and 2.2, but rather is strongly consistent with them.
141. Objective 4 and Policy 4.1 state as follows:

Objective 4 – Business Activity and Growth

‘A pattern of land use which promotes a close relationship and good access between living, working and leisure environments’.

Policies

4.1 To promote town centres, existing and proposed, as the principal foci for commercial, visitor and cultural activities.

142. The site is located on the main entry route into Queenstown and will remain so even if the primary entry route were changed from Stanley Street to Melbourne Street. As well as enabling ready access by vehicles or coaches to surrounding district attractions, perhaps more importantly its close proximity to central Queenstown with its wide range of tourist services enables ready access on foot without reliance on vehicles. A hotel of this scale, be it in on this particular site or elsewhere within the Residential High Density Zone, is consistent with promoting the town centre as a principal focus for commercial, visitor and cultural activities. We are satisfied that the proposal is consistent with this objective and policy.

143. Objective 5 and accompanying Policy 5.1 state:

“Objective 5 – Visitor Accommodation Activities

To enable visitor accommodation activities to occur while ensuring any adverse effects are avoided, remedied or mitigated.

Policies

5.1 To manage visitor accommodation to avoid any adverse effects on the environment”.

144. Our attention was drawn during the hearing to these two provisions and particularly to Policy 5.1, by counsel for the Millennium.

145. Section 75 (1) ‘Contents of district plans’ states that:

*“(1) a district plan must state –
(a) the objectives for the District and
(b) the policies to implement the objectives; and
(c) the rules (if any) to implement the policies”.*

146. We agree with Mr Holm that there is an apparent difficulty here with the wording of Policy 5.1. The higher order objectives clearly contemplate that visitor accommodation activities are to be enabled, provided any adverse effects are *avoided remedied or mitigated*. Policy 5.1 states that visitor accommodation is to be ‘managed’ to *avoid any adverse effects* on the environment (our emphasis). That creates a practical difficulty, because visitor accommodation (unless it is very small in scale) will inevitably – among other things – result in increased traffic, including by large vehicles such as coaches. This could be readily argued to fall under ‘any’ adverse effect, which in turn would imply that most visitor accommodation facilities should not be permitted in the district.

147. While we were invited to draw a parallel with *King Salmon*, we were reluctant to do that for a number of reasons. Firstly, the objective and policy above do not appear to be consistent with each other. Secondly unlike the New Zealand National Coastal Policy Statement addressed in *King Salmon*, in this case we were dealing with a 14-year-old District Plan in the process of undergoing a review. We concluded that to apply a literal interpretation of Policy 5.1, in complete disregard of other plan provisions which in a number of cases contradict this policy, would lead to perverse outcomes. Accordingly, we were not persuaded that Policy 5.1 was to

be interpreted in a way that was fatal to the application. This is further supported by the wording of Section 7, Objective 3 which calls for adverse effects to be “minimised” (not avoided) in living environments.

148. We consider that the proposed activity does have adverse effects, which we consider are minor but not more than minor. These arise with respect to intermittent short-term noise effects, effects with respect to on street parking, and to a limited extent, in terms of building bulk and views. On this basis, the activity is inconsistent with Policy 5.1, but is consistent with Objective 5, which the policy is supposed to implement.
149. Section 7 of the ODP primarily concerns district wide residential objectives and policies. Objective 1 and its four associated policies state as follows:

“Objective 1 – Availability of Land

Sufficient land to provide for a diverse range of residential opportunities for the District’s present and future urban populations, subject to the constraints imposed by the natural and physical environment.

Policies

- 1.1 *To zone sufficient land to satisfy both anticipated residential and visitor accommodation demand.*
- 1.2 *To enable new residential and visitor accommodation areas in the District.*
- 1.3 *To promote compact residential and visitor accommodation development.*
- 1.4 *To enable residential and visitor accommodation growth in areas which have primary regard to the protection and enhancement of the landscape amenity”.*
150. The ODP quite distinctly links residential development and visitor accommodation, a characteristic reinforced by the exclusion of visitor accommodation from the definition of commercial activities. There is no explicit preference for the status of residential activities over visitor accommodation in the high density residential zones, and for many of the key standards such as setback, height, and coverage the provisions for each activity are the same. This policy and rule framework reinforces our conclusions, and in our view contradicts the evidence given by Ms Armitage during the hearing.
151. Furthermore, the ODP does not differentiate between these activities in terms of objectives or policies specifying targets or outcomes in terms of the area of zoned land that should be set aside separately for these activities.
152. In the context of central Queenstown, we concluded that Policy 1.3 is particularly significant, where the relatively small territorial extent of the historic town centre creates significant competition for land, especially in a period of rapid tourism growth. While there may be amenity benefits from restricting building height, this can have the effect, in conjunction with encouraging or requiring on-site and underground parking⁴², of resulting in any given level of development consuming greater areas of land and invading more distant residential areas. As well as having adverse economic effects, this can result in pressures which accelerate the

⁴² Section 7.1.3.2, Policy 1.1.7

erosion of residential neighbourhoods beyond areas where visitor accommodation is already concentrated.

153. We consider that the proposed activity is consistent with Section 7, Objective 1 and Policies 1.1 – 1.3. We add that the activity has greater consistency with the policies than the rules that are intended to implement them. The only qualification with respect to the objective and policy framework, is that under Objective 1 and Policy 1.4, we consider reference to natural and physical constraints and landscape amenity have more direct relevance to sites having greater natural values, rather than an inner urban location. That said, we are satisfied that the design of the proposed development would not detract from natural or physical values and features of the area.
154. Objective 3 concerns amenity and is set out below along with a number of associated policies which have relevance to this application;

“Objective 3 – Residential Amenity

Pleasant living environments within which adverse effects are minimised while still providing the opportunity for community needs.

Policies

- 3.3 *To provide for and encourage high density residential development within the high density residential zones.*
- 3.4 *To ensure the external appearance of buildings reflects the significant landscape values and enhance a coherent urban character and form as it relates to the landscape.*
- 3.5. *To ensure hours of operation of non-residential activity do not compromise residential amenity values, social well being, residential cohesion and privacy.*
- 3.6 *To ensure a balance between building activity and open space on sites to provide for outdoor living and planting.*
- 3.7 *To ensure residential developments are not unduly shaded by structure on surrounding properties.*
- 3.8 *To ensure noise emissions associated with non-residential activities are within limits adequate to maintain amenity values.*
- 3.9 *To encourage on-site parking in association with development and to allow shared off-site parking in close proximity to development in residential areas to ensure the amenity of neighbours and the functioning of streets is maintained.*
- 3.13 *To require an urban design review to ensure that new developments satisfy the principles of good design.*
- 3.14 *To distinguish areas with low density character where that character should be retained from areas of change located close to urban centres or adjacent to transport routes where higher density development should be encouraged”.*
155. This would be a major development covering nearly half of a street block near the centre of Queenstown, so it was appropriate that the design was subject to a peer review. This review commented favourably on the design proposed, which in terms of its boldness was somewhat more ‘risky’ than some traditional hotel/motel designs. An important objective underpinning the design was the orientation of the main entry toward Sydney Street, and providing segments of the building differentiated by building height and facade treatment. It will probably generate stronger feelings for and against than a more anonymous ‘safe’ design.

Although the rules have the effect of attempting to setback buildings to achieve a more 'suburban' streetscape, we conclude that the design makes a positive statement, albeit that the corner treatment could be somewhat bolder. We would also add that the design results in more efficient use of the limited land resource in central Queenstown, and a better visual outcome that would have been achieved through compliance with the rules framework.

156. The concerns expressed at the hearing about the design were primarily related to the scale of the building in terms of its number of rooms, but at a more specific level with the location of the bus parking area and the height of the proposed building. There was no serious challenge to the visual quality or design of the building proposed, and certainly no expert evidence to suggest that the design fell short of the outcomes expected by the objectives and policies, notably Policies 3.3, 3.4, 3.6 and 3.13.
157. Policy 3.5 relates to hours of operation. Given the predominance of adjoining visitor accommodation facilities, the wide streets, and ambient noise levels, we do not consider that the operation of the proposed hotel will have any adverse effect on residential amenity and cohesion, social well-being, and privacy.
158. With the exception of the Millennium boundary, the site has frontages to wide streets which provide a substantial visual setback from surrounding buildings and avoids any overshadowing effects. The landscaping scheme which accompanied the proposal was not the subject of any concern through submissions, and we consider it is consistent with Policies 3.6 and 3.7. There is a degree of overshadowing of some rooms at the western end of the Millennium, but as set out in our discussion of effects we do not consider that these effects are more than minor, recognising that the Millennium is also a large structure, which dominates the other half of the street block to the east.
159. In terms of potential noise emissions, we agree with Mr Chiles that from time to time, the effects of construction activity will at least be noticeable. However as discussed in the preceding section on effects, we are comfortable that the duration of any noise effects will be a very short duration – both in terms of bus parking, and even more so with construction activity where a non-compliance will only arise on a single occasion, and for two days. This must also be seen in the context of existing bus parking areas adjacent to the Millennium, and the high ambient noise levels in Stanley Street. We do not consider the proposal is contrary to Policy 3.8.
160. Policy 3.9 seeks to “encourage” the provision of on-site parking and shared off – street parking. We consider that with the provision of a public bus parking area on Sydney Street, a proposal supported by the Council, there will be negligible adverse effects associated with coach parking, and indeed there may well be an overall beneficial effect. With respect to parking generally, the proposed Holiday Inn will place more pressure on local on street parking, notwithstanding the claims on behalf of the applicant that peak demands for commuter and hotel patron parking will not coincide. Accordingly, we consider that in this respect the proposal is contrary to policy 3.9, albeit we note that the policy wording uses the rather undemanding term “encourage” with respect to the need for parking provision.
161. Policy 3.14 seeks to distinguish areas with low density character which should be retained. We are not convinced that the site itself as part of such an area, as any low density character

between Stanley Street and Melbourne Street – and even beyond the Melbourne Street to the north – has already been significantly compromised by large-scale visitor accommodation and residential development. The site has become a historical anomaly in a location that is otherwise quite intensively developed. We consider the proposed activity is consistent with policy 3.14.

162. With the partial exception of policy 3.9, we consider that the proposed activity is consistent with this objective and its suite of policies.
163. Specific to the High Density Residential Zone are the objectives under Section 7.1.3.2. Under Objective 1 are three policies (1.1 – 1.3), two of which are directly relevant to the site itself.

Objective 1 – Amenity Values

“Sustainable residential communities and neighbourhoods that have high amenity values of a quality and character anticipated in a high density living environment.

Policies

- 1.1 *To ensure development enables high density living and achieves the character and amenity values anticipated in a high density living zone by:*
- 1.1.1 *Improving the aesthetic appeal of the built environment.*
- 1.1.2 *Ensuring buildings integrate well with the neighbouring locality and provide visual connections with the surrounding built and natural environment.*
- 1.1.3 *Providing attractive pedestrian access ways and linkages and protecting those that currently exist.*
- 1.1.4 *Ensuring the maintenance of road setbacks that are free of structures.*
- 1.1.5 *Ensuring development is of a high architectural quality in accordance with good urban design principals.*
- 1.1.6 *Ensuring that open space is maintained between buildings on sites, and between neighbouring sites.*
- 1.1.7 *Encouraging the provision of underground car parking.*
- 1.2 *To avoid visually dominant buildings that overshadow public places, block views and degrade the environment.*
- 1.3 *To enhance the attractiveness of the zone, including the streetscape, by:*
- 1.3.1 *Ensuring landscaped areas are provided in scale and proportion to the size of the building.*
- 1.3.2 *Encouraging the retention of existing vegetation where appropriate, especially established trees and native vegetation”.*
164. We are satisfied that the design of the proposed hotel will be consistent with the amenity values of quality and character anticipated in a high density neighbourhood, as sought through Objective 1. Policy 1.1 and its attendant ‘sub policies’ are strictly only relevant to high density residential development. However we consider they have some relevance to this proposal given that residential activity is expected to occur in conjunction with visitor accommodation in the High Density Residential Zone, which is the focus of Objective 1.

165. We reiterate that the proposed design makes good use of available space and makes a clear 'design statement'. The applicant admitted that the surrounding building environment offered few useful 'design cues'⁴³ and that instead design inspiration had been drawn from the post-glacial natural environment which characterised the area. We consider this was an appropriate response given the rather eclectic nature of the surrounding buildings, and the need to achieve an outcome that was of high architectural quality, rather than one which conforms to a particular nearby building style.
166. Overall, we are satisfied that the development is consistent with policies 1.1, 1.1.1, and 1.1.5; and is at least not inconsistent with Policies 1.1.2 and 1.1.6. Incorporation of underground car parking is consistent with Policy 1.1.7.
167. Turning to Policy 1.2, which concerns the dominance of built form, the height of the proposed development clearly exceeds those provided for as of right under the ODP. However we consider that the effect of this is significantly mitigated by three design features – these being firstly the limitation to a three storey height on the Melbourne Street frontage with a higher four-storey frontage to the busy arterial of Stanley Street (at a lower ground level); secondly the variation in building height and facade treatment; and thirdly the expanses of the wide street environments around three boundaries of the site. This latter factor is such that there will be no overshadowing of public places.
168. We have considered the issue of views under the assessment of effects. We do not agree that views will be "blocked". We do acknowledge that for one submitter there will be a loss of view of part of Queenstown Bay, but not of the lake as a whole, or the mountains beyond. If the effect of the proposed development was to remove a substantial portion of the views available from property owners generally to the north of, and above the site, we consider this would be contrary to Policy 1.2. However the evidence before us was that only a part of the view of one submitter is lost as a result of the development, and we consider the implications of declining developments generally on this basis in central Queenstown would have significant ramifications. Mountain and lake views will still be possible from the Armitage /Oellermann property. Even allowing for circumstances where a proposed building exceeds height limits, we think it would be a step too far to decline a proposal on the basis that it affected *any part of any neighbour's* views.
169. Although disputed, we also consider there is some force in the arguments put forward by the applicant and the Council that the outlook from the Armitage/Oellermann property will inevitably change significantly with the likelihood of eventual redevelopment of properties on the northern side of Melbourne Street in the foreground of their apartment. Under any realistic future scenario, development of existing sites containing older detached dwellings, whether or not to a complying height, will significantly impact on these submitters. Overall, we do not consider the proposal to be contrary to Policy 1.2.
170. Objective 1.3 concerns landscaping and has more limited relevance to the site. Notwithstanding our earlier comments with respect to urban design, we consider the landscape treatment is satisfactory, particularly given the need to make efficient use of the

⁴³ Evidence of Mr Steven, paragraph 37

site in reflection of its location close to the centre of Queenstown, and the need for the building to make a strong urban design statement, particularly on street corners and on Stanley Street. We consider that the proposal is not contrary to this objective and to Policy 1.3.1. There is no vegetation of significant value (or which was drawn to our attention) requiring retention on the property.

171. Objective 3 and accompanying Policy 3.1 also have application to this proposal given its proximity to the town centre of Queenstown;

“Objective 3 : Vitality of Town Centres

To maintain and enhance the vitality and vibrancy of the town centres as places where visitors and residents intermingle.

Policies

3.1 *To provide for high density residential living and visitor accommodation in the high density zone, near the town centres with good linkages to the town centres”.*

172. We consider the development of the site as proposed for a major hotel will be entirely consistent with this objective and policy, particularly as the development will be within walking distance of central Queenstown.
173. Section 7.2.3 goes on to even more specific detail than Objective 7.1.3.2, in that the objective and policy framework focuses on residential and visitor accommodation activities in Queenstown itself. Four objectives and two of its associated policies are particularly relevant as follows

“7.2.3 Objectives and Policies – Queenstown Residential and Visitor Accommodation Areas

Objectives

1. *Residential and visitor accommodation development of a scale, density and character, within sub zones which are separately identifiable by such characteristics such as location, topography, geology, access, sunlight or views.*
2. *Residential development organised around neighbourhoods separate from areas of predominately visitor accommodation development. Provision for new consolidated residential areas at identified locations.*
3. *Consolidation of high density accommodation development in appropriate areas.*
4. *To recognise and provide for the non residential character of the Commercial Precinct overlay which is distinct from other parts of the High Density Residential Zone.*

Policies

- 3 *To enhance the general character of established residential environments in terms of density, height, access to sunlight, privacy and views.*
- 8 *To ensure the scale of extent of any new Visitor Accommodation in residential areas does not compromise residential amenity values by adversely affecting or altering existing neighbourhood character”.*

174. The proposed development is sited within the High Density Residential Zone in the ODP which at a policy level specifically anticipates visitor accommodation and residential development (without preference). Furthermore, the ‘facts on the ground’ with respect to the site and its neighbours, clearly reveal an environment that is now dominated by visitor accommodation, many of which are facilities on a large scale, such as the Millennium. Residential development is now largely confined to the area north of Melbourne Street, and arguably even as far north as the southern side of Hallenstein Street. The proposal is consistent with consolidating high density accommodation development in an appropriate area near the town centre of Queenstown. We consider that the application is consistent with the objectives and relevant policies under Section 7.2.3.

175. Part 14 of the ODP contains the objectives and policies relating to Transport. Objective 1 states as follows:

“Objective 1 – Efficiency

Efficient use of the District’s existing and future transportation resource and of fossil fuel usage associated with transportation.

1.3 To promote the efficient use of roads by ensuring that the nature of activities alongside roads are compatible with road capacity and function.

1.4 To protect the safety and efficiency of traffic on State Highways and arterial roads, particularly State Highway 6A, by restricting opportunities for additional access points off these roads and by ensuring access to high traffic generating activities is adequately designed and located.

1.6 To promote and provide for the consolidation of new areas of residential development and for higher density development within identified areas.

1.9 To require off-road parking and loading for most activities to limit congestion and loss of safety and efficiency of adjacent roads and to promote the maintenance and efficiency of those roads”.

176. We note that the access arrangements associated with the proposed Holiday Inn have been discussed with the Council and with NZTA, and that agreement has been reached with both parties. The proposed use of Sydney Street as the primary access point to the hotel avoids potential conflict and side friction that would occur with access from Stanley Street (State Highway 6A) or with Melbourne Street should this become the future main access point into the town. The only access points to or from Stanley Street or Melbourne Street are associated with bus parking and we are satisfied that the frequency of such movements will be very low and unlikely to have any significant adverse effects.

177. Concerns were raised during the hearing about additional delays to right turning movements from Sydney Street into Stanley Street, given high traffic volumes on the latter. In the context of development within central Queenstown, and the inevitability of higher density development within the site regardless of the current proposal, we do not consider the current proposal would create any significant adverse effects on traffic movements, and we agree with Mr Rossiter that ‘additional’ effects would be barely noticeable, albeit that right turns would continue to be difficult. Higher intensity development within this area is consistent with the outcomes anticipated under Policy 1.6 above. Overall, we concluded the

proposal is consistent with Objective 1 and its associated relevant policies 1.3, 1.4, and 1.6. We consider Policy 1.9 in conjunction with the discussion below with respect to Objective 5.

178. Objective 2 concerns safety and accessibility, and in terms of the issues raised through this hearing, Policy 2.5 under this objective has some relevance as it makes reference to a new road link from Man Street to the 1 mile roundabout and a new road linking Queenstown and Frankton on the northern side of State Highway 6A above Frankton Arm. We are satisfied that the access arrangements associated with the proposed development are consistent with this objective and policy as they avoid direct access to Stanley or Melbourne Streets while being well-placed to allow indirect access from Sydney Street.
179. In the Transport Section, Objective 5 relates to parking and loading. Objective 5 and the policies relevant to this proposal are as follows:

“Objective 5 – Parking and Loading – General

Sufficient accessible parking and loading facilities to cater for the anticipated demands of activities while controlling adverse effects.

5.1 *To set minimum parking requirements for each activity based on parking demand for each land use while note necessarily accommodating peak parking requirements.*

5.3 *To ensure car parking is available, convenient and accessible to users including people with disabilities.*

5.4 *To require all off-street parking areas to be designed and landscaped in a manner which will mitigate any adverse visual effect on neighbours, including outlook and privacy”.*

180. In addition, Objective 1, Policy 1.9 above is considered in conjunction with Objective 5 and its related parking policies.
181. The proposed development will result in both a shortfall in parking with respect to the standards contained in the ODP. Such a shortfall will occur even based on projections of *actual* parking demand at other hotels.⁴⁴ Mr Rossiter estimated that a demand of between 60 and 73 car parks would be generated by the development, considerably more than the 45 carparks proposed on site. This is compounded by the potential loss of up to 10 on street carparks. We think it is beyond dispute that at peak times at least, this proposed development will exacerbate any on – street parking shortfall. Previously we noted that Mr Rossiter’s evidence on this matter revealed that there was a high level of parking demand at all times, including in the evenings.
182. We think it has to be acknowledged however, that this is an area immediately adjacent to an intensively developed tourist centre which in many respects is not dissimilar to the character of larger ‘inner city’ urban environments. In those circumstances, it is common for district plans not to require land uses to provide for peak parking requirements (and in some cases, there is no parking requirement at all) and development contributions are used to provide public car parking. Furthermore, methods such as metering and restrictions on non-resident parking are typically adopted by Councils as part of their role as a street controlling authority. The alternative of requiring full parking provision and especially peak parking provision in more intensively developed urban areas is the consumption of larger areas of land for car

⁴⁴ Evidence of M Rossiter, paragraph 31

parking which may be frequently underutilised, and/or an increase in building bulk, both of which can have adverse effects in terms of efficient land use and loss of amenity.

183. Policy 5.1 recognises that provision for peak parking demand is not anticipated. To do so would result in the establishment of car parking areas which would be underutilised for most of the year, which is inefficient, and which can have significant adverse environmental effects in terms of consequential large areas of vacant asphalt. We think there is some significance in the fact that neither NZTA, or the Council as street controlling authority, have any major concerns with parking provision, although we are aware that there were some ongoing concerns expressed by the Council's traffic consultant. There certainly were concerns expressed by the Council's traffic consultant with the design of underground parking spaces within the proposed hotel itself, which have now been largely, if not completely, addressed through design changes. The provision of most on-site parking underground also has the effect of reducing potential amenity concerns typically associated with large unattractive paved areas for that purpose. As indicated earlier, we have no concerns with the adequacy of coach parking, loading and unloading.
184. Earlier, we also noted that Section 7 (Residential Areas) contains a policy (3.9) on parking which merely seeks to "encourage" the provision of on-site parking.
185. Having regard to the foregoing, our overall conclusions with respect to parking provision are that while proposal is not consistent with Objective 5 and its associated policies, and Objective 1 Policy 1.9, it is not contrary to the point of being repugnant to them.
186. Finally, Section 22 of the ODP contains objectives and policies relating to earthworks. Objective 1 and the policies relevant to this application state:
- "Enable earthworks that are part of subdivision, development, or access, provided that they are undertaken in a way that avoids, remedies or mitigates adverse effects on communities and the natural environment.*
- 1.1 Promote earthworks designed to be sympathetic to natural topography where practicable, and that provide safe and stable building sites and access with suitable gradients.*
- 1.2 Use environmental protection measures to avoid, remedy or mitigate adverse effects of earthworks.*
- 1.5 Recognise that earthworks associated with infrastructure can positively contribute to the social and economic wellbeing and the health and safety of people and communities within the District".*
187. The evidence we heard was that the site works associated with this proposed development would overall require significantly more removal of material rather than filling, but would not necessitate any large-scale rock excavation and associated potential disturbance to the surrounding area. It is inevitable that a large-scale construction project such as this will involve substantial earthworks, but would not be unreasonable to expect similar scale earthworks for any other form of development on the same site. We are satisfied that the proposed activity is consistent with Objective 1, and the associated relevant policies.

The Proposed District Plan

188. The PDP was publicly notified on 26 August 2015, and its provisions are currently subject to ongoing hearings. Because no decisions have been issued on the PDP, little weight can be placed on its content. However, as the provisions of the PDP were the subject of some debate in legal submissions in the course of the hearing and in the right of reply, we have taken the opportunity to make some comment accordingly.

189. Part 2 of the PDP (Strategic Directions) promotes containment of urban growth and compact development patterns subject to high quality urban design (e.g. Objective 3.2.2.1, Objective 3.2.3.1). Increased density is also anticipated in certain locations (Policy 3.2.3.1.2) and under Part 4 (Urban Development) by reference to Objectives 4.2.3 and 4.2.4. These have indirect application to the pattern of development in central Queenstown.

190. As already noted, those provisions relating to visitor accommodation have been withdrawn from the PDP pending a variation. In his closing legal submissions for the applicant, Mr Holm commented on the statement by Ms Armitage⁴⁵ that this created a “moratorium” on visitor accommodation. He responded that:

“If a moratorium as claimed were intended, very clear and specific language would be expected. In our submission it is very clear from the report in support of the Council withdrawal that the reason for the withdrawal was the commercial letting of dwellings; not a general opposition to visitor accommodation. The PDP is not opposed to visitor accommodation; it is silent on this activity. As such the PDP exhibits “incomplete coverage” in terms of the caveats identified in King Salmon. Therefore it is appropriate to have recourse to the provisions of Part 2 in order to ‘fill the gap’ in the PDP regarding visitor accommodation.”

191. Before moving on to Part 2 of the Act however, we note that the purpose of the High Density Residential Zone over the site under the PDP, states as follows:

“The High Density Residential Zone will provide for more intensive use of land within close proximity to town Centres that is easily accessible by public transport, cycle and walkways. In conjunction with the Medium Density Residential Zone, the zone will play a key planning role in minimising urban sprawl and consolidating growth in existing urban areas. In Queenstown, buildings greater than two stories in height are anticipated, subject to high design quality and environmental performance”.

192. The description then goes on to briefly discuss Wanaka. However its concluding paragraph states:

“Development controls will provide some degree of protection for existing amenity values. However given the focus on intensification, over time some private and public views and amenities will be affected to varying degrees as the character of this area changes and evolves to the one that is more urban”.

193. Objective 9.2.3 of the PDP, which has *not* been withdrawn, states as follows:

⁴⁵ Evidence of Ms Armitage, paragraph 67

“Objective – a reasonable degree of protection of amenity values will be provided, within the context of an increasingly intensified and urban zone where character is changing.

Policies

9.2.3.1 Apply recession plane, building height, floor area ratio, yard setback and site coverage controls as the primary means of limiting overly intensive development and ensuring reasonable protection of neighbours outlook, sunshine and light access, and privacy.

9.2.3.2 Ensure that where development standards are breached, impacts on the amenity values of neighbouring properties, and on public views (especially towards lakes and mountains), are no more than minor relative to a complying development scenario”.

194. The rules in the PDP for residential development remain as notified, and would allow for development up to 3 stories and 12m, or even up to 4 stories and 15m if they are able to achieve ‘green star’ status for energy efficiency. These are heights which would have the potential to affect views.
195. We consider that if any weight were to be given to the provisions of the PDP as described above, some private views would be compromised. Proposed Policy 9.2.3.2 as drafted, is specifically aimed at protecting *public* views. Public views – as seen from the surrounding street network – would in our opinion be at least partly restricted by even a fully complying building under both the ODP and the rules for (residential development) in the PDP. The policy framework clearly anticipates intensified development in this location.
196. We conclude that the provisions of the PDP provide little comfort for the submitters in opposition, as the height limits proposed for residential development would not provide any guarantee that private views would be retained.

The Proposed Otago Regional Policy Statement (PRPS)

197. Although a reasonably substantial development, we do not consider that the Holiday Inn proposal raises issues of regional significance. We broadly agree with the conclusion of the reporting officer that the proposal is in accordance with the (albeit general) provisions of Policy 9.5.5 in the operative RPS. The Proposed RPS has now reached a more advanced stage with decisions having been issued on submissions. Objective 4.5 promotes well-designed urban growth which reflects local character and integrates effectively with its surroundings. The policy framework requires district councils to zone sufficient land coordinate growth with infrastructure ensure that land is used efficiently and to encourage good urban design. We consider that the proposal is consistent with the provisions of both the operative and proposed Regional Policy Statements.

SECTION 104D RMA

198. Is the activity is a noncomplying activity, approval can only be granted if the consent authority is satisfied that either –
- (a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) 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 to 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.

199. In this case, subclauses (a) and (b) (iii) are applicable. Based on our assessment above, we have concluded that the proposed activity will have effects which are minor, but not more than minor, with respect to on street parking. We consider all other effects will be less than minor.
200. We conclude that the proposed activity is consistent with most but not all of the relevant objectives and policies, but is not *contrary* to the objectives and policies.
201. Accordingly, we consider that the application passes both gateway tests of section 104D of the RMA.

PART 2 RESOURCE MANAGEMENT ACT

202. We heard legal submissions from counsel for the applicant and for the Millennium, with respect to whether it was appropriate to apply the provisions of Part 2 RMA, with the latter taking an opposing view. Citing recent case law⁴⁶, we were advised that there was no need to consider Part 2 in circumstances where the relevant planning instrument (the ODP) was settled and operative.
203. We consider that important factor in this case is that the Queenstown Lakes District Plan is undergoing review, and we concluded that it is prudent to apply the provisions of Part 2 of the RMA given the circumstances. In a recent case involving an appeal to the Environment Court against a decision by the Council, the Court applied the provisions of Part 2. We adopt the Courts reasoning in their decision in that case⁴⁷.
204. The assessment of an application under Section 104 of the Act is subject to the provisions of Part 2 comprising sections 5 to 8.
205. Section 6 of the Act requires that decision-makers recognise and provide for the matters of national importance contained therein. We consider that the nature of this application is such that it does not raise any of the matters of national importance under section 6.
206. Section 7 contains three subclauses which are relevant to this application. These are:
- (b) the efficient use and development of natural and physical resources:*
- (c) the maintenance and enhancement of amenity values:*
- (f) the maintenance and enhancement of the quality of the environment.*

⁴⁶ *Environmental Defence Society Inc v the New Zealand King Salmon Company Limited* [2014] NZSC 38 and *RJ Davidson Family Trust v Marlborough District Council* [2017] NZHC 52.

(We note that Davidson is subject to appeal)

⁴⁷ *Save Wanaka Lakefront Reserves Inc v QLDC and Wanaka Watersports Facility Trust* [2017] NZEnv 88, paragraphs 28 – 37.

207. We are of the view that subsection (b) should be afforded significant weight in this case, as there is a limited land resource available in close proximity to the centre of Queenstown given the constraints of landscape and topography. Accordingly, it is important that this land resource be used efficiently, as the alternative is a more dispersed form of development with associated penalties in the form of travel distances and costs. Under the ODP, the rules framework does not fully give effect to the objectives and policies, as it promotes a suburban scale of development which is already no longer reflected in the nature of residential development and visitor accommodation that has already developed in the vicinity of the site. We consider that the proposed development makes efficient use of a large 'inner Queenstown' site without extending into 'overdevelopment'. This is illustrated by the proposal to take advantage of the topography of the site by having higher building scale on the heavily trafficked Stanley Street at the lower end of the site, and limiting development to 3 storeys at the higher Melbourne Street end of the site.
208. With respect to subclauses (c) and (f) we are satisfied that the creative design approach proposed will result in a 'statement building' that will enhance amenity and which will reflect the manner in which the area has already developed and is continuing to develop. The proposed bulk and scale of the building is also mitigated by the variations in roofline and facade treatment, accompanied by landscaping. The visual impact of the building is also mitigated by the degree of separation from surrounding uses by the wide streets adjacent to three sides of the proposed building.
209. We consider that any adverse noise effects would be of short duration and characteristic of those already experienced by visitor accommodation facilities in the vicinity. While we accept that there will be a partial loss of a valued view for one submitter, we do not consider that even in the context of a building which exceeds the height limits of the ODP, that the protection of all aspects of all individual private views can be anticipated. We consider that the scale and nature of the proposal is consistent with the existing pattern of land use adjacent to the site.
210. No matters were drawn to our attention that suggested the proposal was inconsistent with the provisions of section 8 of the Act.
211. Turning to the purpose of the Act under section 5, we consider that the proposal would enable the applicant, and the district as a whole, to provide for its social, economic and cultural welfare in the form of providing visitor accommodation. Furthermore we consider that the qualification under section 5(2)(c) has been met in that the potential adverse effects of the proposed activity have been sufficiently avoided or mitigated.

Section 104RMA

212. In terms of subclause (1)(a) we conclude that the actual and potential effects on the environment of allowing the activity will be no more than minor.
213. In terms of subclause (1)(ab), we cannot have regard to any measure proposed or agreed by the applicant to ensure positive effects on the environment to offset or compensate for any

adverse effects of allowing the activity, as this provision became law as part of the 2017 amendments to the RMA after the application was publicly notified. In any event, no such measures were put before us.

214. Having regard to subclause (1)(b) we are satisfied that the proposed activity is not contrary to the objectives and policies of the ODP, and is consistent with those objectives and policies of the PDP which still have application at the time of the hearing. We do not consider that the application raises issues of regional significance, and is not contrary to the objectives and policies of the Otago Regional Policy Statement. We do not consider that the application is affected by any other of the relevant provisions identified under subclause (b).
215. Subclause (1)(c) enables the consent authority to consider any other matter which is relevant and reasonably necessary to determine the application. We note that visitor accommodation is a controlled activity anticipated in the Residential High Density Zone under the ODP. Recognising that the application is noncomplying as a result of height and noise noncompliances, we reiterate that given the existing pattern of land use adjacent to and in the vicinity of the site, and the scale of buildings present in the surrounding area, that a grant of consent would not create a precedent effect or undermine the integrity of the district plan. The area is already in transition as recognised in the zone statement.
216. Subclause (2) enables a decision-maker in terms of subsection (1)(a) to disregard an adverse effect of the activity if that activity is permitted by a national environmental standard or the plan. In terms of the ODP, we note that the rules framework for both residential and visitor accommodation developments are largely similar, but that with respect to urban design requirements, visitor accommodation is a controlled, not a permitted, activity. We consider that the permitted baseline has little practical application to the current proposal.

Trade competition

217. Subclause (3) stipulates that a consent authority must not have regard to trade competition or the effects of trade competition or any effects on a person that has given their written approval to the application. The Millennium can justifiably establish that it is an affected party on the basis that the application raises non-compliances on the common boundary with the proposed Holiday Inn. We acknowledge this, however also being aware that the submitter would be in direct trade competition with the applicant.

Conditions

218. There was a high degree of congruence between the conditions proposed by the Council should consent be granted, and those of the applicant. In large measure we have adopted the conditions recommended, with some corrections.
219. We have amended Condition 34 to remove the requirement for a maximum 12 month construction period. Mr Luxon had also raised in his evidence whether a later daily starting time could be contemplated, but it is always a difficult matter to balance this against the risk of extending the construction period further and we have made no further changes in that respect.

220. We have also amended Condition 4 as suggested by the applicant to ensure that a permanent fence is erected on the boundary with the Millennium Hotel prior to other works commencing. Although it is agreed by all parties that this will not in itself address all cross boundary issues (e.g. noise for rooms at higher levels) we considered this is a necessary precursor to help mitigate the effects of the extensive construction activities required on the application site, and ultimately, the operations of the new hotel.
221. We have also added some additional clauses to Condition 11 as suggested by the applicant, relating to the Construction Noise and Vibration Management Plan requirements, to provide greater certainty.
222. We have also changed Condition 6 with respect to access to and from the accessway and parking area adjacent to the Millennium. As well as a restriction between the hours of 10 PM and 8 AM, we have confirmed that a gate or other method (e.g. retractable bollards) be required to prevent physical access or exit by buses during this timeframe in order to reduce potential disturbance to hotel guests. In addition, we have added a requirement that passengers not be loaded or unloaded from buses in this accessway, as this would avoid extending the duration of bus idling and increased disturbance.
223. The New Zealand Transport Agency (NZTA) were satisfied with the design of the proposal with respect to State Highway 6 (Stanley Street), but sought that three conditions be imposed. The first of these was that any rooms used for noise sensitive activities be confined to a design noise level of 40 dBLAeq(24h). The purpose of this was to address potential vehicle noise issues from heavily trafficked Stanley Street. This has been given effect to through Condition 3.
224. NZTA also sought that a temporary Traffic Management Plan with details of crossings onto SH6 be completed and submitted to the NZTA, and prior to any access works being carried out affecting SH6 an agreement for work be submitted to the NZTA. These matters have been addressed through Conditions 13 and 14.

DECISION

That consent be granted to this application (RM 170260) pursuant to sections 104B, 104D and 108 of the Resource Management Act 1991, subject to the conditions as set out below.

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:

Prepared by McAuliffe Stevens, Proposed Holiday Inn Express

- 'Site Plan' RC 4 Rev 1
- 'Level 1 Plan' RC 5 Rev 1
- 'Level 2 Plan' RC 6 Rev 4
- 'Level 3 Plan' RC 7 Rev 1
- 'Level 4 Plan' RC 8 Rev 1

- 'Level 5 Plan' RC 9 Rev 1
- 'Level 6 Plan' RC 10 Rev 1
- 'Roof Plan' RC 11 Rev 1
- 'Sections A - F' RC 12, 13 and 14 Rev 2
- 'Sydney Street and Main Entry Elevation' RC 15 Rev 1
- 'Melbourne Street and Stanley Street Elevation' RC 16 Rev 1
- 'South West Courtyard and North West Courtyard Elevations' RC 17 Rev 1
- 'South West Great Room and North West Great Room Elevations' RC 18 Rev 1
- 'Millennium Hotel Elevation' RC 19 Rev 1
- 'Bulk and Location Plan Operative' RC 26 Rev 1
- 'Bulk and Location Study' RC 27 Rev 1
- 'Bulk and Location Plan – Proposed' RC 28 Rev 1
- 'Bulk and Location Study – Proposed District Plan' RC 29 and RC 30 Rev 1

stamped as approved on 24 November 2017

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 shall ensure that any rooms used for noise sensitive activities are designed, constructed and maintained to achieve a design noise level of 40 dB $L_{\text{aeq}(24\text{h})}$
4. Prior to demolition of the existing buildings and the undertaking of bulk earthworks on site, the consent holder shall install a permanent 2.0m high acoustic fence along the boundary of the site adjacent to the Millennium Hotel property at 32 Frankton Road.
5. All activity must comply with the district plan noise limits, other than daytime coaches and delivery vehicles. Coaches and delivery vehicles must comply with a daytime noise limit of 60 dB $L_{\text{Aeq}(15\text{ min})}$ between 0800h and 2000h.
6. A gate or other barrier to prevent vehicle access must remain closed across both ends of the parking area and laneway adjacent to the Millennium Hotel between 2000h and 0800h. Passenger loading or unloading of coaches shall not be undertaken within the laneway.
7. At least seven days prior to commencing works and prior to any access works being carried out in the State Highway road reserve the consent holder shall complete an agreement to work on the State Highway and submit it to the NZ Transport Agency's maintenance contractor.

Engineering

8. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any resource consent.

Note: The current standards are available on Council's website via the following link:

<http://www.qldc.govt.nz/planning/resource-consents/qldc-land-development-and-subdivision-code-of-practice/>

9. The access road from Stanley Street to the development is to be maintained by the owners of the land in this development. This shall include that part of the access road within the legal road reserve administered by the New Zealand Transport Agency.

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

10. Prior to the commencement of works on site, the consent holder shall submit to Council's monitoring team for certification a design report prepared by an acoustics specialist for the building services equipment. The report shall demonstrate that the design of mechanical services shall comply with the District Plan noise limits.
11. Prior to the commencement of works on site, the consent holder shall submit to Council's monitoring team for certification a Construction Noise and Vibration Management Plan (CNVMP). The objective of the CNVMP is to provide a framework for the development and implementation of measures to avoid, remedy or mitigate adverse construction noise and vibration effects, and to minimise any exceedance of the criteria set out in Conditions 31 and 32. The CNVMP must be prepared in general accordance with the NZ Transport Agency State highway construction and maintenance noise and vibration guide (version 1.0, 2013). The CNVMP shall adhere to the assessments contained in the Acoustic Engineering Services Reports (dated 15 March 2017 and second May 2017) and in particular:
 - (a) the establishment of the scaffold structure (following the footprint of the building to the south-east and adjacent to the Millennium Hotel) prior to any soil compaction works commencing. The scaffold structure shall be overlaid with Soundex Acoustic Enclosures which cover the length of the site on the south-east boundary and are established to the level of building work being undertaken.
 - (b) the formation of the southern access Lane, in particular the ass felting of the lane, shall be limited to between the hours of 1000h to 1500h, Monday to Friday. Written notice shall be given to the Millennium Hotel 5 working days prior to undertaking the works to establish the southern access lane.
12. At least 5 working days prior to commencing work on site the consent holder shall advise the Principal Resource Management Engineer at Council of the scheduled start date of physical works.

13. At least seven (7) working days prior to commencing works on site or within the QLDC public roading network, the consent holder shall submit a Traffic Management Plan to the Road Corridor Engineer at Council for approval. The Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor. All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Traffic Management Plan. A copy of the approved plan shall be submitted to the Manager of Resource Management Engineering at Council prior to works commencing.
14. At least seven (7) working days prior to commencing works on site, the consent holder shall submit an application to undertake works within the State Highway road reserve and Traffic Management Plan to the New Zealand Transport Agency or its Network Management Consultant for approval. The Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor. All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Traffic Management Plan. A copy of the approved plan shall be submitted to the Manager of Resource Management Engineering at Council prior to works commencing.
15. At least seven (7) working days prior to any access works commencing within the State Highway road reserve, the consent holder shall obtain agreement from the NZTA for all proposed work within the State Highway 6 road corridor. This shall include details of one-way signage and markings for the service lane entry, if any, that are located within the State Highway road reserve. A copy of the approval shall be submitted to the Manager of Resource Management Engineering at Council and the NZTA maintenance contractor prior to works commencing.
16. Prior to commencing any work on the site the consent holder shall install a construction vehicle crossing, 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 10m into the site. Should the construction crossing not prevent earthwork material from tracking onto the public roading network the consent holder shall install an appropriate wheel wash facility, in lieu of the gravel construction crossing, for all construction traffic use prior to exiting subject site.
17. The owner of the land being developed shall provide a letter to the Manager of Resource Management Engineering at Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this development and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.7 & 1.8 of QLDC's Land Development and Subdivision Code of Practice, in relation to this development.
18. 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 (8), to detail the following requirements:

- a) The provision of a water supply to the development in terms of Council's standards and connection policy. The costs of making the connection(s) shall be borne by the consent holder and avoid any connection to the 300mm diameter trunk main in Melbourne Street. This shall include a bulk flow meter which consists of an approved valve and valve box with backflow prevention and provision for water metering to be located at the road reserve boundary. The costs of the connection shall be borne by the consent holder.
- b) The provision of a foul sewer connection to the development. The costs of making the connection shall be borne by the consent holder.
- c) The provision of a connection(s) from all potential impervious areas within the development to the Council reticulated stormwater disposal system and the provision of an onsite stormwater detention system with flow control devices to limit flows to predevelopment rates. The lateral connection(s) shall be designed to provide drainage for the entire area within the development site.

Note: All redundant infrastructure service connections require removal and capping in accordance with Council standards prior to occupation. Water connections require capping at the water main.

The stormwater detention system shall be designed in accordance with the Council's standards and connection policy. Specifically, discharge to an existing network from a primary system shall be at a rate no greater than would have occurred for the undeveloped catchment during a 60 minute 5 year storm.

- d) Provision of suitable firefighting water supply with adequate pressure and flow to service the development and accompanying report from a suitably qualified professional demonstrating compliance with the NZ Fire Service Code of Practice for Firefighting Water Supplies 2008 (SNZ PAS 4509:2008). Any buildings on the lots shall either be fitted with a sprinkler system and/or be designed with an appropriate fire cell size to meet the requirements of SNZ PAS 4509 for the relevant water supply classification prior to the occupation of any buildings.

Advice Note: The QLDC water supply network can provide a maximum FW3 firefighting water supply to the area containing this development.

- e) The provision of three sealed vehicle crossings that shall be constructed to the development to Council's standards as shown on McAuliffe Stevens architectural plan titled: *Level 2 Plan – Showing Parking Dimensions, SK01, Revision 4, dated 13-07-2017.*

Note: All other vehicle crossings to the site require removal and reinstatement with full depth kerb and channel, including reinstatements of associated areas of road, footpath, and berm.

- f) The provision of at least 45 onsite car parking spaces inclusive of 3 disabled spaces, plus 3 x 12m long coach parking spaces, and all vehicle manoeuvring areas in accordance with Council's dimensional and surfacing standards and as shown on McAuliffe Stevens architectural plan titled: *Level 2 Plan – Showing Parking Dimensions, SK01, Revision 4, dated 13-07-2017.* Specifically these shall include:

- i. All parking and loading spaces and the one-way service lane shall be sealed and clearly and permanently marked out and appropriately signed in accordance with the NZTA Manual of Traffic Signs and Markings.

- ii. Parking spaces 1-3 and 23-25 shall be marked as staff only parking spaces.
- iii. The external car parking areas, except for the accessible space, shall be signed with 'P15 8am – 6pm' parking restrictions.
- iv. The basement car park shall be signed with any vertical height restrictions.
- v. A longitudinal section of the basement ramp shall be provided demonstrating compliant access gradients are achieved by the access design.
- vi. Accessible bicycle parking areas within the development site for visitors and staff.
- vii. Provision shall be made for stormwater disposal from all parking areas.
- g) Parking amendments along the southern side of Sydney Street in accordance with the McAuliffe Stevens architectural plan titled: *Level 2 Plan – Showing Parking Dimensions, SK01, Revision 4, dated 13-07-2017*. Specifically this shall include:
 - i. Sand blasting removal of all redundant road markings.
 - ii. Removal of redundant parking signage.
 - iii. Installation of new 'P15 Loading Zone' signs over the kerb-side parking area to accommodate development and public Coach pick-up / drop-off and loading activity only.
 - iv. Installation of no-parking yellow lines (double coat) where approved by Council engineers.
 - v. Signage and road markings in accordance with the NZTA Manual of Traffic Signs and Markings
- h) The provision of engineering designs that both detail and demonstrate that the existing retaining wall construction, located along the southeast shared site boundary with the Millennium Hotel, was either:
 - i. Designed originally to accept Heavy Goods Vehicle and/or full size Tour Coach surcharge loadings from the Holiday Inn site, or
 - ii. Provide engineering IPENZ PS1 and detailed designs that demonstrate the Heavy Goods Vehicle and/or full size Tour Coach access loadings will be contained within the Holiday Inn site in such a way as to prevent surcharge loading being

transferred to the Millennium Hotel site retaining wall. A contractors PS3 and engineers IPENZ PS4 shall be provided on completion of construction under this option.

- i) The provision of Design Certificates for all engineering works associated with this development submitted by a suitably qualified design professional (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.
19. Prior to commencing works, the consent holder shall submit to the Manager of Resource Management Engineering at Council, for review and acceptance, a construction Site Management Plan for the works. This will include, but not be limited to, the following:
- i. Site access location(s) with no direct egress to/from SH6 during earthworks.
 - ii. Site parking arrangements
 - iii. Safety fencing.
 - iv. Co-ordination with neighbours (project signboard, letter drops, meetings).
 - v. Dust Control Measures to prevent dust nuisance in any circumstances/conditions whereby dust may otherwise be generated.
 - vi. Stormwater, Silt and sedimentation Control. This shall include details of silt traps, site drainage paths and measures to ensure silt laden stormwater does not flow from the site.
 - vii. Work Programme for bulk earthworks.

The principal contractor shall take the best practicable option in all aspects of the site's management to minimise (noise, traffic, public safety, dust and/or vibrations) effects on neighbours, pedestrians, and traffic from earthworks and construction activities. The measures detailed in the certified Site Management Plan shall be implemented prior to the commencement of any earthworks and construction activities on site and shall remain in place for the duration of the project until the earthworks and construction activities are complete.

20. The consent holder shall ensure that all retaining works associated with this development located near or adjacent to the public road reserves shall be designed to cater for full highway traffic surcharge loading from anywhere within the road reserves.
21. 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 *Geotechnical Report for Holiday Inn Express, dated March 2017, Geosolve ref: 160355* and who shall supervise the earthworks and retaining wall constructions. 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 in the interim.

To be monitored throughout earthworks

22. Site works shall be carried out in accordance with the reviewed and accepted Site Management Plan in Condition (19) above, notwithstanding the requirements of QLDC's Land Development and Subdivision Code of Practice and adopted amendments.
23. The earthworks, batter slopes and site retaining shall be undertaken in accordance with the recommendations of the report by *Geotechnical Report for Holiday Inn Express, dated March 2017, Geosolve ref: 160355* and be supervised by the person named in Condition (21) above.
24. No earthworks shall breach the site boundaries except for the Council reviewed and accepted works herein, including infrastructure connection works and access provision works.
25. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. This shall include monitoring the effectiveness of the construction crossing at all times and upgrading the crossing to wheel wash facilities where required. 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.
26. The consent holder shall remedy any damage to the existing roads, berms, and footpaths that occur during the construction process.

On completion of earthworks and prior to commercial use of the development

27. Prior to commercial use of the development, the consent holder shall complete the following:
 - a) The submission of 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development at the consent holder's cost. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Roads (including right of ways and access lots), Water, Wastewater and Stormwater reticulation (including private laterals and toby positions).
 - b) The completion and implementation of all works detailed in Condition (19) above. This shall include a Contractors construction PS3 and an IPENZ certifying PS4 for the reviewed and certified retaining design, if any.

- c) All redundant infrastructure service connections to the site shall be removed and capped in accordance with Council standards. Redundant water connections require capping at the water main.
 - d) All redundant vehicle crossings to the site shall be removed and reinstated with full depth kerb and channel, including reinstatement of associated areas of road, footpath, and berm.
 - e) Any power supply and/or telecommunications connections to the building shall be underground from existing reticulation and in accordance with any requirements/standards of the network provider's requirements.
 - f) All earthworked/exposed areas shall be top-soiled and grassed/revegetated or otherwise permanently stabilised.
 - g) The consent holder shall remedy any damage to all existing road surfaces, footpaths and berms that result from work carried out for this consent.
28. The consent holder shall remedy any damage to the existing road, berms, footpaths and Frankton Track that occurs during the construction process.
29. All works shall be carried out in accordance with a Construction Noise and Vibration Management Plan (CNVMP) required by Condition (11).
30. If measured or predicted noise and vibration from a construction activity exceeds the criteria in Conditions 31 or 32, a Schedule to the CNVMP for that activity must be prepared in accordance with the NZ Transport Agency State highway construction and maintenance noise and vibration guide (version 1.0, 2013). The Schedule must be provided to the Council at least five working days, where practicable, in advance of the activity proceeding. A schedule must establish the best practicable option for noise mitigation to be implemented for the construction activity.
31. Construction noise must be measured and assessed in accordance with NZS 6803:1999 Acoustics -Construction Noise. The construction noise criteria in Table CNV1 must be complied with, as far as practicable.

| Construction noise criteria | | | |
|-----------------------------|---------------|-------------------------|--------------------|
| Day | Time | L _{Aeq(15min)} | L _{AFmax} |
| Weekdays | 0630h - 0730h | 55 dB | 75 dB |
| | 0730h - 1800h | 70 dB | 85 dB |
| | 1800h - 2000h | 65 dB | 80 dB |
| | 2000h - 0630h | 45 dB | 75 dB |
| Saturdays | 0630h - 0730h | 45 dB | 75 dB |
| | 0730h - 1800h | 70 dB | 85 dB |
| | 1800h - 2000h | 45 dB | 75 dB |
| | 2000h - 0630h | 45 dB | 75 dB |
| Sundays and Public Holidays | 0630h - 0730h | 45 dB | 75 dB |
| | 0730h - 1800h | 55 dB | 85 dB |
| | 1800h - 2000h | 45 dB | 75 dB |
| | 2000h - 0630h | 45 dB | 75 dB |

32. Construction vibration must be measured in accordance with ISO 4866:2010 *Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures*. The Category A construction vibration criteria in Table CNV2 must be complied with as far as practicable. If measured or predicted vibration from construction activities exceeds the Category A criteria, a suitably qualified person must assess and manage construction vibration during those activities. If measured or predicted vibration from construction activities exceeds the Category B criteria those activities must only proceed if effects on affected buildings are assessed, monitored and mitigated by suitably qualified people.

| Construction Vibration criteria | | | |
|---------------------------------|--------------------------|-------------|--------------------------------------|
| Receiver | Details | Category A | Category B |
| Occupied dwellings | Night-time 2000h - 0630h | 0.3mm/s ppv | 1mm/s ppv |
| | Daytime 0630h - 2000h | 1mm/s ppv | 5mm/s ppv |
| Other occupied buildings | Daytime 0630h - 2000h | 2mm/s ppv | 5mm/s ppv |
| All other buildings | Vibration - transient | 5mm/s ppv | BS 5228-2* Table B2 |
| | Vibration - continuous | | BS 5228-2* 50% of table B2 values |

*BS 5228-2:2009 'Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration'

Managing Soil Contaminants

33. Prior to any disturbance of soil commencing on site, the consent holder shall submit to the manager of Resource Consenting a plan outlining the management of the disturbance of soils on site. This shall include details with regard to mitigation measures and a notice, which shall be erected where visible to all persons entering the site. The sign shall be a minimum of A3 size, laminated and replaced as necessary such that remains onsite until the dwelling is completed.
34. The duration of the earthworks and exposed areas of soil disturbance shall be three (3) months. The consent holder shall confirm to the Manager, Resource Consents of the Council the earthworks start date at least two (2) weeks prior to the work commencing. The duration of the earthworks component of the consent shall commence from the start date confirmed to the Council.
35. Prior to any soil disturbance commencing, a sufficient water source shall be established and the site regularly watered to suppress dust.

36. Throughout the entirety of the soil disturbance period and construction of the building, suitable protection including dust masks and water baths shall be made available to all person visiting and working onsite.
37. All cut material is to be retained and reused on site or if taken off site, shall be taken to an approved landfill disposal site that is approved by Council. Prior to any soil being removed from the site, the consent holder shall submit the details of the receiving site and volumes disposed of to the Manager Resource Consents for consideration and certification.
- Any growing of domestic food (vegetable garden) shall be established in areas where no soil disturbance occurs as identified in the approved cut/fill plan. In addition no areas of disturbed soil shall be used for garden/landscaping beds
38. If at any time the underground fuel storage system is removed, the consent holder shall submit to the manager of Resource Consenting a soil validation report for certification.

Landscaping

38. The approved landscaping shall be completed in the first planting season following completion of the building. If any plant or tree dies, then this shall be replaced with the same or similar species not later than the following planting season.

Accidental Discovery Protocol

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

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

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

Site work may only recommence following consultation with Council.

Advice Notes

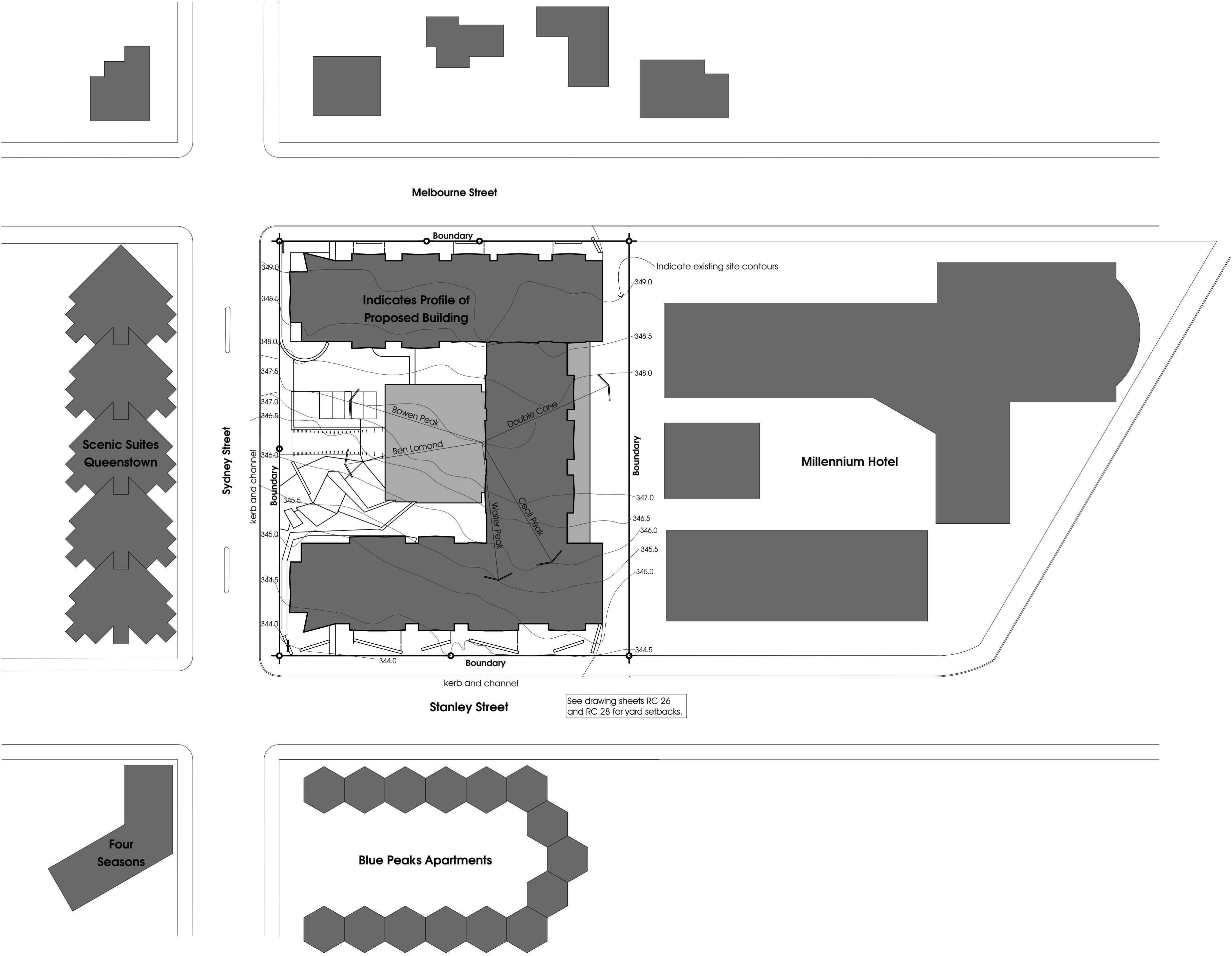
1. The consent holder is advised that any retaining walls, including stacked stone and gabion walls, proposed in this development which exceeds 1.5m in height or walls of any height bearing additional surcharge loads will require Building Consent, as they are not exempt under Schedule 1 of the Building Act 2004.
2. Prior approval via a Connection to Council Services for a Temporary Water Take is required if Council's water supply is to be utilised for dust suppression during earthworks. This shall include the use of a backflow prevention device to prevent contamination of Council's potable water supply
3. This consent triggers a requirement for Development Contributions, please see the attached information sheet for more details on when a development contribution is triggered and when it is payable. For further information please contact the DCN Officer at QLDC.
4. The QLDC water supply network can provide a maximum FW3 firefighting water supply to the area containing this development.

Robert Charles Nixon

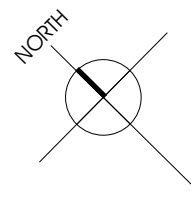
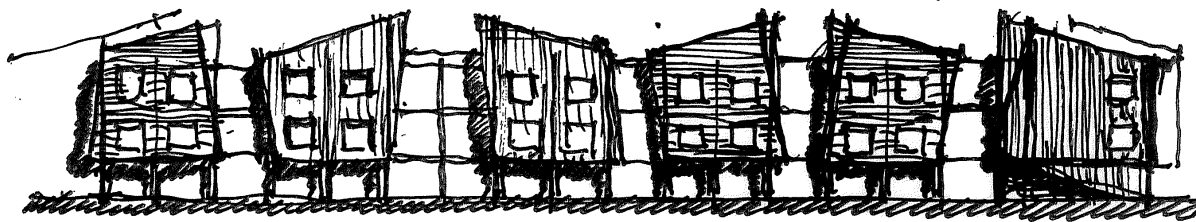


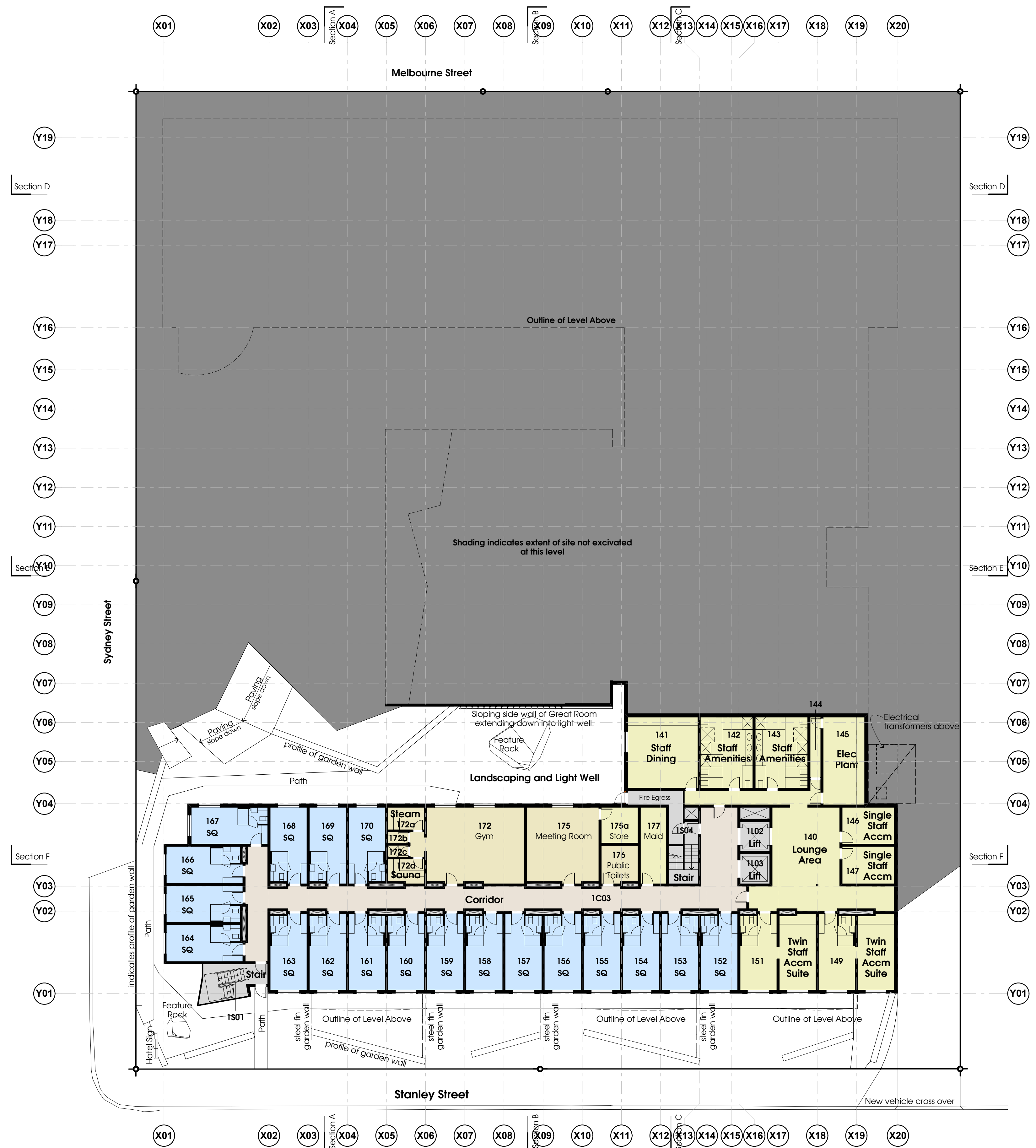
Chair

27 November 2017



Site Plan
Scale: 1:500 @ A1





SQ - Standard Queen

ST - Standard Twin

Acc - Accessible Room

KS - King Suite

DK - Dual Key - Standard Twin

DD - Double Double

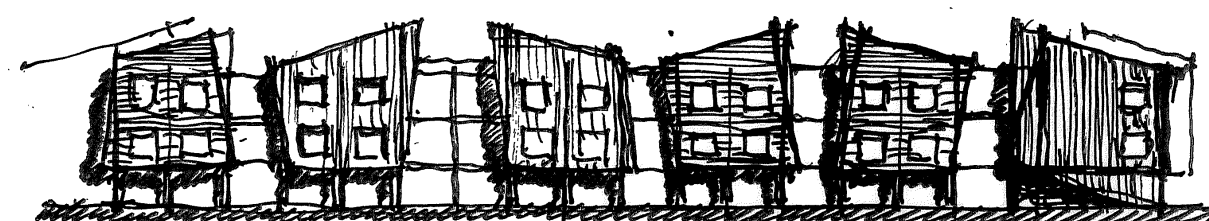
Lobby / Corridor

Great Room

Front of House

Back of House

Core / Fire Egress



McAuliffe Stevens
Registered Architects

Scale: 1:200 @ A1

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 15/03/2017 | Sheet 7 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

RC 05
Revision 1

QUEENSTOWN LAKES DISTRICT COUNCIL

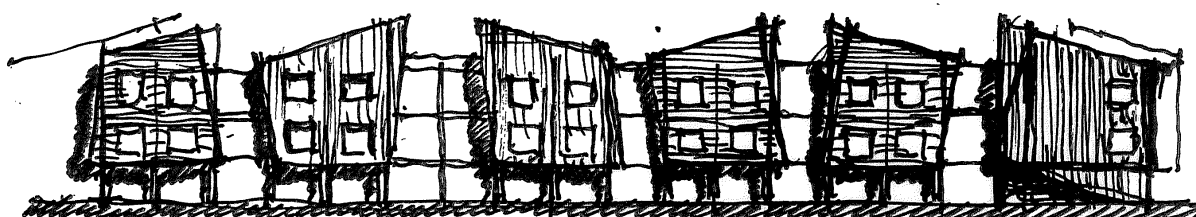
APPROVED PLAN:
RM170260

Friday, 24 November 2017



Level 2 Plan

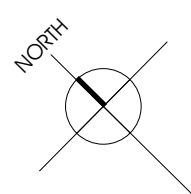
Scale: 1:200 @ A1



McAuliffe Stevens
Registered Architects

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 13/07/2017 | Sheet 8 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

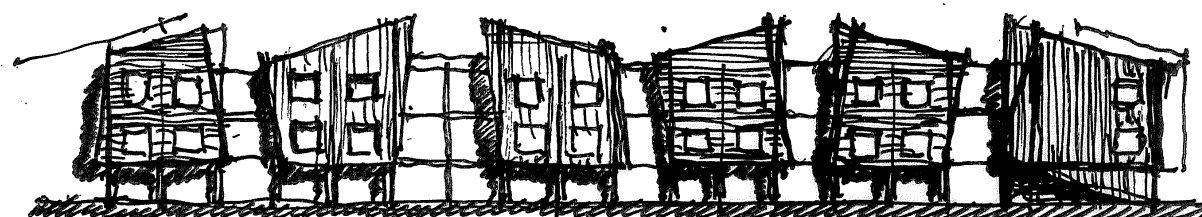
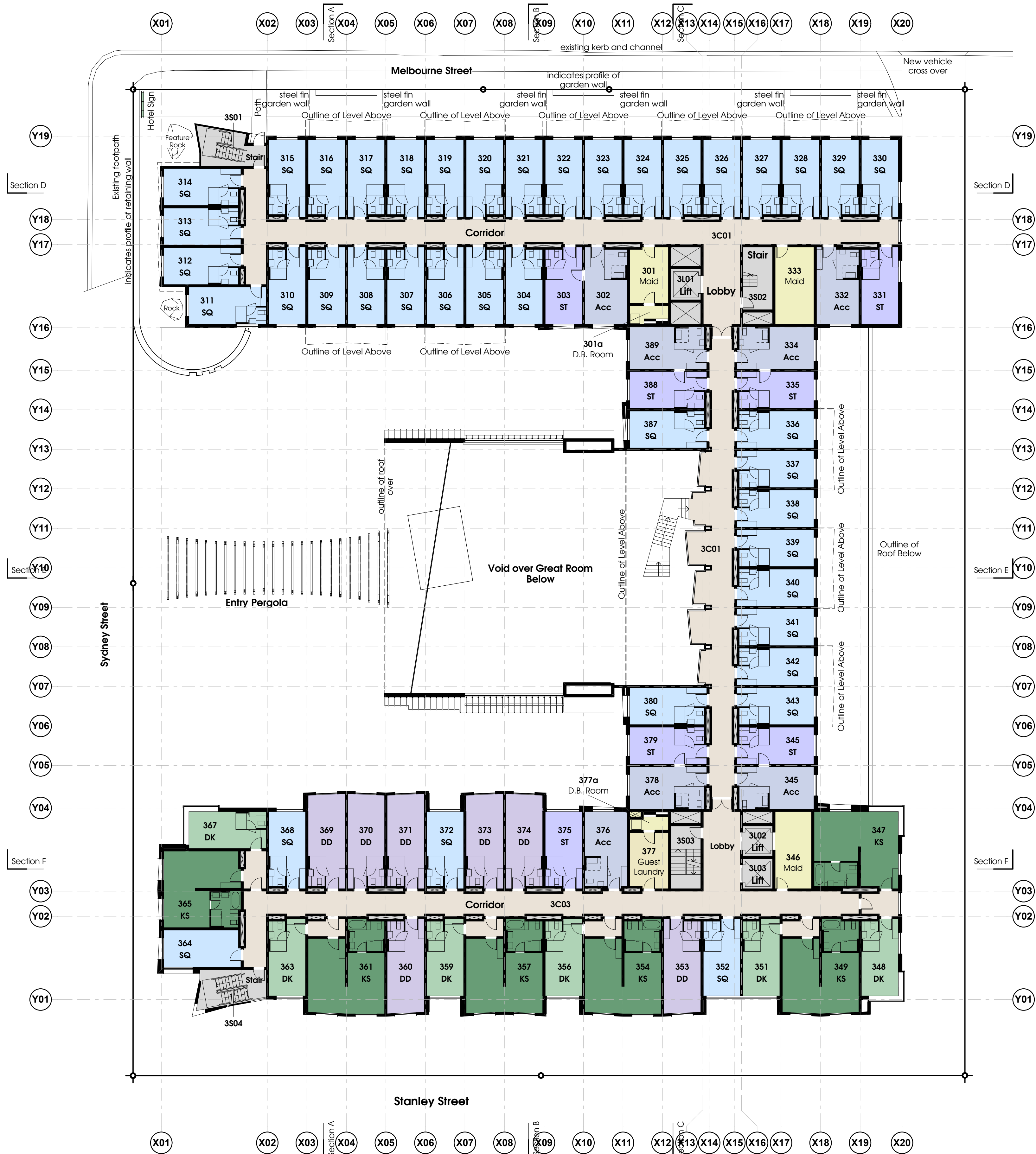


RC 06
Revision 4

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170260

Friday, 24 November 2017



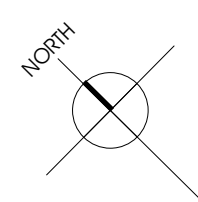
McAuliffe Stevens
Registered Architects

Level 3 Plan

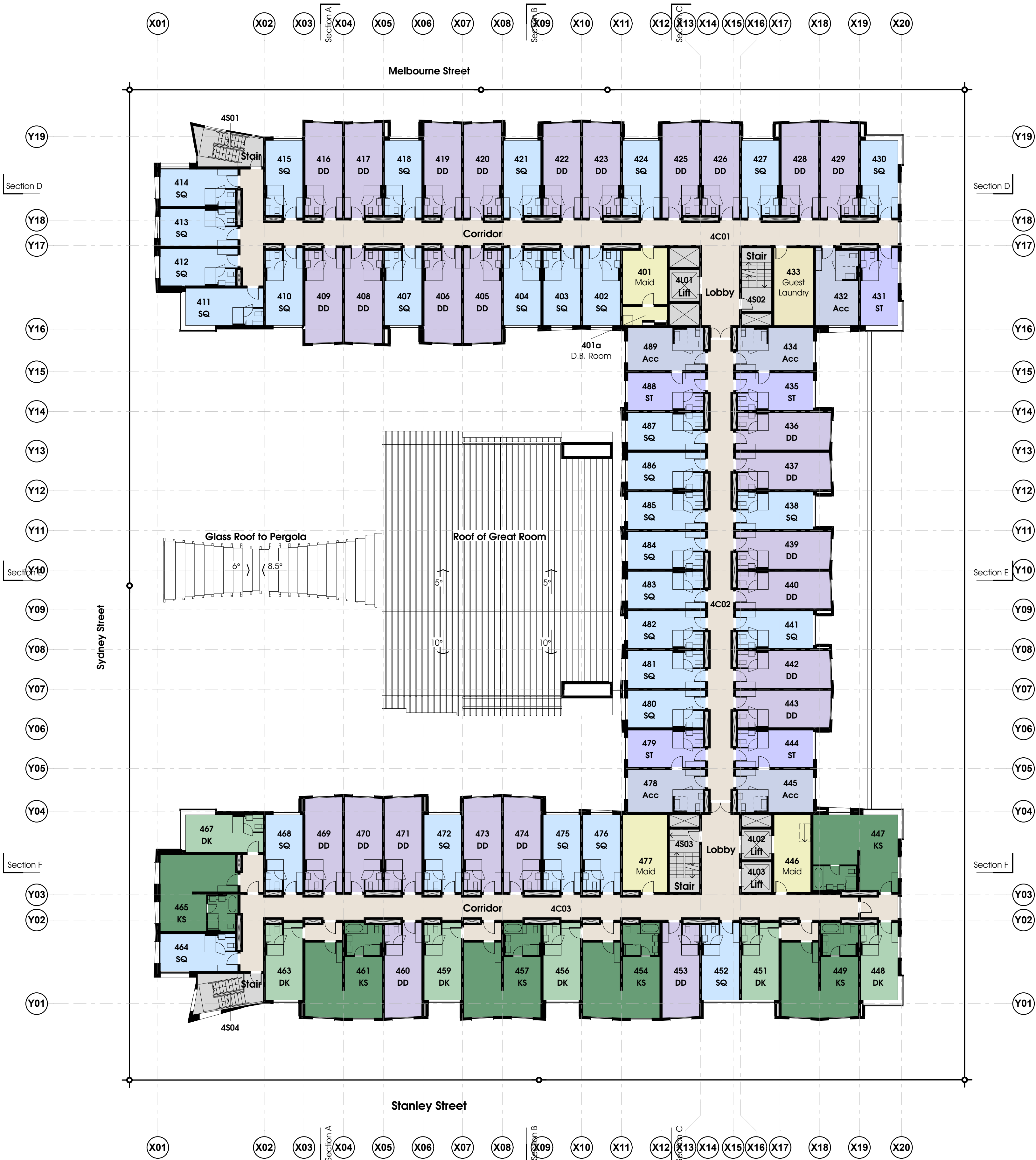
Scale: 1:200 @ A1

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 15/03/2017 | Sheet 9 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

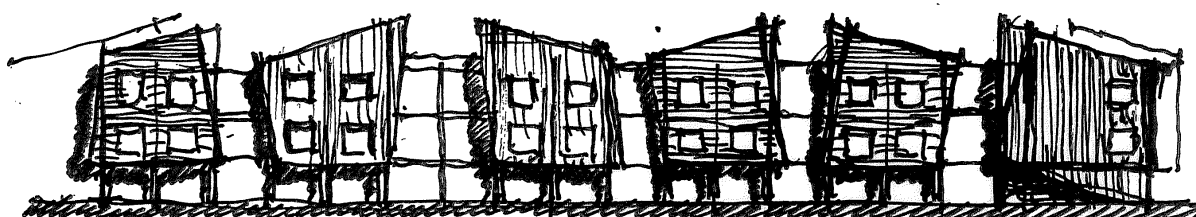


RC 07
Revision 1



Legend

- SQ - Standard Queen
- ST - Standard Twin
- Acc - Accessible Room
- KS - King Suite
- DK - Dual Key - Standard Twin
- DD - Double Double
- Lobby / Corridor
- Great Room
- Front of House
- Back of House
- Core / Fire Egress



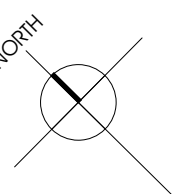
McAuliffe Stevens
Registered Architects

Level 4 Plan

Scale: 1:200 @ A1

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 15/03/2017 | Sheet 10 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

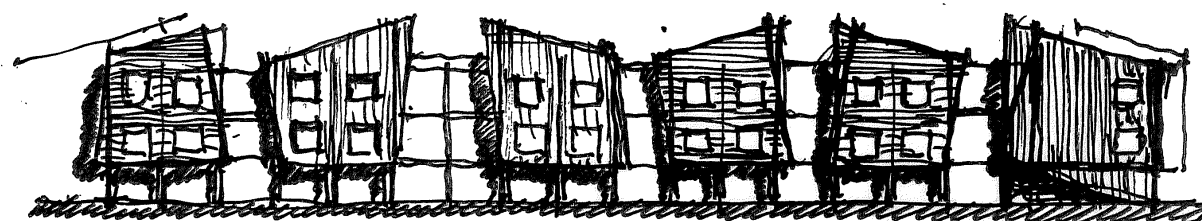
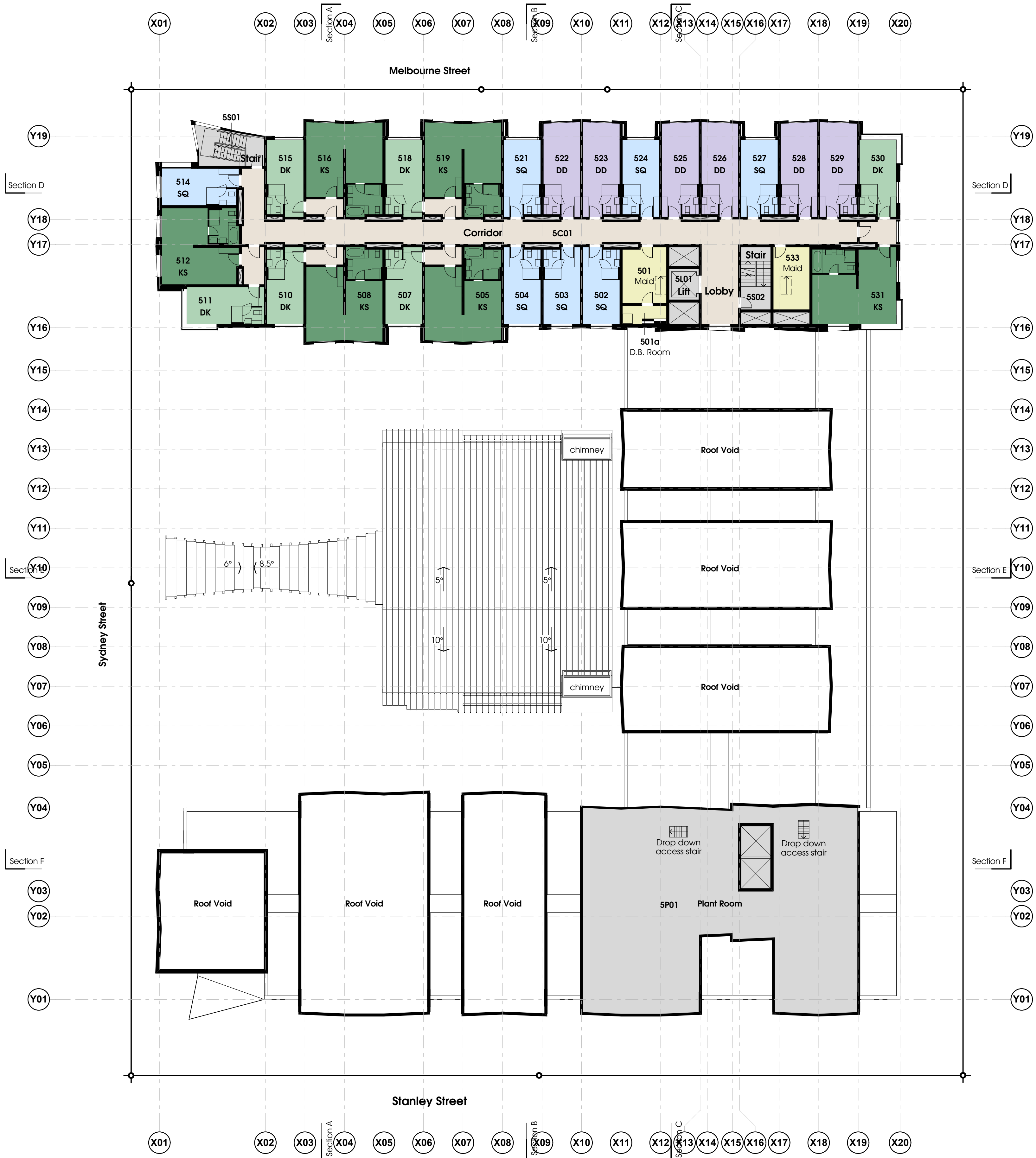


RC 08
Revision 1

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170260

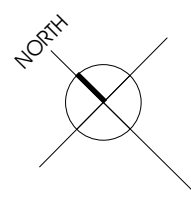
Friday, 24 November 2017



McAuliffe Stevens
Registered Architects

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 15/03/2017 | Sheet 11 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

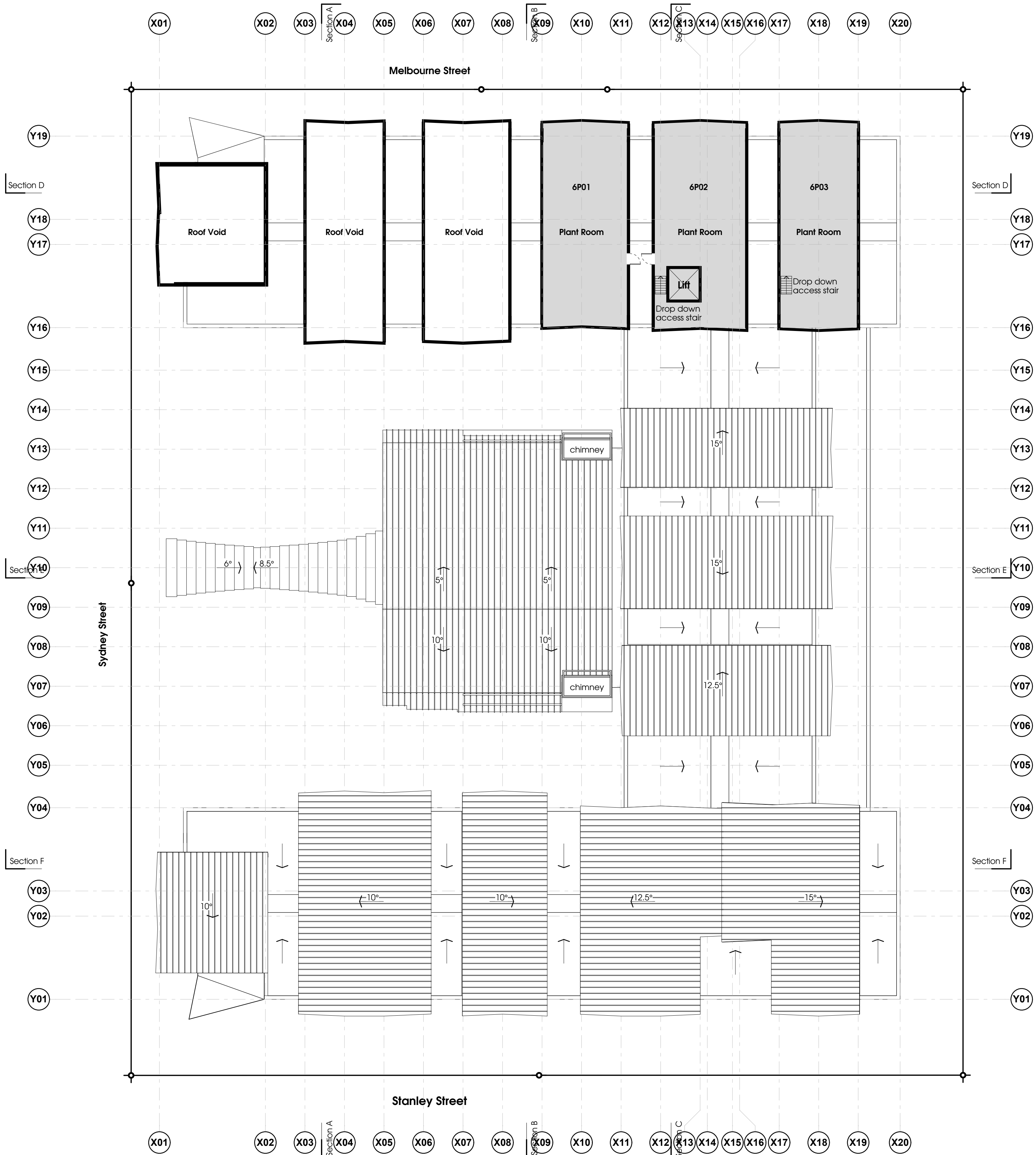


RC 09
Revision 1

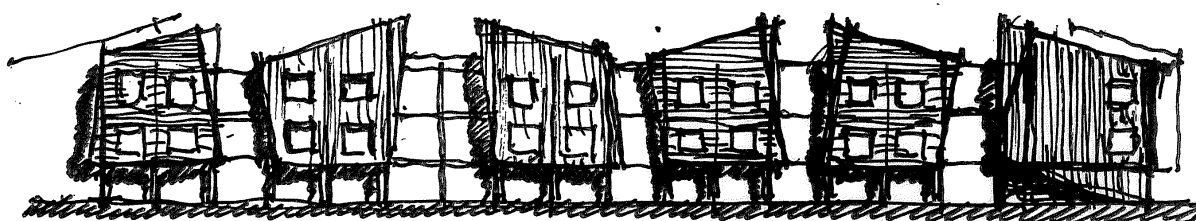
QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170260

Friday, 24 November 2017



- Legend
- SQ - Standard Queen
 - ST - Standard Twin
 - Acc - Accessible Room
 - KS - King Suite
 - DK - Dual Key - Standard Twin
 - DD - Double Double
 - Lobby / Corridor
 - Great Room
 - Front of House
 - Back of House
 - Core / Fire Egress

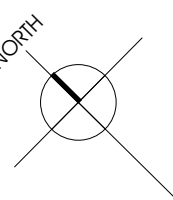


McAuliffe Stevens
Registered Architects

Level 6 Plan
Scale: 1:200 @ A1

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 15/03/2017 | Sheet 12 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

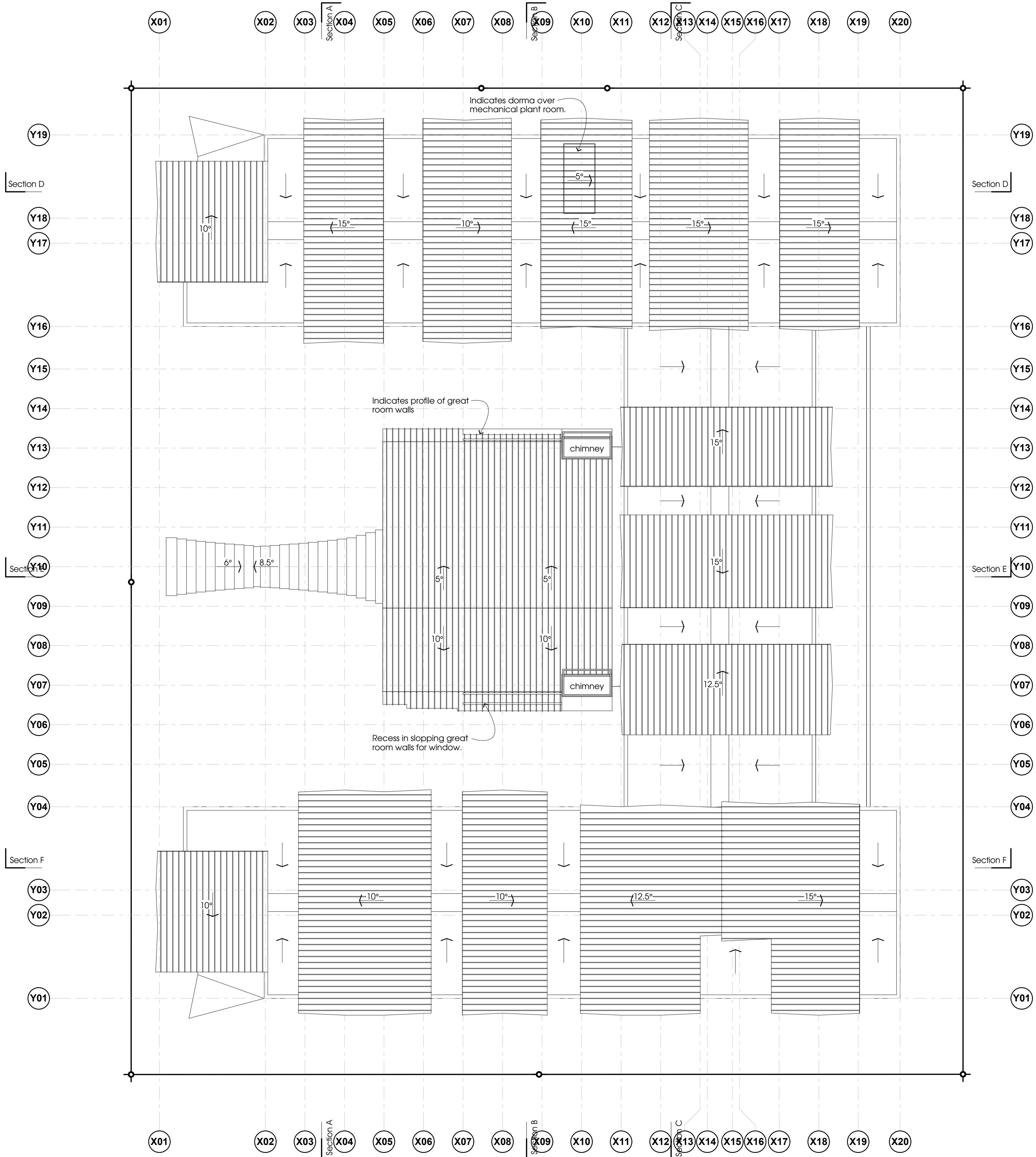


RC 10
Revision 1

QUEENSTOWN LAKES DISTRICT COUNCIL

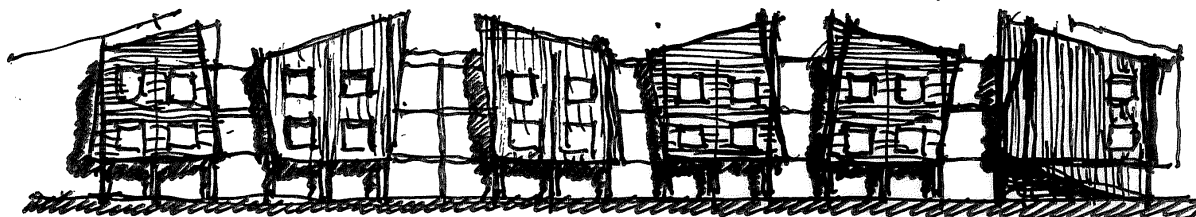
APPROVED PLAN:
RM170260

Friday, 24 November 2017



Roof Plan

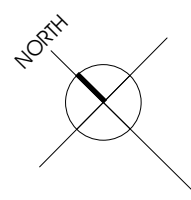
Scale: 1:200 @ A1



McAuliffe Stevens
Registered Architects

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 15/03/2017 | Sheet 13 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

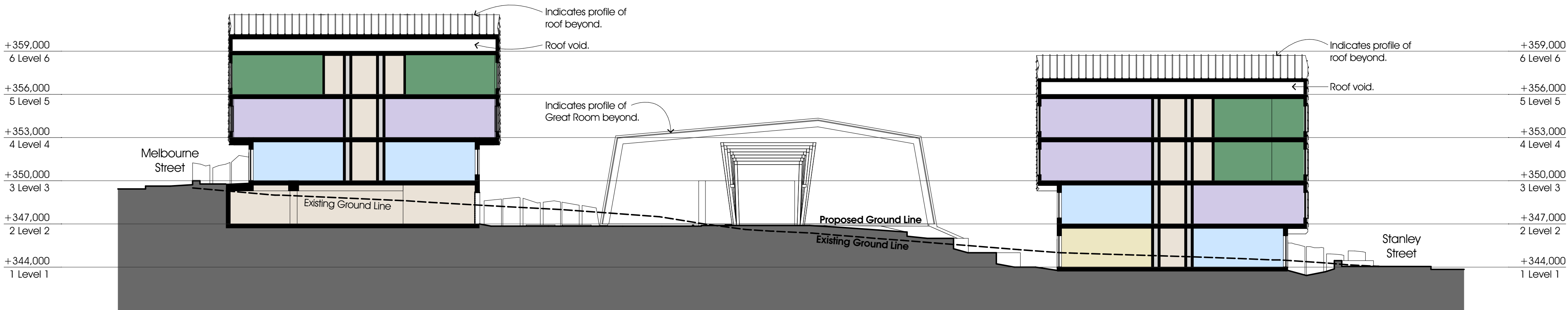


RC 11
Revision 1

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170260

Friday, 24 November 2017



Section A

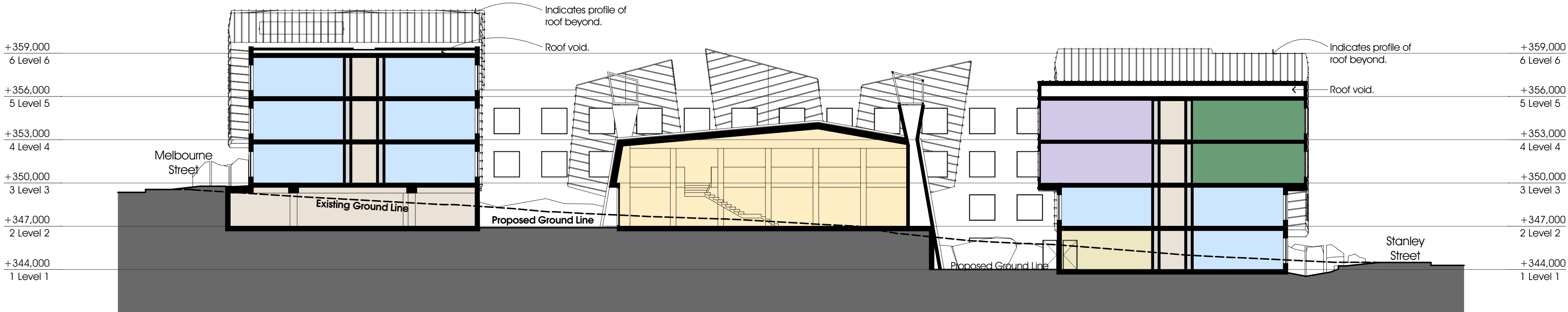
Scale: 1:200 @ A1

Legend

- SQ - Standard Queen
- ST - Standard Twin
- Acc - Accessible Room
- KS - King Suite
- DK - Dual Key - Standard Twin
- DD - Double Double
- Lobby / Corridor
- Great Room
- Front of House
- Back of House
- Core / Fire Egress

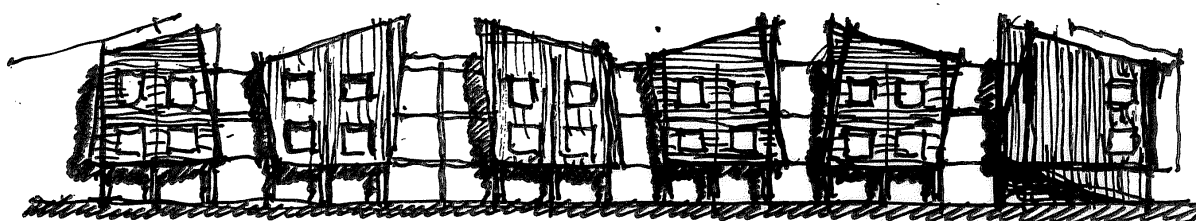
Note:

See sheets RC 26 to RC 33 for maximum permitted building heights.



Section B

Scale: 1:200 @ A1



McAuliffe Stevens
Registered Architects

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

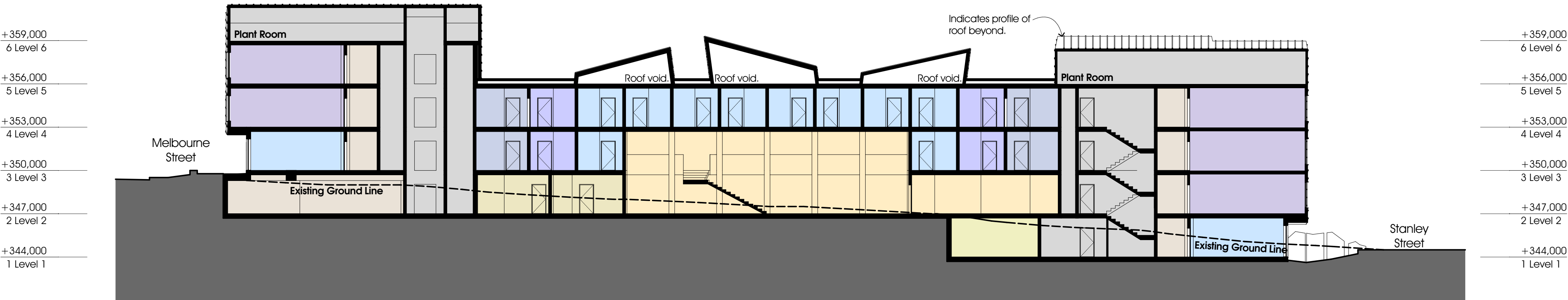
Resource Consent | 7/07/2017 | Sheet 14 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

RC 12
Revision 2

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170260

Friday, 24 November 2017



Section C

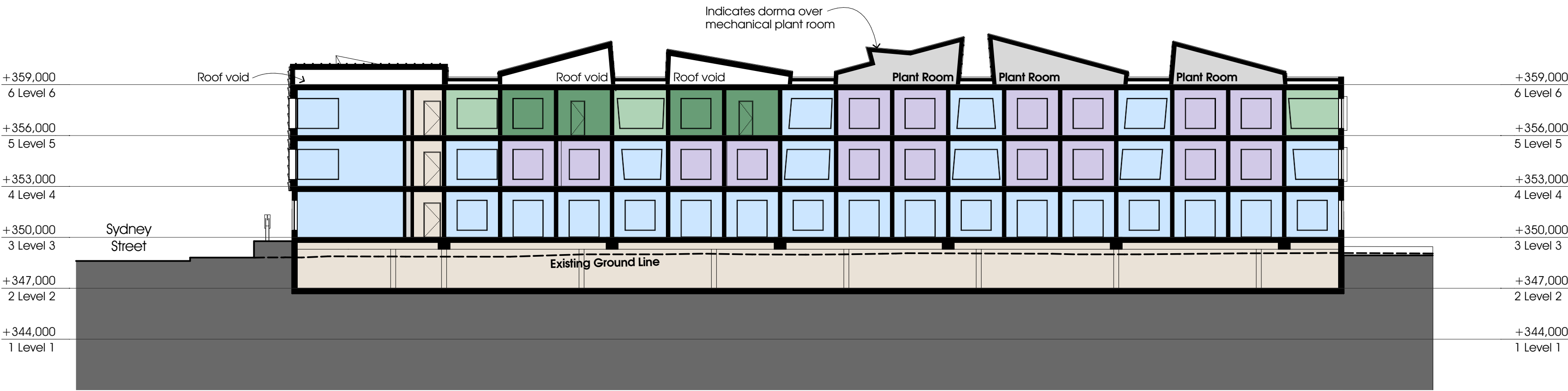
Scale: 1:200 @ A1

Legend

- SQ - Standard Queen
- ST - Standard Twin
- Acc - Accessible Room
- KS - King Suite
- DK - Dual Key - Standard Twin
- DD - Double Double
- Lobby / Corridor
- Great Room
- Front of House
- Back of House
- Core / Fire Egress

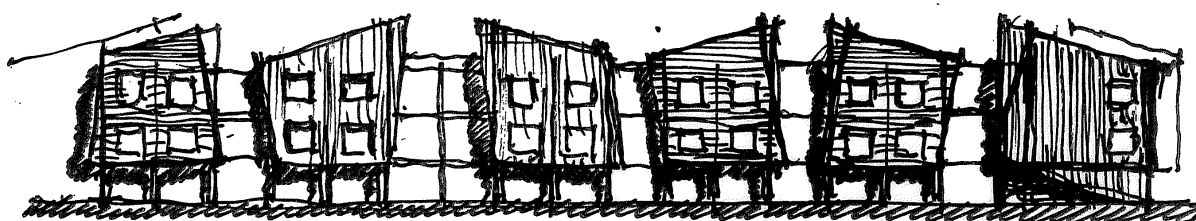
Note:

See sheets RC 26 to RC 33 for maximum permitted building heights.



Section D

Scale: 1:200 @ A1



McAuliffe Stevens
Registered Architects

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

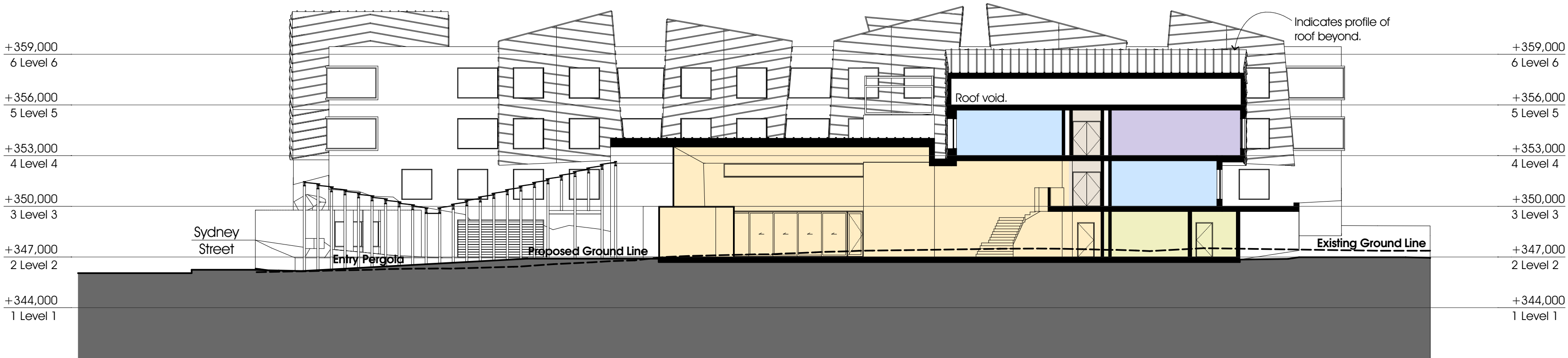
Resource Consent | 7/07/2017 | Sheet 15 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

RC 13
Revision 2

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170260

Friday, 24 November 2017



Section E

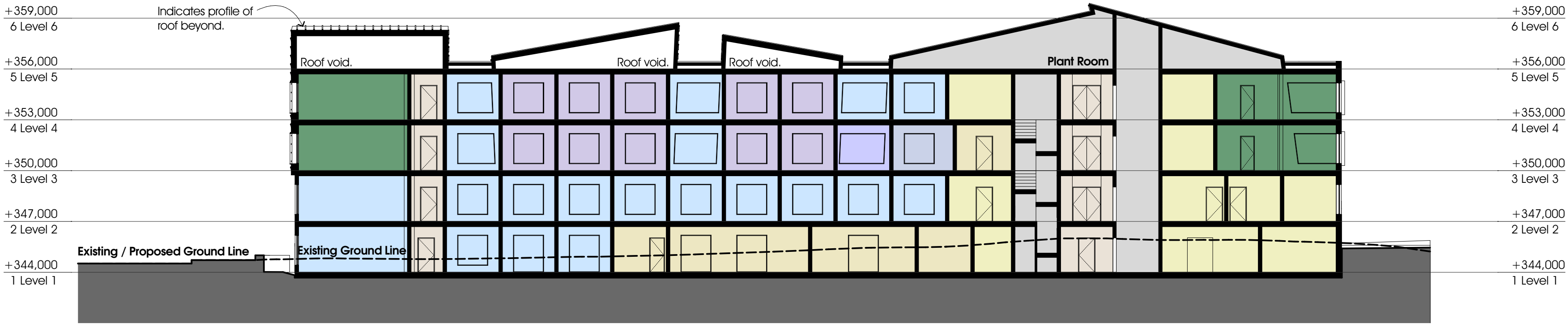
Scale: 1:200 @ A1

Legend

- SQ - Standard Queen
- ST - Standard Twin
- Acc - Accessible Room
- KS - King Suite
- DK - Dual Key - Standard Twin
- DD - Double Double
- Lobby / Corridor
- Great Room
- Front of House
- Back of House
- Core / Fire Egress

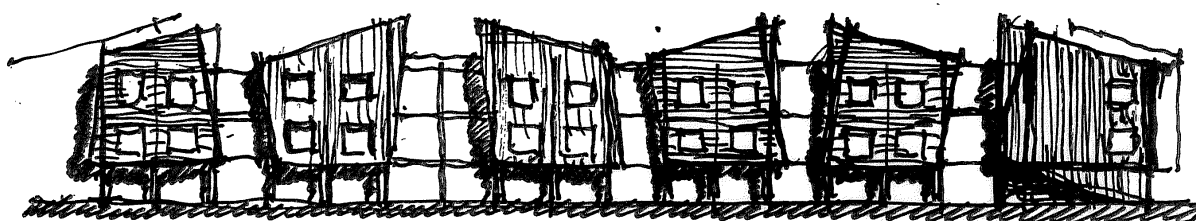
Note:

See sheets RC 26 to RC 33 for maximum permitted building heights.



Section F

Scale: 1:200 @ A1

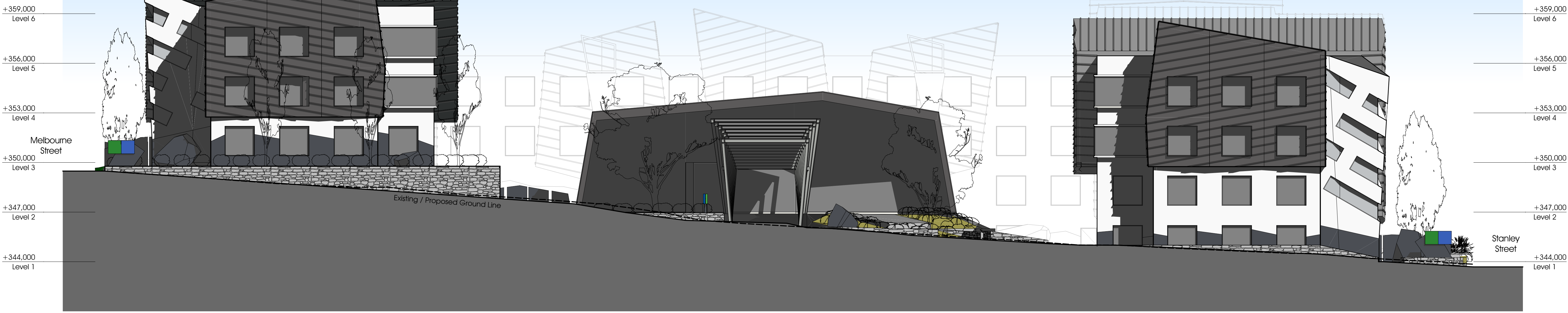


McAuliffe Stevens
Registered Architects

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

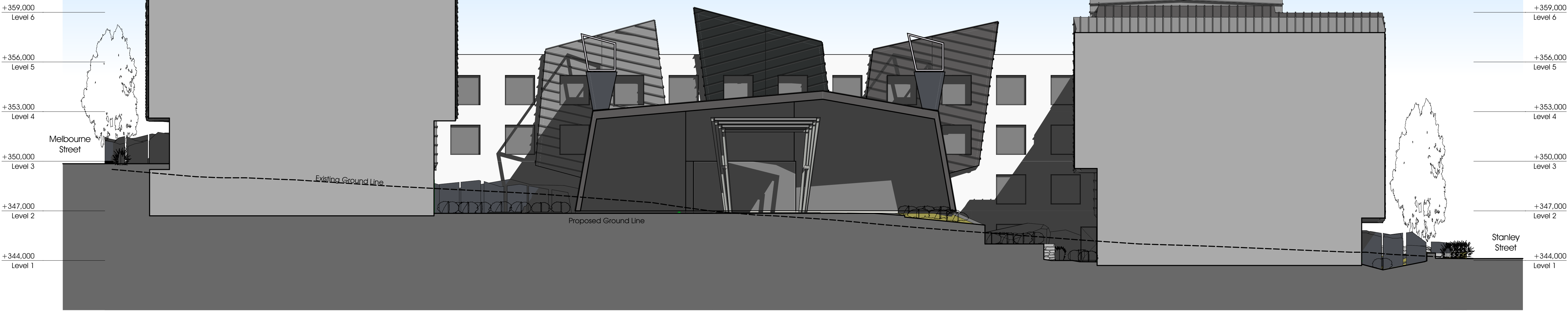
Resource Consent | 15/03/2017 | Sheet 16 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

RC 14
Revision 1



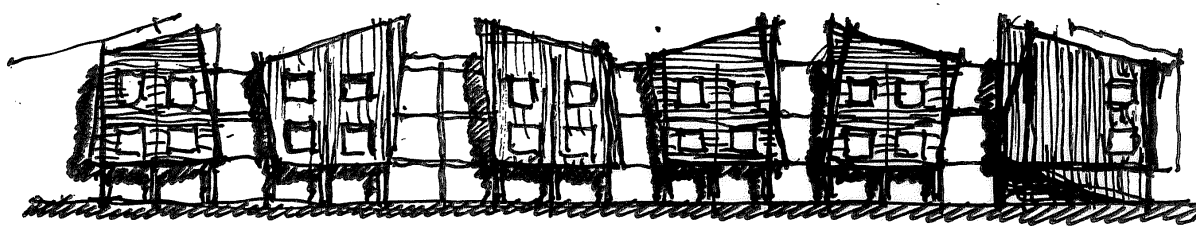
Sydney Street Elevation

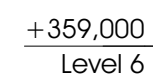
Scale: 1:125 @ A1



Main Entry Elevation

Scale: 1:125 @ A1





+356,000
Level 5

+353,000
Level 4

+350,000
Level 3

+347,000
Level 3

Service
Lane

Proposed Ground Line

Existing Ground Lines

+359,000
Level 6

+356,000
Level 5

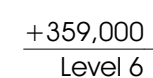
+353,000
Level 4

| | |
|--------|----------|
| Street | +350,000 |
| | Level 3 |

| | |
|--|----------|
| | +347,000 |
| | Level 2 |

Sydney
Street

Scale: 1:125 @ A1



+356,000
Level 5

+353,000
Level 4

+350,000

+347,000

+344,000

Sydney
Street

Existing / Proposed Ground Line

+359,000
Level 6

+ 356,000
Level 5

+353,000
Level 4

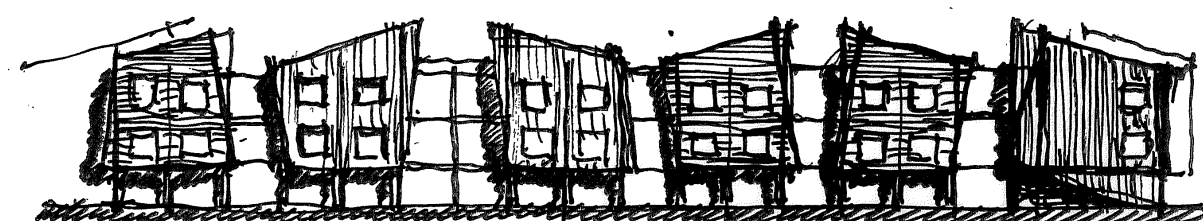
+350,000

+347,000

ane +344,000

service
and

Scale: 1:125 @ A1





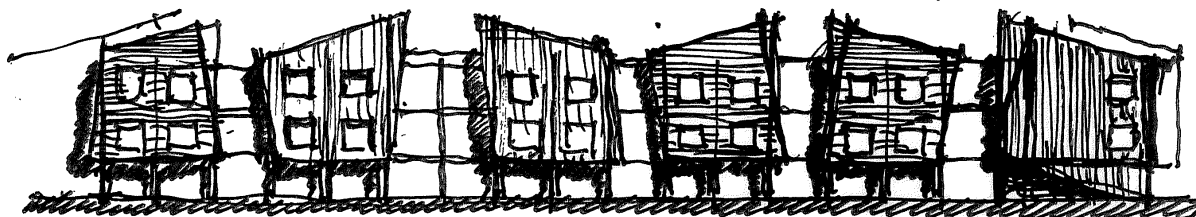
South West Courtyard Elevation

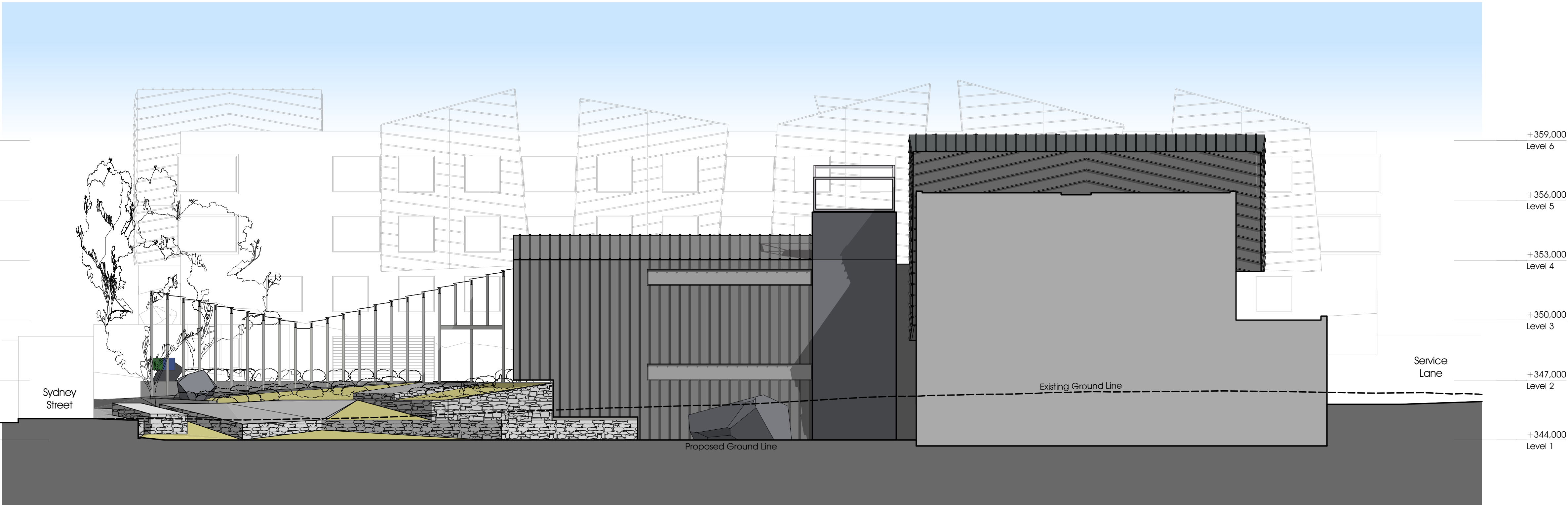
Scale: 1:125 @ A1



North West Courtyard Elevation

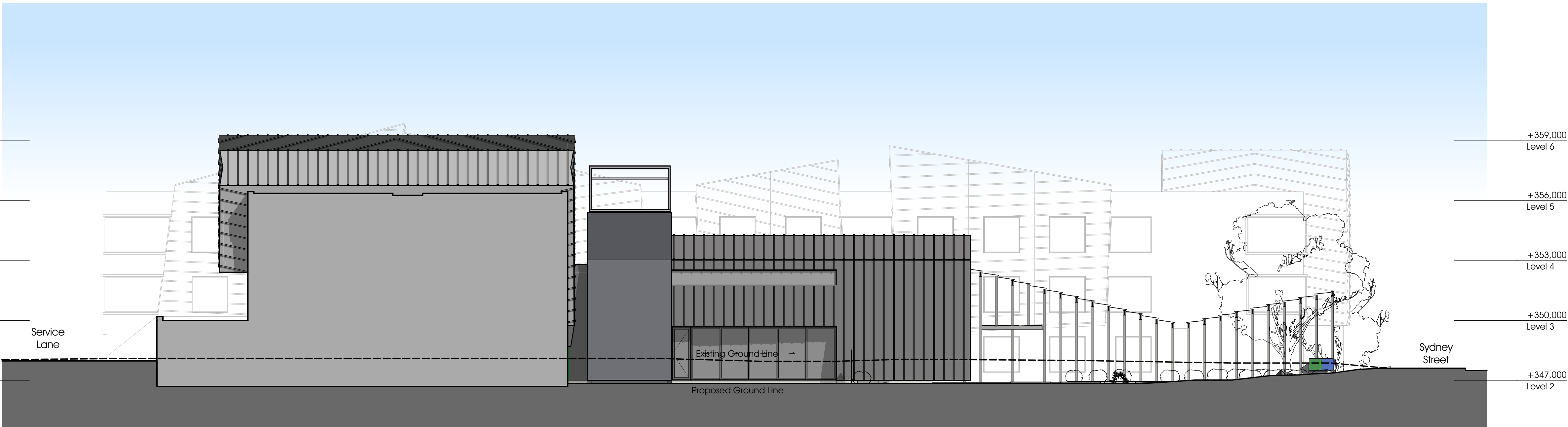
Scale: 1:125 @ A1





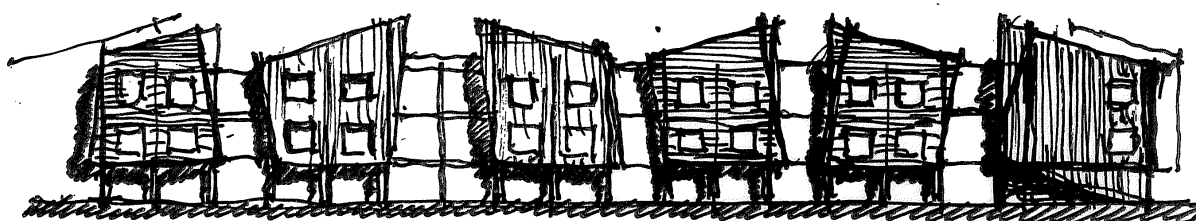
South West Great Room Elevation

Scale: 1:125 @ A1



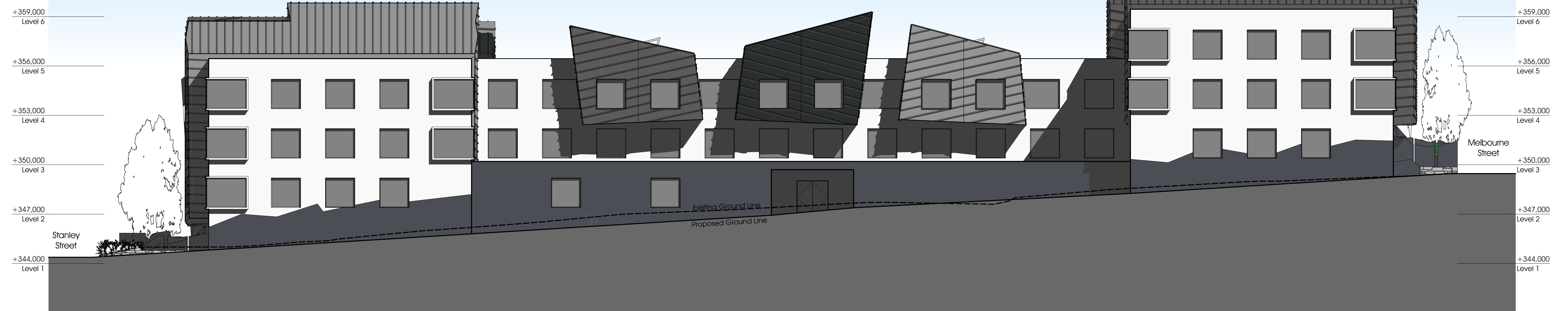
North West Great Room Elevation

Scale: 1:125 @ A1



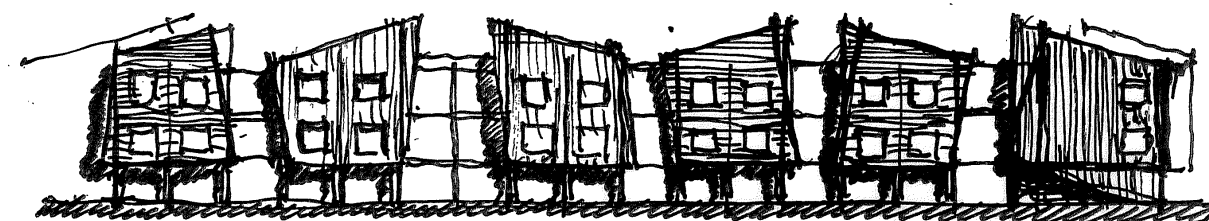
**APPROVED PLAN:
RM170260**

Friday, 24 November 2017



Mellinnium Hotel Elevation

Scale: 1:125 @ A1

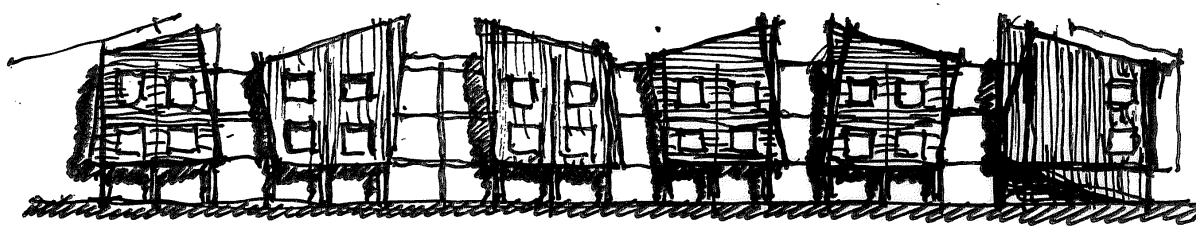


McAuliffe Stevens
Registered Architects

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 15/03/2017 | Sheet 21 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

RC 19
Revision 1



QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170260

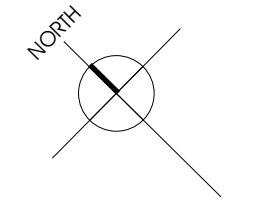
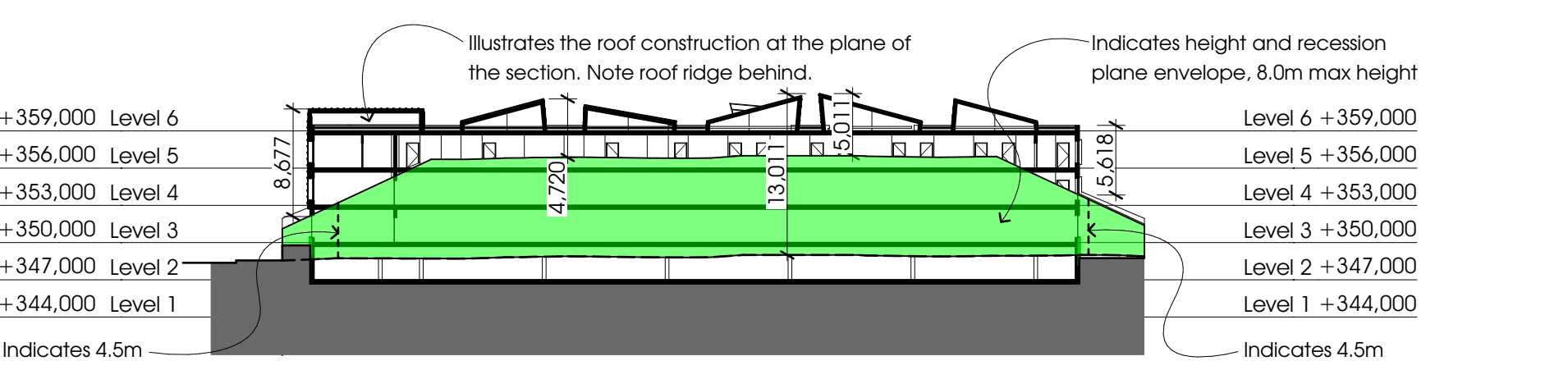
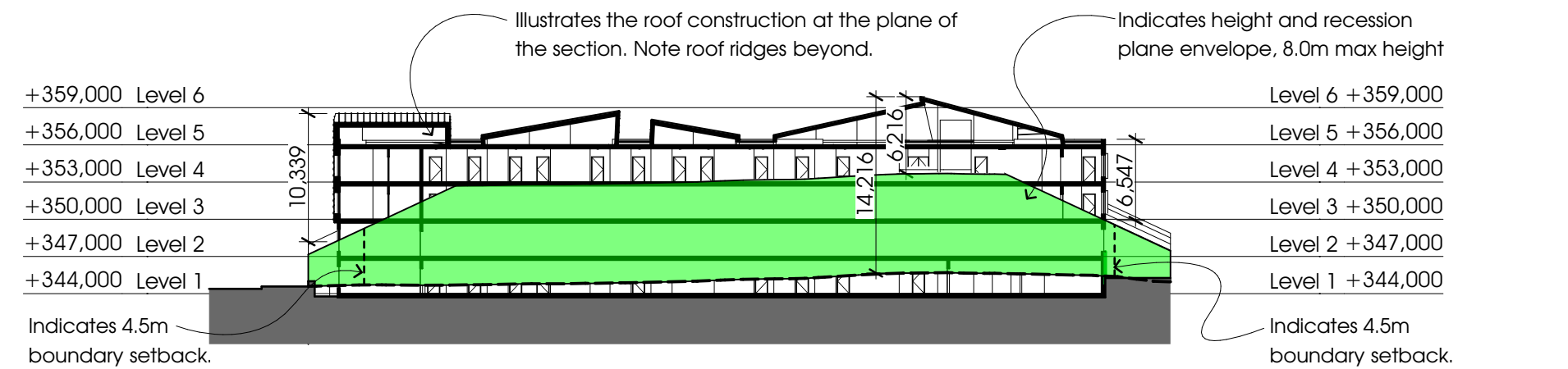
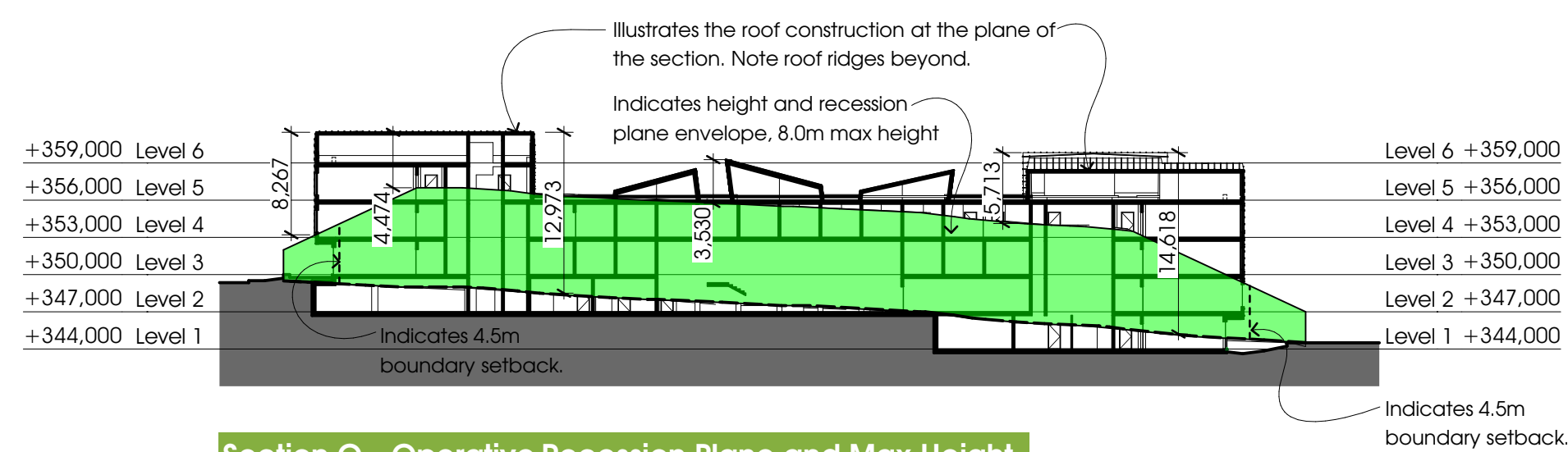
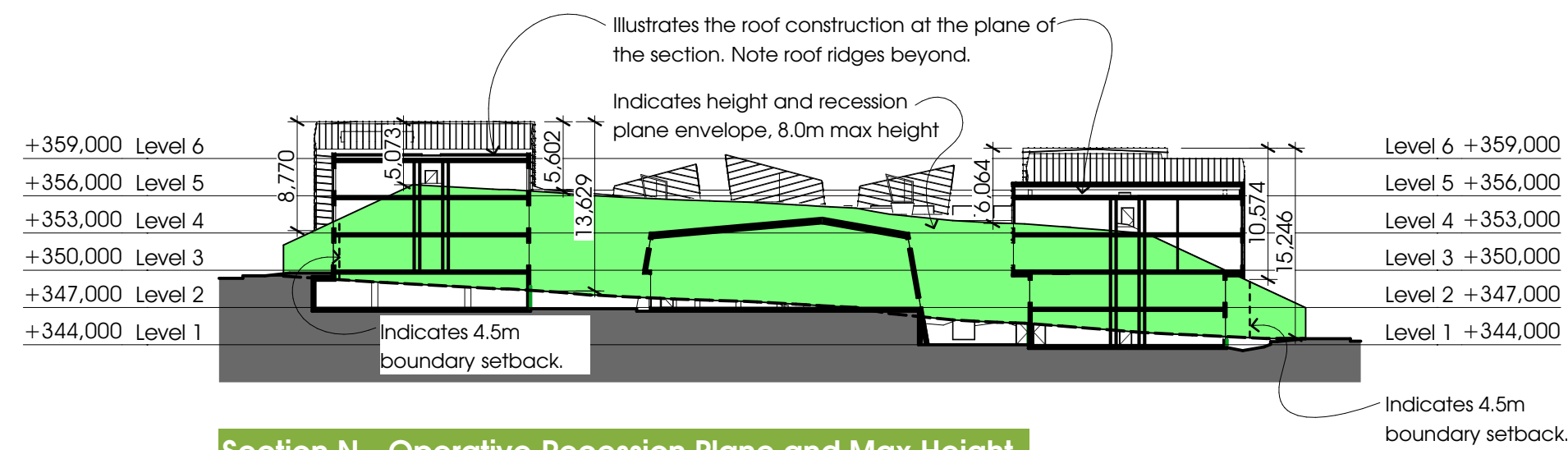
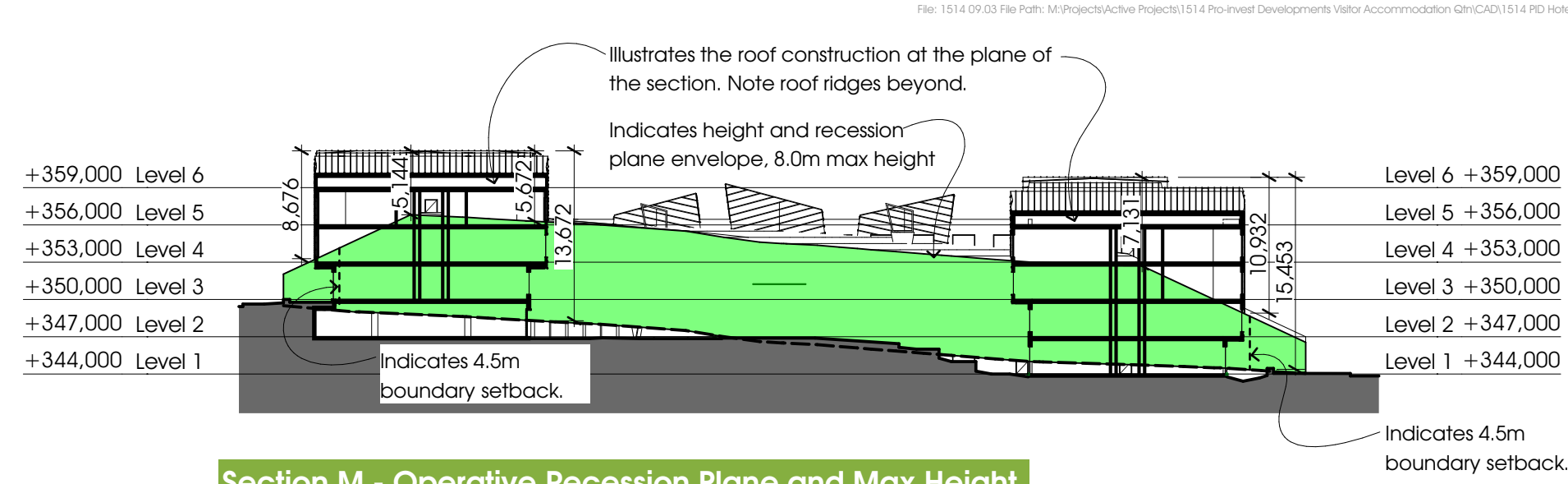
Friday, 24 November 2017

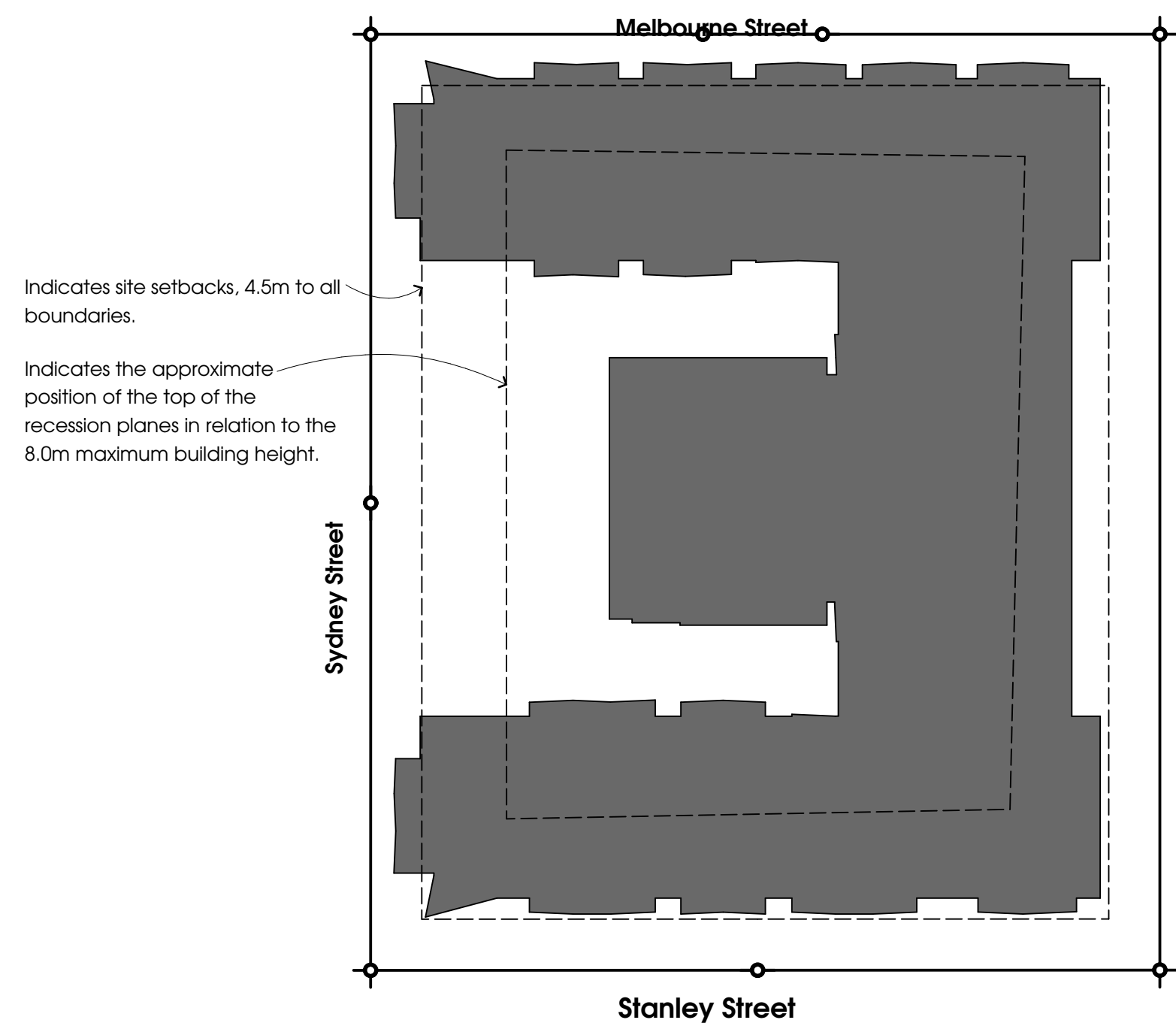
| Site Coverages | |
|---------------------|---------------------|
| Building Coverage | |
| Max. Site Coverage | 65% |
| Site Area | 5,719m ² |
| Building Foot Print | 3,408m ² |
| Site Coverage | 59.6% |

Notes - Sections

The envelope shown on these sections is derived from the recession planes and maximum building height rules, as outlined in the Operative District Plan. The envelope does not factor in the site setback, this is represented by the dashed line, noted on each section.

All vertical dimensions are to the highest roof ridge on each "wing" of the building.





Recession Plane Outline

Scale: 1:500 @ A1

QUEENSTOWN LAKES DISTRICT COUNCIL

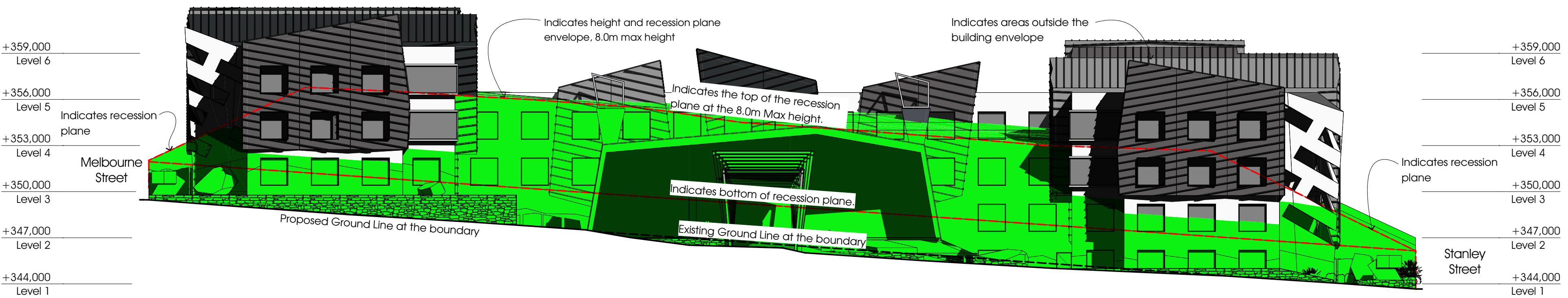
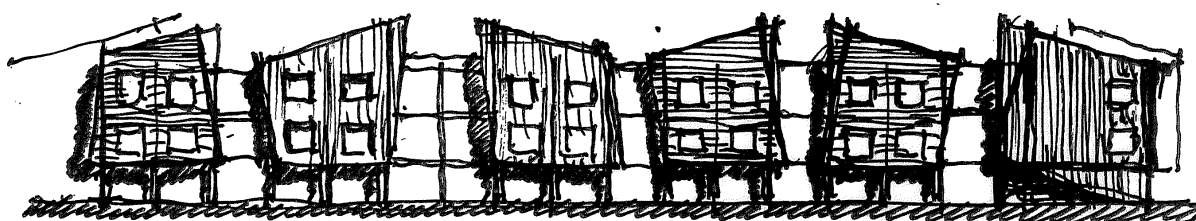
APPROVED PLAN:
RM170260

Friday, 24 November 2017

Notes - Elevations

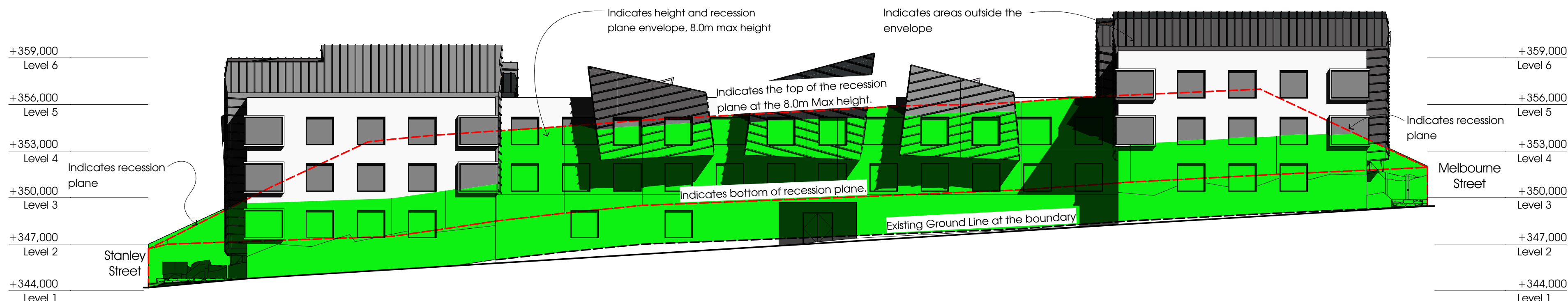
The envelope shown on these elevations is derived from the recession planes and maximum building height rules, as outlined in the Operative District Plan. The envelope does not factor in the site setback, this is represented by the dashed line shown on the plan.

Bulk and Location Study - Operative District Plan



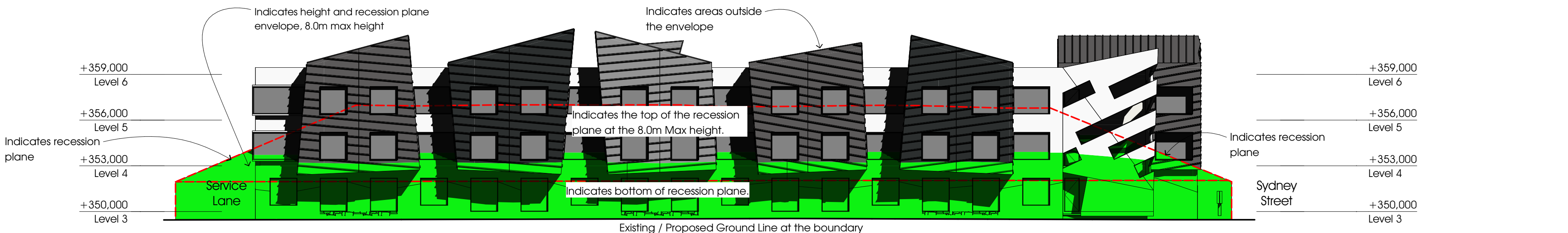
Sydney Street Elevation - Operative Recession Plane and Max Height

Scale: 1:200 @ A1



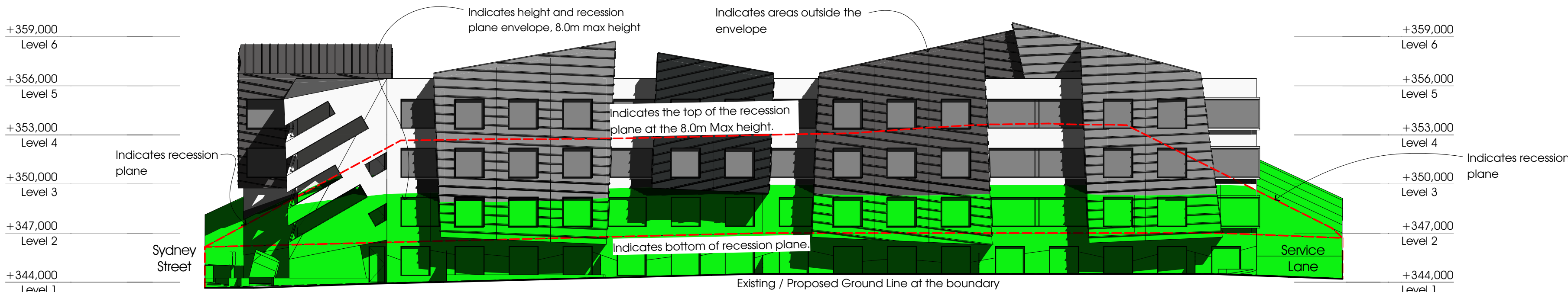
Melinnium Hotel Elevation - Operative Recession Plane and Max Height

Scale: 1:200 @ A1



Melbourne St Elevation - Operative Recession Plane and Max Height

Scale: 1:200 @ A1



Stanley Street Elevation - Operative Recession Plane and Max Height

Scale: 1:200



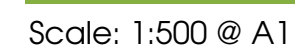
Bulk and Location Study - Proposed District Plan

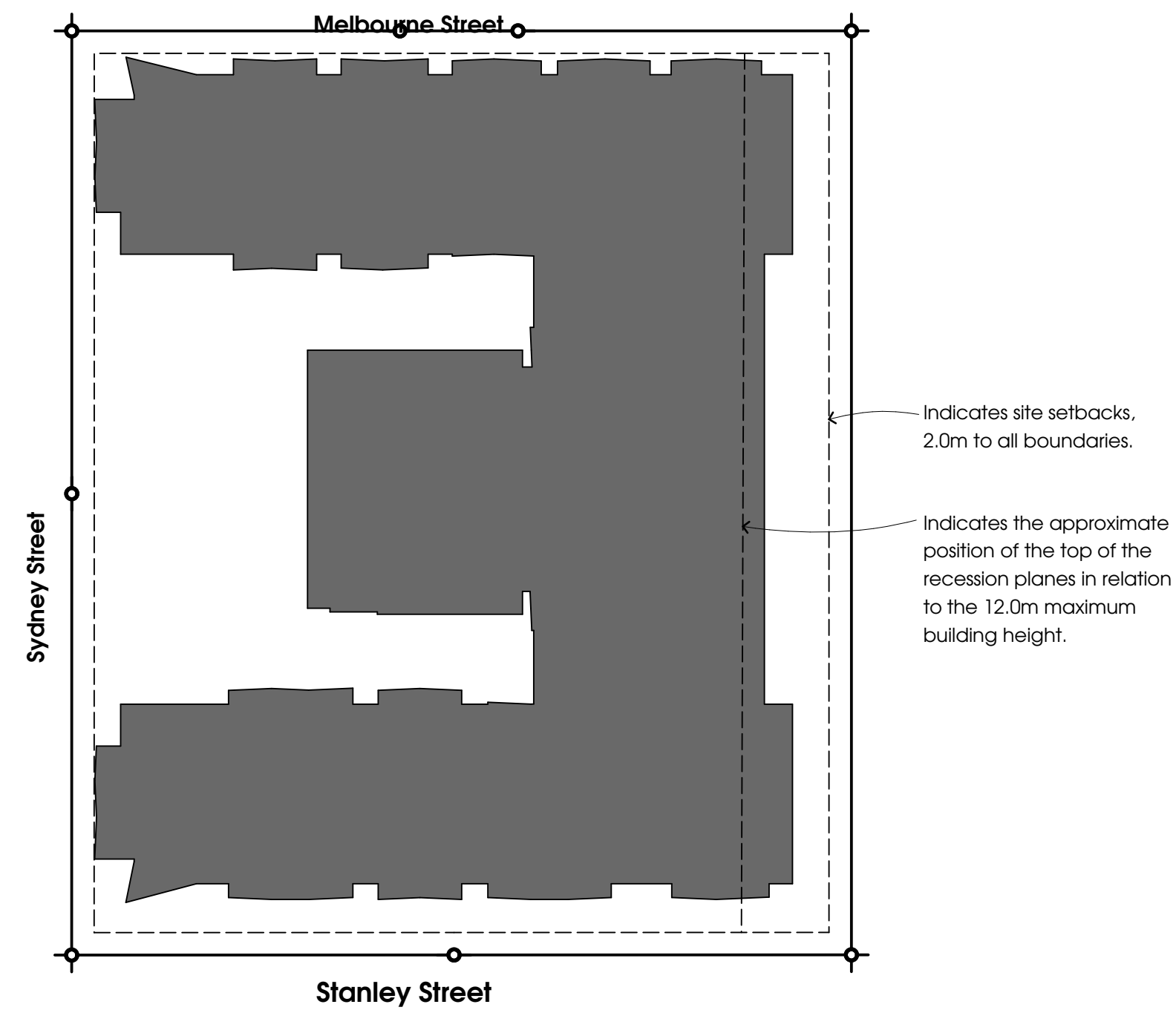


Notes - Sections

The envelope shown on these sections is derived from the recession planes and maximum building height rules, as outlined in the Proposed District Plan. The envelope does not factor in the site setback, this is represented by the dashed line, noted on each section.

All vertical dimensions are to the highest roof ridge on each 'wing' of the building.



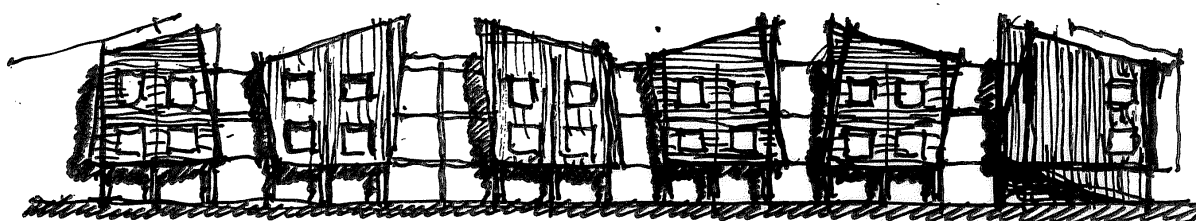


Recession Plane Outline - 12m Max Height
Scale: 1:500 @ A1

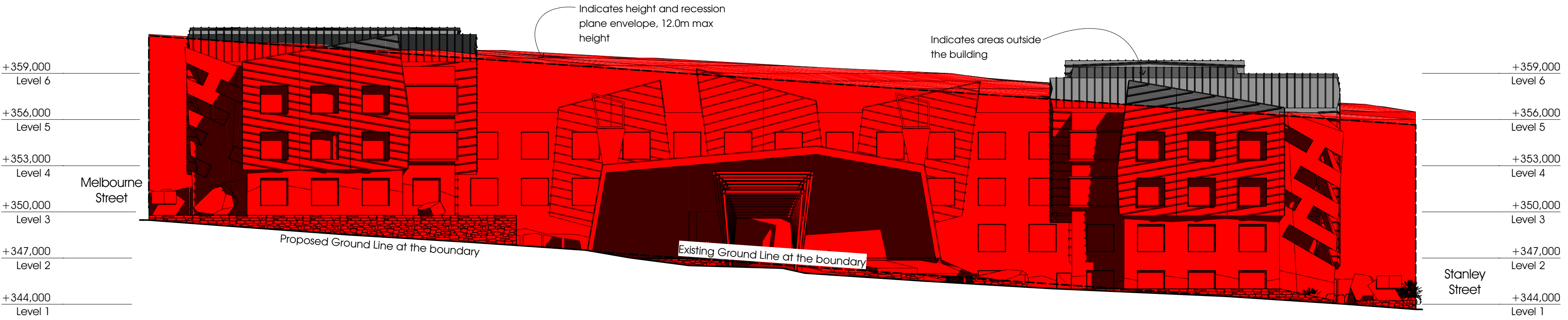
QUEENSTOWN LAKES DISTRICT COUNCIL
APPROVED PLAN:
RM170260
Friday, 24 November 2017

Notes - Elevations
The envelope shown on these elevations is derived from the recession planes and maximum building height rules, as outlined in the Proposed District Plan. The envelope does not factor in the site setback, this is represented by the dashed line shown on the plan.

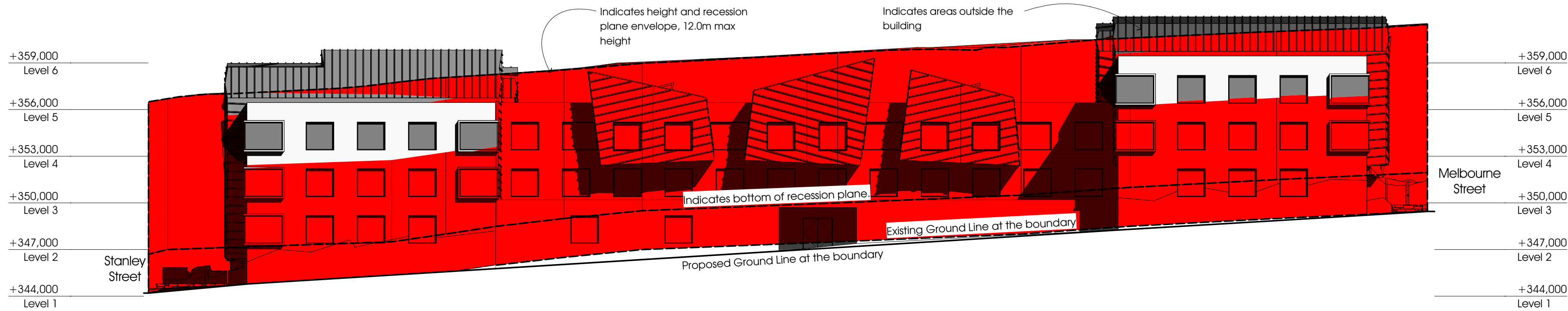
Bulk and Location Study - Proposed District Plan



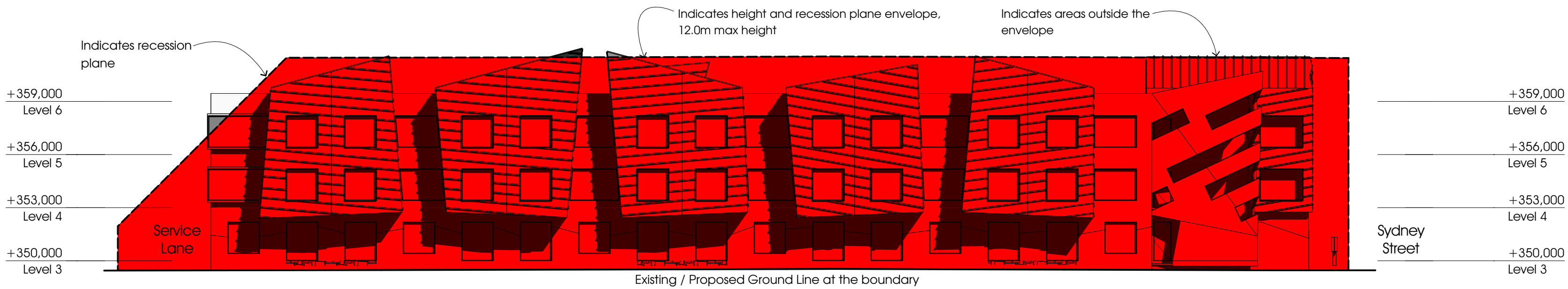
McAuliffe Stevens
Registered Architects



Sydney St Elevation - Proposed Recession Plane and Max Height (12m)
Scale: 1:200 @ A1



Melinnium Hotel Elevation - Proposed Recession Plane and Max Height (12m)
Scale: 1:200 @ A1



Melbourne Street Elevation - Proposed Recession Plane and Max Height (12m)
Scale: 1:200 @ A1



Stanley Street Elevation - Proposed Recession Plane and Max Height (12m)
Scale: 1:200

Proposed Holiday Inn Express at Corners of Stanley, Sydney and Melbourne Streets Queenstown

Resource Consent | 15/03/2017 | Sheet 31 of 35 | Level 3, 17 Church Street, Queenstown | mcauliffestevens.co.nz | P +64 3 409 2004

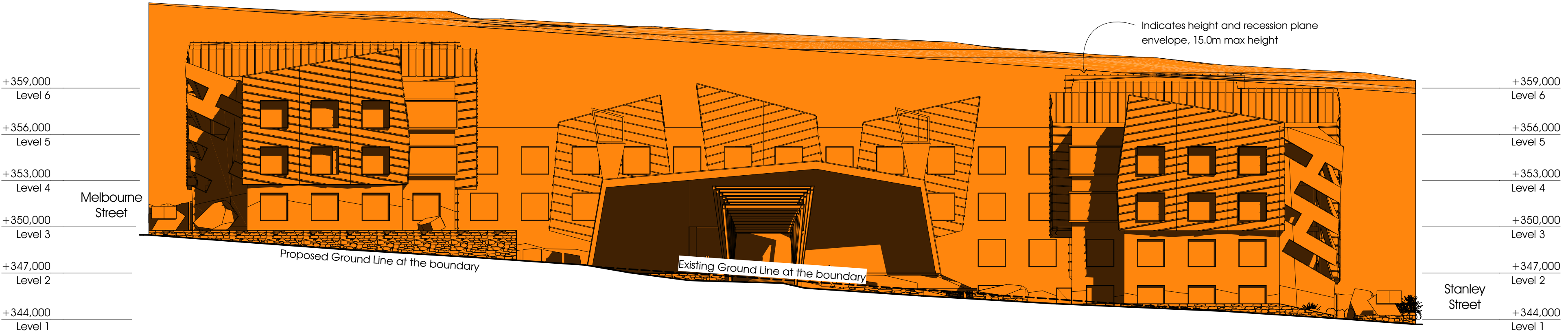
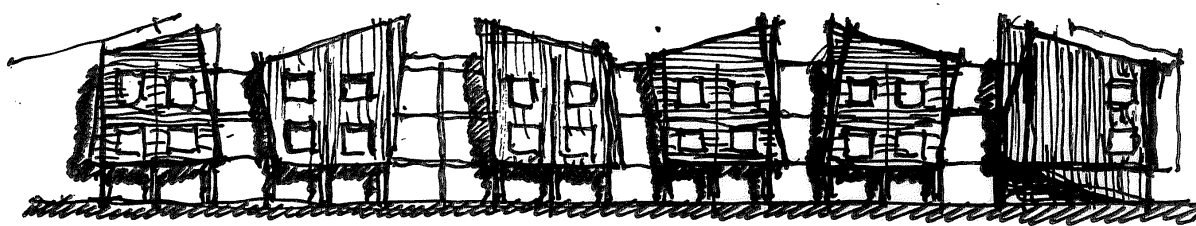


Recession Plane Outline - 15m Max Height
Scale: 1:500 @ A1

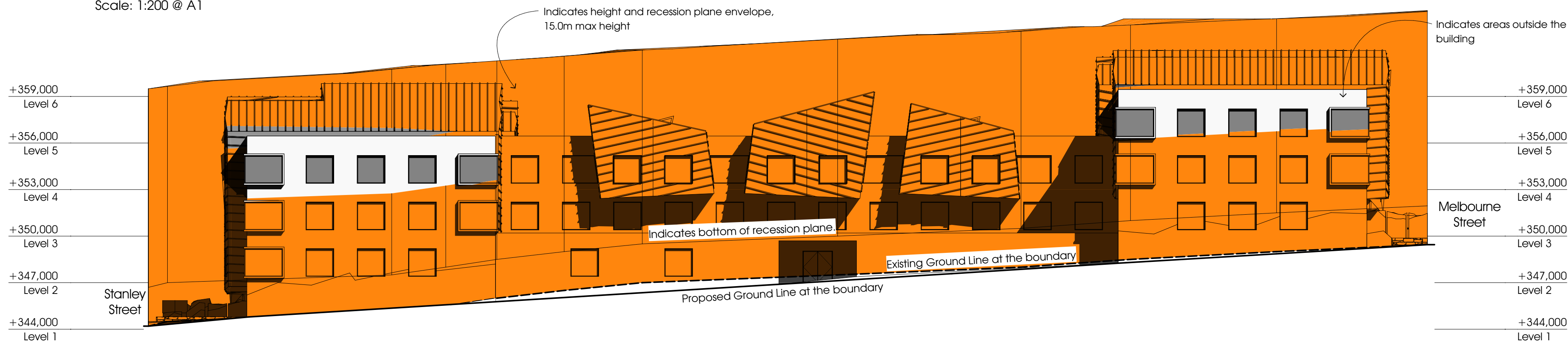
QUEENSTOWN LAKES DISTRICT COUNCIL
APPROVED PLAN:
RM170260
Friday, 24 November 2017

Notes - Elevations
The envelope shown on these elevations is derived from the recession planes and maximum building height rules, as outlined in the Proposed District Plan. The envelope does not factor in the site setback, this is represented by the dashed line shown on the plan.

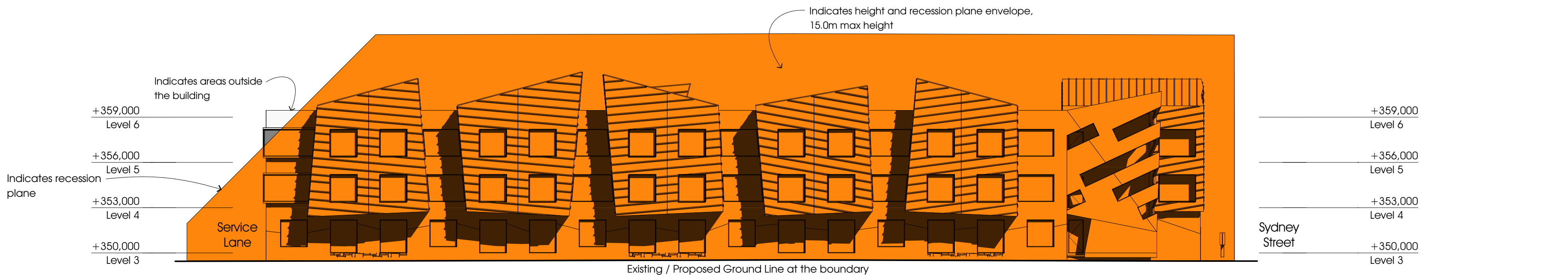
Bulk and Location Study - Proposed District Plan



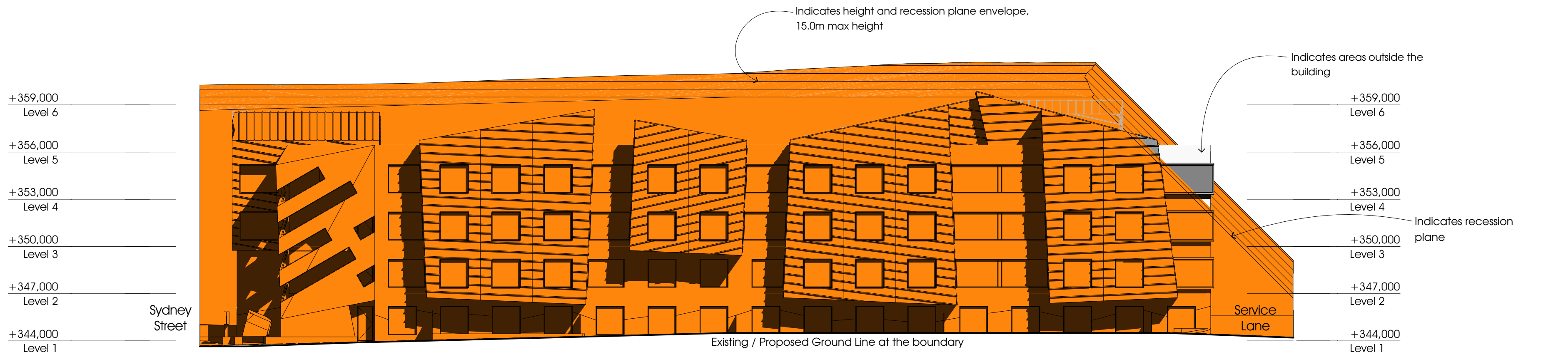
Sydney St Elevation - Proposed Recession Plane and Max Height (15m)
Scale: 1:200 @ A1



Melinnium Hotel Elevation - Proposed Recession Plane and Max Height (15m)
Scale: 1:200 @ A1



Melbourne Street Elevation - Proposed Recession Plane and Max Height (15m)
Scale: 1:200 @ A1



Stanley Street Elevation - Proposed Recession Plane and Max Height (15m)
Scale: 1:200