

**BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL**

**IN THE MATTER OF** the Resource Management Act 1991

**AND**

**IN THE MATTER OF** the Queenstown Lakes Proposed District  
Plan  
Submissions and Further Submissions  
on:  
Chapter 3 – Strategic Directions  
Chapter 4 – Urban Development  
Chapter 6 – Landscapes

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**STATEMENT OF EVIDENCE BY LOUISE TAYLOR ON BEHALF OF:**

**X-RAY TRUST LIMITED (356 AND 1349)**

**MATUKITUKI TRUST LIMITED (355)**

**PENINSULA BAY JOINT VENTURE (378 and 1336)**

**(26 FEBRUARY 2016)**

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## PART A

### 1. INTRODUCTION

#### **Qualifications, Experience and Code of Conduct**

- 1.1 My name is Louise Elizabeth Robertson Taylor. I hold a Bachelor's degree in Geography and a Master's degree in Regional and Resource Planning from the University of Otago (completed in 1996). I am a full member of the New Zealand Planning Institute. I am a Partner and Director of the firm Mitchell Partnerships Limited, which practices as an environmental consultancy nationally, with offices in Dunedin, Auckland and Tauranga.
- 1.2 I have been engaged in the field of resource and environmental management for 19 years. My experience includes a mix of local authority and consultancy resource management work. This experience has included particular emphasis on providing consultancy advice with respect to resource consent and environmental impact assessments, regional and district plans, and designations. This includes extensive experience with large-scale projects involving inputs from a multi-disciplinary team. I hold the Chair accreditation to hear RMA applications and have sat on several hearings panels for resource consent applications.
- 1.3 I have prepared submissions on proposed Regional Policy Statements and Regional Plans throughout New Zealand, and have prepared resource consent applications for various activities under almost all district and city plans in the South Island and many in the North Island. A summary of my recent experience is included at **Appendix A**.
- 1.4 While I appreciate that this is not an Environment Court hearing, I confirm that I have read and agree to comply with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note dated 1 December 2014. Unless I state otherwise, this evidence is within my scope of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express. I understand it is my duty to assist the hearing committee impartially on relevant matters within my area of expertise and that I am not an advocate for the party which has engaged me.

## **Evidence Structure**

1.5 This is expert planning evidence prepared on behalf of the submitters listed below, and split into the following sections:

**PART B: X-Ray Trust Limited** - Submitter 356, further submitter 1349

**Appendix B: X-Ray Trust Limited** – Table of recommended changes to plan provisions to better achieve the purpose of the Act

**PART C: Matukituki Trust Limited** - Submitter 355

**Appendix C1: Matukituki Trust Limited** - Table of recommended changes to plan provisions to better achieve the purpose of the Act

**Appendix C2: Matukituki Trust Limited** – Development Plans – Dwelling (RM080876)

**PART D: Peninsula Bay Joint Venture** - Submitter 378, further submitter 1336

**Appendix D: Peninsula Bay Joint Venture** - Table of recommended changes to plan provisions to better achieve the purpose of the Act

# APPENDIX A

## Summary of Recent Project Experience

- Preparation of various resource consent applications and consent notice variations for the development of a sustainable life style farm at Ayrburn, Lake Hayes.
- Preparation of Plan Change 51 to extend Peninsula Bay low density residential zone in Wanaka, on behalf of Peninsula Bay Joint Venture.
- Provision of resource management advice, including the preparation of resource consent applications and the management of specialist experts for various residential, subdivision and commercial activities in Central Otago and the Queenstown Lakes, including Bendemeer, Damper Bay and Roys Peninsula.
- Planner advising the Board of Enquiry for New Zealand Transport Agency's Basin Bridge project involving notice of requirement and resource consents, Wellington, including hearing appearance in front of the Board and expert witness conferencing.
- Preparation of Plan Change 50, to extend the town centre in Queenstown on behalf of Queenstown Lakes District Council.
- Preparation of Plan Change and s32 report and presentation of planning evidence for extension of Marina Zone and introduction of Mooring Management Areas in Waikawa Bay, Marlborough on behalf of Port Marlborough.
- Planner advising the Board of Enquiry for New Zealand Transport Agency's Christchurch Southern Motorway notice of requirement and resource consents, Canterbury, including hearing appearance in front of the Board and expert witness conferencing.
- Sole Hearing Commissioner for water take application for irrigation purposes for Southland Regional Council.
- Commissioner for Invercargill City Council's stormwater discharge permit, on behalf of Environment Southland.

- Presentation of planning evidence to the Board hearing Plan Change 3 to the Waitaki Catchment Water Allocation Regional Plan, on behalf of Waitaki Irrigators Collective Limited and others.
- Presentation of planning evidence for Plan Change 6A to the Otago Regional Water Plan on behalf of Waitaki Irrigators Collective Limited and others.
- Preparation of various resource consent applications on behalf of Otago Regional Council for structures to control flood risk.
- Preparation of proposed private plan change to create a Mercy Hospital Zone, and presentation of planning evidence, on behalf of Mercy Hospital, Dunedin.
- Preparation of various resource consents for works at Mercy Hospital, on behalf of Mercy Hospital, Dunedin.
- Preparation of resource consent application for a multi level carparking building at Wellington Airport, and a café within the Wellington Airport Retail Park, on behalf of Wellington Airport Limited.
- Preparation of resource consent applications and hearing attendance for commercial re-development of heritage buildings in Dunedin.
- Presentation of planning evidence for a child care centre in Dunedin.
- Preparation of various resource consents for retirement villages in Canterbury on behalf of Ryman Healthcare Limited.
- Preparation of resource consent application for Observatory Retirement Village, Oamaru on behalf of Waitaki District Health Limited.
- Preparation of resource consent applications for a student accommodation facility at Logan Park, Dunedin on behalf of Dunedin City Council, Ngai Tahu Property Limited and Otago Polytech.
- Preparation of numerous submissions to proposed district and regional plans and policy statements, along with plan changes and variations on behalf of clients Nationally.
- Provision of resource management advice, including the preparation of resource consent applications and the management of specialist experts for various

residential, subdivision and commercial activities in Central Otago and the Queenstown Lakes, including Bendemeer, Damper Bay and Roys Peninsula.

- Preparation of Assessment of Environmental Effects, including management of a team of specialist inputs for a Concession application from the Department of Conservation for a monorail linking Queenstown and Te Anau Downs.
- Project managing the process for obtaining Environment Canterbury and Waimakariri District Council resource consents required to develop Pegasus, a new town in Canterbury, including the management of specialist inputs.

## **PART B: X-RAY TRUST LIMITED**

### **1. INTRODUCTION**

- 1.1 I have been engaged by X-Ray Trust Limited (“X-Ray Trust”) to provide expert planning evidence in relation to the Proposed Queenstown Lakes District Plan (“Proposed Plan”). My firm assisted in the preparation of X-Ray Trust’s submission and further submissions in relation to the Proposed Plan. In preparing this brief of evidence I have reviewed the summary of submissions on the Proposed Plan, the further submissions made on X-Ray Trust’s submission, and the section 42A reports provided by the Council in relation to this matter, which I refer to throughout this evidence<sup>1</sup>.
- 1.2 I have been involved with the planning and resource consenting process at Ayrburn, which the X-Ray Trust sites form part of, for more than five years. I have visited the sites and surrounding locality numerous times over that period, and am very familiar with the Queenstown Lakes District.
- 1.3 This brief of evidence relates to the submissions made on the provisions of the Proposed Plan that affect land owned by X-Ray Trust at 413 and 433 Speargrass Flat Road, Arrowtown. My evidence will provide the following:
- a. A background summary of X-Ray Trust’s interests in Chapter 6 of the Proposed Plan;
  - b. A discussion of the implications of Chapter 6 for the locality surrounding the land owned by X-Ray Trust;
  - c. Comment on submissions made by other parties in the vicinity of X-Ray Trust’s land.
  - d. Comments on the recommendations contained in the table I have included at **Appendix B**. The table outlines my views and recommendations on the provisions of Chapter 6 alongside X-Ray Trust’s submissions and Council’s Section 42A recommendations.

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<sup>1</sup> The combined Chapter 3 Strategic Directions and Chapter 4 Urban Development Section 42A Hearing Report dated 19 February 2016, reference “*Chp. 3 and 4 S42A*” and the Chapter 6 Landscapes Section 42A Hearing Report dated 19 February 2016, reference “*Chp. 6 S42A*”.

1.4 X-Ray Trust's submissions focussed heavily on the adverse landscape effects of the proposed expansion of the Millbrook Resort Zone onto land adjoining X-Ray Trust's property. This is a matter that will be reviewed in depth during hearings on Chapter 43 of the Proposed Plan. However, given the interconnected nature of the Proposed Plan I make brief reference to this issue in my evidence below to foreshadow Landscape matters that will be pertinent to the hearing on Chapter 43.

## 2. **BACKGROUND – THE SITE, EXISTING ENVIRONMENT AND LANDSCAPE CLASSIFICATION**

2.1 X-Ray Trust owns two adjoining lots<sup>2</sup> on the southern side of Speargrass Flat Road, Arrowtown. The lots are in the Rural Zone and were created as part of a three-lot subdivision<sup>3</sup> of land previously forming part of the Ayrburn Farm (Ayrburn Farm adjoins X-Ray Trust to the east). Both of X-Ray Trust's lots have building platforms, curtilage areas and extensive landscaping along with ecological restoration. Due to the sensitivity of the site from primarily a landscape perspective, consent notices<sup>4</sup> control development on each lot. X-Ray Trust's property is approximately 58 hectares in total.

2.2 Resource consents have been obtained from Queenstown Lakes District Council ("**Council**") for a number of buildings and structures associated with farming and residential activities. X-Ray Trust is currently undertaking development of the land for farming and associated residential purposes in accordance with these consents.

2.3 The consented development aims to utilise the land with the objective of operating in as sustainable manner as possible. X-Ray Trust wishes to enhance the natural character and ecological values of the property by ensuring structures and works fit comfortably within the land form. X-Ray Trust intends to undertake agricultural, horticultural and silvicultural activities to achieve economic and environmental sustainability. The consenting process has

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<sup>2</sup> Lots 1 and 2 DP 475822, Computer Freehold Registers 665219 and 655220, Speargrass Flat Road, Wakatipu Basin. Otherwise identified as 413 and 433 Speargrass Flat Road respectively.

<sup>3</sup> i.e. Lots 1, 2 and 3 Deposited Plan 475822, held in Computer Freehold Registers 665219, 655220, 665221 respectively.

<sup>4</sup> Consent Notice 9805352.1, Consent Notice 9805352.2 and Consent Notice 9805352.3.



resulted in the development of a Landscape Management Plan<sup>5</sup> for the land as well as a set of consent notice conditions agreed to by Council and X-Ray Trust.

2.4 The Landscape Management Plan (“LMP”) was developed by X-Ray Trust in collaboration with professional assistance from architecture, landscape architecture and ecology experts. This detailed document establishes an overall design and vision for grazing, cropping, horticultural and silvicultural activities, the establishment of garden, visual mitigation, ecological and amenity plantings, ecological protection and restoration areas and structures including solar panels and utility buildings. The consent notices applying to the site would have constrained the full implementation of the LMP. Therefore a variation to the consent notice requirements was sought. This was processed on a non-notified basis due to the amendments generating than minor adverse effects. The variation to the consent notices was granted by Council on 1 October 2015.

2.5 On the northern side of the plateau containing the elevated (northern) part of X-Ray Trust’s land, a separate Rural Zone property known as Dalgleish Farm adjoins<sup>6</sup> X-Ray Trust’s land. Dalgleish Farm was recently acquired by Millbrook Country Club (“**Millbrook**”). Millbrook operates the Millbrook Resort which encompasses approximately 200 hectares of nearby land. Millbrook Resort is developed with a golf course, driving range, spa facility, restaurants, private dwellings and managed accommodation. The resort operates under the provisions of the Millbrook Resort Zone (“**MRZ**”) of the Operative District Plan<sup>7</sup> and is subject to the Millbrook Resort Zone Structure Plan at Figure 1 of the MRZ.

2.6 The Proposed Plan includes revised Millbrook Resort Zone provisions and an amended Millbrook Resort Structure Plan<sup>8</sup>. The Proposed Plan also extends the mapping of the MRZ to encompass Dalgleish Farm, an addition of approximately 66 hectares to the MRZ area<sup>9</sup>. The amended Structure Plan

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<sup>5</sup> Approved via RM150560.

<sup>6</sup> The north-west area of X-Ray’s property at 413 Speargrass Flat Road is separated from Dalgleish Farm by Mooney Road.

<sup>7</sup> The Millbrook Resort Zone is at Chapter 12 of the Operative Queenstown Lakes District Plan.

<sup>8</sup> These are located at Chapter 43 of the Proposed Plan.

<sup>9</sup> Planning Map 26, revised version dated 17 July 2015.

depicts proposed additional residential activity areas in the form of cluster housing<sup>10</sup> and landscape protection areas on the Dalgleish Farm site.

- 2.7 During notification of the Proposed Plan, Dalgleish Farm was not included in the MRZ, but was zoned Rural (as it is currently)<sup>11</sup>. However, Dalgleish Farm was included within the Millbrook Resort Zone Structure Plan as notified at Chapter 43 of the Proposed Plan. Council subsequently notified Revised Planning Map 26 which included Dalgleish Farm in the extent of MRZ mapping.
- 2.8 The Proposed Plan categorises all landscapes in the Rural Zone as constituting either an Outstanding Natural Landscape (“**ONL**”), Outstanding Natural Feature (“**ONF**”) or Rural Landscapes Classification (“**RLC**”)<sup>12</sup>. The RLC applies to the balance of land in the Rural Zone not categorised as either an ONL or ONF. Chapter 6 includes policy and assessment matters applicable to the different landscape categories. RLC areas are identified as having varied landscape character and amenity values and development in the RLC does not constitute a matter of national importance as is the case with ONLs and ONFs<sup>13</sup>.
- 2.9 The Proposed Plan specifies<sup>14</sup> that X-Ray’s land and the Dalgleish Farm site are within a RLC. The sites are not part of, and do not adjoin, any area identified as an ONL or ONF.
- 2.10 This is not to say that the RLC land does not hold important landscape and natural character values. The Chapter 3 S.32 report states that “Whilst these landscapes do not have the same status as outstanding landscapes, they contribute significantly to visual amenity and together with outstanding landscapes contribute significantly to community wellbeing”<sup>15</sup>. That is certainly true for the landform which rises above Speargrass Flat. The report of Ms Steven which was appended to X-Ray’s submission provides more detail about the specific landscape values of this site.

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<sup>10</sup> Annotated on the Structure Plan as R13 – R18, pages 43-10 and 43-11 of the Proposed Plan.

<sup>11</sup> Refer to Planning Map 26, original notified version.

<sup>12</sup> 6.2 “Values” and Policy 6.3.1.2.

<sup>13</sup> Section 6(b) *Resource Management Act 1991*.

<sup>14</sup> Planning Map 26.

<sup>15</sup> Section 32 Evaluation Report Strategic Direction, comments against Goal 5 Objectives, page 16.

### 3. SUBMISSION POINTS

#### Terminology and Consequential Effects

- 3.1. The X-Ray Trust submission is largely comfortable with the majority of the objectives and policies (as notified) which relate to RLC land. In some instances the submission seeks to tighten up the wording of the objectives and policies to ensure the intent is clear, and that intent can then be implemented via rules and through resource consent processes.
- 3.2. The Section 42A reports (“**S.42A reports**”) for Chapters 3 and 4 (combined) and 6 of the Proposed Plan discuss Council’s view that terminology in the Proposed Plan need not strictly reflect that of the RMA<sup>16</sup>. Council states that “...*there will often be a greater degree of specificity inherent in District-specific objectives and policies, which justify or demand different language*”<sup>17</sup>.
- 3.3. To this end the Proposed Plan contains a number of provisions requiring the avoidance of adverse effects or the protection of resources. The terms “avoid” and “protect” are frequently included without reference to remediation or mitigation measures or to the intensity of the effects that resources are to be protected from.
- 3.4. The concerns of submitters about the implications of the unqualified use of the term “avoid” in light of the decision of the Supreme Court in the *King Salmon*<sup>18</sup> case are acknowledged by the Chapter 3 S.42A report<sup>19</sup>. The report states that Council distinguishes between using “avoid” to prohibit an effect, versus its use to ban an activity. Council states that where “avoid” is used without accompaniment by “remedy” or mitigate” “...*Council has been deliberate in that it really does wish to avoid a particular environmental effect, or activity (that results in a particular undesired effect)*”<sup>20</sup>.
- 3.5. The Chapter 6 S.42A report further states that remediation or mitigation measures may assist to avoid adverse effects and are therefore an inherent

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<sup>16</sup> Paragraphs 8.7 – 8.10 and 12.9 – 12.19 of the combined Chapter 3 & 4 S.42A report and paragraphs 9.17 – 9.19 and 9.32 – 9.37 of the Chapter 6 S.42A report.

<sup>17</sup> Chapter 3 S.42A report, paragraph 12.9.

<sup>18</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited* [2014] NZSC 38.

<sup>19</sup> Chapter 3 S.42A report, paragraph 12.15.

<sup>20</sup> Chapter 3 S.42A report, paragraph 12.16.

consideration in decision making. On this basis the phrase “remedy or mitigate” does not accompany the use of the term “avoid”. The S.42A report indicates that the absence of reference to “remedy or mitigate” does not preclude the proposal or consideration of remediation or mitigation measures and does not impose a prohibition on activities that fail to avoid adverse effects<sup>21</sup>.

- 3.6. I disagree with the view expressed in the S.42A in this regard. In my view the drafting of several objectives and policies of proposed Chapter 6 has important negative implications for development proposals located in the rural landscapes of the District. The drafting requires resources to be protected and adverse effects (or “degradation”) to be avoided.
- 3.7. In my view this is an unconditional approach. It is an approach that may limit development that is otherwise consistent with the purpose of sustainably managing resources for the well-being of the community.
- 3.8. I therefore recommend a number of drafting changes at **Appendix B** below to provide greater flexibility to manage adverse effects in rural areas.

### **The presence of rural activities**

- 3.9. Chapter 6 states that:

*“The open character of productive farmland is a key element of the landscape character which can be vulnerable to degradation from subdivision, development and non-farming activities”<sup>22</sup>.*

- 3.10. Chapter 6 provisions acknowledge that the continuation of rural activities in the Rural Zone may modify the landscape<sup>23</sup>. Other provisions seek to limit the encroachment of non-rural activities and thereby support the maintenance of rural landscapes<sup>24</sup>.
- 3.11. In my view it is appropriate that the landscape provisions recognise the compatibility between the continuation of agricultural land uses and the maintenance of rural landscape character and values. Nevertheless,

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<sup>21</sup> These points are set out in the Chapter 6 S.42A report at paragraphs 9.22 and 9.141.

<sup>22</sup> Section 6.2 “Values”, Chapter 6.

<sup>23</sup> In addition to the fourth paragraph of section 6.2 “Values”, Policies 6.3.1.10 and 6.3.4.2 directly relate to agriculture.

amendments are recommended in **Appendix B** below in order to account for the matters discussed in paragraphs 3.1 – 3.8 above.

### **Chapter 6 obligations where rural land is rezoned for non-rural purposes**

- 3.12. As identified in the preceding three paragraphs, Chapter 6 seeks to contain non-rural activities to areas where the landscape can absorb change<sup>25</sup>. Therefore I consider that it is necessary to have particular regard to the landscape implications associated with the rezoning of rural land to a non-rural zone. Such regard would, in my opinion, include a determination of the degree to which rezoning and subsequent development integrates with the surrounding landscape context.
- 3.13. In my view the proposed rezoning of Dalgleish Farm from the Rural Zone to the Millbrook Resort Zone raises issues about whether the rezoning will facilitate visually intrusive development that is incompatible with the surrounding open rural landscapes. My concerns are informed by the related expert landscape analysis undertaken by Anne Steven<sup>26</sup>.
- 3.14. Whilst I appreciate that the Millbrook Resort Zone expansion will be considered at a future hearing, some provisions of proposed Chapter 6 and some changes recommended by the Chapter 6 S.42A writer to Chapter 6, will have implications about how the change sought at Millbrook will be considered<sup>27</sup>.
- 3.15. The proposed rezoning would apparently remove the Rural Landscape Classification from Dalgleish Farm<sup>28</sup>. The landscape considerations applicable to adjoining rural land (such as the X-Ray Trust site) may therefore no longer apply to Dalgleish Farm.
- 3.16. However, the Chapter 6 S.42A report is unclear on whether this would or would not be the case, noting that “*Discretion would need to be applied as to whether the ONL or RL objectives and policies are relevant*” but “*Scenarios would be that activities in the Millbrook Zone would be assessed against the Landscape*”

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<sup>24</sup> Particularly Policies 6.3.1.5 – 6.3.1.7 and the Objective 6.3.2 policy suite.

<sup>25</sup> Policies 6.3.1.6, 6.3.1.7, 6.3.1.10, Objective 6.3.2 and associated Policies 6.3.2.1 – 6.3.2.5, Objective 6.3.5 and associated Policies 6.3.5.1 – 6.3.5.6.

<sup>26</sup> Refer Attachment 1 to the X-Ray Trust submission

<sup>27</sup> Such as the amended Policies 6.3.1.4 and 6.3.1.5 set out at Appendix 1 to the Chapter 6 S.42A report.

*Chapter's objectives and policies, in particular Objective 6.3.5 because the surrounding Rural Zoned area is classified RL<sup>29</sup>.*

3.17. I therefore consider that there is uncertainty surrounding the manner in which Rule 6.4.1.2 is to be applied. Using the expansion of the Millbrook Resort Zone as an example, it appears that either:

- a. the rezoning of rural land to a non-rural zone removes the obligation to consider the landscape effects associated with development in rural landscapes; or,
- b. where urban-style resort development is surrounded by or adjoins land in a rural zone, the provisions relating to the landscape categories (ONF, ONL, RLC) may be applied subject to Council's discretion.

3.18. In my view neither of the outcomes described at paragraphs 3.17(a) and (b) above represent a satisfactory response to the provisions of Chapter 6. I consider that the proposed rezoning and subsequent development of Dalgleish Farm as outlined by the Millbrook Resort Structure Plan<sup>30</sup> would have a transformative effect on the surrounding rural landscape. The adverse effects would be incompatible with the capacity of the rural landscape to accommodate development. Removing the obligation to consider these effects through rezoning is not an appropriate response in my view. Relegating the determination of whether the landscape provisions should be applied to review on a case-by-case basis also appears imperfect as it risks perceptions of inconsistent application of the provisions by decision-makers.

3.19. I therefore consider that it is necessary to ensure that the circumstances in which the landscape categories specified in Chapter 6 will or will not be applied are clarified through the amendment of Rule 6.4.1.2 as necessary.

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<sup>28</sup> The RLC only applies to land in the Rural Zone pursuant to Rule 6.4.1.2.

<sup>29</sup> Paragraphs 9.216 – 9.217 of the Chapter 6 S.42A report.

<sup>30</sup> Located at 43.7 of the Proposed Plan.

#### **4. CONCLUSION**

- 4.1. I consider that a number of objectives and policies in Chapter 6 require amendment to ensure that appropriate provision is made for the subdivision, use and development of land in the rural areas of the District.
- 4.2. I consider that as drafted, the provisions identified in **Appendix B** risk unnecessarily restricting activities regardless of the scale, intensity and duration of associated adverse effects. The provisions may also limit the potential for development to proceed where adverse effects are, on balance, acceptable having regard to overall benefits to the wellbeing of the community.
- 4.3. Where the landscape chapter requires that activities be avoided if they would “degrade”, would not “protect” landscapes or would not “avoid adverse effects”, I consider that multiple interpretations could arise. This may result in an inflexible approach being applied to the management of effects on landscapes, with consequential constraints on the potential for development to locate in rural areas of the District. This would be an outcome that would be incompatible with the achievement of the purpose of the RMA as set out at Section 5.
- 4.4. I consider that provisions recognising the landscape values associated with open pastoral areas and providing for agricultural activities in rural areas are appropriate, noting that some development activities may modify landscapes to an unacceptable degree.
- 4.5. I agree that provisions seeking to contain non-rural development to areas where the landscape can support change are appropriate. However I note that the intent of such provisions may be compromised by the expansion of non-rural zones into surrounding rural landscapes where there is low capacity to accommodate change.

**Louise Taylor**

**26 February 2016**

## APPENDIX B

### X-Ray Trust Limited

Text highlighted with underlining (example) represents insertions sought or recommended, as the case may be. Text with strikethrough (~~example~~) represents deletions sought or recommended.

<b>PROPOSED QUEENSTOWN LAKES DISTRICT PLAN: CHAPTER 6 - LANDSCAPES</b>			
<b>PROVISION</b>	<b>X-RAY TRUST SUBMISSION</b>	<b>S.42A COMMENTARY</b>	<b>RECOMMENDED RELIEF</b>
<p><b>Objective 6.3.1</b></p> <p>The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision and development.</p>	<p>X-Ray Trust supported the submission by submitter 430 Ayrburn Farm Estate Ltd that the objective be amended as follows:</p> <p><i>The District contains and values Outstanding Natural Features, and Outstanding Natural Landscapes, <del>and Rural Landscapes</del> that require protection from inappropriate subdivision and development <u>and Rural Landscapes where the adverse effects of subdivision and development are appropriately managed.</u></i></p> <p>However X-Ray Trust suggested a minor grammatical amendment to include the words “to be” before the word “appropriately”.</p>	<p>Retain as notified.</p> <p>In my view, the word ‘<i>inappropriate</i>’ does not need to be placed in a vacuum because it is used in s6(b) of the RMA, and therefore, only for the reserve of outstanding natural features and landscapes. If this argument was accepted in the context of Objective 6.3.1, then inappropriate subdivision and development would be acceptable in the Rural Landscape areas.</p>	<p>I consider the relief sought by X-Ray Trust to be appropriate. I consider that the requirements specified in Section 6(b) of the RMA should not be extended beyond Outstanding Natural Landscapes and Features.</p>



<p><b>Policy 6.3.1.4</b></p> <p>That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.</p>	<p>X-Ray Trust supported the submission by submitter 430 Ayrburn Farm Estate Ltd that the policy be amended as follows, on grounds that the proposed amended policy would better reflect the requirements of the RMA than the notified version and remove redundant content:</p> <p><del><i>That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.</i></del></p> <p><u><i>That subdivision and development proposals within the Rural Landscapes are located and designed in such a manner that adverse effects on landscape character and visual amenity values are avoided, remedied or mitigated.</i></u></p>	<p>Retain as notified.</p> <p>These statements relating to the appropriateness of development have been taken from Part 1.5.3 of the ODP, where explanatory text describes why a discretionary activity status has been afforded to development in the Rural General Zone. The statements have been taken and used as a policy in the PDP to reinforce the vulnerability of landscapes to development and that applications must be carefully scrutinised against the provisions. It is acknowledged that they are conservative statements, and have attracted a number of submissions requesting that these phrases are deleted from the policy.</p> <p>Submitter 437 requests that the policies are amended so that the reference to directing an assessment against the assessment matters in part 21.7 are removed. This request is rejected, the policies as notified are in my view effective in that they provide administrative direction and set a basis for the quality of any development granted in the Rural General Zone.</p> <p>Similar amendments such as those requested by submitters 513, 456, 581 and 59819 attempt to make the policies</p>	<p>Amend this policy.</p> <p>I consider the notified policy inappropriately pre-judges the outcome of applications in the Rural Landscape and also contains redundant content regarding the procedural requirement to assess applications against the relevant assessment matters.</p> <p>I consider that the policy should be amended to focus assessment on the location of development proposals, the nature of any associated adverse effects, and the measures proposed to avoid, remedy or mitigate the adverse effects. It is not necessary, in my view to state that on balance successful applications will be consistent with the assessment matters.</p>
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		<p>more generic by employing RMA terminology such ‘avoid, remedy or mitigate’ phrasing and disable the administrative component that specifies the use of the Assessment Matters in part 21.7. In my view there is no benefit from accepting these changes and it is recommended they are rejected.</p>	
<p><b>Policy 6.3.1.5</b></p> <p>Avoid urban subdivision and development in the Rural Zones.</p>	<p>Oppose - delete the Policy.</p> <p>While X-Ray Trust agrees with the general intent of this policy, X-Ray Trust notes that this policy is currently of little use to the plan user, as while “urban development” is defined in the Proposed Definitions Chapter, “urban subdivision” is not defined.</p> <p>Further X-Ray Trust submits that this policy is unnecessary as Policy 6.3.2.2 (below) will achieve the same outcome. The policy should therefore be deleted.</p>	<p>Recommended Amendment to Policy 6.3.1.5 (6.3.1.4 in Revised Landscape Chapter)</p> <p><del>Avoid</del> <i>Urban subdivision and urban development in the Rural Zones shall:</i></p> <ul style="list-style-type: none"> <li>• <u>Avoid degradation of the Outstanding Natural Features and Landscapes;</u></li> <li>• <u>Be located only in those parts of the Rural Landscape that have capacity to absorb change.</u></li> </ul>	<p>I consider this Policy (including as amended) to be ambiguous with regards to the question of what development typologies constitute “urban” subdivision and development as well as the subjective nature of the term “degrade”.</p> <p>In my view the proposed amended policy is internally unsound as the first dot point appears to preclude any change (“avoid”) whereas the second dot point envisages change in suitable areas.</p> <p>Furthermore, as noted in the submission point by X-Ray Trust, the policy appears to duplicate the intent of another proposed policy.</p>
<p><b>Policy 6.3.1.11</b></p> <p>Recognise the importance of protecting the landscape character and visual amenity values, particularly as viewed</p>	<p>Support - retain the policy as notified.</p> <p>X-Ray Trust submits that it is appropriate to protect landscape character and amenity particularly when viewed from public places.</p>	<p>Retain as notified.</p> <p>The policy emphasises the importance of the District’s landscapes as viewed from public locations.</p>	<p>I agree with the retention of the original policy as notified.</p>

<p>from public places.</p>		<p>Several submitters... request that the phrase <i>'avoiding, remedying or mitigating adverse effects'</i> replaces the word <i>'protecting'</i>. This change would not provide any added value in my view.</p> <p>In a situation where a development proposal proved that it could either avoid, remedy or mitigate any adverse effects, then the proposal would accord with the policy because these values would be protected. These submissions are rejected.</p>	
<p><b>Objective 6.3.2</b></p> <p>Avoid adverse cumulative effects on landscape character and amenity values. caused by incremental subdivision and development.</p>	<p>Oppose in part</p> <p>X-Ray Trust submits that using the term "avoid" can be interpreted to mean "prohibit" or prevent any effects, which sets an unnecessarily high bar in this situation.</p> <p>X-Ray Trust seeks that this objective is amended, as follows:</p> <p><i>Avoid, <u>remedy or mitigate</u> adverse cumulative effects on landscape character and <u>visual</u> amenity values caused by incremental subdivision and development.</i></p>	<p>Retain as notified.</p> <p>The consideration of cumulative effects is particularly important because of development pressure in the District for rural living and resort activity opportunities, and that the ODP and PDP provisions are focused on a design-based response, and do not have a minimum allotment size requirement associated with subdivision and development.</p> <p>No quantifiable sum such as a minimum density or allotment size has been identified in the policies to help guide whether a cumulative effects threshold has been reached. Nor, is it in my view efficient to identify the character of every rural zoned landscape unit and apply</p>	<p>I consider the amendment of the Objective sought in the submission appropriate to incorporate consideration of measures to remedy or mitigate adverse effects, and to specify that the relevant amenity values are "visual" amenity values.</p>

		<p>policy with identified density parameters.</p> <p>...Objective 6.3.2 recognises that cumulative effects are the sum of more than one development proposal that, when considered in isolation could be considered appropriate. However, at some point the culmination of further development, irrespective of its quality or redeeming features would degrade the identified values of the landscape it is located within. For this reason the submissions requesting that the word '<i>incremental</i>' is replaced with '<i>inappropriate</i>' or similar are not supported.</p>	
<p><b>Policy 6.3.2.2</b></p> <p>Allow residential subdivision and development only in locations where the District's landscape character and visual amenity would not be degraded.</p>	<p>X-Ray Trust supports the submission by submitter 430 Ayrburn Farm Estate Ltd that the policy be amended as follows:</p> <p><i>Allow residential subdivision and development only in locations where the District's landscape character and visual amenity would not be degraded significantly adversely affected, recognising that there are parts of the rural areas that can absorb rural living development provided that the potential adverse effects on the landscape character and visual amenity values are properly</i></p>	<p>Retain as notified.</p> <p>Submitters 430, 513 and 53526 and others request that the policies identify significant adverse effects only, recognise that there will be parts of the rural area that have capacity for development, and that these only apply where important views are at stake.</p> <p>It is inherent that development proposals which accord with the policy would fit within the description of the requested changes. Therefore, these amendments would not in my view offer added value from either a conservation, development or administration perspective and are</p>	<p>I agree with the amendment of the Policy to incorporate consideration of measures to remedy or mitigate adverse effects for the reasons set out above.</p>

	<p><i>considered when determining applications.</i></p> <p>X-Ray Trust considers that the replacement of the term “<i>degraded</i>” as proposed provides a clearer threshold for assessment while recognising that some rural landscapes may have potential to absorb additional development.</p>	rejected.	
<p><b>Objective 6.3.5</b></p> <p>Ensure subdivision and development does not degrade landscape character and diminish visual amenity values of the Rural Landscapes (RLC).</p>	<p>X-Ray Trust supports the submission by submitter 430 Ayrburn Farm Estate Ltd that the objective be amended as follows:</p> <p><i>Ensure that subdivision and development does not degrade avoids, remedies or mitigates adverse effects on landscape character and diminish visual amenity values of the Rural Landscapes (RLC).</i></p>	<p>I consider that the objective as notified is appropriately worded and fit for purpose to appropriately manage the District’s landscapes by requiring decision makers to ‘ensure’ that subdivision and development does not degrade landscape values.</p> <p>I also consider that the objective is balanced in that it contemplates change within rural areas, subject to the merits of the development proposals and the ability of the landscape to absorb development. It is recommended that the objective is retained as notified.</p>	<p>Similar to my comments regarding Policy 6.3.1.5 above, I consider that this Objective is internally unsound as it only envisages subdivision and development that does not “degrade” or “diminish” the visual amenity values of the Rural Landscape. It therefore appears to preclude contemplation of development that may have only minor (or less than minor) adverse effects.</p> <p>I agree with the drafting as proposed by submitter 430 Ayrburn Farm Estate Ltd and recorded in the adjacent column.</p>
<p><b>Policy 6.3.5.1</b></p> <p>Allow subdivision and development only where it will not degrade landscape quality or character, or diminish the</p>	<p>X-Ray Trust opposed the position of submitter 696 who sought that this policy be deleted.</p> <p>X-Ray Trust considers that the Policy could be amended to ensure an</p>	<p>Retain as notified.</p> <p>Submitter 456 (Hogans Gully Farming Ltd) requests amendments to allow development where it would not significantly adversely affect landscape,</p>	<p>I disagree with the drafting of this policy for reasons similar to those regarding Objective 6.3.5 in the row above.</p> <p>I consider that the Policy requires amendment to clearly set out the measures</p>

<p>visual amenity values identified for any Rural Landscape.</p>	<p>inflexible “avoidance-only” approach to effects is not implemented, while still giving effect to Objective 6.3.2.</p>	<p>in favour of the word “<i>degrade</i>”.</p> <p>These changes would allow subdivision and development up to a ‘<i>significant</i>’ threshold. The use of the word ‘significant’ is not considered to be more appropriate than the word ‘<i>degrade</i>’. I consider using the word significant in this context introduces vague parameters and would weaken the ability of the PDP to appropriately manage the landscape resource and would also be likely to not accord with the other objectives and policies in the Landscape and Strategic Direction Chapters. It is recommended that the requested changes by Hogans Gully Farming are not accepted.</p>	<p>available to manage adverse effects.</p>
<p><b>Policy 6.3.5.2</b></p> <p>Avoid adverse effects from subdivision and development that are:</p> <ul style="list-style-type: none"> <li>Highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); and</li> <li>Visible from public roads.</li> </ul>	<p>Oppose in part</p> <p>X-Ray Trust submits that using the term “avoid” can be interpreted to mean “prohibit” or prevent any effects, which sets an unnecessarily high bar in this situation.</p> <p>Amend Policy 6.3.5.2, as follows:</p> <p><i>Avoid, remedy, or mitigate</i> adverse effects from subdivision and development that are:</p> <ul style="list-style-type: none"> <li><i>Highly visible from public places and other places which are</i></li> </ul>	<p>Retain as notified.</p> <p>Submitters... request that the words ‘<i>remedy or mitigate</i>’ are included after avoid, and that the second limb of the policy ‘<i>visible from public roads</i>’ is deleted.</p> <p>The policy is considered an important mechanism to recognise the inherent value of the landscape resource and its importance to the District as appreciated from public places. It is from roads that most tourists and many residents</p>	<p>I concur with the position of X-Ray Trust that the unqualified use of the phrase “avoid adverse impacts” results in a requirement that all effects (including minor and less than minor effects) are prohibited. I consider this to be inappropriate and recommend that the policy be revised as set out in X-Ray Trust’s submission and recorded in the adjacent column.</p>

	<p><i>frequented by members of the public generally (except any trail as defined in this Plan); and</i></p> <ul style="list-style-type: none"> <li>• <i>Visible from public roads.</i></li> </ul>	<p>experience the landscape, and that the landscape as a scenic resource for tourism and intrinsically for residents is important.</p> <p>It is considered that the preamble that requires ‘<i>avoiding adverse effects</i>’ is an appropriate statement given the importance of landscape views from public places, and in particular roads.</p> <p>The policy is not considered to be too absolute, or stringent because in an overall sense, avoiding an adverse effect also includes the consideration of mitigation or other redeeming elements.</p>	
<p><b>Policy 6.3.5.3</b></p> <p>Avoid planting and screening, particularly along roads and boundaries, which would degrade openness where such openness is an important part of the landscape quality or character.</p>	<p>Support in part</p> <p>X-Ray Trust submits that using the term “avoid” can be interpreted to mean “prohibit” or prevent any effects, which sets an unnecessarily high bar in this situation.</p> <p>Amend Policy 6.3.5.3, as follows:</p> <p><i>Avoid planting and screening, particularly along roads and boundaries, which would <u>have significant adverse effects on</u> <del>degrade existing openness</del> <u>landscape character</u> <del>where such openness is an</del></i></p>	<p>Retain as notified.</p> <p>Submitter 356 (X-Ray Trust Ltd) requests that the policy is amended so that it only seeks to avoid this situation where the adverse effects would be significant.</p> <p>Again, the use of the word significant is not favoured because it is vague and could weaken landscape protection. This is not considered appropriate.</p>	<p>I do not consider it appropriate to include the ambiguous term “degrade” in this policy and also consider the apparent requirement that planting and screening be avoided where it results in <u>any</u> adverse effects is inappropriate.</p> <p>I consider it appropriate for the policy to specify that significant effects are to be avoided and adverse effects be avoided, remedied or mitigated.</p>

	<p><i>important part of the landscape quality or character.</i></p>		
<p><b>Policy 6.3.5.4</b></p> <p>Encourage any landscaping to be sustainable and consistent with the established character of the area.</p>	<p>Support - retain policy as notified.</p> <p>X-Ray Trust supports this policy as it will assist future landscaping to enhance the character values of the district.</p>	<p>Retain as notified.</p> <p>This policy encourages landscaping to be sustainable in terms of maintenance, selecting species that are not reliant on heavy water use (particularly once established) and can adapt to local climate conditions. The reference to the 'established character of the area' requires consideration of the context in which a proposal is locating. The policy does not automatically predetermine what type or design of planting is appropriate. There could be instances where traditional linear planting is appropriate if this replicates the character of the area. In other areas a more clustered planting design could be appropriate.</p> <p>The policy has the phrase '<i>encourage</i>', because there could be instances where linear planting along a road boundary could be at odds with Policies 6.3.5.1 – 6.3.5.3. In this context the policy would need to be balanced against the overall impacts of the proposal and it does not encourage planting at the expense of other landscape policies.</p>	<p>I consider appropriate the commentary in the S.42A report noting that new planting/landscaping should be site- and context-responsive and this therefore means landscaping design may differ depending on the site and surrounds. I consider the term "encourage" to be appropriate given the inter-relationship between this policy and Policy 6.3.5.3 which requires consideration of the effects of landscaping on the qualities of open landscapes.</p>



## PART C: MATUKITUKI TRUST LIMITED

### 1 INTRODUCTION

- 1.1 I have been engaged by Matukituki Trust Limited (“**Matukituki**”) to provide evidence in relation to the Proposed Queenstown Lakes District Plan (“**Proposed Plan**”). My firm assisted in the preparation of Matukituki’s submission and further submissions in relation to the Proposed Plan. I was involved in the resource consenting processes which led to the resource consent to establish a dwelling and other structures, along with extensive ecological restoration and protection on the site owned by Matukituki Trust on Roy’s Peninsula in Wanaka. I have visited the site numerous times and am very familiar with the planning context of the Queenstown Lakes District.
- 1.2 In preparing this brief of evidence I have reviewed the summary of submissions on the Proposed Plan, the further submissions made on Matukituki’s submission and the Section 42A reports provided by the Council in relation to this matter, which I refer to throughout this evidence<sup>31</sup>.
- 1.3 This brief of evidence relates to the submissions made on the provisions of the Proposed Plan that affect land owned by Matukituki at Roy’s Peninsula, Wanaka. The evidence will provide the following:
- a. A summary of Matukituki’s interest in the Proposed Plan;
  - b. Comments on the recommendations contained in the table I have included at **Appendix C1**. The table outlines my position and recommendations on the provisions of Chapter 6 alongside Matukituki’s submissions and Council’s Section 42A recommendations.
  - c. I have also attached copies of the plans of the development approved by the Environment Court at **Appendix C2**, to provide additional context to my evidence.

### 2. BACKGROUND

- 2.1 In 2010 Matukituki obtained a resource consent for the development of a dwelling and farm building on its property located at the eastern tip of Roy’s

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<sup>31</sup> The combined Chapter 3 Strategic Directions and Chapter 4 Urban Development Section 42A Hearing Report dated 19 February 2016, reference “*Chp. 3 and 4 S42A*” and the Chapter 6 Landscapes Section 42A Hearing Report dated 19 February 2016, reference “*Chp. 6 S42A*”.

Peninsula, Wanaka<sup>32</sup>. The resource consent was granted by the Environment Court<sup>33</sup> following a prolonged application process extending over several years. This resource consent will lapse in 2020 if not given effect to.

- 2.2 While Matukituki intends to implement the consent before it lapses and notwithstanding progress in this regard, an extension or variation to the consent may be required. If so, the provisions of the Proposed Plan will be relevant to the completion of the development. The provisions of the Proposed Plan will also be relevant if additional resource consents are required to complete the development, for example relating to earthworks or vegetation removal. When implementing a consent it is not uncommon for ancillary additional consents to be required.
- 2.3 Matukituki incurred significant time, cost and effort in securing the existing resource consent. Matukituki wishes to ensure that the Proposed Plan facilitates the completion of a development that was rigorously assessed and subsequently approved by the Environment Court.
- 2.4 Matukituki's land is located on part of an Outstanding Natural Feature<sup>34</sup>. The manner in which the Proposed Plan addresses the matters of national importance specified at Section 6(b) of the RMA relating to Outstanding Natural Features (“ONFs”) is therefore of particular relevance to Matukituki.

### **3. SUBMISSION POINTS**

#### **Terminology and Consequential Effects**

- 3.1. The submission and further submission lodged by Matukituki express concerns about the proposed objectives and policies relating to development within ONFs.
- 3.2. In Matukituki's view a number of the provisions in Chapters 3 and 6 apply restrictions to development in ONFs that represent an unconditional approach to the avoidance of adverse effects, the protection of ONFs and requirements that activities not “degrade” landscape character and values. In particular the absence of reference to remediation or mitigation measures and to the intensity,

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<sup>32</sup> Legally described as Lot 5, Deposited Plan 300476, Lower Wanaka Survey District.

<sup>33</sup> Decision No. [2010] NZEnvC 138.

<sup>34</sup> Refer to Proposed Planning Map 7.

scale or duration of the effects that ONFs are to be protected from<sup>35</sup>, are matters of concern to Matukituki.

- 3.3. Matukituki is also concerned at the absence of the term “inappropriate” from provisions seeking to manage the effects of development on ONFs and ONLs. Matukituki considers that the proposed drafting may result in an inflexible approach to development proposals that are otherwise compatible with the purpose of the RMA.
- 3.4. The Section 42A reports (“**S.42A reports**”) for Chapters 3 and 4 (combined) and 6 of the Proposed Plan discuss Council’s view that terminology in the Proposed Plan need not strictly reflect that of the RMA<sup>36</sup>. Council states that “...*there will often be a greater degree of specificity inherent in District-specific objectives and policies, which justify or demand different language*”<sup>37</sup>.
- 3.5. In relation to the absence of the term “inappropriate” from ONF/ONL-related provisions, the S.42A report states that the test of whether a proposal is inappropriate is implicitly embedded in provisions that seek to manage these outstanding areas and therefore does not require explicit reiteration<sup>38</sup>.
- 3.6. The Chapter 3 S.42A report acknowledges<sup>39</sup> submitters concerns regarding the implications of unqualified use of the term “avoid” in light of the decision of the Supreme Court in the *King Salmon* case<sup>40</sup>. The S.42A report distinguishes between the use of “avoid” to prohibit an effect, versus its use to ban an activity. The report states that where “avoid” is used without accompaniment by “remedy” or “mitigate” “...*Council has been deliberate in that it really does wish to avoid a particular environmental effect, or activity (that results in a particular undesired effect)*”<sup>41</sup>.
- 3.7. The Chapter 6 S.42A report also discusses submitters concerns regarding the proposed drafting<sup>42</sup>. The S.42A report states that remediation or mitigation measures may assist to avoid adverse effects and are therefore an inherent

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<sup>35</sup> Refer to Objective 6.3.3 and associated Policies 6.3.3.1 and 6.3.3.2.

<sup>36</sup> Paragraphs 8.7 – 8.10 and 12.9 – 12.19 of the combined Chapter 3 & 4 S.42A report and paragraphs 9.17 – 9.19 and 9.32 – 9.37 of the Chapter 6 S.42A report.

<sup>37</sup> Chapter 3 S.42A report, paragraph 12.9.

<sup>38</sup> Chapter 3 S.42A report, paragraph 12.103.

<sup>39</sup> Chapter 3 S.42A report, paragraph 12.15.

<sup>40</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited* [2014] NZSC 38.

<sup>41</sup> Chapter 3 S.42A report, paragraph 12.16.

consideration in decision making. On this basis the phrase “remedy or mitigate” does not accompany the use of the term “avoid”. The S.42A report indicates that the absence of reference to “remedy or mitigate” does not preclude consideration of remediation or mitigation measures and does not impose a requirement that all effects be avoided<sup>43</sup>.

- 3.8. I agree that it is appropriate to use the term ‘avoid’ when a certain effect is intended to be prohibited. In my opinion however, as stated above, such a strong policy dissuasion does not provide for the conservation benefits or gains that could accrue from allowing an activity to occur. In my opinion, it would be more appropriate in such circumstances to seek to avoid “inappropriate” activities<sup>44</sup>. The appropriateness or otherwise of an activity would then be assessed on its merits based on the specific values of the resource and the nature of the activity proposed.
- 3.9. For this reason, I also consider that further amendments are required to provisions that effectively predetermine the outcome of an activity<sup>45</sup> through the inclusion of phrases such as “...subdivision and development is inappropriate in almost all locations...”. Policies with such definitive direction are inconsistent with the ‘broad judgement approach’ established through case law that provides for a comparison of conflicting considerations, their scale and degree and their relative significance or proportion in the final outcomes.
- 3.10. As an alternative, where the adverse effects of an activity are significant, scope should be provided to remedy or mitigate such effects<sup>46</sup>. Managing the effects of an activity in this manner is anticipated by section 5(2)(c) of the Act.
- 3.11. I consider that the development proposed by Matukituki is “appropriate”. This is evidenced by the decision of the Environment Court to grant a resource consent for the development. In my view the absence of the term “inappropriate” from

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<sup>42</sup> Paragraphs 9.17-9.19, 9.22 and 9.31 – 9.37.

<sup>43</sup> Chapter 6 S.42A report, paragraphs 9.22 and 9.141.

<sup>44</sup> As I have recommended with respect to Objective 3.2.5.1 and associated Policy 3.2.5.1.1 and Objective 6.3.4.1.

<sup>45</sup> Policy 6.3.1.3.

<sup>46</sup> As I have recommended with respect to:

- Objective 4.2.6 and associated Policy 4.2.6.1.
- Policy 6.3.1.7.
- Objective 6.3.2 and associated Policy 6.3.2.2.
- Policy 6.3.2.5.

proposed objectives and policies relevant to Matukituki's property creates uncertainty.

3.12. In my view this is an unconditional approach. It may limit development that is otherwise consistent with the purpose of sustainably managing resources for the well-being of the community. This view is emphasised by the manner in which proposed Policy 6.3.1.3 purports to pre-determine the "inappropriateness" of proposals in ONFs and specifies that "*...successful applications will be exceptional cases*".

3.13. I therefore recommend a number of drafting changes as outlined in **Appendix C1** attached to prompt consideration of the "appropriateness" of proposals located in ONFs or ONLs.

#### **4. CONCLUSION**

4.1. I consider that a number of objectives and policies in Chapters 3 and 6 require amendment. In my view it would be inappropriate to preclude development in rural areas of the District, (including ONFs and ONLs) on the basis that a proposal does not entirely avoid adverse effects on, or protect the values of, such areas.

4.2. A wide range of development typologies exist that may, for various reasons, be appropriate to locate in these areas, and do so in a manner that is consistent with the purpose of the RMA.

4.3. In my view the inclusion of the term "inappropriate" in provisions relating to the protection of ONFs and ONLs is a necessary measure. Where this term is omitted, the provisions appear less oriented towards a case-by-case merits-based assessment of development proposals. The term also better facilitates recognition of developments that are appropriate and have been consented however have not yet been completed.

**Louise Taylor**

**26 February 2016**

# APPENDIX C1

## Matukituki Trust Limited

Text highlighted with underlining (example) represents insertions sought or recommended, as the case may be. Text with strikethrough (~~example~~) represents deletions sought or recommended.

PROPOSED QUEENSTOWN LAKES DISTRICT PLAN			
CHAPTER 3 – STRATEGIC DIRECTION			
PROVISION	MATUKITUKI SUBMISSION	S.42A RECOMMENDATION AND COMMENTARY	MY RECOMMENDED AMENDMENTS
<p><b>Objective 3.2.1.4</b></p> <p>Recognise the potential for rural areas to diversify their land use beyond the strong productive value of farming, provided a sensitive approach is taken to rural amenity, landscape character, healthy ecosystems, and Ngai Tahu values, rights and interests.</p>	<p>Matukituki lodged a further submission in support of submitter ZJV(NZ) Ltd (submitter 343) who sought to amend the provision to recognise that a range of rural activities in addition to farming, have shaped the District’s landscapes into their current form as follows:</p> <p><i>Recognise the potential for rural areas to diversify their land use beyond the <del>strong productive value of traditional rural activities</del> including farming, provided a sensitive approach is taken to rural amenity, landscape character, healthy ecosystems, and Ngai Tahu values, rights and interests.</i></p>	<p>Several submissions have generally supported Objective 3.2.1.4 relating to rural areas, but have raised concerns with the use of the words ‘sensitive approach’... it is recommended that the objective (renumbered 3.2.1.6) is accordingly rephrased as follows.</p> <p><i>Recognise the potential for rural areas to diversify their land use beyond the strong productive value of farming, provided a <del>sensitive approach is taken to</del> <u>adverse effects on</u> rural amenity, landscape character, healthy ecosystems, and Ngai Tahu values, rights and interests <u>are avoided, remedied or mitigated.</u></i></p>	<p>I consider the amended Objective appropriately focusses on the management of adverse effects that may arise due to the diversification of the rural economy.</p>

<p><b>Objective 3.2.5.1</b></p> <p>Protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development</p>	<p>Oppose in part.</p> <p>Amend Objective 3.2.5.1 as follows:</p> <p><i>Protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from <u>inappropriate</u> subdivision, use and development</i></p>	<p>Recommended amended Objective 3.2.5.1 and appropriateness</p> <p><i>Protect the <del>natural character</del> <u>quality</u> of the Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development.</i></p> <p>Appropriateness:</p> <p>This amended objective is considered to be the most appropriate way of achieving the purpose of the Act as:</p> <ul style="list-style-type: none"> <li>- The amendment of the phrase ‘<i>natural character</i>’ to ‘<i>quality</i>’ clarifies that the importance of Outstanding Natural Landscapes and Outstanding Natural Features is not solely related to its ‘naturalness’ or character, but a number of aspects or qualities. It provides for better alignment with Section 6(b) of the RMA.</li> </ul> <p>Concern has been expressed in some submissions that the proposed wording does not align with RMA language.</p> <p>As noted earlier in this report, I consider that broad replication or borrowing of RMA language without tailoring it to specific district issues or objectives, can be problematic – such generality may serve no real meaningful purpose.</p> <p>However, there are instances where it is more sound to align policy language with RMA phrases. This is particularly so for</p>	<p>Amend this objective.</p> <p>As notified, the Objective imposes a de-facto obligation to avoid <b>any and all</b> subdivision, use and development affecting ONFs and ONLs.</p> <p>I consider this to be inappropriate as the objective focusses unduly on the activities rather than the adverse effects and does not contemplate the possible range of effects, from less than minor to significant. The objective therefore may prohibit otherwise acceptable proposals on the basis that they involve subdivision, use and development.</p> <p>I consider that the objective should be revised to focus on and provide flexibility regarding the avoidance, remediation or mitigation of adverse effects on ONFs and ONLs.</p> <p>It may be that wording from Policy 3.2.5.1.1 (below) could be used in the redrafting of this objective, noting however that that Policy is proposed to be deleted due to the fact it duplicates direction that is also found in Chapter 6 of the Proposed Plan.</p> <p>I am comfortable with the wording sought in the submission.</p>
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		<p>matters relating to Section 6 of the RMA. I consider that the wording of Objective 3.2.5.1 is one of those cases, and have therefore recommended changes to remove the word '<i>natural character</i>', which is considered unduly narrow and not consistent with RMA terminology.</p> <p>I have not recommended insertion of the word '<i>inappropriate</i>' to precede the words '<i>subdivision, use and development.</i>' Section 6(b) provides this context to any resource consent application. In addition, in saying '<i>Protect the quality of the Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development</i>' the '<i>inappropriate</i>' test is implicit i.e. development that doesn't protect the quality will be inappropriate.</p>	
<p><b>Policy 3.2.5.1.1</b></p> <p>Identify the district's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps, and protect them from the adverse effects of subdivision and development.</p>	<p>Oppose in part.</p> <p>Amend Policy 3.2.5.1.1 as follows:</p> <p><i>Identify the district's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps, and protect them from the adverse effects of <u>inappropriate</u> subdivision, <u>use</u> and development.</i></p>	<p>Delete this policy.</p> <p>Whilst landscape mapping, as a method, was proposed in Policies 3.2.5.1.1 and 3.2.5.2.1 of the Strategic Direction Chapter as notified, I consider that the Policy is one of a number of policies that unnecessarily replicates policy in the Landscape chapter (which also forms part of Part 2 of the PDP) and I recommend that the policy is deleted.</p> <p><del><i>Identify the district's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps, and protect them from the adverse effects of subdivision and development.</i></del></p>	<p>Delete this policy.</p> <p>I note that the S.42A report on Chapter 6 recommends integrating notified Policies 6.3.1.1 and 6.3.1.2 into a single policy regarding the identification and mapping of ONLs and ONFs. I consider that to be an efficient approach and therefore concur with the conclusion of the Chapter 3 S.42A report that Policy 3.2.5.1.1 is redundant.</p>



<p><b>Objective 3.2.5.2</b></p> <p>Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.</p>	<p>Matukituki supported the submission of submitter 502 Allenby Farms Limited, who sought the following relief:</p> <p>Amend Objective 3.2.5.2 as follows:</p> <p><del>Minimise</del> <u>Avoid, remedy or mitigate the adverse effects on natural landscapes effects of from inappropriate subdivision, use or development in specified Rural Landscapes.</u></p>	<p>In terms of Objective 3.2.5.2 relating to Rural Landscapes, concern has been expressed that the proposed wording does not align with RMA language, that the word ‘minimise’ is unnecessarily or inappropriately restrictive. Some submissions have stated that it does not use the defined terminology of ‘Rural Landscape Classification’.</p> <p>The word ‘minimise’ was utilised in order to provide greater District-specific direction around desired resource management outcomes. Fundamentally, I consider that the word ‘minimise’, which is not used in the RMA, can be used in the PDP to give expression at the district level to the RMA’s purpose and principles. Further, the use of the phrase ‘avoid, remedy or mitigate’ provides for a variety of outcomes along a spectrum of potential adverse effects, and can result in a lack of certainty.</p> <p>However, I acknowledge that an objective that seeks to ‘minimise’ adverse landscape effects in such a large area as the Rural Landscape Classification (which is not recognised as possessing ‘outstanding’ landscape attributes) is potentially overly restrictive. As a result, I have recommended alternative wording that seeks to ‘maintain and enhance the landscape character of the Rural Landscape Classification’ but provides the potential for ‘managed and low</p>	<p>Amend this objective as per submission.</p> <p>The amended objective set out in the S.42A report appears to be internally inconsistent. The first clause requires the maintenance or enhancement of land in the Rural Landscapes classification while the second clause envisages managed low impact change. Low impact change would inherently fail to maintain or enhance the landscape character status quo and therefore contradicts the premise of the first clause of the objective.</p> <p>I consider that the objective should be formulated to guide the management of effects in the Rural Landscape classification through the use of terminology compatible with the direction provided by the RMA.</p>
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		<p>impact change’.</p> <p>Recommended amended Objective 3.2.5.2 and appropriateness</p> <p><del><i>Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.</i></del></p> <p><u><i>Maintain and enhance the landscape character of the Rural Landscape Classification, whilst acknowledging the potential for managed and low impact change.</i></u></p> <p>Appropriateness:</p> <p>This amended objective is considered to be the most appropriate way of achieving the purpose of the Act as:</p> <ul style="list-style-type: none"> <li>- It is less absolute than the objective as notified, which was considered to set too high a bar with regard to the objective to ‘minimise’ adverse landscape effects. This high bar may have made it unduly difficult for people and communities to provide for their social, economic and cultural wellbeing within a landscape that, whilst of landscape character value, doesn’t demand the same level of protection as an Outstanding Natural Landscapes.</li> </ul>	
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CHAPTER 6 - LANDSCAPES			
PROVISION	MATUKITUKI SUBMISSION	S.42A RECOMMENDATION AND COMMENTARY	MY RECOMMENDED AMENDMENTS
<p><b>Objective 6.3.1</b></p> <p>The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision and development.</p>	<p>Matukituki opposed this submission in part and sought its amendment as follows:</p> <p><i>The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision, use and development.</i></p>	<p>Retain as notified.</p> <p>In my view, the word ‘<i>inappropriate</i>’ does not need to be placed in a vacuum because it is used in s6(b) of the RMA, and therefore, only for the reserve of outstanding natural features and landscapes. If this argument was accepted in the context of Objective 6.3.1, then inappropriate subdivision and development would be acceptable in the Rural Landscape areas.</p>	<p>Amend this policy.</p> <p>I consider the relief sought by Matukituki to be appropriate.</p> <p>However I am of the view that the requirements specified in Section 6(b) of the RMA should not be extended beyond Outstanding Natural Landscapes and Features. Therefore I recommend that the reference to the Rural Landscapes classification be modified in this regard.</p>
<p><b>Policy 6.3.1.3</b></p> <p>That subdivision and development proposals located within the Outstanding Natural Landscape, or an Outstanding Natural Feature, be assessed against the assessment matters in provisions 21.7.1 and 21.7.3 because subdivision and development is inappropriate in almost all locations, meaning successful applications</p>	<p>Matukituki opposed this submission in part and sought its amendment as follows:</p> <p><i>That subdivision and development proposals located within <del>the</del> an Outstanding Natural Landscape, or an Outstanding Natural Feature, be assessed against the assessment matters in provisions 21.7.1 and 21.7.3 because <del>subdivision and development is inappropriate in almost all locations, meaning successful applications will be exceptional cases.</del></i></p>	<p>Retain as notified.</p> <p>Policies 6.3.1.3 and 6.3.1.4 set out that proposals shall be assessed against the assessment matters in parts 21.7 depending on the landscape classification. The policies formally establish a procedural requirement, and they also set out that development in the ONF/ONL is inappropriate in almost all locations but there will be exceptional cases.</p> <p>These statements relating to the appropriateness of development have been taken from Part 1.5.3 of the ODP, where explanatory text describes why a</p>	<p>Amend this policy.</p> <p>I consider the notified policy inappropriately pre-judges the outcome of applications in ONFs and ONLs and also contains redundant content regarding the procedural requirement to assess applications against the relevant assessment matters.</p> <p>I consider that the policy should be amended to focus assessment on the location of development proposals, the nature of any associated adverse effects, and the measures proposed to avoid, remedy or mitigate the adverse effects.</p>

<p>will be exceptional cases.</p>		<p>discretionary activity status has been afforded to development in the Rural General Zone. The statements have been taken and used as a policy in the PDP to reinforce the vulnerability of landscapes to development and that applications must be carefully scrutinised against the provisions. It is acknowledged that they are conservative statements, and have attracted a number of submissions requesting that these phrases are deleted from the policy.</p> <p>Submitter 437 requests that the policies are amended so that the reference to directing an assessment against the assessment matters in part 21.7 are removed. This request is rejected, the policies as notified are in my view effective in that they provide administrative direction and set a basis for the quality of any development granted in the Rural General Zone.</p> <p>Similar amendments such as those requested by submitters 513, 456, 581 and 59819 attempt to make the policies more generic by employing RMA terminology such '<i>avoid, remedy or mitigate</i>' phrasing and disable the administrative component that specifies the use of the Assessment Matters in part 21.7. In my view there is no benefit from accepting these changes and it is recommended they are rejected.</p>	
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<p><b>Policy 6.3.1.4</b></p> <p>That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.</p>	<p>Matukituki opposed this submission in part and sought its amendment as follows:</p> <p><i>That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.</i></p>	<p>Retain as notified.</p> <p>The S.42A report refers to Policies 6.3.1.3 and 6.3.1.4 in tandem given the policies will operate in a similar fashion. The commentary included in the row directly preceding this, regarding Policy 6.3.1.3 applies equally to this Policy 6.3.1.4.</p>	<p>Amend this policy.</p> <p>I consider the notified policy inappropriately pre-judges the outcome of applications in the Rural Landscape and also contains redundant content regarding the procedural requirement to assess applications against the relevant assessment matters.</p> <p>I consider that the policy should be amended to focus assessment on the location of development proposals, the nature of any associated adverse effects, and the measures proposed to avoid, remedy or mitigate the adverse effects.</p>
<p><b>Policy 6.3.1.11</b></p> <p>Recognise the importance of protecting the landscape character and visual amenity values, particularly as viewed from public places.</p>	<p>Matukituki supported the submission of submitter 502 Allenby Farms Limited, who sought the following relief:</p> <p>Amend Policy 6.3.1.11 as follows:</p> <p><i>Recognise the importance of <del>protecting</del> <u>avoiding, remedying, or mitigating adverse effects</u> on landscape character and visual amenity values, particularly as viewed from public places.</i></p>	<p>Retain as notified.</p> <p>The policy emphasises the importance of the District's landscapes as viewed from public locations.</p> <p>Several submitters... request that the phrase 'avoiding, remedying or mitigating adverse effects' replaces the word 'protecting'. This change would not provide any added value in my view.</p> <p>In a situation where a development proposal proved that it could either avoid, remedy or mitigate any adverse effects, then the proposal would accord with the policy because these values would be protected. These submissions are rejected.</p>	<p>I agree with the retention of the original policy as notified.</p>

<p><b>Policy 6.3.1.12</b></p> <p>Recognise and provide for the protection of Outstanding Natural Features and Landscapes with particular regard to values relating to cultural and historic elements, geological features and matters of cultural and spiritual value to Tangata Whenua, including Tōpuni.</p>	<p>Matukituki opposed this submission in part and sought its amendment as follows:</p> <p><i>Recognise and provide for the protection of Outstanding Natural Features and Landscapes <u>from inappropriate subdivision, use and development</u> with particular regard <u>given</u> to values <u>identified by a method in this Plan</u> relating to cultural and historic elements, geological features and matters of cultural and spiritual value to Tangata Whenua, including Tōpuni.</i></p>	<p>Submitter 355 (Matukituki Trust) requests amendments including adding the phrase ‘<i>from inappropriate subdivision, use and development</i>’ and that particular regard given to values ‘<i>identified by a method in this plan</i>’.</p> <p>These additions are not considered necessary and in addition it is sometimes not known if a development proposal has potential impacts on cultural, geologic or historic elements or values because it is not possible or necessary to identify every resource in the district in the District Plan. A case in point is the discretionary activity status for subdivision and development in the Rural Zone, the discretionary activity status for subdivision in the PDP, and, the extensive range of the matters of control for controlled activity subdivision in the ODP.</p> <p>I reject the submission and it is recommended the policy is retained as notified.</p>	<p>Amend this policy as per submission</p> <p>I consider that the drafting of the proposed Policy should be amended to improve its consistency with the terminology employed in the RMA and, similarly to the point made regarding Policy 6.3.1.11 above, to ensure that the unqualified use of the term “protect” does not result in a de-facto prohibition on adverse effects regardless of the significance of any such effects.</p> <p>Furthermore, I note that the policy relates to the values associated with Outstanding Natural Features and Landscapes. To justifiably the inclusion of land in these landscape categories Council will have assessed the features and values that support the inclusion of particular areas in the ONF or ONL categories. This information could be tabulated and provided in a schedule to inform Plan users of the values associated with particular ONFs and ONLs.</p>
<p><b>Objective 6.3.2</b></p> <p>Avoid adverse cumulative effects on landscape character and amenity values caused by incremental subdivision and development.</p>	<p>Matukituki supported in part the submission of submitter 513 Jenny Barb, who sought the following relief:</p> <p><i>Avoid, <u>remedy or mitigate</u> adverse cumulative effects on landscape character and <u>visual</u> amenity values caused by <del>incremental</del> <u>inappropriate</u> subdivision and development.</i></p>	<p>Retain as notified.</p> <p>The consideration of cumulative effects is particularly important because of development pressure in the District for rural living and resort activity opportunities, and that the ODP and PDP provisions are focused on a design-based response, and do not have a minimum allotment size</p>	<p>Amend this policy.</p> <p>I agree with the amendment of the Objective to incorporate consideration of measures to remedy or mitigate adverse effects, and to specify that the relevant amenity values are “visual” amenity values.</p>

		<p>requirement associated with subdivision and development.</p> <p>No quantifiable sum such as a minimum density or allotment size has been identified in the policies to help guide whether a cumulative effects threshold has been reached. Nor, is it in my view efficient to identify the character of every rural zoned landscape unit and apply policy with identified density parameters.</p> <p>...Objective 6.3.2 recognises that cumulative effects are the sum of more than one development proposal that, when considered in isolation could be considered appropriate. However, at some point the culmination of further development, irrespective of its quality or redeeming features would degrade the identified values of the landscape it is located within. For this reason the submissions requesting that the word <i>'incremental'</i> is replaced with <i>'inappropriate'</i> or similar are not supported.</p>	
<p><b>Objective 6.3.3</b></p> <p>Protect, maintain or enhance the district's Outstanding Natural Features (ONF).</p>	<p>Oppose - delete this Objective.</p> <p>As notified, the Objective is ambiguous as to what components of the feature in question are to be maintained or enhanced. It is also unclear what level of protection is to be afforded to ONFs from subdivision, use and development.</p> <p>It is therefore submitted that the Objective</p>	<p>The components of a particular ONF or ONL would need to be identified on a case-by-case basis against the nature, scale and intensity of the development proposal. It is noted that the ODP policy for outstanding natural features does not identify the components of ONFs, except to describe the desirability of development to not compromise landscape values and natural character in a generic sense. The justification for the identification of ONF and</p>	<p>Amend this objective.</p> <p>While noting S.42A comments regarding the case-by-case analysis of values associated with ONFs I consider that the Objective in its notified form fails to assist informed decision-making. As noted above the term "protect" may result in a de-facto prohibition on adverse effects regardless of the significance of any such</p>

	<p>is insufficiently defined to promote the efficient assessment of resource consent applications.</p>	<p>ONL on the planning maps would identify the components that are valued and worthy of ONF/ONL status. The submission is rejected.</p>	<p>effects.</p> <p>The following wording provides a suggested solution:</p> <p><i>Protect, maintain or enhance the district's Outstanding Natural Features (ONF) <u>from inappropriate subdivision, use and development.</u></i></p>
<p><b>Policy 6.3.3.1</b></p> <p>Avoid subdivision and development on Outstanding Natural Features that does not protect, maintain or enhance Outstanding Natural Features.</p>	<p>Oppose - delete this Policy.</p> <p>Similarly to the submission point on Objective 6.3.3 above, it is considered that this policy is unclear as to what features, characteristics or values associated with Outstanding Natural Features are to be protected, maintained or enhanced.</p> <p>The Policy will therefore be problematic in its application to resource consenting processes as it does not provide guidance to determine if a proposal is inappropriate (requiring “<i>protection</i>” of the ONF), or if a proposal is appropriate, what aspects of ONFs are to be maintained or enhanced.</p>	<p>Retain as notified.</p> <p>No further specific commentary, however commentary regarding Objective 6.3.3 is relevant.</p>	<p>Amend this policy.</p> <p>I note the proposition in the S.42A report that remediation and mitigation measures are inherent to the avoidance of effects and protection of resources.</p> <p>However I consider that the proposed policy inappropriately prohibits activities with <b>any</b> potential or actual adverse effects regardless of the significance of any such effects.</p> <p><del><i>Avoid subdivision and development on Outstanding Natural Features that does not protect, maintain or enhance Outstanding Natural Features.</i></del></p> <p><u><i>Avoid inappropriate subdivision and development on Outstanding Natural Features that does not protect, maintain or enhance Outstanding Natural Features.</i></u></p>



<p><b>Policy 6.3.3.2</b></p> <p>Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Landscapes adjacent to Outstanding Natural Features would not degrade the landscape quality, character and visual amenity of Outstanding Natural Features.</p>	<p>Oppose - delete this Policy.</p> <p>The term “<i>degrade</i>” is unnecessarily subjective and the policy does not promote an assessment of the nature and degree of effects associated with an activity and the determination of whether a proposal represents an appropriate or inappropriate response to ONFs.</p>	<p>Retain as notified.</p> <p>Submitter 355 (Matukituki Trust) requests that Policy 6.3.3.2 is deleted because it contains the word ‘<i>degrade</i>’ and is unnecessarily subjective.</p> <p>For the reasons set out under Issue 4 above, I consider the word <i>degrade</i> is appropriate and this submission is rejected.</p>	<p>Amend this policy.</p> <p>Upon consideration of the S.42A report, I agree that the intent of the policy is appropriate, however it would benefit from being clearer about the scale or context of the values of the Outstanding Natural Features:</p> <p><i>Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Landscapes adjacent to Outstanding Natural Features would not degrade the landscape quality, character and visual amenity of Outstanding Natural Features <u>as a whole</u>.</i></p>
<p><b>Objective 6.3.4</b></p> <p>Protect, maintain or enhance the District’s Outstanding Natural Landscapes (ONL).</p>	<p>Oppose in part.</p> <p>Amend this Objective to specify the protection that is required and what aspects, elements, characteristics and values of ONLs are to be maintained or enhanced.</p>	<p>Retain as notified.</p> <p>It is considered that the Objectives for ONF and ONL are the most appropriate way to meet the purpose of the RMA. I do not consider that the submissions have offered a more appropriate method to manage the District’s landscapes.</p>	<p>Amend this objective.</p> <p>While noting S.42A comments regarding the case-by-case analysis of values associated with ONLs I consider that the Objective in its notified form fails to assist informed decision-making. As noted above the term “protect” may result in a de-facto prohibition on adverse effects regardless of the significance of any such effects.</p> <p>The following wording provides a suggested solution:</p> <p><i>Protect, maintain or enhance the district’s Outstanding Natural Landscapes (ONL) <u>from inappropriate subdivision, use and development.</u></i></p>

<p><b>Policy 6.3.4.1</b></p> <p>Avoid subdivision and development that would degrade the important qualities of the landscape character and amenity, particularly where there is no or little capacity to absorb change.</p>	<p>Matukituki supported the submission of submitter 805 Transpower New Zealand Limited, who sought the following relief:</p> <p><i>Avoid <u>inappropriate</u> subdivision and development that would degrade the important qualities of the landscape character and amenity, particularly where there is no or little capacity to absorb change.</i></p>	<p>Retain as notified.</p> <p>No further commentary.</p>	<p>Amend this policy as per submission.</p> <p>For reasons set out above, I consider it appropriate to amend the policy as per the submission.</p>
<p><b>Policy 6.3.4.3</b></p> <p>Have regard to adverse effects on landscape character, and visual amenity values as viewed from public places, with emphasis on views from formed roads.</p>	<p>Oppose. Delete Policy 6.3.4.3.</p> <p>It is submitted that Policy 6.3.4.3 duplicates the direction provided by Policy 6.3.4.1 and is therefore superfluous.</p>	<p>Retain as notified.</p> <p>No further commentary.</p>	<p>Delete this policy.</p> <p>I concur with the submission of Matukituki in that this policy is essentially a duplication of the matters more generally canvassed by Policy 6.3.4.1. With amendment of Policy 6.3.4.1 as discussed in the preceding row I consider that it would be appropriate to delete this Policy 6.3.4.3.</p>
<p><b>Policy 6.3.7.2</b></p> <p>Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes</p>	<p>Matukituki supported in part the submission of submitter 598 Straterra, who sought the following relief:</p> <p><i>Avoid, <u>remedy and mitigate</u> indigenous vegetation clearance where it would <del>significantly</del> degrade the visual character and qualities of the District's distinctive landscapes.</i></p>	<p>Retain as notified.</p> <p><i>For the reasons set out in issues 2 and 4 of this evidence I do not recommend accepting the addition of the phrase 'remedy or mitigate'. With regard to the submission of Queenstown Park Limited, I accept that the word 'significant' would be open to a degree of interpretation, just like any decision maker needs to apply their interpretation and judgement of the various statutory tests. In my opinion, clearance of</i></p>	<p>I agree with the submission that the policy as notified is unclear. "Distinctive" landscapes are not defined in the Plan.</p> <p>I consider that the policy should be amended to avoid significant degradation of "outstanding natural features and landscapes". This is in line with the requirement to "protect" these features as required by section 6 of the RMA.</p> <p><i>Avoid indigenous vegetation clearance where it would significantly degrade the</i></p>

		<p><i>indigenous vegetation that could constitute 'significant degradation of the landscape' as acknowledged in the policy would need to be over a relatively large area within landscapes that are visually vulnerable to degradation. An example could be where the landscape represents particularly high natural values and would not be likely to have been previously modified, or modified for a long time.</i></p>	<p><i>visual character and qualities of the District's <u>outstanding natural features and distinctive</u> landscapes</i></p>
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# **APPENDIX C2**

**Matukituki Trust Limited  
Development Plans – Dwelling (RM080876)**





NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE
E	24.09.07	FARM STORE PARAPET RL & BUNDING
B	02.07.07	HOUSE MOVED BACK/FARM STORE INTEGRATED
		POST MEDIATION 12 JUNE 2007
A	07.03.07	CONSULTANT ISSUE

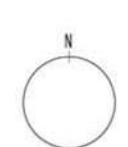


project:  
MATUKITUKI RETREAT  
ROY'S PENINSULA

client:  
MATUKITUKI TRUST

consultants:  
-Stephen Brown  
-Clarke Fortune  
McDonald  
-Mitchell Partnership

drawing title:  
LOCATION PLAN



scale: 1:2500 @ A1  
date: OCTOBER 2007  
drawn: mm/adv  
checked: FHA  
ref no: M(6)06

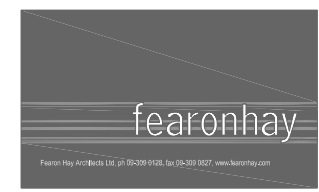
The contractor shall check & verify all dimensions, levels and contours on site prior to commencing any work. All dimensions are in millimetres unless stated otherwise.  
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Registered Architects No. 2375

sheet no: FHA.R.01/F



NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

F	16.11.07	ISSUE FOR EVIDENCE
E	24.09.07	FARM STORE PARAPET RL & BLINDING
R	02.07.07	HOUSE MOVED BACK/FARM STORE INTEGRATED
		POST MEDIATION 12 JUNE 2007
A	07.03.07	CONSULTANT ISSUE
REV.	DATE	DESCRIPTION



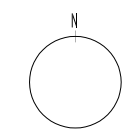
project:  
**MATUKITUKI RETREAT  
 ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

consultants:  
 -Stephen Brown  
 -Clarke Fortune  
 McDonald  
 -Mitchell Partnership

drawing title:  
**LOCATION PLAN**

scale: 1:2500 ● A1  
 date: OCTOBER 2007  
 drawn: mmm/sdv  
 checked: FHA  
 ref no: M(6)06



The contractor shall check & verify all dimensions, levels and angles on site prior to commencing any work. All dimensions are in millimeters unless stated otherwise.  
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sheet no: rev:  
**FHA 01/F**



- LEGEND**
1. Revised house position -moved back 3.0 metres.
  2. Current Profile Pole locations.
  3. Earthworks around house to be contoured and vegetated to blend in with surrounding topography - shown shaded.
  4. Landscaped roof to house contiguous with natural contours 462.5m to 463.5m
  5. Approach track
  6. Exit track
  7. Underground storage facility with entrance and loading hardstand screened by berm landscaped to blend in with surrounding topography.

Indicates extent of bunding - SADDLE AREA

Indicates extent of bunding - FARMSTORE AREA

EXISTING CONTOURS (DASHED)

PROPOSED CONTOURS (SOLID)

NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

G	19.12.07	CLARIFICATION ON LINETYPES FOR CONTOURS
F	16.11.07	ISSUE FOR EVIDENCE
E	24.08.07	FARM STORE PARAPET RL & BUNDING
D	06.08.07	SOUTHERN EAVE DEPTH/ROOF PENETRATION LOCATIONS
C	02.07.07	HOUSE MOVED BACK/FARM STORE INTEGRATED
B	25.06.07	POST MEETING 12 JUNE 2007
A	07.03.07	MEETING ISSUE CONSULTANT ISSUE
REV.	DATE	DESCRIPTION

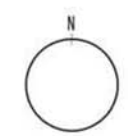


project:  
**MATUKITUKI RETREAT  
ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

consultants:  
-Stephen Brown  
-Clarke Fortune  
**McDonald**  
-Mitchell Partnership

drawing title:  
**HOUSE SITE  
& ROOF PLAN**

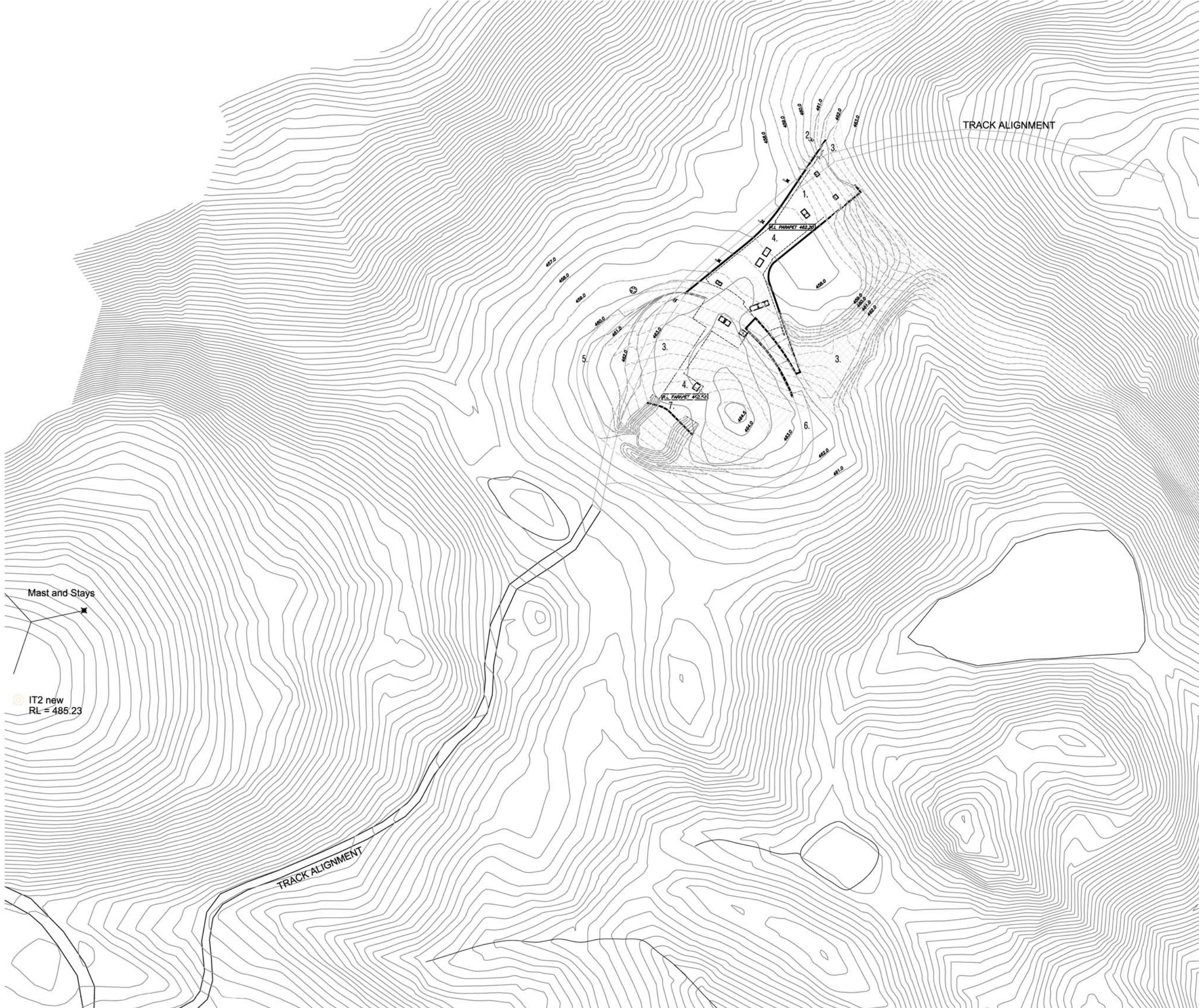


scale: 1:500 @ A1  
date: OCTOBER 2007  
drawn: mmj/ndv  
checked: FHA  
ref no: M(0)06

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**FHA R 02/G**





LEGEND

1. Revised house position -moved back 3.0 metres.
2. Current Profile Pole locations.
3. Earthworks around house to be contoured and vegetated to blend in with surrounding topography - shown shaded.
4. Landscaped roof to house contiguous with natural contours 462.5m to 463.5m
5. Approach track
6. Exit track
7. Underground storage facility with entrance and loading hardstand screened by berm landscaped to blend in with surrounding topography.

Indicates extent of bunding - SADDLE AREA

Indicates extent of bunding - FARMSTORE AREA

EXISTING CONTOURS (DASHED)

PROPOSED CONTOURS (SOLID)

NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

REV.	DATE	DESCRIPTION
G	19.12.07	CLARIFICATION ON LINETYPES FOR CONTOURS
F	16.11.07	ISSUE FOR EVIDENCE
E	24.08.07	FARM STORE PARAPET RL & BUNDING
D	08.06.07	SOUTHERN SLOPE DEPTH/ROOF PENETRATION LOCATIONS
C	02.07.07	HOUSE MOVED BACK/FARM STORE INTEGRATED
		POST MEDIATION 12 JUNE 2007
B	25.06.07	MEETING ISSUE
A	07.03.07	CONSULTANT ISSUE



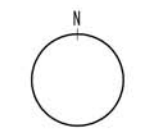
project:  
**MATUKITUKI RETREAT  
ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

consultants:  
**-Stephen Brown  
-Clarke Fortune  
McDonald  
-Mitchell Partnership**

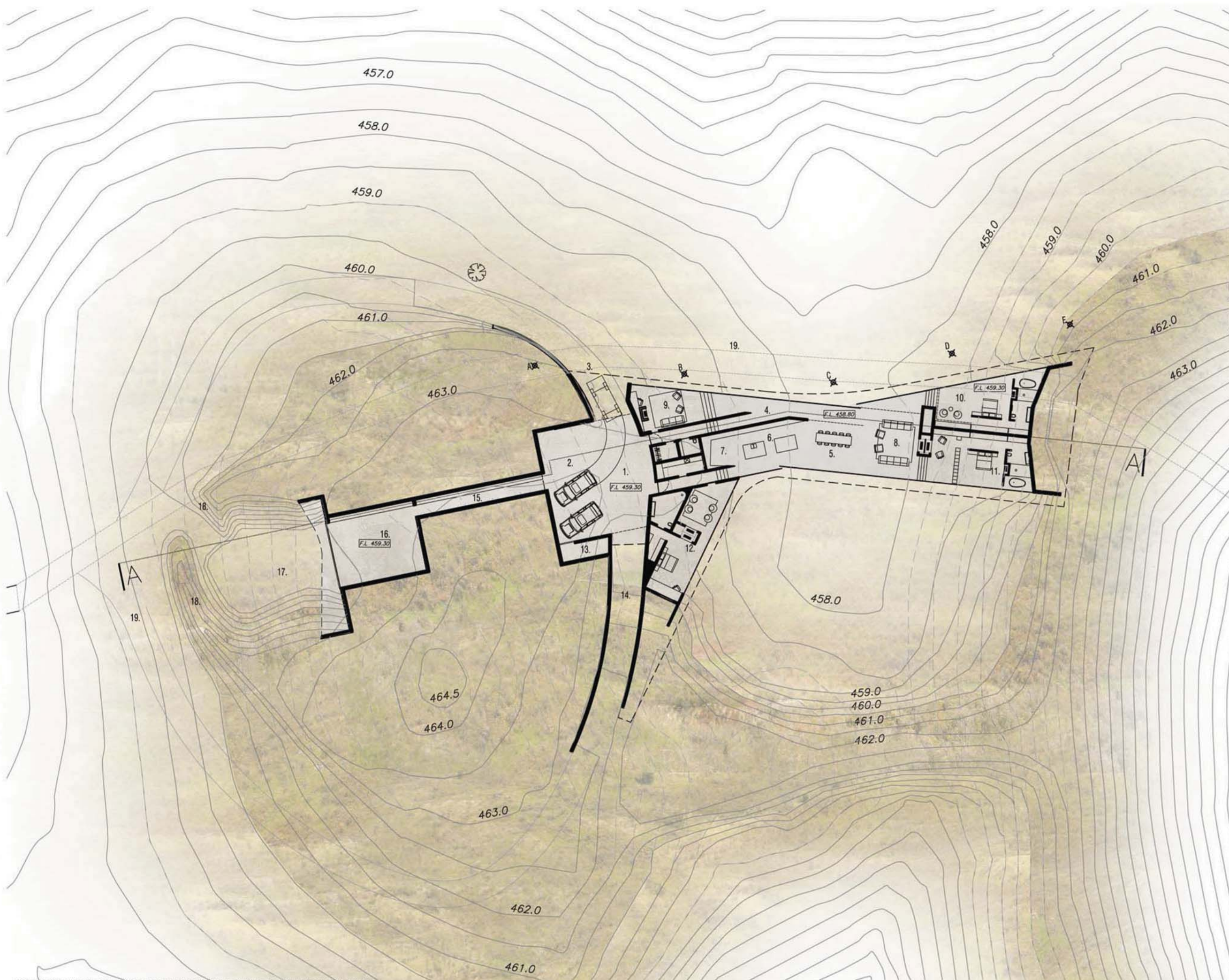
drawing title:  
**HOUSE SITE  
& ROOF PLAN**

scale: 1:500 @ A1  
date: OCTOBER 2007  
drawn: mms/sbv  
checked: FHA  
ref no: M(0)08



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Registered Architects No. 2278

sheet no: FHA 02/G



- LEGEND**
1. porte cochere
  2. garage
  3. entry
  4. gallery
  5. dining room
  6. kitchen
  7. kitchen scullery
  8. living room
  9. den
  10. suite one
  11. suite two
  12. suite three
  13. service room
  14. exit ramp
  15. tunnel
  16. underground storage facility
  17. store hardstand
  18. landscaping earthworks
  19. track alignment

--- EXISTING CONTOURS (DASHED BELOW)  
 ——— FINAL CONTOURS (SOLID)

A, B, C, D, E  
 Current location of Profile Poles

- MATERIALS**
- > exposed aggregate (scabbled) finish to exposed concrete fascia/walls
  - > clear float double glazing matt paint finished steel window joinery
  - > preweathered zinc cladding to garage and bulk store openings

NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

REV.	DATE	DESCRIPTION
H	20.12.07	RETAINING WALL TO ACCESSORY
G	19.12.07	CLARIFICATION ON LINETYPES FOR CONTOURS
F	18.11.07	ISSUE FOR EVIDENCE
E	24.08.07	FARM STORE FINISHT RL & BRANDING
D	08.08.07	SOUTH FASCIA DEPTH/TOP FINISH/TYPING
C	03.07.07	HOUSE, WOOD, BULK/FARM STORE MATERIALS PRICE AGREEMENT 12 JUNE 2007
B	25.06.07	MEETING ISSUE
A	07.03.07	CONSULTANT ISSUE



project:  
**MATUKITUKI RETREAT  
 ROY'S PENINSULA**

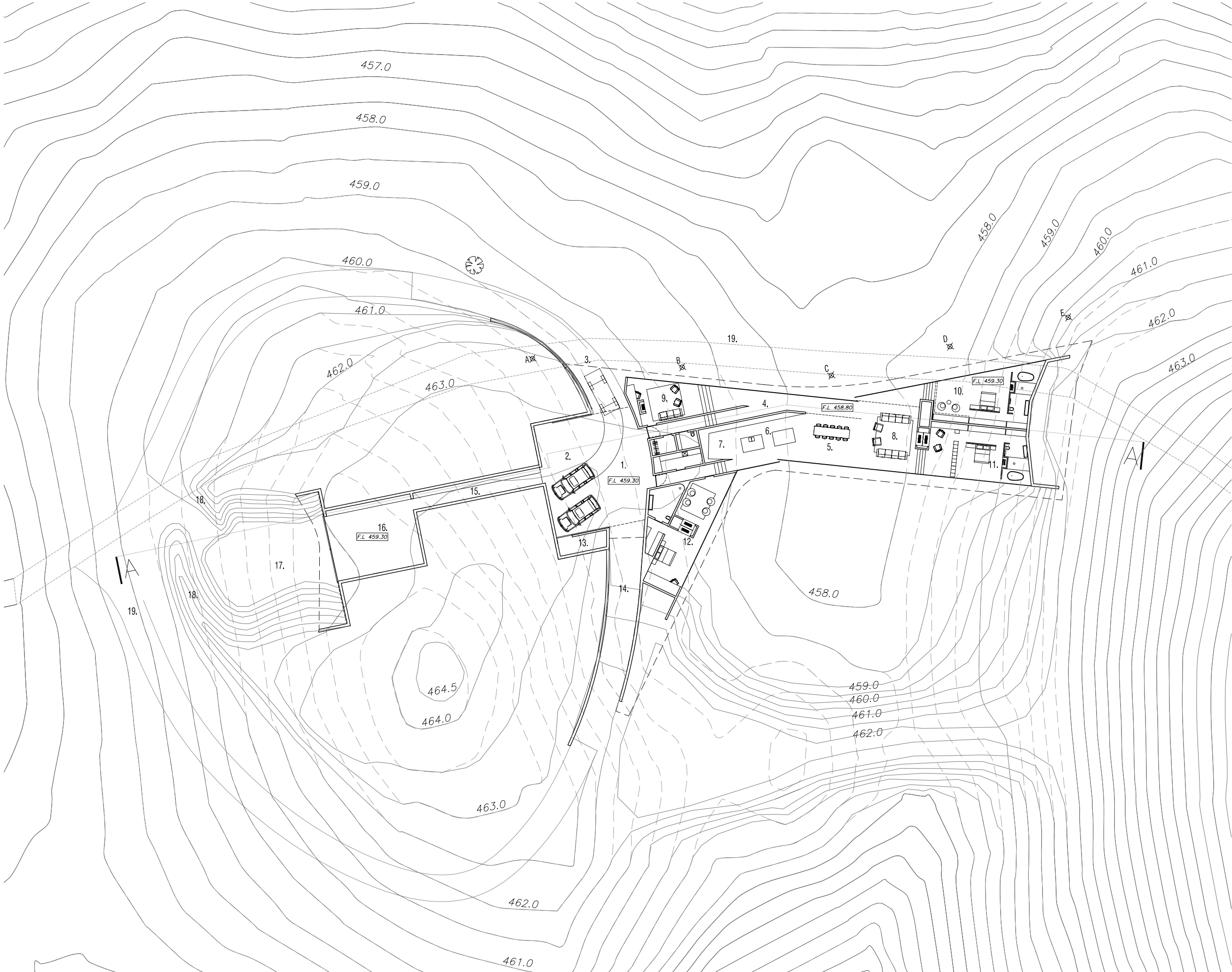
client:  
**MATUKITUKI TRUST**

consultants:  
 -Stephen Brown  
 -Clarke Fortune  
 McDonald  
 -Mitchell Partnership

drawing title:  
**HOUSE FLOOR PLAN**

scale: 1:200 @ A1  
 date: OCTOBER 2007  
 drawn: mm/sdr  
 checked: FFA  
 ref no: M0008

sheet no: 6  
 FHAR03/H



LEGEND

1. porte cochere
2. garage
3. entry
4. gallery
5. dining room
6. kitchen
7. kitchen scullery
8. living room
9. den
10. suite one
11. suite two
12. suite three
13. service room
14. exit ramp
15. tunnel
16. underground storage facility
17. store hardstand
18. landscaping earthworks
19. track alignment

--- EXISTING CONTOURS (DASHED BELOW)  
 — FINAL CONTOURS (SOLID)

A, B, C, D, E

Current location of Profile Poles

MATERIALS

- > exposed aggregate (scabbled) finish to exposed concrete fascia/walls
- > clear float double glazing
- > matt paint finished steel window joinery
- > preweathered zinc cladding to garage and bulk store openings

NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

REV.	DATE	DESCRIPTION
H	20.12.07	RETAINING WALL TO ACCESSWAY
G	19.12.07	CLARIFICATION ON LINETYPES FOR CONTOURS
F	16.11.07	ISSUE FOR EVIDENCE
E	24.09.07	FARM STORE PARAPET RL & BUNDING
D	08.08.07	SOUTHERN EAVE DEPTH/ROOF PENETRATION
C	02.07.07	HOUSE MOVED BACK/FARM STORE INTEGRATED
B	25.06.07	POST MEDIATION 12 JUNE 2007
A	07.03.07	CONSULTANT ISSUE

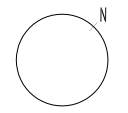


project:  
**MATUKITUKI RETREAT  
 ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

consultants:  
 -Stephen Brown  
 -Clarke Fortune  
 McDonald  
 -Mitchell Partnership

drawing title:  
**HOUSE FLOOR PLAN**



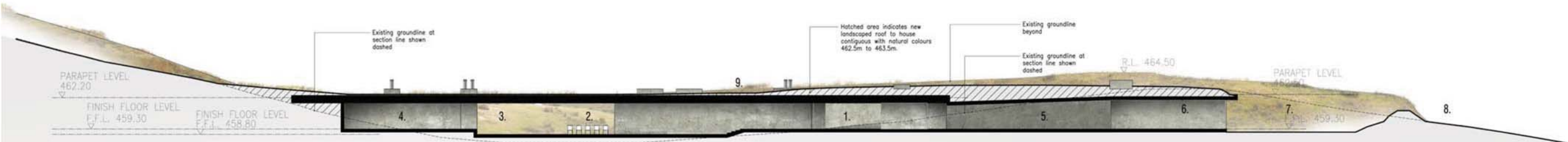
scale: 1:200 ● A1  
 date: OCTOBER 2007  
 drawn: mm/sdv  
 checked: FHA  
 ref no: M(6)06

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sheet no: rev:  
**FHA 03/H 7**

LEGEND

1. porte cochere
2. dining room
3. living room
4. suite one
5. tunnel
6. underground storage facility
7. store hardstand
8. landscaping earthworks
9. landscaped roof



NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE
D	24.09.07	FARM STORE R.L.S & BRANDING
C	08.08.07	REVISED FLOOR LEVEL TO BULK STORE
B	02.07.07	HOUSE MOVED BACK, FARM STORE INTEGRATED POST MEDIATION 12 JUNE 2007
A	07.03.07	CONSULTANT ISSUE



1.0 SECTION A-A  
FHA 04 SCALE: 1:200

project:  
MATUKITUKI RETREAT  
ROY'S PENINSULA

client:  
MATUKITUKI TRUST

consultants:  
-Stephen Brown  
-Clarke Fortune  
-McDonald  
-Mitchell Partnership

drawing title:  
SECTION A-A

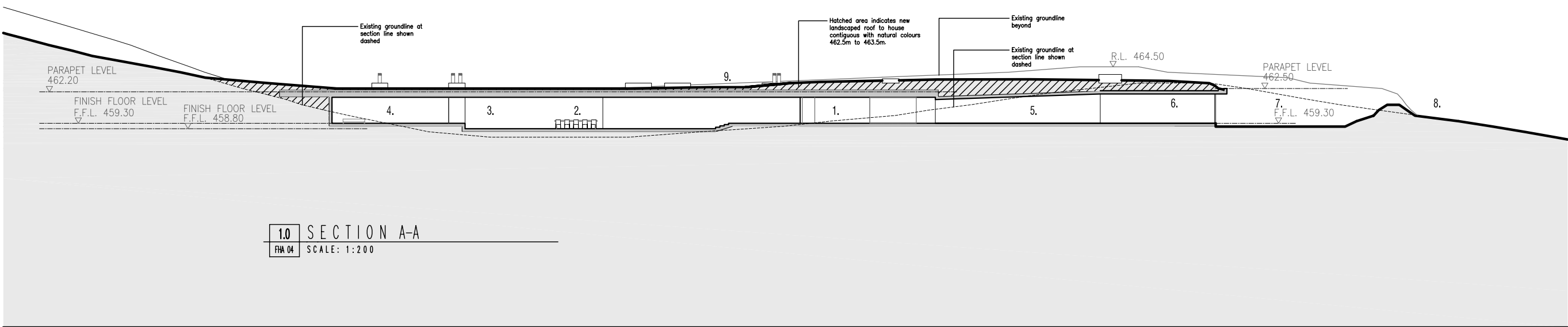
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date: OCTOBER 2007  
drawn: mmm/sdv  
checked: FHA  
ref no: M(6)06

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sheet no: rev:  
FHA.R.04/F 8

LEGEND

1. porte cochere
2. dining room
3. living room
4. suite one
5. tunnel
6. underground storage facility
7. store hardstand
8. landscaping earthworks
9. landscaped roof



1.0 SECTION A-A  
FHA 04 SCALE: 1:200

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REV.	DATE	DESCRIPTION
F	18.11.07	ISSUE FOR EVIDENCE
D	24.09.07	FARM STORE RLS & BRUNING
C	08.08.07	REVISED FLOOR LEVEL TO BULK STORE
B	02.07.07	HOUSE JACKET BACK/FARM STORE INTEGRATED POST MEETINGS 12 JUNE 2007
A	07.03.07	CONSULTANT ISSUE



project:  
**MATUKITUKI RETREAT  
ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

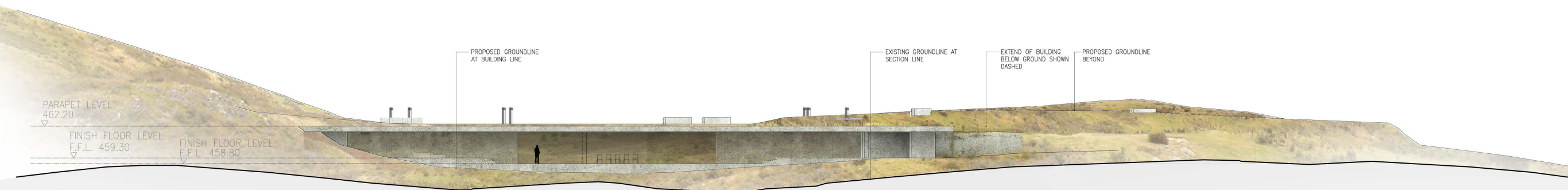
consultants:  
**-Stephen Brown  
-Clarke Fortune  
McDonald  
-Mitchell Partnership**

drawing title:  
**SECTION A-A**

scale: 1:200 @ A1  
date: OCTOBER 2007  
drawn: mm/adv  
checked: FHA  
ref no: M(0)08

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sheet no: FHA 04/F  
9



1.0 NORTH-WEST ELEVATION  
 FHA 05 SCALE: 1:200

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REV.	DATE	DESCRIPTION
G	20.12.07	RETAINING WALL TO ACCESSWAY
F	18.11.07	ISSUE FOR EVIDENCE
A	19.10.07	CONSULTANT ISSUE



project:  
**MATUKITUKI RETREAT  
 ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

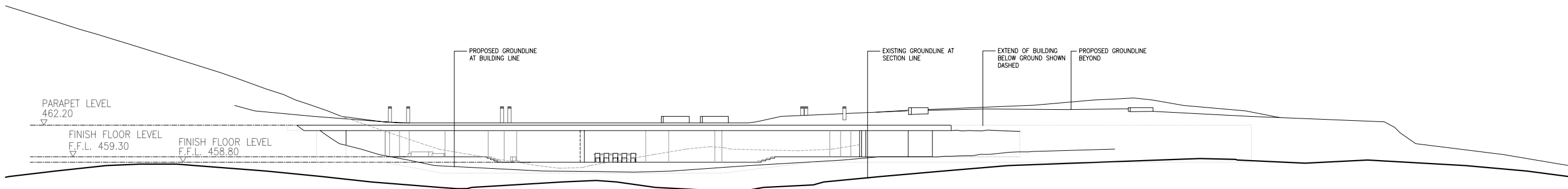
consultants:  
 -Stephen Brown  
 -Clarke Fortune  
 McDonald  
 -Mitchell Partnership

drawing title:  
**NORTH-WEST  
 ELEVATION**

scale: 1:200 ● A1  
 date: OCTOBER 2007  
 drawn: mm/sdv  
 checked: FHA  
 ref no: M(6)06

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sheet no: rev: **10**  
**FHA.R.05/G**



1.0 NORTH-WEST ELEVATION  
 FHA 05 SCALE: 1:200

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REV.	DATE	DESCRIPTION
G	20.12.07	RETAINING WALL TO ACCESSWAY
F	16.11.07	ISSUE FOR EVIDENCE
A	19.10.07	CONSULTANT ISSUE



project:  
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client:  
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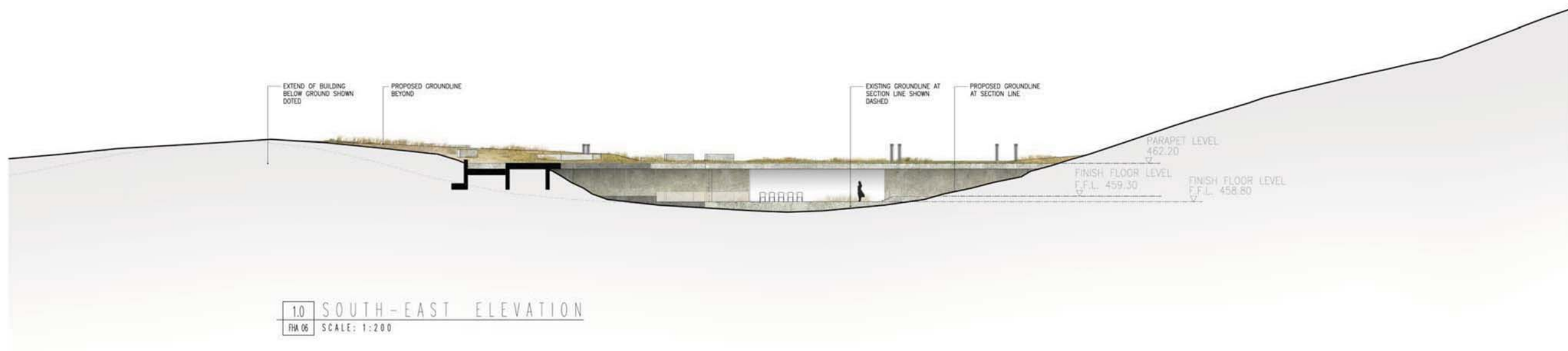
consultants:  
 -Stephen Brown  
 -Clarke Fortune  
 McDonald  
 -Mitchell Partnership

drawing title:  
 NORTH-WEST  
 ELEVATION

scale: 1:200 ● A1  
 date: OCTOBER 2007  
 drawn: mm/adv  
 checked: FHA  
 ref no: M(6)06

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sheet no:	rev:
FHA 05/G	



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REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE
A	19.10.07	CONSULTANT ISSUE



project:  
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ROY'S PENINSULA

client:  
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consultants:  
-Stephen Brown  
-Clarke Fortune  
McDonald  
-Mitchell Partnership

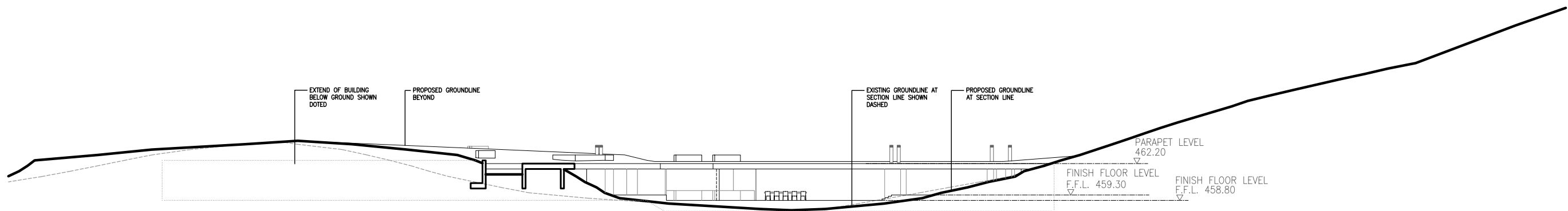
drawing title:  
SOUTH-EAST  
ELEVATION

scale: 1:200 ● A1  
date: OCTOBER 2007  
drawn: mm/adv  
checked: FHA  
ref no: M(6)06

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sheet no: rev:  
FHA.R.06/F 12





1.0 SOUTH-EAST ELEVATION  
 FHA 06 SCALE: 1:200

NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE
A	19.10.07	CONSULTANT ISSUE



project:  
**MATUKITUKI RETREAT  
 ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

consultants:  
 -Stephen Brown  
 -Clarke Fortune  
 -McDonald  
 -Mitchell Partnership

drawing title:  
**SOUTH-EAST  
 ELEVATION**

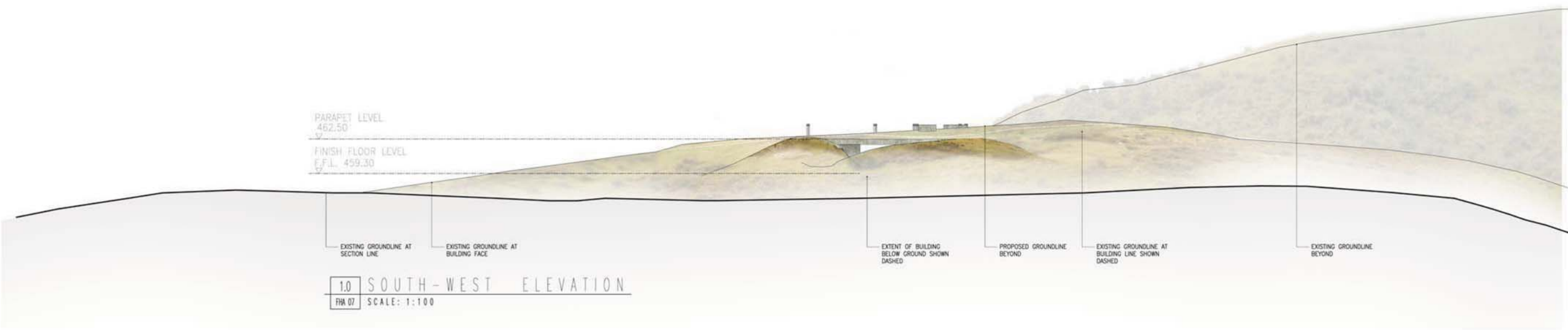
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 date: OCTOBER 2007  
 drawn: mm/adv  
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sheet no: rev:  
**FHA 06/F**



SECTION LINE



1.0 SOUTH-WEST ELEVATION  
FHA 07 SCALE: 1:100

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REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE
A	19.10.07	CONSULTANT ISSUE



project:  
MATUKITUKI RETREAT  
ROY'S PENINSULA

client:  
MATUKITUKI TRUST

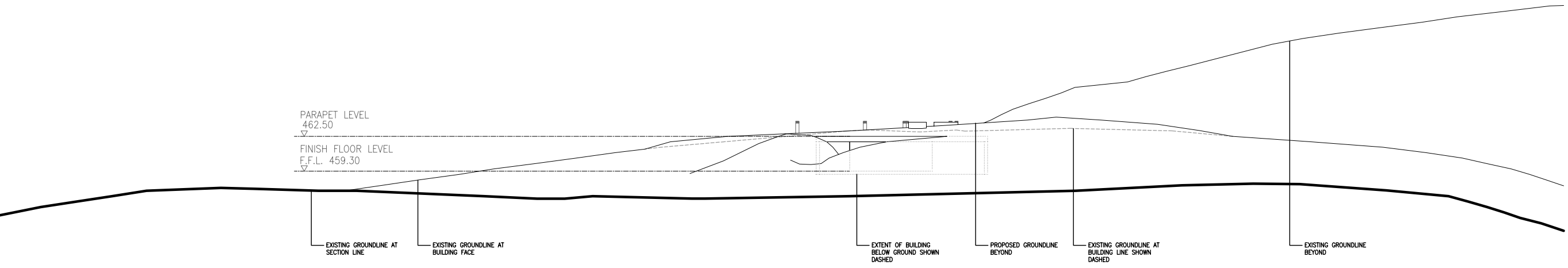
consultants:  
-Stephen Brown  
-Clarke Fortune  
McDonald  
-Mitchell Partnership

drawing title:  
SOUTH-WEST  
ELEVATION

scale: 1:200 @ A1  
date: OCTOBER 2007  
drawn: mm/adv  
checked: FHA  
ref no: M(6)06

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sheet no: rev:  
FHA.R.07/F 14



PARAPET LEVEL  
462.50  
▽

FINISH FLOOR LEVEL  
F.F.L. 459.30  
▽

EXISTING GROUNDLINE AT SECTION LINE

EXISTING GROUNDLINE AT BUILDING FACE

EXTENT OF BUILDING BELOW GROUND SHOWN DASHED

PROPOSED GROUNDLINE BEYOND

EXISTING GROUNDLINE AT BUILDING LINE SHOWN DASHED

EXISTING GROUNDLINE BEYOND

**1.0** SOUTH-WEST ELEVATION  
FHA 07 SCALE: 1:100

NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

REV.	DATE	DESCRIPTION
F	18.11.07	ISSUE FOR EVIDENCE
A	19.10.07	CONSULTANT ISSUE



project:  
**MATUKITUKI RETREAT  
ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

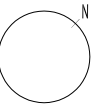
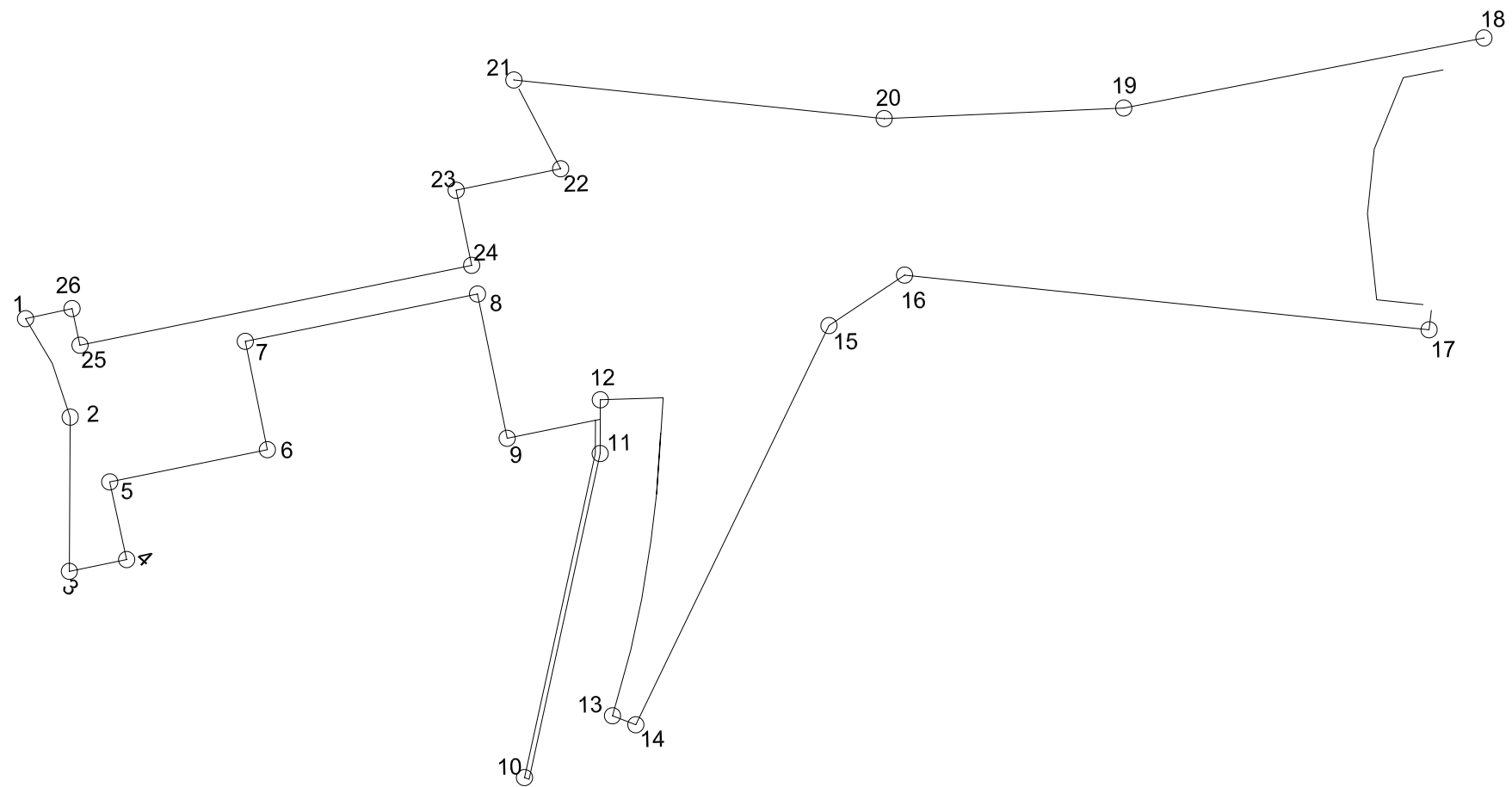
consultants:  
-Stephen Brown  
-Clarke Fortune  
-McDonald  
-Mitchell Partnership

drawing title:  
**SOUTH-WEST  
ELEVATION**

scale: 1:200 @ A1  
date: OCTOBER 2007  
drawn: mm/adv  
checked: FHA  
ref no: M(6)06

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sheet no: 15  
**FHA 07/F**



Coordinates are in terms of  
New Zealand Geodetic Datum 2000  
(Linds Peak Circuit)

REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE
A	13.08.07	CONSENT CONDITIONS



project:  
**MATUKITUKI RETREAT  
ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

consultants:  
-Stephen Brown  
-Clarke Fortune  
McDonald  
-Mitchell Partnership

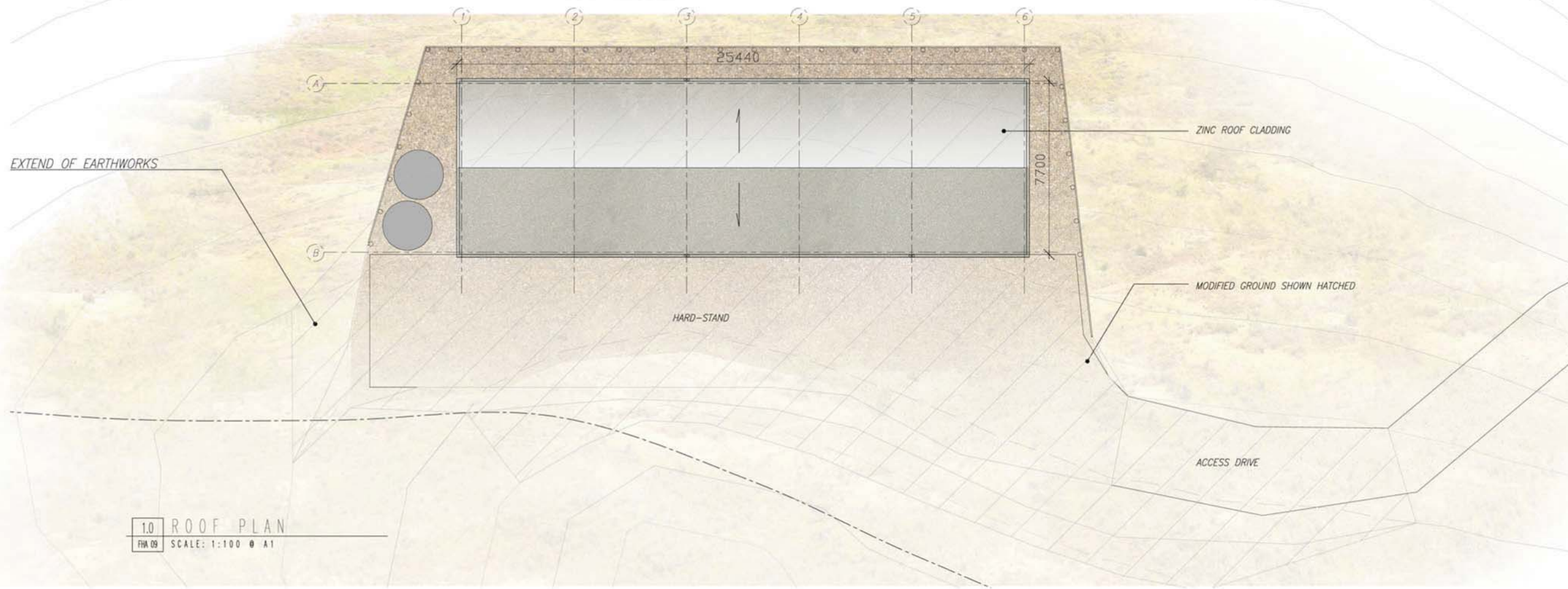
drawing title:  
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scale: 1:200 ● A1  
date: 02 JULY 2007  
drawn: mmm/sdv  
checked: FHA  
ref no: M(6)06

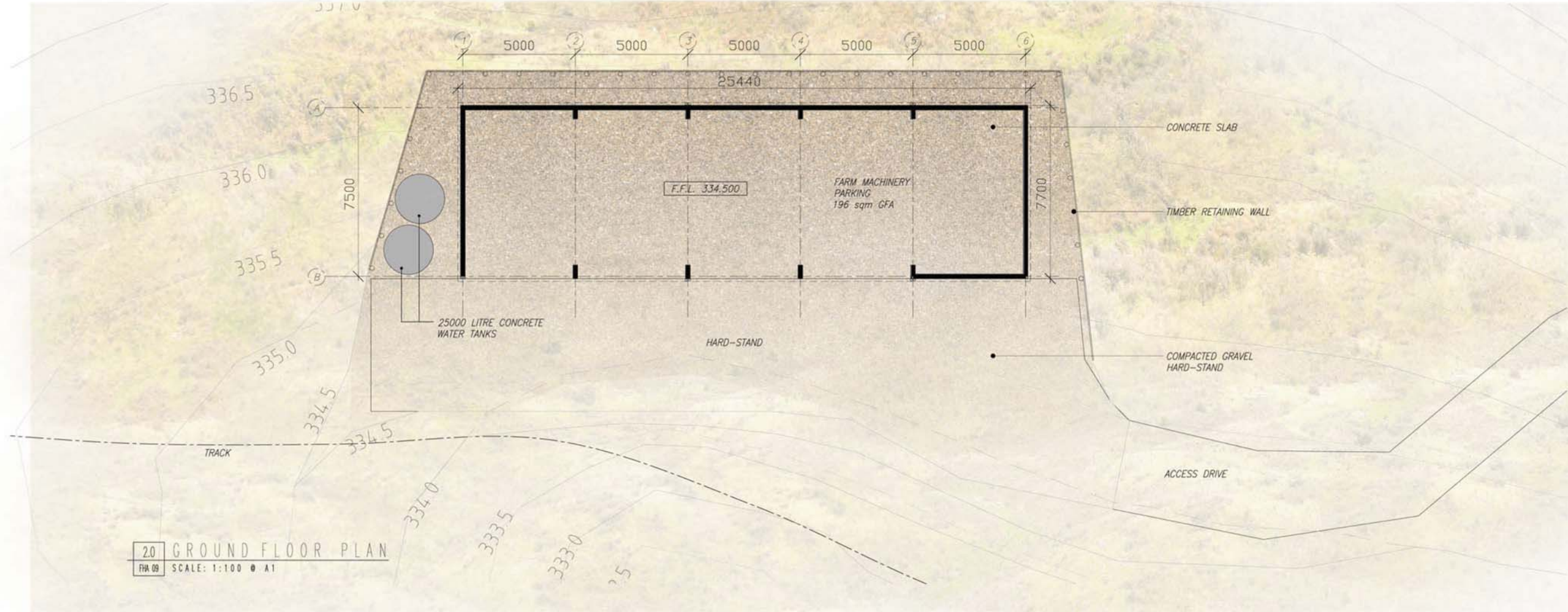
The contractor shall check & verify all dimensions, levels and angles on site prior to commencing any work. All dimensions are in millimeters unless stated otherwise.  
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Registered Architects No. 2375

sheet no: rev:  
**FHA 08/F**

EXTEND OF EARTHWORKS



1.0 ROOF PLAN  
FHA 09 SCALE: 1:100 @ A1



2.0 GROUND FLOOR PLAN  
FHA 09 SCALE: 1:100 @ A1

REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE
B	02.07.07	SHED SIZE REDUCED TO <math>\lt; 200\text{sqm}</math>
		POST REGULATION 17 JUNE 2007
A	07.03.07	CONSULTANT ISSUE



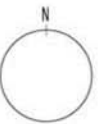
project:  
MATUKITUKI RETREAT  
ROY'S PENINSULA

client:  
MATUKITUKI TRUST

consultants:  
-Stephen Brown  
-Clarke Fortune  
McDonald  
-Mitchell Partnership

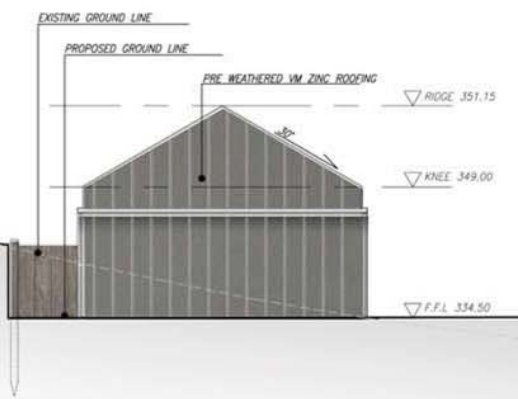
drawing title:  
FARM SHED  
FLOOR & ROOF PLAN

scale: 1:100 @ A1  
date: 02 JULY 2007  
drawn: mm/sdv  
checked: FHA  
ref no: M(6)06

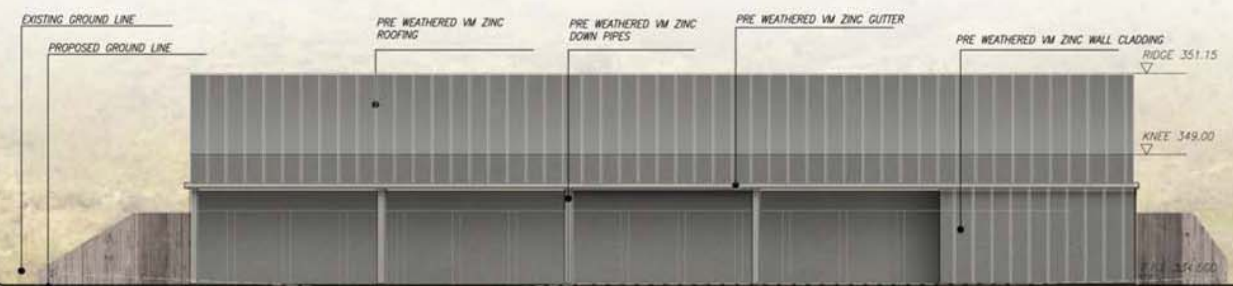


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sheet no: rev:  
FHA.R.09/F  
17



1.0 NORTH (SIDE) ELEVATION  
 FRA 10 SCALE: 1:100 @ A1

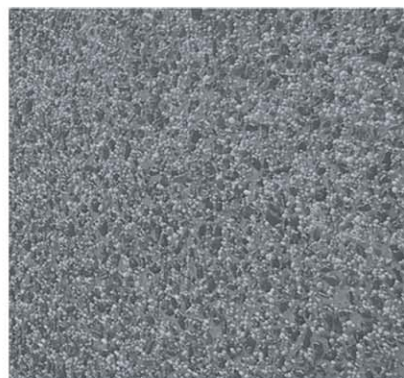


2.0 WEST (FRONT) ELEVATION  
 FRA 10 SCALE: 1:100 @ A1

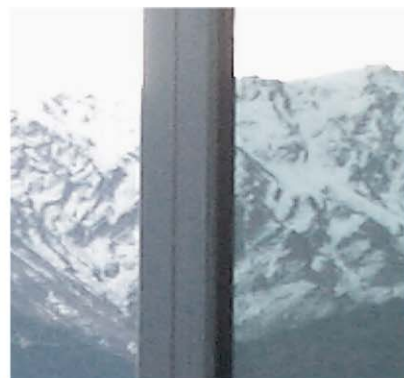


site photography - rock, escarpment & trig station

REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE



exterior walls:  
exposed aggregate concrete



window joinery:  
steel with hot & matt  
paint finish



turf roof:  
vegetation & soil over concrete  
structure



garage / storage // facility room door:  
preweathered zinc sheet  
over ply substructure

project:  
**MATUKITUKI RETREAT  
ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

consultants:  
-Stephen Brown  
-Clarke Fortune  
-McDonald  
-Mitchell Partnership

drawing title:  
**MATERIALS**

scale: 1:200 ● A1  
date: NOVEMBER 2007  
drawn: mm/sdv  
checked: FHA  
ref no: M(6)06

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sheet no: rev:  
**FHA 11/E**  
**19**



F	16.11.07	ISSUE FOR EVIDENCE
REV.	DATE	DESCRIPTION



**project:**  
 MATUKITUKI RETREAT  
 ROY'S PENINSULA  
  
**client:**  
 MATUKITUKI TRUST  
  
**consultants:**  
 -Stephen Brown  
 -Clarke Fortune  
 McDonald  
 -Mitchell Partnership  
  
**drawing title:**  
 ARTISTS IMPRESSION  
 NORTH EAST VIEW

**scale:** NOT TO SCALE  
**date:** OCTOBER 2007  
**drawn:** mm/adv  
**checked:** FHA  
**ref no:** M(6)06

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**sheet no:** rev:  
 FHA 12/F  
**20**





REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE



project:  
**MATUKITUKI RETREAT  
 ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

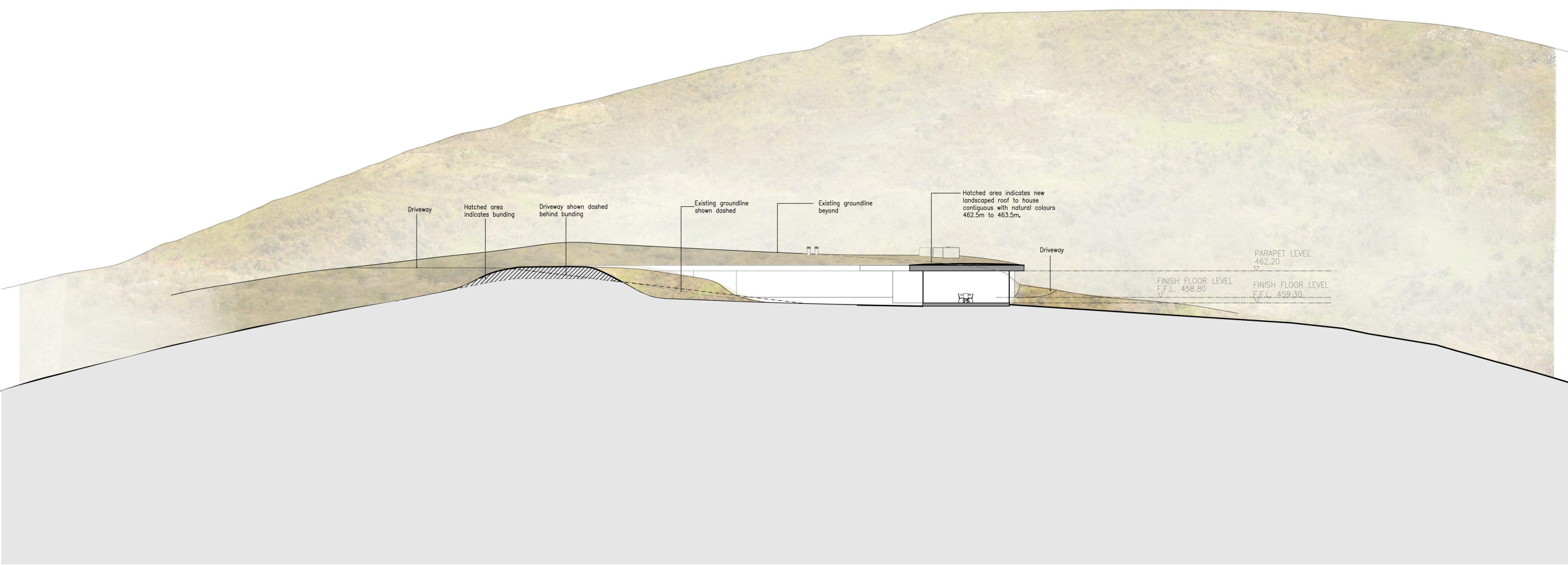
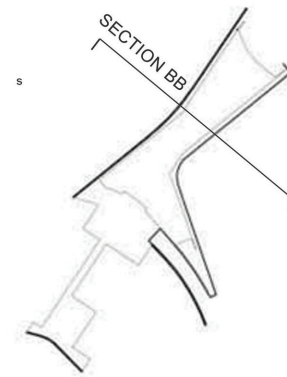
consultants:  
 -Stephen Brown  
 -Clarke Fortune  
 McDonald  
 -Mitchell Partnership

drawing title:  
**ARTISTS IMPRESSION  
 SOUTH-EAST VIEW**

scale: NOT TO SCALE  
 date: OCTOBER 2007  
 drawn: mm/adv  
 checked: FHA  
 ref no: M(6)06

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sheet no: rev:  
**FHA 13/F**



NB LANDSCAPING REMOVED FROM DRAWINGS FOR CLARITY. REFER LANDSCAPE PLAN BY STEPHEN BROWN ENVIRONMENTS LTD

REV.	DATE	DESCRIPTION
F	16.11.07	ISSUE FOR EVIDENCE
A	19.10.07	CONSULTANT ISSUE



project:  
**MATUKITUKI RETREAT  
 ROY'S PENINSULA**

client:  
**MATUKITUKI TRUST**

consultants:  
 -Stephen Brown  
 -Clarke Fortune  
 McDonald  
 -Mitchell Partnership

drawing title:  
**SECTION B-B**

scale: 1:200 ● A1  
 date: AUGUST 2008  
 drawn: mm/sdv  
 checked: FHA  
 ref no: M(6)06

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**FHA 14/F**

## PART D - PENINSULA BAY JOINT VENTURE (PBJV)

### 1 INTRODUCTION TO PBJV

- 1.1 Peninsula Village Limited and Wanaka Bay Limited (collectively referred to Peninsula Bay Joint Venture or “**PBJV**”) own land at the northern extent of Peninsula Bay, Wanaka.
- 1.2 Infinity Investment Group (“**Infinity**”) manage and develop PBJV’s landholdings at Peninsula Bay. At Peninsula Bay, Infinity has developed a fully master-planned community over approximately 70 hectares.
- 1.3 PBJV, in association with Infinity, have recently lodged a private plan change application with the Queenstown Lakes District Council (“**QLDC**”) to extend the current Low Density Residential Zoning at Peninsula Bay. The private plan change application (referred to as Plan Change 51 or “**PC51**”) seeks to alter Map 19 of the Operative District Plan. The proposed new zone map is below in **Figure 1**, with the orange shading indicating the new low density residential zone being sought.



Figure 1: Proposed Plan Change 51 District Plan Map

1.4 Concurrently, PBJV has also lodged a submission with respect to the Proposed Plan seeking that Proposed Map 19 be amended in accordance with the plan change map.

1.5 As this hearing relates to the Strategic Directions, Urban Development and Landscape related provisions of the Proposed Plan, I do not intend to discuss the proposed rezoning request in any detail today. This will be addressed during the course of the relevant rezoning request hearings later this year. For context however, I provide a brief overview of the proposed plan change and rezoning request (PC51) as this provides the background against which PBJV's submission was made.

## **2. AN OVERVIEW OF PLAN CHANGE 51**

2.1 PC51 seeks to enable the creation of 26 large residential lots, ranging between 1040m<sup>2</sup> and 5300m<sup>2</sup> in size. The area that PBJV seeks to rezone is located directly adjacent to the existing Low Density Residential Zone and is located within the Urban Growth Boundary for Wanaka (refer to the map above).

2.2 PBJV intends that the creation of further Low Density Residential zoned land will increase the range and quality of residential living options available within Peninsula Bay and Wanaka. The Section 32 report for PC51 concludes that capacity is available within the Peninsula Bay infrastructure network to accommodate the additional allotments that the rezoning would enable.

2.3 The opportunity to rezone this site has been balanced against the resource management constraints of the site, the key constraints being that part of the subject site is within an Outstanding Natural Landscape (ONL) and that the site contains a range of indigenous vegetation, including large areas of kanuka shrubland and depleted tussock grassland.

2.4 To address these constraints PBJV intends to:

- Limit the extent of development that can be undertaken within the ONL;
- Place restrictions of the locations of building platforms and on building heights;
- Retain and enhance approximately 4500m<sup>2</sup> of existing kanuka; and,
- Establish approximately 1.1 hectares (11,000m<sup>2</sup>) of new planting.

All of the above are proposed to be secured in perpetuity by way of land covenant.

- 2.5 The land which will remain zoned Open Space will be vested in the Council as reserve and will contain new walkways and mountain bike tracks.
- 2.6 Rezoning the land will enable the development of part of the land currently zoned Open Space at Peninsula Bay north for specified low density residential development, while providing for ecological gains and improved passive recreation on the balance of the Open Space zoned land between the Peninsula Bay development and Lake Wanaka.

### **3. URBAN GROWTH AND DEVELOPMENT PROVISIONS**

- 3.1 The Proposed Plan establishes new Urban Growth Boundaries (“**UGB**”) for the key urban centres of the District, which are designed to provide a tool for managing the anticipated growth of the District while protecting the individual roles, heritage and character of these areas<sup>47</sup>. The PBJV site is within the Wanaka UGB.
- 3.2 PBJV submitted in support of a number of the provisions relating to urban growth and urban development more generally. PBJV considered that the proposed new UGB would encourage the sustainable and efficient use of existing physical resources by encouraging growth where there is capacity within the existing infrastructural network to accommodate such growth. It also submitted that the proposed UGBs provide a clear signal to the community about where the Council considers further suburban growth and development is appropriate within the District.
- 3.3 For the most part, the Chapter 3 Section 42A report writer (herein referred to as the Council Officer) has not recommended any changes to the provisions relating to urban growth and development. I largely agree with the recommendation of the Council Officer<sup>48</sup> and discuss further below where our opinions depart, and why I consider further amendments are required.

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<sup>47</sup> Paragraph 4 of Section 4.1 of the Proposed Plan.

<sup>48</sup> With respect to:

- Goal 3.2.2 and associated Objective 3.2.2.1 and policies 3.2.2.1.1, 3.2.2.1.3 and 3.2.2.1.5.
- Objective 3.2.4.2 and associated Policy 3.2.4.2.2.
- Objective 3.2.4.7 and associated Policy 3.2.4.7.1.
- Objective 3.2.5.3 and associated Policy 3.2.5.3.1.
- Objective 3.2.6.3 and associated Policy 3.2.6.3.2.

#### **4. OUTSTANDING NATURAL LANDSCAPES AND INDIGENOUS FLORA AND FAUNA**

- 4.1 PBJV submitted on a number of provisions relating to landscapes and indigenous flora and fauna.
- 4.2 Specifically, PBJV submitted that it is appropriate for the Proposed Plan to recognise opportunities for environmental gains arising from proposals for subdivision, use and development within ONLs, Outstanding Natural Features (ONFs) and environments of significant indigenous vegetation and significant habitats of indigenous fauna.
- 4.3 PBJV further noted that where capacity is available within these areas to absorb change (without adversely affecting the values for which they are recognised), subdivision, use and development proposals can provide additional resource for the restoration, enhancement, or even protection (i.e. through land use covenants) of these areas. In PBJV's opinion, applying a broad protectionist approach where almost no activities can occur within these areas would prevent these opportunities from being realised.
- 4.4 I agree with the PBJV submission with respect to subdivision, use and development within ONLs, ONFs and environments of significant indigenous vegetation and significant habits of indigenous fauna. In my experience, an overly protectionist approach prevents the net benefits that can be gained from mitigation strategies such as offsetting or compensation where there is capacity within the environment to absorb change and where overall conservation gains can be achieved.
- 4.5 A number of provisions in the Proposed Plan seek that activities "avoid" adverse effects on a range of environmental values.
- 4.6 The Chapter 3 S.42A report acknowledges<sup>49</sup> the concerns of submitters regarding the implications of unqualified use of the term "avoid" in light of the decision of the Supreme Court in the King Salmon<sup>50</sup> case. The S.42A report distinguishes between the use of "avoid" to prohibit an effect, versus its use to

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• Objective 4.2.3 and associated Policies 4.2.3.1, 4.2.3.4 and 4.2.3.7.  
<sup>49</sup> Chapter 3 S.42A report, paragraph 12.15.

ban an activity. The report states that where “avoid” is used without accompaniment by “remedy” or “mitigate” “...Council has been deliberate in that it really does wish to avoid a particular environmental effect, or activity (that results in a particular undesired effect)”<sup>51</sup>.

- 4.7 I agree that it is appropriate to use the term ‘avoid’ when a certain effect is intended to be prohibited. In my opinion however, as stated above, such a strong policy dissuasion does not provide for the conservation benefits or gains that could accrue from allowing an activity to occur. In my opinion, it would be more appropriate in such circumstances to seek to avoid “inappropriate” activities<sup>52</sup>. The appropriateness or otherwise of an activity would then be assessed on its merits based on the specific values of the resource and the nature of the activity proposed.
- 4.8 For this reason, I also consider that further amendments are required to the provisions that effectively predetermine the outcome of an activity<sup>53</sup> with the inclusion of phrases such as “...subdivision and development is inappropriate in almost all locations...”. Policies with such definitive direction are inconsistent with the ‘broad judgement approach’ established through case law that provides for a comparison of conflicting considerations, their scale and degree and their relative significance or proportion in the final outcomes.
- 4.9 As an alternative, where the adverse effects of an activity are significant, scope should be provided to remedy or mitigate such effects<sup>54</sup>. Managing the effects of an activity in this manner is anticipated by section 5(2)(c) of the Act.
- 4.10 In light of the above, I have proposed further amendments to various provisions where the term ‘avoid’ is used in isolation. A copy of these is attached as **Appendix D**.

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<sup>50</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited [2014] NZSC 38*.

<sup>51</sup> Chapter 3 S.42A report, paragraph 12.16.

<sup>52</sup> As I have recommended with respect to Objective 3.2.5.1 and associated Policy 3.2.5.1.1 and Objective 6.3.4.1.

<sup>53</sup> Policy 6.3.1.3.

<sup>54</sup> As I have recommended with respect to:

- Objective 4.2.6 and associated Policy 4.2.6.1.
- Policy 6.3.1.7.
- Objective 6.3.2 and associated Policy 6.3.2.2.
- Policy 6.3.2.5.

- 4.11 I note that the Chapter 6 S.42A report further states that remediation or mitigation measures may assist to avoid adverse effects and are therefore an inherent consideration in decision making<sup>55</sup>. On this basis the phrase “remedy or mitigate” does not accompany the use of the term “avoid”. The Council Officer suggests that the absence of reference to “remedy or mitigate” does not preclude the proposal or consideration of remediation or mitigation measures and does not impose a prohibition on activities that fail to avoid adverse effects<sup>56</sup>.
- 4.12 I fundamentally disagree with this interpretation and use of the phrase “avoid, remedy or mitigate”. In my opinion, these terms are mutually exclusive of one another - if an effect arises that requires mitigation or remediation, then the effect is not being avoided.
- 4.13 PBJV’s submission also sought to ensure that the management response prescribed by various provisions was commensurate with value of the landscape being considered<sup>57</sup>.

## **5. CONCLUSION**

- 5.1 I consider that a number of objectives and policies in Chapters 3, 4 and 6 require amendment. The terminology used in many of the provisions set out above dissuades all forms of subdivision, use or development from occurring within ONLs and ONFs regardless of the scale of the effect (i.e. less than minor), or whether those effects can be avoided, remedied or mitigated (including any conservation benefits that may accrue).
- 5.2 The lower order provisions of the Proposed Plan do not contemplate such restrictions and is therefore not supported by the section 32 analysis.

**Louise Taylor**

**26 February 2016**

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<sup>55</sup> These points are set out in the Chapter 6 S.42A report at paragraphs 9.22 and 9.141.

<sup>56</sup> Chapter 6 S.42A report, paragraphs 9.22 and 9.141.

<sup>57</sup> Objective 3.2.4.3 and associated Policy 3.2.4.3.1, Objective 4.2.1, Policy 4.2.6.2.



# APPENDIX D

## Peninsula Bay Joint Venture (PBJV)

Text highlighted with underlining (example) represents insertions sought or recommended, as the case may be. Text with strikethrough (~~example~~) represents deletions sought or recommended.

PROPOSED QUEENSTOWN LAKES DISTRICT PLAN			
CHAPTER 3 – STRATEGIC DIRECTION			
PROVISION	PBJV SUBMISSION	S.42A RECOMMENDATION AND COMMENTARY	MY RECOMMENDED AMENDMENTS
<p><b>Goal 3.2.2</b> The strategic and Integrated management of urban growth</p> <p><b>Objective 3.2.2.1</b> and associated <b>policies 3.2.2.1.1, 3.2.2.1.3 and 3.2.2.1.5</b></p>	<p>PJBV supported these provisions and sought that they be retained as notified.</p>	<p>In summary, the Chapter 3 S.42A report recommends retaining Goal 3.2.2 and Objective 3.2.2.1 as notified.</p> <p>The Chapter 3 S.42A report has recommended deleting Policies 3.2.2.1.1 to 3.2.2.1.7 to remove duplication or provisions within the Urban Development chapter<sup>58</sup>.</p>	<p>While I am comfortable with the removal of provisions where they create unnecessary duplication, I note that this chapter establishes the strategic framework for the Proposed Plan. The other objectives in Chapter 3 all contain policies which address the implementation of the objective.</p> <p>With no policies remaining under this objective, it is unclear how the objective will be achieved unless there is a cross reference to the relevant policies in Chapter 3.</p>

<sup>58</sup> These changes are specified in the Chapter 3 S.42A report, paragraphs 12.69 and 12.70 and at page 3-3.

<p><b>Objective 3.2.4.2</b> and associated <b>Policy 3.2.4.2.2</b></p>	<p>PJBV opposed these provisions in part. PBJV sought that Objective 3.2.4.2 and associated Policy 3.2.4.2.2 should be amended to refer to the values associated with “Significant Natural Areas”, as mapped and referred to in the subsequent policies of the Proposed Plan.</p>	<p>The Chapter 3 S.42A report recommends retaining objective 3.2.4.2 as notified. It has been recommended that Policy 3.2.4.2.2 be deleted. See the specific Section 42A commentary below<sup>59</sup>.</p> <p><i>The Department of Conservation (DOC) and Forest and Bird were generally supportive of the provisions however sought some changes. Areas of mutual interest included a desire for greater recognition of indigenous biodiversity, and concerns with Policy 3.2.4.2.2. The concerns with this policy related to the risk that the policy more readily contemplates, than it should, adverse effects on nature conservation values, subject to environmental compensation – as opposed to biodiversity offsets being utilised as a last resort to mitigate residual, non-significant adverse effects.</i></p> <p><i>In addition, DOC and Forest and Bird suggested that Policy 3.2.4.2.2 as worded creates inconsistency with Policy 33.2.1.8 (Chapter 33 Indigenous Vegetation and Biodiversity).</i></p>	<p>In my opinion, Policy 3.2.4.2.2 should be retained (albeit amended to refer to significant natural areas).</p> <p>While I note that there is an element of duplication with the provisions of Chapter 33, I consider that it is appropriate to recognise, at a strategic level, that environmental compensation is an appropriate management response.</p> <p>This provides the framework for other chapters within the Proposed Plan to consider the use of such a management tool where appropriate.</p> <p>Nature Conservation Values have been defined but the definition is very broad and would apply to every natural area in the District. That is not reflected in the policies and is not justified by the s32 analysis. Therefore I recommend that the objective and Policy 3.2.4.2.2 be amended to refer to the values associated with Significant Natural Areas, rather than “nature conservation values”.</p>
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<sup>59</sup> Chapter 3 S.42A report, paragraphs 12.88 – 12.90.

		<p><i>Changes are recommended to address these matters. Specifically, I recommend that Policy 3.2.4.2.2 is deleted. This is not only because of the valid concerns raised by DOC and Forest and Bird, but also because I consider the policy is too fine grained and specific for the Strategic Direction chapter, and the matter is more appropriately addressed in the specific relevant chapter (Chapter 33).</i></p>	
<p><b>Objective 3.2.4.3</b> and associated <b>Policy 3.2.4.3.1</b></p>	<p>PBJV opposed these provisions in part. Specifically, PBJV sought the following amendments:</p> <p><b>Objective 3.2.4.3</b></p> <p><i>Maintain or enhance the survival chances of <u>significant indigenous vegetation and significant habitats of indigenous fauna.</u> <del>rare, endangered, or vulnerable species of indigenous plant or animal communities.</del></i></p> <p><b>Policy 3.2.4.3.1</b></p> <p><i>That development does not adversely affect the survival chances of <u>significant indigenous vegetation and significant habitats of indigenous fauna.</u> <del>rare, endangered, or vulnerable species of indigenous plant or animal communities</del></i></p>	<p>The Chapter 3 S.42A report does not recommend any changes to the provisions.</p>	<p>In my opinion, the drafting of the provisions as proposed by PBJV is appropriate as it seeks to address the survival changes of significant indigenous vegetation and habitats of indigenous fauna and therefore recognises and provides for such matters (as required by s6(c)).</p>

<p><b>Objective 3.2.4.7</b> and associated <b>Policy 3.2.4.7.1</b></p>	<p>PBJV supported these provisions and sought their retention as notified.</p>	<p>The Chapter 3 S.42A report does not recommend any changes to the provisions.</p>	<p>I agree with the recommendations of the section 42A report.</p>
<p><b>Objective 3.2.5.1</b> and associated <b>Policy 3.2.5.1.1</b></p>	<p>PBJV supported these provisions in part, however sought that the provisions be amended to be consistent with Section 6(b) of the RMA which seeks to protect ONL and ONF from “inappropriate” subdivision, use and development.</p>	<p>The Chapter 3 S.42A report recommends the following amendment to Objective 3.2.5.1:</p> <p><i>Protect the <del>natural character</del> <u>quality</u> of the Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development.</i></p> <p>With respect to the use of the term inappropriate, the section 42A commentary notes<sup>60</sup>:</p> <p><i>This amended objective is considered to be the most appropriate way of achieving the purpose of the Act as:</i></p> <p><i>- The amendment of the phrase ‘natural character’ to ‘quality’ clarifies that the importance of Outstanding Natural Landscapes and Outstanding Natural Features is not solely related to its ‘naturalness’ or character, but a number of aspects or qualities. It provides for better alignment with Section 6(b) of the RMA.</i></p>	<p>As notified, the Objective imposes a de-facto obligation to avoid <b>any and all</b> subdivision, use and development affecting ONFs and ONLs.</p> <p>I consider this to be inappropriate as the objective focusses unduly on the activities rather than the adverse effects and does not contemplate the possible range of effects, from less than minor to significant. The objective effectively prohibits otherwise acceptable proposals on the basis that they involve subdivision, use and development. This is not borne out in the rules and is not justified by the s32 analysis.</p> <p>I consider that the objective should be revised to focus on and provide flexibility regarding the avoidance, remediation or mitigation of adverse effects on ONFs and ONLs as sought by PBJV.</p> <p>It may be that wording from Policy 3.2.5.1.1 could be used in the redrafting of this objective, noting however that that Policy is proposed to be deleted due to duplication of direction found in Chapter 6 of the Proposed Plan.</p>

<sup>60</sup> Chapter 3 S.42A report, page 34.

		<p><i>Concern has been expressed in some submissions that the proposed wording does not align with RMA language.</i></p> <p><i>As noted earlier in this report, I consider that broad replication or borrowing of RMA language without tailoring it to specific district issues or objectives, can be problematic – such generality may serve no real meaningful purpose.</i></p> <p><i>However, there are instances where it is more sound to align policy language with RMA phrases. This is particularly so for matters relating to Section 6 of the RMA. I consider that the wording of Objective 3.2.5.1 is one of those cases, and have therefore recommended changes to remove the word ‘natural character’, which is considered unduly narrow and not consistent with RMA terminology.</i></p> <p><i>I have not recommended insertion of the word ‘inappropriate’ to precede the words ‘subdivision, use and development.’ Section 6(b) provides this context to any resource consent application. In addition, in saying ‘Protect the quality of the Outstanding Natural Landscapes and Outstanding</i></p>	<p>With respect to the policy, I consider that the policy duplicates Policies 6.3.1.1 and 6.3.1.2 and also overlaps with the Objective 6.3.3 and 6.3.4 policy suites. I therefore consider that it is appropriate for this policy to be deleted.</p>
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		<p><i>Natural Features from subdivision, use and development' the 'inappropriate' test is implicit i.e. development that doesn't protect the quality will be inappropriate.</i></p> <p><i>Whilst landscape mapping, as a method, was proposed in Policies 3.2.5.1.1 and 3.2.5.2.1 of the Strategic Direction Chapter as notified, I consider that the Policy is one of a number of policies that unnecessarily replicates policy in the Landscape chapter (which also forms part of Part 2 of the PDP) and I recommend that the policy is deleted.</i></p> <p><del><i>Identify the district's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps, and protect them from the adverse effects of subdivision and development.</i></del></p>	
<p><b>Objective 3.2.5.3</b> and associated <b>Policy 3.2.5.3.1</b></p>	<p>PBJV supported these provisions and sought their retention as notified.</p>	<p>The Chapter 3 S.42A report recommends a minor amendment to Objective 3.2.5.3 and recommends</p>	<p>The section 42A report has recommended deleting Policy 3.2.5.3.1 as it is too fine grained and should be located in the Urban Development chapter.</p>

		<p>deleting Policy 3.2.5.3.1.</p> <p>The specific commentary from the section 42A report in this regard is as follows<sup>61</sup>:</p> <p><i>Concern was raised regarding Objective 3.2.5.3 (and related Policy 3.2.5.3.1), particularly in terms of the language of 'directing'. In response, I consider it appropriate to seek to 'direct' urban development to areas which are capable of absorbing growth, as part of Council's approach to sustainable management (Section 5 RMA), and integrated management (Section 31 RMA), through Policy 3.2.5.3.1. Whilst I do acknowledge that rural subdivision and development can be contemplated on more of a case by case, effects-based perspective, I consider it is appropriate for urban development to be directed to particular locations with a firmer policy approach taken on spatial grounds. However, I have recommended that Policy 3.2.5.3.1 be deleted – I consider its finer grained nature relating to UGBs is better addressed in the Urban Development Chapter.</i></p>	<p>I note that this chapter establishes the strategic framework for the Proposed Plan. With no policies remaining under this objective, it is unclear how the objective will be achieved.</p>
<p><b>Policy 3.5.5.3.1</b></p>	<p>PBJV opposed the submission lodged by the Upper Clutha Environmental Society Inc who sought the following changes policy 3.2.5.3.1 and policy 6.3.1.7 to read:</p> <p><i>4.2.5.6 Urban Development</i></p> <p><i>(a) <u>Direct urban development to be within Urban Growth Boundaries (UGB) where these apply, or within the existing rural townships.</u></i></p> <p><i>(b) <u>When locating urban growth boundaries or extending urban settlements through plan changes, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise disruption to the values derived from open rural landscapes</u></i></p> <p><i>(ca) <u>To avoid new urban development in the outstanding natural landscapes of Wakatipu Basin of the district.</u></i></p>	<p><i>In my opinion, the relief sought inappropriately utilises the term "avoid" and therefore precludes assessment of the actual and potential positive and adverse effects associated with planning for urban growth in areas where ONLs and ONFs are present.</i></p> <p><i>This imposes a higher threshold than Section 6 (b) of the RMA, which refers to the protection of ONLs and ONFs from "inappropriate" subdivision, use and development.</i></p> <p><i>I therefore consider the relief sought by the Upper Clutha Environmental Society should be rejected.</i></p>	

<sup>61</sup> Chapter 3 S.42A report paragraphs 12.106 – 12.107.

	<p>(b) <del>To discourage urban subdivision and development in the other outstanding natural landscapes (and features) and in the visual amenity landscapes</del> <u>Rural Landscape of the district.</u></p> <p>(de) To avoid remedy and mitigate the adverse effects of urban subdivision and development where it does occur in the other outstanding natural landscapes of the district by:</p> <ul style="list-style-type: none"> <li>- maintaining the open character of those outstanding natural landscapes which are open at the date this plan becomes operative;</li> <li>- ensuring that the subdivision and development does not sprawl along roads.</li> </ul> <p>(ee) To avoid remedy and mitigate the adverse effects of urban subdivision and development in visual amenity landscapes by avoiding sprawling subdivision and development along roads.</p>	<p><i>I consider that an amendment is appropriate to make it clear that Objective 3.2.5.3 relates to 'urban' subdivision, use or development.</i></p>	
<p><b>Objective 3.2.6.3</b> and associated <b>Policy 3.2.6.3.1 to 3.2.6.3.2</b></p>	<p>PBJV supported the provisions as notified.</p>	<p>The Chapter 3 S.42A report has not recommended any changes these provisions.</p>	<p>I agree with the recommendations of the section 42A report.</p>



CHAPTER 4 – URBAN DEVELOPMENT			
PROVISION	PBJV SUBMISSION	S.42A RECOMMENDATION AND COMMENTARY	MY RECOMMENDED AMENDMENTS
<p><b>Objective 4.2.1</b> and associated <b>Policies 4.2.1.1, Policy 4.2.1.2, Policy 4.2.1.4, Policy 4.2.1.5</b></p>	<p>Support in part</p> <p><b>Objective 4.2.1</b>  <i>Objective - Urban development is coordinated with infrastructure and services and is undertaken in a manner that <u>maintains or enhances</u> <del>protects</del> the environment, rural amenity and outstanding natural landscapes and features.</i></p>	<p>The Chapter 4 S. 42A report does not recommend any changes to Objectives 4.2.1.</p>	<p>In my opinion, the use of the term “protect” in this context is not commensurate with the value of the landscape being considered by the policy.</p> <p>I therefore agree with the drafting proposed by PBJV.</p>
<p><b>Policy 4.2.2.4</b>                      Not all land within Urban Growth Boundaries will be suitable for urban development, such as (but not limited to) land with ecological, heritage or landscape significance; or land subject to natural hazards. The form and location of urban development shall take account of site specific features or constraints to protect public health and safety.</p>	<p>PBJV supported this policy in part, however sought some minor drafting amendments as follows:</p> <p><b>Policy 4.2.2.4</b>  <i>Not all land within Urban Growth Boundaries will be suitable for urban development, such as (but not limited to) land with ecological, heritage or landscape significance; or land subject to natural hazards. The form and location of urban development shall take account of <u>site specific features or constraints of the site and its ability to absorb development</u> <del>to protect public health and safety</del></i></p>	<p>The Chapter 4 S. 42A report does not recommend any changes to these provisions.</p>	<p>I agree with the relief sought by PBJV. In my opinion, when considering whether the form and location of development, there are more factors to take into consideration that public health and safety.</p>

<p><b>Objective 4.2.3</b> and associated <b>Policies 4.2.3.1, 4.2.3.4 and 4.2.3.7</b></p>	<p>PBJV supported these provisions and sought that they be retained as notified.</p>	<p>The Chapter 4 S. 42A report does not recommend any changes to these provisions.</p>	<p>I agree with the recommendations of the section 42A report.</p>
<p><b>Objective 4.2.6</b> and associated <b>Policies 4.2.6.1 and 4.2.6.2</b></p>	<p>PBJV supported these provisions in part, however sought the following drafting amendments:</p> <p><b>Policy 4.2.6.1</b></p> <p><i>Limit the spatial growth of Wanaka so that:</i></p> <ul style="list-style-type: none"> <li>• <i>The rural character of key entrances to the town is retained and protected, as provided by the natural boundaries of the Clutha River and Cardrona River</i></li> <li>• <i>A distinction between urban and rural areas is maintained to protect the quality and character of the environment and visual amenity</i></li> <li>• <i>Ad hoc development of rural land is avoided</i></li> <li>• <i><u>The effects of urban development within Outstanding Natural Landscapes and Outstanding Natural Features are appropriately avoided, remedied or mitigated.</u><del>are protected from encroachment by urban development.</del></i></li> </ul>	<p>The Chapter 4 S. 42A report does not recommend any changes to these provisions.</p>	<p>I consider the amendment of the Objective to incorporate consideration of measures to remedy or mitigate adverse effects, in accordance with part 5 (2)(c) of the Act appropriate.</p> <p>I also consider the amendment of the policy to 'maintain or enhance' appropriate. The requirement to 'not diminish' could be interpreted to 'preclude', 'prevent' or 'avoid' and is not commensurate with the value of the landscape being considered.</p>

	<p><b>Policy 4.2.6.2</b></p> <p><i>Ensure that development within the Wanaka Urban Growth Boundary:</i></p> <ul style="list-style-type: none"> <li>• <i>Supports increased density through greenfield and infill development, in appropriate locations, to avoid sprawling into surrounding rural areas</i></li> <li>• <i>Provides a sensitive transition to rural land at the edge of the Urban Growth Boundaries through the use of: appropriate zoning and density controls; setbacks to maintain amenity and open space; and design standards that limit the visual prominence of buildings</i></li> <li>• <i>Facilitates a diversity of housing supply to accommodate future growth in permanent residents and visitors</i></li> <li>• <i>Maximises the efficiency of existing infrastructure networks and avoids expansion of networks before it is needed for urban development</i></li> <li>• <i>Supports the coordinated planning for transport, public open space, walkways and cycleways and community facilities</i></li> <li>• <i><u>Maintains or enhances</u> <del>Does not diminish</del> the qualities of significant landscape features</i></li> </ul>		
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	<ul style="list-style-type: none"> <li>• Rural land outside of the Urban Growth Boundary is not developed until further investigations indicate that more land is needed to meet demand.</li> </ul>		
<b>CHAPTER 6 - LANDSCAPES</b>			
<b>PROVISION</b>	<b>PBJV SUBMISSION</b>	<b>S.42A RECOMMENDATION AND COMMENTARY</b>	<b>MY RECOMMENDED AMENDMENTS</b>
<p><b>Policy 6.3.1.3</b></p>	<p>PBJV opposed this submission in part and sought its amendment as follows:</p> <p><i>That subdivision and development proposals located within the Outstanding Natural Landscape, or an Outstanding Natural Feature, be assessed against the assessment matters in provisions 21.7.1 and 21.7.3 <del>because subdivision and development is inappropriate in almost all locations, meaning successful applications will be exceptional cases.</del></i></p>	<p><i>The section 42A report recommends retaining this policy as notified. The specific commentary from the section 42A report is as follows<sup>62</sup>:</i></p> <p><i>Policies 6.3.1.3 and 6.3.1.4 set out that proposals shall be assessed against the assessment matters in parts 21.7 depending on the landscape classification. The policies formally establish a procedural requirement, and they also set out that development in the ONF/ONL is inappropriate in almost all locations but there will be exceptional cases.</i></p> <p><i>These statements relating to the appropriateness of development have been taken from Part 1.5.3 of the ODP, where explanatory text describes why</i></p>	<p>I consider the notified policy inappropriately pre-judges the outcome of applications in ONFs and ONLs and also contains redundant content regarding the procedural requirement to assess applications against the relevant assessment matters.</p> <p>I consider that the policy should be amended to focus assessment on the location of development proposals, the nature of any associated adverse effects, and the measures proposed to avoid, remedy or mitigate the adverse effects.</p>

<sup>62</sup> Chapter 6 S.42A report, paragraphs 9.66 – 9.69.

		<p><i>a discretionary activity status has been afforded to development in the Rural General Zone. The statements have been taken and used as a policy in the PDP to reinforce the vulnerability of landscapes to development and that applications must be carefully scrutinised against the provisions. It is acknowledged that they are conservative statements, and have attracted a number of submissions requesting that these phrases are deleted from the policy.</i></p> <p><i>Submitter 437 requests that the policies are amended so that the reference to directing an assessment against the assessment matters in part 21.7 are removed. This request is rejected, the policies as notified are in my view effective in that they provide administrative direction and set a basis for the quality of any development granted in the Rural General Zone.</i></p> <p><i>Similar amendments such as those requested by submitters 513, 456, 581 and 59819 attempt to make the policies more generic by employing RMA terminology such 'avoid, remedy or mitigate' phrasing and disable the administrative component that specifies the use of the Assessment</i></p>	
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<p><b>Policy 6.3.1.7</b></p>	<p>PBJV opposed this submission in part and sought its amendment as follows:</p> <p><b>Policy 6.3.1.7</b></p> <p><i>When locating urban growth boundaries or extending urban settlements through plan changes, avoid, <u>remedy, or mitigate the effects of impinging on Outstanding Natural Landscapes or Outstanding Natural Features</u> and minimise disruption to the values derived from open rural landscapes.</i></p>	<p><i>The section 42A report recommends amending the policy as follows<sup>63</sup>:</i></p> <p><b>Policy 6.3.1.7</b></p> <p><i>When locating urban growth boundaries or extending urban settlements through plan changes, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and <del>minimise</del> disruption to the values derived from open rural landscapes</i></p>	<p>I agree with the amendment of the Objective to incorporate consideration of measures to remedy or mitigate adverse effects, in accordance with part 5 (2)(c) of the Act, for the reasons discussed above in respect of Objective 3.2.5.1 and associated Policy 3.2.5.1.1.</p> <p>As notified, the policy imposes requires the avoidance of all effects on ONFs and ONLs. I consider this to be inappropriate as the objective does not contemplate the possible range of effects, from less than minor to significant. This is not supported by the rules and is not justified by the s32 analysis.</p> <p>I consider that the objective should be revised to focus on and provide flexibility regarding the avoidance, remediation or mitigation of adverse effects on ONFs and ONLs as sought by PBJV.</p>

<sup>63</sup> Chapter 6 S.42A report, Page 6-2.

<p><b>Policy 6.3.1.11</b></p> <p>Recognise the importance of protecting the landscape character and visual amenity values, particularly as viewed from public places.</p>	<p>PBJV supported the policy in part and sought its amendment as follows:</p> <p><i>Recognise the importance of protecting landscape character and visual amenity values, particularly as viewed from public places.</i></p>	<p><i>Retain as notified.</i></p> <p><i>The policy emphasises the importance of the District's landscapes as viewed from public locations.</i></p> <p><i>Several submitters... request that the phrase 'avoiding, remedying or mitigating adverse effects' replaces the word 'protecting'. This change would not provide any added value in my view.</i></p> <p><i>In a situation where a development proposal proved that it could either avoid, remedy or mitigate any adverse effects, then the proposal would accord with the policy because these values would be protected. These submissions are rejected.</i></p>	<p>I agree with the retention of the original policy as notified.</p>
<p><b>Objective 6.3.2</b></p> <p>Avoid adverse cumulative effects on landscape character and amenity values caused by incremental subdivision and development.</p>	<p>PBJV opposed the submission in part and sought the following amendments:</p> <p><i>Avoid, <u>remedy or mitigate</u> adverse cumulative effects on landscape character and <u>visual</u> amenity values caused by incremental subdivision and development.</i></p>	<p>The Chapter 6 S.42A report recommends retaining the Objective as notified<sup>64</sup>.</p> <p>The consideration of cumulative effects is particularly important because of development pressure in the District for rural living and resort activity opportunities, and that the ODP and PDP provisions are focused on a</p>	<p>I agree with the amendment of the Objective sought in the submission to incorporate consideration of measures to remedy or mitigate adverse effects (for the reasons set out above in respect of Objective 3.2.5.1 and associated Policy 3.2.5.1.1 and Policy 6.3.1.7) and to specify that the relevant amenity values are "visual" amenity values.</p>

<sup>64</sup> Chapter 6 S.42A report, Page 6-3.

		<p>design-based response, and do not have a minimum allotment size requirement associated with subdivision and development.</p> <p>No quantifiable sum such as a minimum density or allotment size has been identified in the policies to help guide whether a cumulative effects threshold has been reached. Nor, is it in my view efficient to identify the character of every rural zoned landscape unit and apply policy with identified density parameters.</p> <p>...Objective 6.3.2 recognises that cumulative effects are the sum of more than one development proposal that, when considered in isolation could be considered appropriate. However, at some point the culmination of further development, irrespective of its quality or redeeming features would degrade the identified values of the landscape it is located within. For this reason the submissions requesting that the word 'incremental' is replaced with 'inappropriate' or similar are not supported.</p>	
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<p><b>Policy 6.3.2.2</b></p> <p>Allow residential subdivision and development only in locations where the District's landscape character and visual amenity would not be degraded.</p>	<p>PBJV seeks that is policy is amended as follows:</p> <p><b>Policy 6.3.2.2</b></p> <p><i>Allow residential subdivision and development only in locations where <u>adverse the District's landscape character and visual amenity effects are appropriately avoided, remedied or mitigated.</u> <del>would not be degraded.</del></i></p>	<p>The Chapter 6 S.42A report does not recommend any changes to the policy.</p>	<p>I agree with the amendment of the Policy to incorporate consideration of measures to remedy or mitigate adverse effects for the reasons set out above.</p>
<p><b>Policy 6.3.2.5</b></p>	<p>PBJV seeks that this policy is unnecessary as Policy 6.3.2.2 will achieve the outcome. Therefore Policy 6.3.2.5 should be deleted.</p>	<p>The Chapter 6 S.42A report does not recommend any changes to the policy.</p>	<p>I agree with the PBJV submitter in that there is unnecessary double up between policy 6.3.2.2 and 6.3.2.5.</p>
<p><b>Policy 6.3.4.1</b></p> <p>Avoid subdivision and development that would degrade the important qualities of the landscape character and amenity, particularly where there is no or little capacity to absorb change.</p>	<p>PBJV seeks that this policy is amended as follows:</p> <p><i>Avoid, <u>remedy or mitigate</u> subdivision and development that would <del>degrade</del> <u>result in adverse effects on the important qualities of the landscape character and amenity, particularly where there is no or little capacity to absorb change.</u></i></p>	<p>The Chapter 6 S.42A report does not recommend any changes to the policy.</p>	<p>On further consideration of this policy, I consider that it would be appropriate for the policy to avoid "inappropriate" subdivision and development. I therefore recommend the following amendments:</p> <p><i>Avoid <u>inappropriate</u> subdivision and development that would degrade the important qualities of the landscape character and amenity, particularly where there is no or little capacity to absorb change.</i></p>
<p><b>Policy 6.3.4.3</b></p> <p>Have regard to adverse effects on landscape</p>	<p>PBJV opposed the policy and sought that it be deleted citing reasons of duplication.</p>	<p>The Chapter 6 S.42A report does not recommend any changes to the policy.</p>	<p>I concur with the submission of PBJV in that this policy is essentially a duplication of the matters more generally canvassed by Policy 6.3.4.1. With amendment of</p>

<p>character, and visual amenity values as viewed from public places, with emphasis on views from formed roads.</p>			<p>6.3.4.1 as discussed above, I consider that it would be appropriate to delete this policy.</p>
<p><b>Objective 6.3.7 and Policy 6.3.7.1</b></p>	<p>PBJV sought to amend this provision to refer to biodiversity values rather than 'nature conservation values'.</p>	<p>The Chapter 6 S.42A report does not recommend any changes to the policy.</p>	<p>I agree with the original drafting of this policy, as the term 'nature conservation values' is defined in the Proposed Plan, providing greater certainty around its interpretation.</p>
<p><b>Policy 6.3.7.2</b></p>	<p><b>Policy 6.3.7.2 states</b> <i>Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's <u>outstanding natural features and distinctive</u> landscapes</i></p>	<p>The Chapter 6 S.42A report does not recommend any changes to this policy.</p>	<p>I agree with the amendments to this provision sought in the submission that seek to avoid significant degradation of "outstanding natural features and landscapes". This is in line with the requirement to "protect" these features as required by section 6 of the RMA. "Distinctive" landscapes are not defined in the Plan.</p>