

18 March 2025

Department of Conservation - Te Papa Atawhai,
Permissions
PO Box 5244
Dunedin 9058

✉: permissions@doc.govt.nz

Kia Ora,

Re: Canyon Taproom (4JQT Limited) Concession Application

I am writing to express support on behalf of Real Journeys Limited (Realnz Limited) for Canyon Taproom's concession application for a lease of part of the Cavells Building and licence for the premises currently known as Canyon Restaurant and Canyon Brewery in the Morning Star Beach Recreation Reserve, Arthurs Point, Queenstown. Real Journeys Limited currently holds the concession (59942-SER) for these premises however Canyon Brewing (in the name of Go Orange Limited) was sold to James and Jane Paterson (two of the Shareholders of 4JQT Limited) in late 2020. Consequently, Real Journeys is keen for this activity to be provided for in a concession in the name of a business controlled by the owners of Canyon Brewery.

Real Journeys Limited also operates Queenstown Rafting out of part of the Cavells Building and other adjacent buildings in the Morning Star Beach Recreation Reserve under Concession Number: 82689-GUI. Accordingly, also as a neighbour of Canyon Taproom Real Journeys fully supports concession 4JQT Limited application to allow for the ongoing operation of this hospitality venue.

Ngā mihi,



Fiona Black
Concessions & Consents Manager
Realnz



DECISIONS OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

NOTIFICATION UNDER s95 AND DETERMINATION UNDER s104

RESOURCE MANAGEMENT ACT 1991

Applicant:	Real Journeys Limited
RM reference:	RM170608
Application:	Application under Section 88 of the Resource Management Act 1991 (RMA) for land use consent to establish a restaurant, bar and brewery within the existing Cavell's building, undertake additions and alterations to an existing building which infringe internal setbacks and associated earthworks.
Location:	1 Arthurs Point Road, Arthurs Point
Legal Description:	Section 1 Survey Office Plan 23662 contained in Computer Freehold Register 466156
Operative Zoning:	Rural General
Proposed Zoning:	Rural Zone
Activity Status:	Non-complying
Date	13 September 2017

SUMMARY OF DECISIONS

1. Pursuant to sections 95A-95F of the RMA the application will be processed on a **non-notified** basis given the findings of Section 6.0 of this report. This decision is made by Paula Costello, Team Leader on 13 September 2017 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in **Appendix 1** of this decision imposed pursuant to Section 108 of the RMA. The consent only applies if the conditions outlined are met. To reach the decision to grant consent the application was considered (including the full and complete records available in Council's electronic file and responses to any queries) by Paula Costello, Team Leader as delegate for the Council.

1. PROPOSAL AND SITE DESCRIPTION

Consent is sought to:

- Establish and operate a restaurant, bar and brewhouse on the ground floor of Cavell's building at 1 Arthurs Point Road which replaces an existing café/restaurant/bar in the same location with proposed hours of operation being from 8am to 2am.
- Undertake alterations and additions to an existing building primarily being a 6.7m long, x 5.4m wide x 4.0 metre high extension to the south of the existing building clad in vertical cedar cladding and painted fibre cement panels and changes to the reconfiguration of the windows and doors along the western façade of the building.
- Proposed 198m² decking area to the west of the existing building
- No car parks provided on site (relying on previously addressed and consent parking provision in Land Use Consent RM090648).

The applicant has provided a detailed description of the proposal, the site and locality and the relevant site history in Section(s) 1.0, 2.0, 3.0 and 4.0 of the report entitled 'Application for Resource Consent to the Queenstown Lakes District Council: Real Journeys Limited – Provide for and establish and operate a restaurant, bar and brewhouse on the ground floor of Cavell's building at 1 Arthurs Point Road, 27 June 2017', prepared by Brett Giddens of Town Planning Group, and submitted as part of the application (hereon referred to as the applicant's AEE and attached as Appendix 2). This description is considered accurate and is adopted for the purpose of this report with the following additions:

On 23 August 2017 the application was amended to reduce the size of the proposed deck area from 254m² to 198m², to reduce the height of the proposed building extension from 4.3m to 4.0m and to alter the proposed cladding on the building extension from schist to vertical cedar cladding to the east and southern elevations, with the the northern elevation of the extension being clad in with a painted fibre cement panel.

It is noted that at the time of application, signage for the proposed development has yet to be finalised and therefore does not form part of this application, and no assessment or approval is provided to that effect.

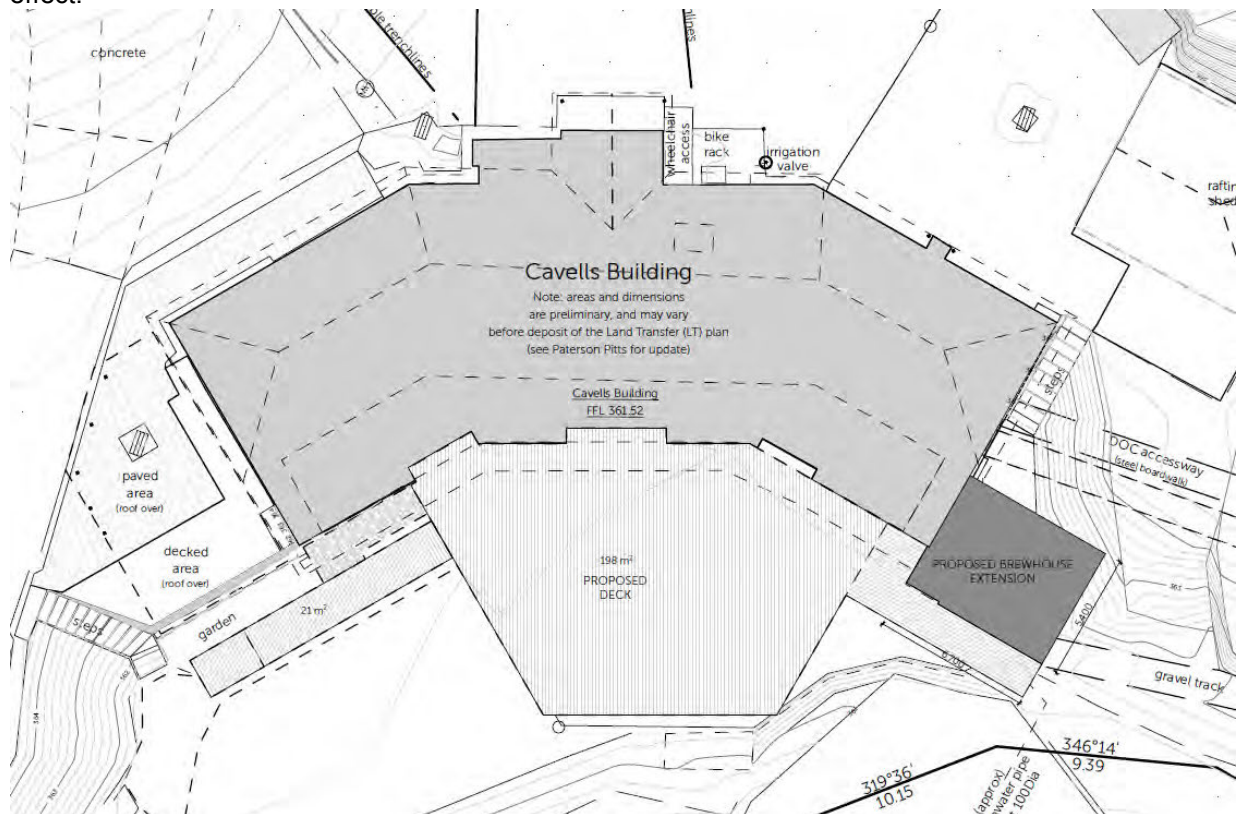


Figure 1: Plan view of proposed building addition and deck extension



Figure 2: Proposed extension to western side of Cavells Building

2. ACTIVITY STATUS

2.1 THE DISTRICT PLAN

OPERATIVE DISTRICT PLAN

The subject site is zoned Rural General and the proposed activity requires resource consent for the following reasons:

- A **restricted discretionary** activity pursuant to Rule 5.3.3.3 (xi) as the proposal breaches site standard 5.3.5.1(vi) in regard to the decking and Brewhouse extension breaching the minimum 15m internal setback requirements. Council's discretion is restricted to this matter.
- A **discretionary** activity resource consent pursuant to Rule 5.3.3.3(i) for the proposed alterations and additions and associated earthworks.
- A **non-complying** activity resource consent pursuant to Rule 5.3.3.4(a)(i) for the proposed commercial activity being the restaurant, bar and brewhouse.
- A **restricted discretionary** activity resource consent pursuant to Rule 14.2.2.3 (ii) for the proposed non-compliance with parking provision outlined in Rule 14.2.4.1(i) Table 1 (being no car parking provided on site for the bar activity (2 parks per 25m² PFA with 1 staff park per 100m² PFA), and no parking provided on site in relation to the commercial brewery activity (1 park per 25m² GFA). resulting in Council's discretion is restricted to this matter.

Overall, the application is considered to be a **non-complying** activity.

PROPOSED DISTRICT PLAN

QLDC notified the Proposed District Plan on 26 August 2015. There are no rules in the Proposed District Plan having immediate legal effect that are relevant to this application.

4.2 PERMITTED BASELINE (s95D(b))

The consent authority **may** disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. In this case the addition and alteration construction of a building within the Rural General Zone requires consent and, therefore, there is no permitted baseline relating to the building itself. With regard to the proposed earthworks, the permitted baseline allows up to 1000m³ of earthworks within a 12 month period, subject to compliance with all other relevant site standards relating to earthworks. The permitted baseline has been taken into account for the assessment regarding temporary nuisance and traffic generation related to earthworks effects only

4.3 ASSESSMENT: EFFECTS ON THE ENVIRONMENT

Taking into account sections 4.1 and 4.2 above, the following assessment determines whether the activity will have, or is likely to have, adverse effects on the environment that are more than minor.

The relevant assessment matters are found in Section(s) 5 and 14 of the District Plan and have been taken into considered in the assessment below.

The Assessment of Effects provided at Section 2 of the applicant's AEE, is considered accurate. It is therefore adopted for the purposes of this report, with the following additions:

Location & External Appearance

The proposed building addition, alteration and decking will be constructed in colours and materials that are compliant with the Council's colour and reflectivity guide for rural areas. The colours of the roof, cladding and joinery will assist the building addition to blend in with the surrounding rural landscape and the existing building on site with the works. The proposed addition to the building is appropriately designed and sited so the effects on the visual amenity of the area will be less than minor.

Any adverse effects as a result of the proposed activity resulting from location and external appearance can be appropriately mitigated by the use of predominantly recessive colours and, as such, the effects in relation to location and external appearance, are likely to be less than minor.

The building addition is to be constructed on a single level and is not anticipated to feature prominently in views from public roads, especially due to the site and building being set below Arthurs Point Road with the addition not anticipated to adversely detract from the existing buildings in the vicinity.

The addition complies with the maximum height limit for the zone and will not look out of place in the context of the site, and surrounding area, and will not adversely affect the streetscape.

The visibility impacts of the proposed activity on the wider environment will be less than minor.

Landscaping

The applicant has not provided a landscaping plan to assist in mitigating the proposed visual effects of the development. It is considered that the proposal does not require landscaping/mitigation planting in order to assist in integrating the development into the receiving site as it will be set forward of the existing built form of the Cavells building as shown in the Figure 4 below.

There are existing landscaping plantings along road boundary with Arthurs Point Road which will assist in partially obscuring the extension in time from passing motorists on the road, noting that vehicles the extension would only primarily be viewed fleetingly from eastbound traffic over the Edith Cavell bridge..

Overall, the proposed landscaping will adequately protect the visual amenity of the surrounding area and any adverse effects of the proposed landscaping will be less than minor.



Figure 4: location of proposed addition

Noise & Hours of operation

The applicant has supplied an acoustic report from Acoustic Engineering Services. The supplied report is consisted to adequately address potential noise effects form the proposed and contained a number of noise mitigation measures to ensure that noise generated from patrons (especial at night) do not cause more than minor adverse effects on the wider environment.

The proposed hours of operation are not anticipated to cause more than minor adverse character and amenity effects. Restrictions proposed on the outdoor areas by the applicant (restricting maximum occupancy beyond 8pm, keeping windows closed after 8pm and ensuring external doors are kept closed for the timely entry and exit of patrons is anticipated to assist in mitigating the proposed increase hours of operation and reduce the proposal effects of such an increase to a level that is no more than minor.

Traffic

The applicant has not proposed to provide any car parking on the subject site, and is instead relying on existing car parking located beyond on the site on Pt Sec 3 SO23901 previously assessed and consent as part Land Use consent RM090648 detailed in Section 3.11. The transport review as part of Land Use Consent RM090648 identified that for the Cavells Building area a total of 29 car parks were required, with only 6 car parks proposed to be provided.

The wider parking area contained within Pt Sec 3 SO23901 contained approximately 119 car parking spaces. The total parking demand was assessed as being 52 car parks with approximately 125 car parking spaces provided.

Although the proposed development does not provide any car parking spaces for the proposed café/bar, commercial activity on site, the surplus parking provision on the adjacent site more than offsets such a deficiency to a less than minor extent.

To assist the total car parking demand further, it is anticipated that during daylight hours, some restaurant/bar patrons will the visit the restaurant/bar after parking in Shotover Jet car parking spaces due to a crossover of activities on site and as such freeing up more space for other restaurant/bar patrons. In twilight and at night-time, more car parking spaces become available on Pt Sec 3 SO23901 as the Shotover Jet and walking track activities cease.

Less than minor traffic effects are anticipated to occur as a result of the proposed development on site.

Earthworks

The applicant proposes approximately 100 – 150m³ of earthworks on site with all relevant earthworks standards complied with. Proposed earthworks on site are anticipated to cause less than minor adverse effects on the environment.

Services

In terms of servicing, the site is fully connected to power, gas, water and wastewater. The proposed development is not anticipated to cause no more than minor adverse effect the wider environment in terms of servicing.

The application documents were reviewed by Council's Trade Waste Team. The following comments were received:

The customer would need to take the Trade Waste Bylaw into consideration when designing the micro-brewery. If the wastewater discharging from the premise exceeds the parameters in the Trade Waste bylaw the customer will be required to be monitored. For monitoring to take place the following needs to be installed or taken into consideration.

- *A water meter to enable council to monitor daily water consumption.*
- *A designated sampling point to set up a 24 hour sampler if required.*

Stormwater runoff from the carpark has the potential of being more contaminated (opening hours 8am to 2am) and therefore I would like the applicants to consider the quality of the stormwater discharging from the premise.

The above matters relate to compliance or otherwise with the relevant Bylaw but have been included as advice notes to assist in future monitoring and compliance matters relating to wastewater discharges into Council services.

Overall, it is considered that adverse effects on the environment in terms of servicing the proposed development are considered to be less than minor, notwithstanding the potential increase in usage for the car parking areas on the adjacent sites.

4.4 DECISION: EFFECTS ON THE ENVIRONMENT (s95A(2))

Overall the proposed activity is not likely to have adverse effects on the environment that are more than minor.

5.0 EFFECTS ON PERSONS

Section 95B(1) requires a decision whether there are any affected persons (under s95E) in relation to the activity. Section 95E requires that a person is an affected person if the adverse effects of the activity on the person are minor or more than minor (but not less than minor).

5.1 MANDATORY EXCLUSIONS FROM ASSESSMENT (s95E)

*B: The persons outlined in section 4.1 above have provided their **written approval** and as such these persons are not affected parties (s95E(3)(a)).*

5.2 PERMITTED BASELINE (s95E(2)(a))

The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect. In this case the permitted baseline is found within section 4.2 above.

5.3 ASSESSMENT: EFFECTS ON PERSONS

Taking into account sections 5.1 and 5.2 above, the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor:

Adjacent properties are identified in Figure 5 below:



Figure 5: Adjacent properties to and including to Sec 1 SO 23662. Location of affected party approvals denoted with

The proposed development is anticipated to have a less than minor adverse visual and character effect on the owners and occupiers of the identified properties. The proposed building extension is small in scale and is anticipated to blend in with the existing Cavells building.

The increase in activity on site as a result of the development is anticipated to cause less than minor adverse character and amenity effects on the owners and occupiers of the identified properties for the following reasons:

Noise restrictions and mitigation measures and proposed by the applicant will ensure that activity on site will be at a level that meets district plan standards, therefore reducing potential noise effects to a less than minor level.

Traffic generation and car parking provision is anticipated to cause less than minor adverse effects due to the existing carpark surplus on Pt Sec 3 SO23901.

No parties are considered to be adversely affected by the proposal

5.4 DECISION: EFFECTS ON PERSONS (s95B(1))

In terms of Section 95E of the RMA, no person is considered to be adversely affected.

6.0 OVERALL NOTIFICATION DETERMINATION

Given the decisions made above in sections 4.4 and 5.4 the application is to be processed on a non-notified basis.

7.0 S104 ASSESSMENT

7.1 EFFECTS (s104(1)(a))

Actual and potential effects on the environment have been outlined in section 4 of this report. Conditions of consent can be imposed under s108 of the RMA as required to avoid, remedy or mitigate adverse effects.

7.2 RELEVANT DISTRICT PLAN PROVISIONS (s104(1)(b)(vi))

The relevant objectives and policies are contained within Part 4, 5 and 14 of the District Plan.

The applicant has provided a assessment of relevant objectives and policies contained within Operative District Plan and Proposed District Plan in Section 7.3 of the AEE. This assessment is considered accurate and is adopted for the purpose of this report with the following additions:

Transport

The transport related objectives and policies relevant this application are found in Part 14 – Transport and are outlined below:

Objective 1 – Efficiency

Efficient use of the District's existing and future transportation resource and of fossil fuel usage associated with transportation including the nature and design of access, parking and servicing.

Policies:

1.2 To promote the efficient use of all roads by adopting and applying a road hierarchy with associated access standards based on intended function.

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

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

The proposal is anticipated to meet the above objectives and policies as outlined in the AEE and previously in this report with respect to the proposed carpark as the surplus of car parks on the adjacent site Pt Sec 3 SO23901 can more than cater for the demand created by the proposed development.

Proposed District Plan

Council notified the Proposed District Plan on 26th August 2015, which contains objectives and policies with immediate legal effect, pursuant to section 86A(2) of the RMA. In this case, the objectives and policies contained in Part 21 (Objective 21.2.9 and Policies 21.2.9.1, 21.2.9.2 and 21.2.9.6), are relevant.

It is considered given the minimal extent to which the Proposed District Plan has been exposed to testing and independent decision-making, minimal weight will be given to these provisions at this stage. Notwithstanding, it is considered the proposal would be in accordance with these objectives and policies.

It is noted that the transportation chapter was not included within Stage 1 of the District Plan review consequently; there are no further objectives and policies from the Proposed District Plan of relevance to the application.

7.3 PARTICULAR RESTRICTIONS FOR NON-COMPLYING ACTIVITIES (s104(D))

With respect to the assessment above, the first threshold test for a non-complying activity required under Section 104D has been met in that the application is not considered to create any actual or potential adverse effects which are more than minor in extent.

With respect to the second threshold test under Section 104D it is concluded that the application can pass through the second gateway test given that the proposal is not considered to contrary to the relevant policies and objectives of the District Plan or Proposed District Plan.

On this basis discretion exists to grant consent for this non-complying activity.

7.4 PART 2 OF THE RMA

As in this case the relevant District Plan provisions are valid, have complete coverage and are certain, the above assessment under s104 matters, which give substance to the principles of Part 2, illustrates that the proposed activity accords with Part 2 of the Act.

7.5 DECISION ON RESOURCE CONSENT PURSUANT TO SECTION 104 OF THE RMA

Consent is **granted** subject to the conditions outlined in *Appendix 1* of this decision report imposed pursuant to Section 108 of the RMA.

8.0 OTHER MATTERS

Local Government Act 2002: Development Contributions

In granting this resource consent, pursuant to the Local Government Act 2002 and the Council's Policy on Development Contributions the Council has identified that a Development Contribution is required. Payment will be due prior to application under the RMA for certification pursuant to section 224(c).

Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or if all conditions have been met.

This resource consent is not a consent to build under the Building Act 2004. A consent under this Act must be obtained before construction can begin.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of Section 125 of the Resource Management Act 1991.

If you have any enquiries please contact Andrew Woodford on phone (03) 441 0499 or email andrew.woodford@qldc.govt.nz.

Report prepared by



Andrew Woodford
SENIOR PLANNER

Decision made by



Paula Costello
TEAM LEADER: RESOURCE CONSENTS

APPENDIX 1 – Consent Conditions

APPENDIX 2 – Applicants AEE

APPENDIX 1 – CONSENT CONDITIONS

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - 'Existing Site Plan' Sheet 101 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Proposed Site Plan' Sheet 102 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Existing Floor Plan' Sheet 103 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Proposed Floor Plan' Sheet 104 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Brewhouse Plan' Sheet 112 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Proposed & Existing Elevations' Sheet 201 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Proposed Brewhouse Exterior Elevations' Sheet 204 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017

stamped as approved on 11 September 2017

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

- 2a. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
- 2b. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.

External Appearance

3. The materials and colours that have been approved under this resource consent are as follows:

Element	Material	Colour
Primary Cladding	Vertical Cedar	Selected from a recessive range of natural browns, greys or greens, LRV less than 35%
Secondary Cladding	James Hardie Axon Panel	Selected from a recessive range of natural browns, greys or greens or black, LRV less than 35%
Roof / wall	Profiled metal roofing	Selected from a recessive range of natural browns, greys or greens, LRV less than 35%
Joinery	Powder coated aluminium	Selected from a recessive range of natural browns, greys or greens, LRV less than 35%

Any amendment to this schedule of colours and materials shall be provided by the consent holder to the Monitoring Planner of the Council for certification prior to being used on the building. Colours shall be in the natural range of natural greens, browns, or greys with a light reflectance value (LRV) of 36% or less.

Activity

4. The sale and supply of alcohol (on and off licence) shall only occur between the hours of 8am and 2am, seven days per week.
5. Between 8am and 10pm, the consent holder shall ensure that no more than 160 people shall occupy the outdoor areas of the licenced premise.

6. Between 10pm and 2am the following day, the consent holder shall ensure that no more than 40 people shall occupy the outdoor area of the licenced premise, with this limited to the deck adjacent to the southern entry/exit of the building.

Note: This could be achieved by stacking or removal of the dining furniture, or roping off a portion of the area such that only approximately 40 people can be accommodated.

7. Apart for timely entry and exit, the consent holder shall ensure that all doors and windows to the premises must remain closed from 10pm until 8am the following day.

Noise

8. The consent holder shall ensure that activities be conducted so that the following noise limits measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 shall not be exceeded at any point within the notional boundary of any residential unit in the Rural General Zone or at any point within the Low Density Residential Zone:

- (i) daytime(0800 to 2000 hrs) 50 dB $L_{Aeq(15\text{ min})}$
- (ii) night-time (2000 to 0800 hrs) 40 dB $L_{Aeq(15\text{ min})}$
- (iii) night-time (2000 to 0800 hrs) 70 dB L_{AFmax}

9. The consent holder shall ensure that no live or amplified music shall be permitted on the outdoor decking area, with any music played outside being at a background level.
10. Within three months of the grant of this consent, the consent holder shall submit for approval a noise management plan to address the increase in patronage and extended operating hours and outline management procedures to ensure compliance with Conditions 5-9. Once approved, the activity shall be carried out in accordance with the approved Noise Management Plan. The Noise Management Plan may be amended by the consent holder at any time subject to the approval of the Manager: Resource Consents Planning and Development.

Review

10. Within six months of the date of this decision; and/or upon the receipt of information identifying non-compliance with the conditions of this consent, and/or within ten working days of each anniversary of the date of this decision, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
 - a) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
 - b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
 - c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.
11. As part of the review clause stated in condition 10 of this consent, the Council may have the noise management plan audited at the consent holder's expense.

Advice Notes

No signage has been proposed as part of this proposal. Should a sign be required in the future, a sign permit from Queenstown Lakes District Council should be granted PRIOR to erection.

The consent holder is advised that if the wastewater discharging from the premise exceeds the parameters in the Queenstown Lakes District Council Trade Waste bylaw the Consent holder will be required to be monitored. For monitoring to take place the following needs to be installed or taken into consideration.

- A water meter to enable council to monitor daily water consumption.
- A designated sampling point to set up a 24 hour sampler if required.

The consent holder is advised to consult with Queenstown Lakes District Council Trade Waste officers to address the above.

For Your Information

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

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

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

APPENDIX 2 – APPLICANTS AEE



TOWNPLANNING
GROUP

Application for Resource Consent to the Queenstown Lakes District Council:

Real Journeys Limited

*Provide for and establish a restaurant,
bar and brewery within the existing
Cavell's building, 1 Arthurs Point Road,
Arthurs Point*

27 June 2017



Document prepared by:

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Offices in Queenstown, Wanaka & Christchurch



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Supporting Information

- [A] Computer Freehold Register 466156
- [B] Computer Freehold Register OT15B/790
- [C] RM980579 Decision
- [D] RM090648 Decision
- [E] RM020269 Decision
- [F] Building Development Plans – Element 17
- [G] District Plan Compliance Assessment

1. Executive Summary

- 1.1 Real Journeys Limited (**the Applicant**) applies for resource consent to establish and operate a restaurant, bar and brewhouse on the ground floor of Cavell's building at 1 Arthurs Point Road. The proposal replaces an existing café/restaurant/bar in the same location.
- 1.2 This application principally relates to external changes and additions to an existing building, and the extension of the operational hours of the business. No changes are proposed to the offices on the first floor occupied by the Department of Conservation (**DOC**) or the facilities adjoining the café used and occupied by Queenstown Rafting.
- 1.3 The alterations enhance the external appearance of the existing building and also provide for the extension of the building to contain the brewhouse for beer brewing equipment and operations. The existing outdoor area will be beautified, with the addition of decking to capitalise on the superior views and outlook from the premise.
- 1.4 Hours for the sale and supply of alcohol will be 8am to 2am, seven days per week. An off-licence will also be sought. Any sales or consumption of the product off-site falls outside of the ambit of the resource consent process.
- 1.5 The application site comprises a small section of the larger "Morning Star Reserve" and is under the ownership of Her Majesty the Queen. Irregularly shaped, the site adjoins recreation reserve to the north and east, Arthurs Point Road to the south, and the Shotover River to the direct east. The area largely comprises of commercial recreation activities.
- 1.6 The building is connected to existing infrastructural services (power, phone, gas, water, sewer) and any upgrades that may be required will be dealt as part of the construction process post-resource consent.
- 1.7 In the planning context, the site is located in the Rural General Zone in the Operative Queenstown Lakes District Plan (**District Plan**). Resource consent is required for a non-complying activity.

- 1.8 This Assessment of Environmental Effects report considers the effects of the proposal and determines that the proposal will have less than minor effects on the environment. The proposed external alteration and extension to the building will result in positive aesthetic outcomes and will have no discernible landscape impacts when viewed from outside of the site. The activity itself will be similar to what exists at present albeit it is expected that it will bring an increased level of vibrancy and a more complementary activity to a locale that is typified by recreation activities. The increase in hours of operation will provide a compatible attraction to Arthurs Point that is expected to be well supported by the local and wider community.
- 1.9 The proposal is not contrary to the objectives and policies of the operative or proposed District Plans, and passes both thresholds of Section 104D of the Resource Management Act 1991 (**RMA**). It is an appropriate activity in the context of the receiving environment, and is in accordance with the purpose and principles and the RMA.

2. Site & Surrounds

Site Details

2.1 The site is located at 1 Arthurs Point, Arthurs Point, as shown in [Figure 1](#) below.



[Figure 1](#): Section 1 Survey Office Plan 23662, shown in red. Property boundaries indicative (Source QLDC GIS).

- 2.2 The site is legally described as Section 1 Survey Office Plan 23662, contained in Freehold Register 466156 (**Attachment A**) and having a site area of approximately 5,420m². The site is also contained within Computer Freehold Register OT15B/790 (**Attachment B**), comprising the Morning Star Beach Recreation Reserve being Section 1 Survey Office Plan 23662 and Section 3-4 Survey Plan 23901.
- 2.3 Morning Star Recreation Reserve is managed by the Department of Conservation on behalf of the Crown. It is classified as a recreation reserve under the Reserves Act 1977.

- 2.4 1 Arthurs Point is legally owned by Her Majesty the Queen, with Instruments 884070.2 and 884070.3 providing for lease of the site. Consent Notice 884070.1 requires the site to be connected to a reticulated sewage scheme supplied by the Queenstown Lakes District Council (**QLDC**). Transfer 889020 created water and right of way easements across the wider site, included within these is the vehicle access serving 1 Arthurs Point.
- 2.5 Cavell's building has been located within the application site for over 25 years. The building is situated adjacent to and below and entrance to the Morning Star Recreation Reserve. Vehicle access to the site is via an existing internal road that extends off the main entrance way. The building faces west over the Shotover River. The primary existing entrance to the building is through doors on the western side of the building.
- 2.6 The ground floor of the building contains Cavell's Café & Bar and Queenstown Rafting. The upper floor is occupied by DOC for offices.
- 2.7 The building is owned by DOC. The affected person's approval from DOC is currently being sought and will be forwarded to Council when received.
- 2.8 The wider locale is used for commercial activities, including Shotover Jet and Queenstown Rafting.
- 2.9 The Morning Star Track is located within the reserve. This is a short track administered by the Department of Conservation leading down to and along the Shotover River.
- 2.10 Review of QLDC files identified the site as potentially contaminated, with reference DG044. In addition, the southernmost edge of the site sits within a liquefaction category with probably low risk – the majority of the site is subject to nil risk of liquefaction.

- 3.4 The most relevant consent is RM090648, granted in 2009, which relates to external modifications to the Cavell's Building ([Figure 3](#)). The decision is included as **Attachment D**. The application was non-notified as the adverse effects were determined to be less than minor.

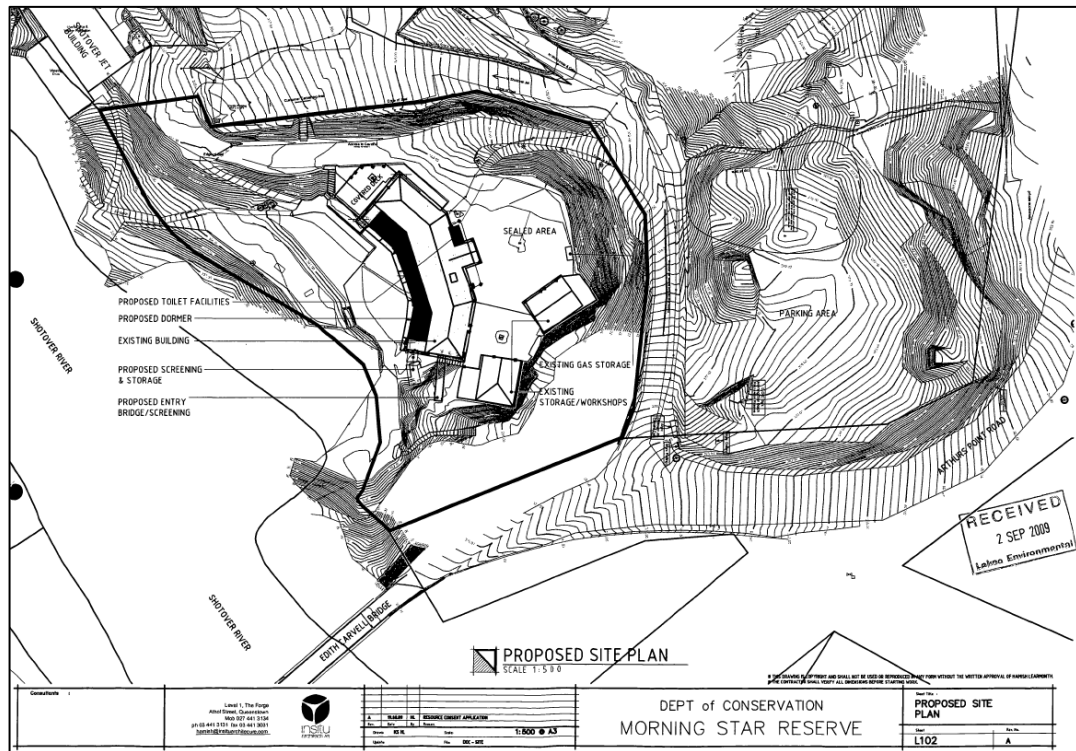


Figure 3: Site plans as submitted in 2009 (Source: RM090648).

- 3.5 RM090648 allowed for the following alterations to Cavell's Building:

- Alteration of the existing roof pitch;
- Removal of existing windows on the northern and southern elevations;
- Creation of a public entranceway and bridge screen on the southern elevation;
- Installation of storage screening; and
- Alterations to the existing eastern entranceway.

- 3.6 These alterations resulted in an increase in building coverage by 21m², which was considered *de minimus*. In considering the effects on visual amenity it was noted that the locale is partly characterised by commercial recreation activities, with the alterations seen as appropriate within the context of the site. While the additions to the building were assessed as visible from Arthurs Point Road and the Moonlight area, they were not located on any skyline, ridge, hill, or prominent slope.

Furthermore, the alterations were relatively small in scale and of a design in keeping with the existing building. The use of recessive colour was seen as ensuring potential landscape effects would be mitigated and the visual coherence of the landscape maintained.

Cavell's Café & Bar

- 3.7 RM020269 was granted to allow alterations to a building located northeast of Cavell's building and to relocate Cavell's Café & Bar to that building (**Attachment E**). The majority of the consented works, including relocation of Cavell's Café and Bar, were not carried out.
- 3.8 Subsequent to this, a Council planner has placed a file note on eDocs (in 2014) stating that the café was never relocated and that the café activity in Cavell's building is considered to have existing use rights.

Car Parking History

- 3.9 The site and wider area contain a number of activities, including a shared accessway and a number of vehicle parking areas.
- 3.10 Car parking was evaluated under RM081490 and RM090648. It is noted that parking is most appropriately considered for the Morning Star Recreation Reserve as a whole and that parking consented by RM081490 was designed to service all activities occurring throughout the reserve.
- 3.11 The re-assessment of parking spaces under RM090648 resulted in identification of the following parking spaces and requirements on site:

Table 1: Parking spaces provided on site and requirements as per RM090648.

Buildings		Approx. Total GFA (m ²)	Car Parks Required	Car Parks Available
Cavell's Area	Café (Commercial Activity – 1 per 25m ² GFA)	375.0	15	6
	QT Rafting Ltd Office (Commercial Activity – 1 per 25m ² GFA)	72.0	2.88	
	DOC Area Office (Offices – 1 per 50m ² GFA)	315.0	6.3	
	Accessory Buildings Commercial Activity – 1 per 25m ² GFA)	113.5	4.54	
	Total for Cavell's Area	875.5	29	
Shotover Jet Offices and Commercial Building	Offices – 1 per 50m ² GFA	268.0	5.36	52
Shotover Jet Workshop Buildings	Staff 1 per 100m ² and Visitors 1 per 100m ²	483.0	9.66	12
DOC Maintenance Depot	Service Activity – Staff 1 per 100m ² and Visitors 1 per 100m ²	354.0	6	6
Road Side Car Park	n/a	n/a	n/a	49
Total		1980.5	52	125

3.12 Car parking is considered further in the following sections of this application.

4. Proposal Details

Overview

- 4.1 The proposal is to establish and operate a restaurant, bar and brewhouse on the ground floor of Cavell's building, replacing the existing café/restaurant/bar in the same location. Associated activity includes external alterations to the building, an addition, and the extension of the hours of operation (and the sale and supply of alcohol).
- 4.2 Resource consent is not required for internal changes to the building and therefore, any such changes do not form part of this application. Furthermore, the public floor area (**PFA**) is not changing from the existing PFA.
- 4.3 Signage is not yet finalised and therefore does not form part of this application.
- 4.4 No changes will be made to the areas used by Queenstown Rafting or the Department of Conservation, with the exception of a minor modification to the pergola to screen the changing area used by Queenstown Rafting.
- 4.5 Proposed changes to the building and activities on site are discussed in more detail below.

External Alterations/Additions

- 4.6 External changes to the built form of Cavell's building will be focussed on its western aspect, as shown in the development plans included as **Attachment F**.
- 4.7 The brewhouse extension will be situated at the southwestern corner of Cavell's building ([Figure 4](#)). This extension will measure approximately 5.4m by 6.7m with an area of approximately 36m², and height of 4.3m. This extension will contain brewing equipment that will be used to make beer for on and off-site consumption.
- 4.8 The extension will include windows along its western and southern façades to allow patrons to view the operation from the deck area. The extension will be clad in schist and will assimilate within the context of the existing building and wider environment, which is characterised by schist outcrops. Views of the extension will be largely shielded from the north, east, and south by the existing building and topography of

the surrounding area. Given the sloped nature of the area between the extension and the Shotover River, it will not be visible from the River itself.



Figure 4: Western elevation of proposed brewhouse extension (Source Element 17).

- 4.9 Additional external alterations to the existing building will include the reconfiguration of the windows and doors along the western façade of the building. This will include installation of additional doors to allow for greater flow between the interior and outdoor areas.
- 4.10 No other external changes will be made to Cavell's building with the exception of repainting the roof to a "Resene Element" colour. This is a natural grey and is expected to assimilate well within the landscape.
- 4.11 Approximately 280m² of decking will be installed over the existing outdoor area, which includes access ways. The decking will include establishment of two uncovered pergolas. The outdoor area has been designed to enhance the experience of patrons who will enjoy views west across the Shotover River to the mountains beyond and be able to watch commercial recreation activities occurring on the river.

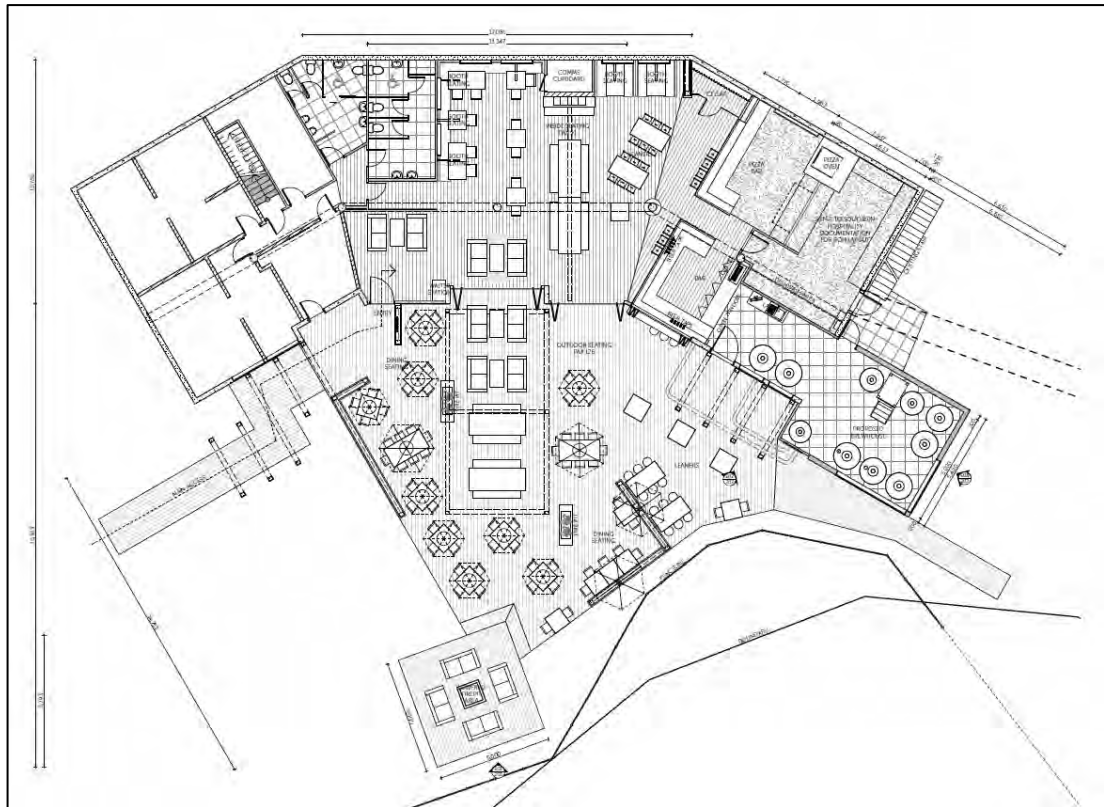


Figure 5: Proposed site plan showing deck area (Source: Element 17).

- 4.12 No specific landscaping mitigation is proposed as part of this application.

Activity Details

- 4.13 The premise will remain as a restaurant and bar, with the addition of a microbrewery for the production of beer for on and off-site consumption. The outdoor area will remain the same size as what exists at present but will be beautified, as detailed above.
- 4.14 The premise will operate between the hours of 8am to 2am, seven days per week. The restaurant will serve breakfast, lunch, and dinner between these hours, as well as provide for the sale and supply of alcohol for on and off-site consumption.
- 4.15 An acoustic assessment is currently being sought by the applicant and this will be provided to the QLDC as soon as it is available.
- 4.16 Safe transportation options will be made available to patrons. This may include the provision of a courtesy coach, subject to a feasibility analysis to determine demand.

Parking and Access

- 4.17 No change to the existing car parking or access configurations are proposed; the parking requirements contained in Table 1 above apply.
- 4.18 The only additional building area proposed is that for the brewhouse, which is an addition of approximately 36m². This corresponds with a reduction of the current outdoor area. The impacts of the building extension on the car parking are discussed in section 6.

Earthworks

- 4.19 A minimal amount of earthworks will be required for construction of the brewhouse addition and decking. The volume of earthworks will be in the region of 100-150m³, which is well below the 1,000m³ allowance permitted by the District Plan for the Rural General Zone. Other relevant site standards (height of cut and fill and slope, fill material, environmental protection measures, and construction noise) will be met by the proposal.
- 4.20 The site earthworks will be carried out in accordance with standard erosion and sediment control measures which will serve to avoid soil erosion or any sediment entering any water body, consistent with New Zealand Standard 4404:2004 and “A Guide to Earthworks in the Queenstown Lakes District” brochure, prepared by the Queenstown Lakes District Council. Further, appropriate dust control measures will be implemented to avoid nuisance effects of dust beyond the site boundary.
- 4.21 As discussed below, earthworks will also be undertaken in accordance with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

5. Statutory Provisions

5.1 The following statutory documents are of relevance to this application and are referred to below:

- Operative Queenstown Lakes District Plan (**District Plan**);
- Proposed Queenstown Lakes District Plan (**Proposed District Plan**);
- Operative Regional Policy Statement for Otago (**Operative RPS**);
- Proposed Regional Policy Statement for Otago (**Proposed RPS**);
- National Environmental Standards; and
- The Resource Management Act 1991 (**RMA**).

The Queenstown Lakes District Plan

5.2 The site is zoned **Rural General** under the District Plan as shown in [Figure 5](#), and sits within an Outstanding Natural Landscape (Wakatipu Basin). There are no other special notations or features identified on the District Plan maps that affect the site.



Figure 5: Project site shown in blue and District Plan overlays (Source QLDC GIS).

- 5.3 It is noted that two protected heritage features – the Thomas Arthur Monument and the Edith Cavell Bridge – are located in the vicinity, however, neither will be impacted by the proposal.
- 5.4 A compliance assessment of the proposed renovation and use of Cavell's building against the relevant rules and standards of the District Plan is detailed in **Attachment H**. An acoustic assessment is currently being undertaken and will be forwarded to Council in due course.
- 5.5 Resource consent is required as follows:
- Discretionary Activity – Rule 5.3.3.3 (i) – for alterations and extension to an existing building, and associated earthworks.
 - Restricted Discretionary Activity – Site Standard 5.3.5.1 (vi) – for the deck and brew house breaching the minimum setback from internal boundaries.
 - Non-Complying Activity – Rule 5.3.3.4 (a) (i) – for a commercial activity (e.g. a premise licenced for the sale and supply of alcohol on and off site).
- 5.6 Rule 5.3.3.4 (i) relates to commercial activities. While the proposal relates to an existing commercial activity, the parameters relating to the sale and supply of alcohol are changing, so a conservative approach has been taken to apply to breach this rule so overall, resource consent is therefore sought for a **non-complying activity**.

Proposed Queenstown Lakes District Plan

- 5.7 The Proposed District Plan was notified on 26 August 2015, however pursuant to Section 86B of the Act the rules do not have legal effect until *decisions* on the plan have been notified.
- 5.8 The application site remains the Rural Zone, along with attendant rules, objectives, and policies. The site also falls within an Outstanding Natural Landscape. Rules related to the site are within Chapter 6 – Landscapes, and Chapter 21 – Rural Zone. Neither Chapter has had decisions notified. As such, rules of relevance to the proposal have only been considered under the Operative District Plan above.

- 5.9 It is noted a submission has been made to rezone the site and locale Rural Visitor. With this submission in mind, it is appropriate to afford the objectives and policies in the proposed plan very limited weight.

Regional Policy Statements for Otago

- 5.10 The Operative Otago RPS has been in place since 1998. The RPS is further discussed in the Statutory Assessment in Section 7.
- 5.11 The Proposed Otago RPS was notified in May 2015. The Hearing Panel released decisions on the document in October 2016, after which 26 appeals were received. While the Proposed Otago RPS is not operative, Section 104 of the Act requires its consideration, undertaken in Section 7.

National Environmental Standards

- 5.12 The Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (“NES”) were gazetted on 13 October 2011 through an Order in Council, with the regulations taking effect 1 January 2012.
- 5.13 The NES are binding regulations that in this instance, replace District Plan rules relating to activities taking place on contaminated or potentially contaminated land. As well as prescribing a nationwide set of planning controls, the NES prescribes a mandated method for determining applicable standards for contaminants in soils, and a consistent approach to site investigations and reporting on contaminated or potentially contaminated land.
- 5.14 In this instance, a review of QLDC records has identified the application site as a HAIL site and, as such, is considered to be a piece of land under the NES for Assessing and Managing Contaminants in Soil to Protected Human Health. Earthworks associated with the extension to Cavell’s building and footings for decking will require a small amount of earthworks. These earthworks will be undertaken as a permitted activity under Clause 8(3) of the NES for Assessing and Managing Contaminants in Soil to Protected Human Health:

Disturbing the soil of the piece of land is a permitted activity while the following requirements are met:

- *(a) controls to minimise the exposure of humans to mobilised contaminants must—*
 - *(i) be in place when the activity begins:*
 - *(ii) be effective while the activity is done:*
 - *(iii) be effective until the soil is reinstated to an erosion-resistant state:*
- *(b) the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done:*
- *(c) the volume of the disturbance of the soil of the piece of land must be no more than 25 m³ per 500 m²:*
- *(d) soil must not be taken away in the course of the activity, except that,—*
 - *(i) for the purpose of laboratory analysis, any amount of soil may be taken away as samples:*
 - *(ii) for all other purposes combined, a maximum of 5 m³ per 500 m² of soil may be taken away per year:*
- *(e) soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind:*
- *(f) the duration of the activity must be no longer than 2 months:*
- *(g) the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.*

5.15 It is noted that under clause (c) the volume of earth disturbed must be not more than 25m³ per 500m². With a site area of 5,420m², this provides for disturbance of no more than 250m³ of soil in the course of works. The applicant has advised that earthworks will not exceed this limit. The Applicant is amenable to inclusion of the above as conditions of consent.

Resource Management Act 1991

5.16 Section 104 of the RMA sets out the matters which must be considered by the consent authority in considering an application for resource consent. However, prior to this consideration, a non-complying activity must first pass through Section 104D, commonly referred to as the “Threshold Test”. Such a proposal must pass at least one of two thresholds set out in parts (a) and (b) of this section.

5.17 If an application for a non-complying activity passes the Threshold Test, it can continue for consideration under Section 104. All matters listed in section 104(1) are subject to Part 2 of the RMA which contains its purpose and principles.

- 5.18 The following sections of this application contain an Assessment of the Effects on the Environment, followed by an assessment of the relevant objectives and policies.

6. Assessment of Effects on the Environment

Introduction

- 6.1 Section 88 of the RMA requires that the Applicant undertake an assessment of any actual or potential effects on the environment that may arise from the proposal, and the ways in which any adverse effects may be avoided, remedied or mitigated.
- 6.2 This Assessment of Environmental Effects has been framed by matters contained in Chapter 5 of the District Plan. In particular, assessment is made against the landscape criteria of relevance to Outstanding Natural Landscapes (Assessment Matter 5.4.2.2(1) and Commercial Activities (Assessment Matter 5.4.2.3ix).
- 6.3 While the Shotover River is an Outstanding Natural Feature, we do not consider that the site itself is specifically within a landscape unit that meets the criteria to be assessed as an Outstanding Natural Landscape. Nonetheless, we understand that this demarcation is contained within the Operative District Plan and we have adopted the relevant landscape criteria.

Landscape Assessment

(a) Effects on the Openness of the Landscape

- 6.4 The landscape in the immediate and wider area is constrained by the Shotover River, Arthurs Point Road, Cavell's Bridge and the topographic character of the river canyon. It is not a particularly "open" landscape. When viewed from Arthurs Point Road the site and surrounds appear as a cluster of development and contain very little signs of naturalness. The wider canyon however displays exceptional views up the Shotover River.
- 6.5 The building extension will have glimpse views from Arthurs Point Road but will be generally indiscernible to most people in the context of the site and surrounds. The same applies to the other external alterations; the improvements will be appreciated at closer proximity from within the site and there will be no adverse impacts on openness when viewed from outside of the site.

(b) Visibility of Development

- 6.6 Due to the location of Arthurs Point Road above the site and the nature of the access/egress onto Edith Cavell Bridge (and the need for care to be taken approaching its access), visibility of the development will be reasonably difficult to see.
- 6.7 Use of the outdoor area with the additional decking will be visible from Arthurs Point Road, however this will not look out of place compared to the status quo.
- 6.8 Visibility will be obtained from the opposite side of the Shotover River however views will not be dissimilar than what are gained from the present development on site. The nature of the cluster of buildings in this location is such that the extension and alterations will appear consistent with the environment.
- 6.9 Morningstar Reserve is accessible to the public so a range of views of the development can be obtained. In comparison to the status quo, the effects will be a positive contribution in enhancing a relatively tired building. The external materials and colours assist with maintaining an overall recessive appearance.
- 6.10 No mitigation is considered necessary to avoid, remedy or mitigate views of the works.
- 6.11 Neighbouring residential properties are interspersed above the site and are well shielded from views. No party will be affected by the proposal.

(c) Visual Coherence and Integrity of the Landscape

- 6.12 As noted above, we have doubts as to whether the site is within an ONL. While it does adjoin an ONF, we have taken a conservative approach by adopting the ONL landscape classification.
- 6.13 The proposal is confined to an area of existing development and there will be no readily discernible adverse effects on the visual coherence and integrity of the landscape.

(d) Nature Conservation Values

- 6.14 No nature conservation values will be adversely affected by the proposal. In particular, it is noted that there are no indigenous ecosystems within the immediate vicinity of Cavell's building that will be damaged, and the proposal will not establish any introduced vegetation that has a high potential to spread and naturalise.

(e) Cumulative effects of development on the landscape

- 6.15 The proposed alterations to Cavell's building will not introduce elements inconsistent with the natural character of the site and surrounding landscape. It is noted that outdoor areas with decks have been previously consented and established within the Morning Star Reserve. The proposed brewhouse extension will be constructed of materials in keeping with the character of the surrounding landscape. Neither the decking nor brewhouse extension compromise the existing natural character of the site, with the Morning Star Reserve characterised by similar structures.
- 6.16 In consideration of the site and wider Morning Star Reserve, it is not considered that the proposal will result in the breaching of any threshold relating to the site's ability to absorb change. Furthermore, it is not considered that the proposal will result in degradation of natural values or inappropriate domestication of the landscape.

(f) Positive effects

- 6.17 From an aesthetic perspective, the proposal will result in positive effects when compared to the status quo. The facility will enhance the use of the reserve and wider area.
- 6.18 The proposal will see the rejuvenation of a building in the Arthurs Point area and enhance the current activities undertaken from the site in a manner that is complementary to the activities in the immediate and wider locale. The premise will serve not only guests to the commercial recreation area at Morningstar Reserve, but the Arthurs Point and wider Queenstown community. The product being made on site has the potential to be sold at other locations which would introduce another "Queenstown brand" into the marketplace and be a feature in its own right.

(g) Other Matters

- 6.19 There are no "other matters" of relevance under sub-section (g) of the landscape criteria.

Commercial Activities

6.20 While the activity is not changing from what is currently undertaken from the site (i.e. commercial activity is still a commercial activity), there are some amendments to the activity relating to the hours of operation and the introduction of a brewery on site. In this regard, it is considered appropriate to evaluate Assessment Matter 5.4.2.3 (ix) of the District Plan relating to commercial activities. The relevant assessment matter is set out below.

- (a) *The extent to which the commercial activity may:*
 - (i) *result in levels of traffic generation or pedestrian activity, which is incompatible with the character of the surrounding rural area, or adversely affect safety.*
 - (ii) *have adverse effects in terms of noise, vibration and lighting from vehicles entering and leaving the site or adjoining road.*
 - (iii) *result in loss of privacy.*
 - (iv) *result in levels of traffic congestion or reduction in levels of traffic.*
- (b) *The extent to which the commercial activity mitigates any adverse effects in terms of additional traffic generation.*
- (c) *The effect the commercial activity may have on the life supporting capacity of soils and water.*

6.21 The public floor area of the building and existing activity is not changing from what exists at present. While the brewhouse extension is additional to the status quo, it is not considered to be a facility that would lead to increased traffic generation or requiring the practical need for additional car parking. It is also balanced by the reduction in the existing outdoor area.

6.22 It is likely that the activity will generate additional pedestrian movements by virtue of creating a hospitality attraction that will more broadly appeal to a range of people and ages, however this will not be out of character for the tourism and recreational hub that the activity is located within.

6.23 The activity is not incompatible with the surrounding rural area, keeping in mind that Arthurs Point is predominately made up of residential living, accommodation and commercial activities.

6.24 Access to and from the site for vehicles and pedestrians is existing and the activity will not lead to any safety issues (as relevant under the RMA).

- 6.25 Noise, vibration and lighting from vehicles will remain relatively consistent with the status quo, however the extended operational hours will likely mean that there will be additional vehicle movements in the later evenings. It is expected that such effects will not be prominent outside of the site.
- 6.26 The activity will not result in a loss of privacy. Direct views into residential properties cannot be obtained from the site.
- 6.27 The activity will not affect the life supporting capacity of soils or water.

Conclusion

- 6.28 The proposed external alterations, building extension, changes to the operational hours of the existing activity, and the inclusion of an off licence, are considered to have effects on the environment that are overall insignificant.

7. Statutory Assessment

Objectives & Policies

7.1 Given the relatively discrete nature of the proposal, it is considered that the most relevant objectives and policies are those found in the following planning documents:

- The Operative District Plan;
- The Proposed District Plan;
- The Otago Regional Policy Statement.

7.2 With respect to the Otago Regional Policy Statements, these are relatively broad-brush planning documents insofar that they relate to what is, in this instance, a site-specific proposal. To this end, the Regional Policy Statements have not been considered further.

7.3 The most relevant objectives and policies the Operative and Proposed District Plans are summarised and discussed in Table 2.

Table 2: District Plan Objectives and Policies Assessment.

Objectives	Policies	Assessment
Operative District Plan		
4. District Wide Issues		
<p>4.2.5 Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.</p>	<p>4.2.5.3(a) To avoid subdivision and development on the outstanding natural landscapes and features of the Wakatipu Basin unless the subdivision and/or development will not result in adverse effects which will be more than minor on:</p> <ul style="list-style-type: none"> (i) Landscape values and natural character; and (ii) Visual amenity values - recognising and providing for: (iii) The desirability of ensuring that buildings and structures and associated roading plans and boundary developments have a visual impact which will be no more than minor, which in the context of the landscapes of the Wakatipu basin means reasonably difficult to see; (iv) The need to avoid further cumulative deterioration of the Wakatipu basin's outstanding natural landscapes; (v) The importance of protecting the naturalness and enhancing the amenity values of views from public places and public roads. (vi) The essential importance in this area of protecting and enhancing the naturalness of the landscape. <p>4.2.5.3(b) To maintain the openness of those outstanding natural landscapes and features which have an open character at present.</p> <p>4.2.5.17 Land Use</p> <p>To encourage land use in a manner which minimises adverse effects on the open character and visual coherence of the landscape.</p>	<p>Consistent – the proposal is considered to be consistent with Objective 4.2.5 and Policies 4.2.5.3(a), 4.3.5.3(b), and 4.2.5.17.</p> <p><u>Objective 4.2.5</u> - the use and development of Cavell's building will be undertaken in a manner that mitigates adverse effects on landscape and visual amenity values through the use of materials and colours consistent with the surrounding area and the placement of new structures in discrete locations.</p> <p><u>Policy 4.2.5.3(a)</u> – the proposed development of Cavell's building will not result in any adverse effects that are minor or more than minor. As such, it is considered to be consistent with Policy 4.2.5.3(a).</p> <p><u>Policy 4.2.5.3(b)</u> – the immediate area surrounding the application site is not considered to have a particularly open outlook. Notwithstanding this, the proposal will not materially alter the <i>status quo</i>.</p> <p><u>Policy 4.2.5.17</u> – the proposal will be undertaken in a manner that minimises adverse effects on the landscape. In particular, this has included the location of additions to Cavell's building in unobtrusive locations, and the use of materials and colours in keeping with the surrounding landscape.</p>
5. Rural Areas		
<p>1 - Character and Landscape Value</p>	<p>1.4 Ensure activities not based on the rural resources of the area occur only where the character of the rural area will not be adversely impacted.</p>	<p>Consistent – the proposal is consistent with Objective 1 and the relevant attendant policies.</p>

Objectives	Policies	Assessment
<i>To protect the character and landscape value of the rural area by promoting sustainable management of natural and physical resources and the control of adverse effects caused through inappropriate activities.</i>	<p>1.6 Avoid, remedy or mitigate adverse effects of development on the landscape values of the District</p> <p>1.7 Preserve the visual coherence of the landscape by ensuring all structures are to be located in areas with the potential to absorb change.</p>	<p>Objective 1 – the proposal is considered to protect the character and value of the landscape as it is considered to be an activity carried out in a way that ensures its appropriateness within the receiving environment.</p> <p>Policy 1.4 – the restaurant and brewhouse is an activity that is not based on the rural resource, however, will occur in an area where the character of the rural area will not be adversely impacted.</p> <p>Policy 1.6 – as discussed in the Assessment of Effects, the proposal avoids or mitigates significant adverse effects on the landscape values of the District.</p> <p>Policy 1.7 – the proposal is considered to be in line with Policy 1.7 as the Morning Star Reserve is an area that has the potential to absorb change. Being located in a small valley with previous development, the effects of the proposal will be insignificant within the receiving environment.</p>
3 - Rural Amenity <i>Avoiding, remedying or mitigating adverse effects of activities on rural amenity.</i>	3.3 To avoid, remedy or mitigate adverse effects of activities located in rural areas.	Consistent – for the same reasons as outlined above, the proposal is consistent with Objective 3 and Policy 3.3 relating to avoiding, remedying or mitigating adverse effects of activities in rural areas and on rural amenity.
Proposed District Plan		
3. Strategic Directions		
3.2.5.1 Protect the natural character of Outstanding Natural Landscapes and	3.2.5.1.1 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	Consistent – the proposal is considered to be consistent with Objective 3.2.5.1 and Policy 3.2.5.1.1 in that the use and development of Cavell's building



Objectives	Policies	Assessment
<i>Outstanding Natural Features from subdivision, use and development.</i>		will be appropriate and will not have significant adverse effects.
3.2.5.3 Direct new subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values.	3.2.5.3.1 Direct urban development to be within Urban Growth Boundaries (UGB's) where these apply, or within the existing rural townships.	Consistent – the proposal is consistent with Objective 3.2.5.3 as the development will be carried out in a location with the ability to absorb change without detracting from the landscape and visual amenity values. It is noted that Policy 3.2.5.3.1 is not applicable as the definition of “urban development” in the Proposed District Plan means “...any development/activity within any zone other than the Rural Zones”.
6. Landscapes		
6.3.1 The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision and development.	6.3.1.3 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 will be exceptional cases 6.3.1.5 Avoid urban subdivision and development in the Rural Zones	Consistent – the proposal is consistent with Objective 6.3.1 and Policy 6.3.1.3. While assessment has not been made against provisions 21.7.1 and 21.7.3, it has been made against the relevant landscape assessment criteria of the operative District Plan. For the same reasons that Policy 3.2.5.3.1 is not relevant to the proposal, Policy 6.3.1.5 is not relevant. In particular, urban development cannot occur in the Rural Zones.
6.3.4 Protect, maintain or enhance the District's Outstanding Natural Landscapes (ONL).	6.3.4.3 Have regard to adverse effects on landscape character, and visual amenity values as viewed from public places, with emphasis on views from formed roads	Consistent – the proposal is consistent with Objective 6.3.4 and Policy 6.3.4.3 for the same reasons described above. It is noted that the Morning Star Reserve constitutes a public place. Regardless, the proposed alterations to Cavell's building will have insignificant adverse effects.



Objectives	Policies	Assessment
6.3.8 Recognise the dependence of tourism on the District's landscapes.	6.3.8.2 Recognise that commercial recreation and tourism related activities locating within the rural zones may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values.	Consistent – Objective 6.3.8 and Policy 6.3.8.2 are particularly relevant as they provide for commercial recreation and tourism related activities in the rural zones where the appreciation of landscapes is enhanced and on the basis that they protect, maintain, or enhance key landscape values. The proposed restaurant and brewhouse is a tourism related activity and will enhance the appreciation of the landscape. This is exemplified through the proposed deck area, which has been designed to allow patrons to enjoy the views to the mountainous peaks above and Shotover River below. As discussed in the Assessment of Effects and above, the proposal will maintain landscape quality, character, and visual amenity values.

- 7.4 As shown through the above assessment, there is support within the objectives and policies of the operative and proposed District Plans for the proposed use of Cavell's building.

Section 95 of RMA

- 7.5 In consideration of the above AEE, it is concluded that the proposal will result in less than minor adverse effects on the environment, and public notification under section 95D is not required. It is noted Affected Persons Approval is currently being sought from DOC and will be forwarded to QLDC.
- 7.6 There are no special circumstances that warrant the public notification of this application, and there are no rules requiring public notification of the application.

Section 104D of RMA

- 7.7 As discussed above, the adverse effects of the proposed activity will be less than minor and it is not contrary to the objectives and policies of any relevant plan. As such, it passes both subsections (a) and (b) of section 104D.

Purpose & Principles of the RMA

- 7.8 As recently determined in *RJ Davidson Family Trust v Marlborough District Council*, under Section 104 of the Act a decision-maker should not resort to Part 2 unless the relevant planning documents are invalid, have incomplete coverage, or have uncertain meaning. We understand that this matter is currently under appeal. To avoid doubt, we note that schedule 4 of the RMA requires an application for resource consent to include assessment against matters set out in Part 2.
- 7.9 The purpose of the RMA, as set out under Section 5(2) is to promote the sustainable management of natural and physical resources. The relevant matters in Sections 6, 7 and 8 of the RMA also require consideration.
- 7.10 Section 6(b) provides for the protection of outstanding natural landscapes and features from inappropriate subdivision, use and development. It is considered that the proposed development and use of Cavell's building as a restaurant and brewhouse represents an appropriate activity. Appropriateness has been assessed

based on the anticipated adverse effects of the proposal within the receiving environment, which will be less than minor.

- 7.11 The RMA specifies that regard must be had to the relevant matters listed in section 7. The relevant matters include:

(b) The efficient use and development of natural and physical resources.
(c) The maintenance and enhancement of amenity values.
(f) Maintenance and enhancement of the quality of the environment.

- 7.12 In the whole, the proposal is considered to efficiently use the natural (land) resource of the site. The proposal will maintain landscape values and the quality of the environment through the effective mitigation of adverse effects, while providing tourism facilities in a location that currently used for such.
- 7.13 There are no matters under Section 8 that require consideration with respect to this application.
- 7.14 For the reasons outlined in this report, the proposal is consistent with the purpose and principles under Section 5, and the associated matters under Part 2 of the RMA. The proposal represents an efficient use of the land resource and will be undertaken in a manner which avoids, remedies, and mitigates potential adverse effects on the environment.
- 7.15 It is considered that the proposal is consistent with the purpose and principles of the RMA and accords with the definition of sustainable management.

Email from Brett Giddons to Andrew Woodford dated 23/08/2017

Hi Andrew,

As part of finalising the plans for pending construction, there have been a couple of minor amendments made to the design. I was minded that we could address these under the building consent but given that we are not far off resource consent approval, I thought it prudent to address this upfront. In summary the changes will result in:

- Reduction in the size of the deck from approximately 254m² to 198m²;*
- Reduction in the height of the brewhouse extension from approximately 4.3m to 4.0m; and*
- Alteration of the exterior cladding of the brewhouse extension on the east and southern elevations from schist cladding to vertical cedar cladding. The northern elevation of this building will be clad with a painted fibre cement panel.*

As you will see these changes reduce the built form from that originally proposed and will make a very minor change to the materials used to clad the new extension. Accordingly the assessment in our AEE stands as is.

It is appreciated if you can treat these plans as the FINAL resource consent issue plans.

It is also appreciated if you can please give us an update on the draft consent conditions for review?

Many thanks, Brett

Brett Giddons

Director | Town Planning Group Ltd

Cell: 021365513 | **Ph:** 0800 224470

Web: www.townplanning.co.nz



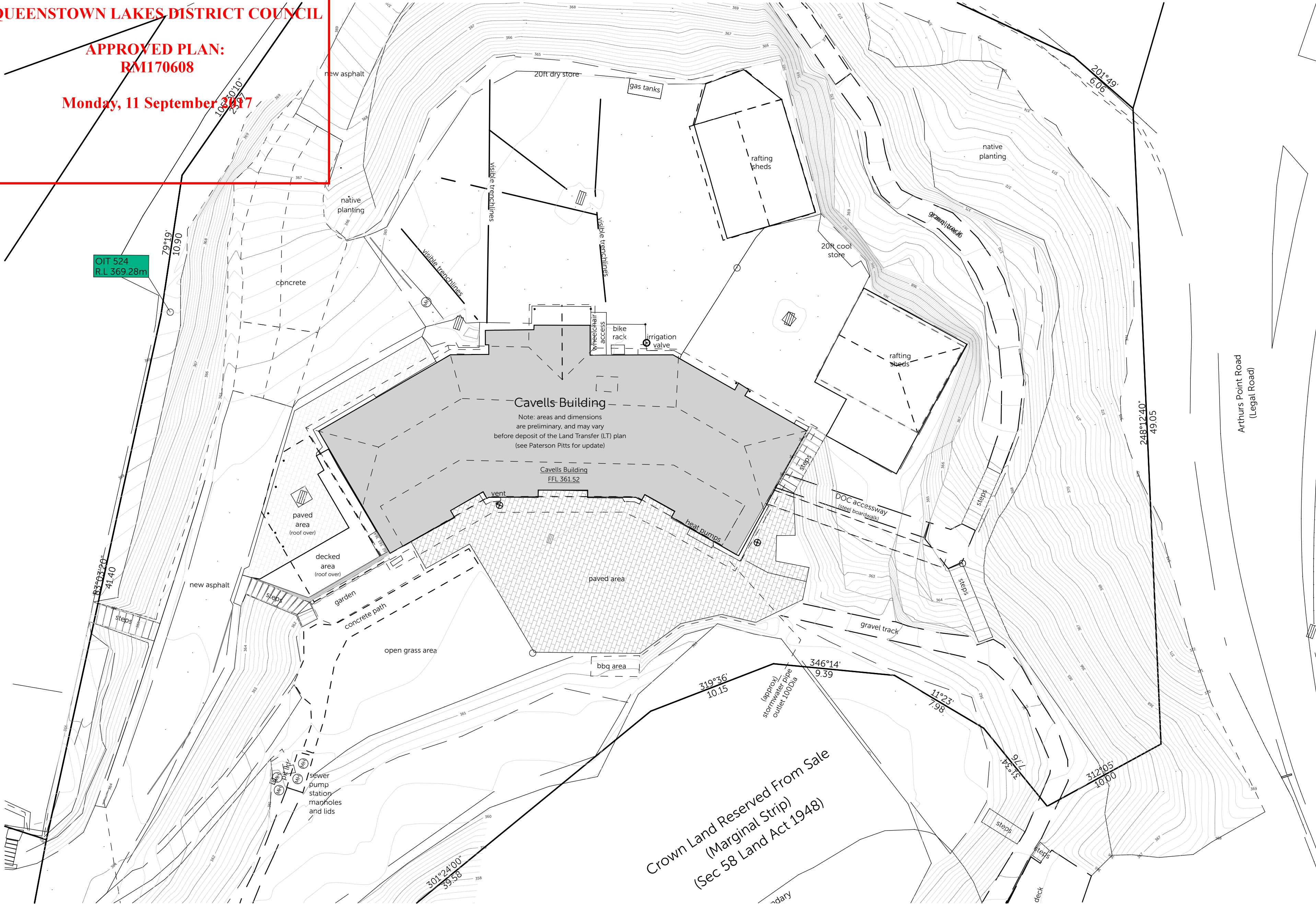
Christchurch | Queenstown | Wanaka

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170608

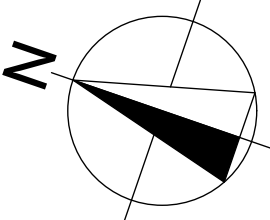
Monday, 11 September 2017

OIT 524
R.L 369.28m



Crown Land Reserved From Sale
(Marginal Strip)
(Sec 58 Land Act 1948)

Arthurs Point Road
(Legal Road)



SITE DETAILS

AREA:
5,420M²

LEGAL DESCRIPTION:
Lot 4, LT 441036
Section 01, SO 23662

Checked by	Approved by
Date	Date

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The contractor shall verify all measurements prior to setout and commencement of work. Use figured dimensions in preference to scaling.

Design CR	Drawn CR
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Job Details

Real Journeys
Queenstown
1 Arthurs Point Road,
Arthurs Point

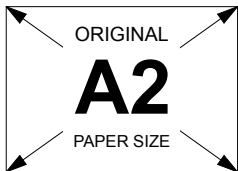
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Issue Date	23/08/17			
Job #	Sheet	Issue	Revision	
2168	101	01	01	

Co-ordination

Existing Site Plan

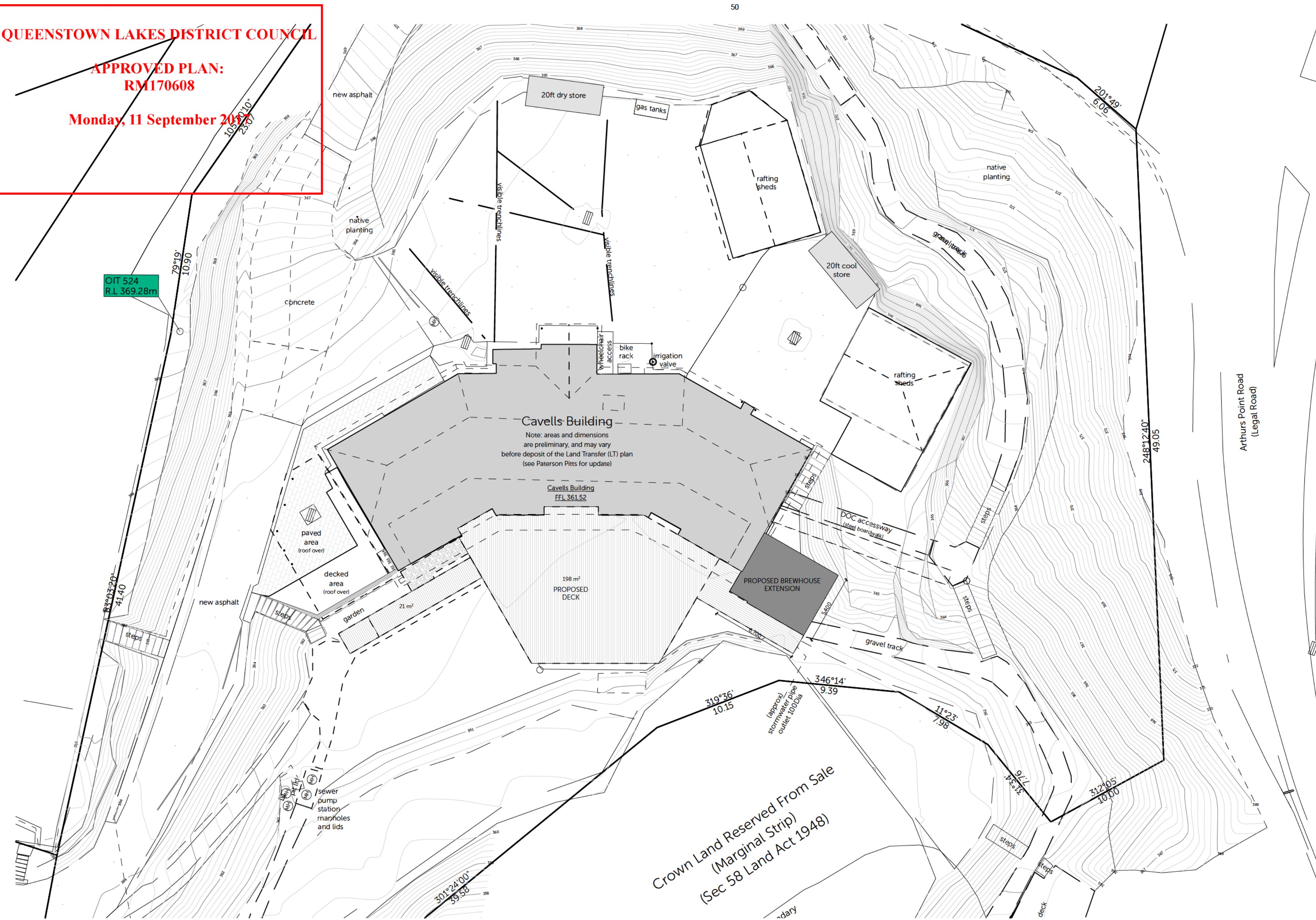
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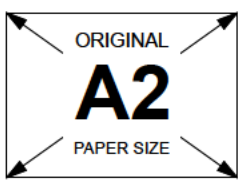
QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM170608

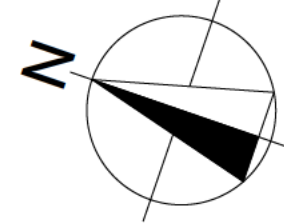
Monday, 11 September 2017



Proposed Site Plan
1:200



03 366 5532
info@element17.co.nz
41 Welles Street Christchurch 8140
www.element17.co.nz



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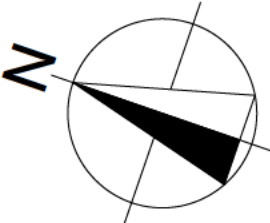
The contractor shall verify all measurements prior to setout and commencement of work. Use figured dimensions in preference to scaling.

Design CR	Drawn CR
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Real Journeys
Queenstown
1 Arthurs Point Road,
Arthurs Point

Proposed Site Plan				
Issue Date	23/08/17			
Job #	Sheet	Issue	Revision	
2168	102	01	01	
Co-ordination				



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Date	Date

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The contractor shall verify all measurements prior to setup and commencement of work. Use figured dimensions in preference to scaling.

Design CR	Drawn CR
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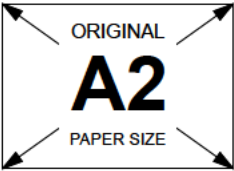
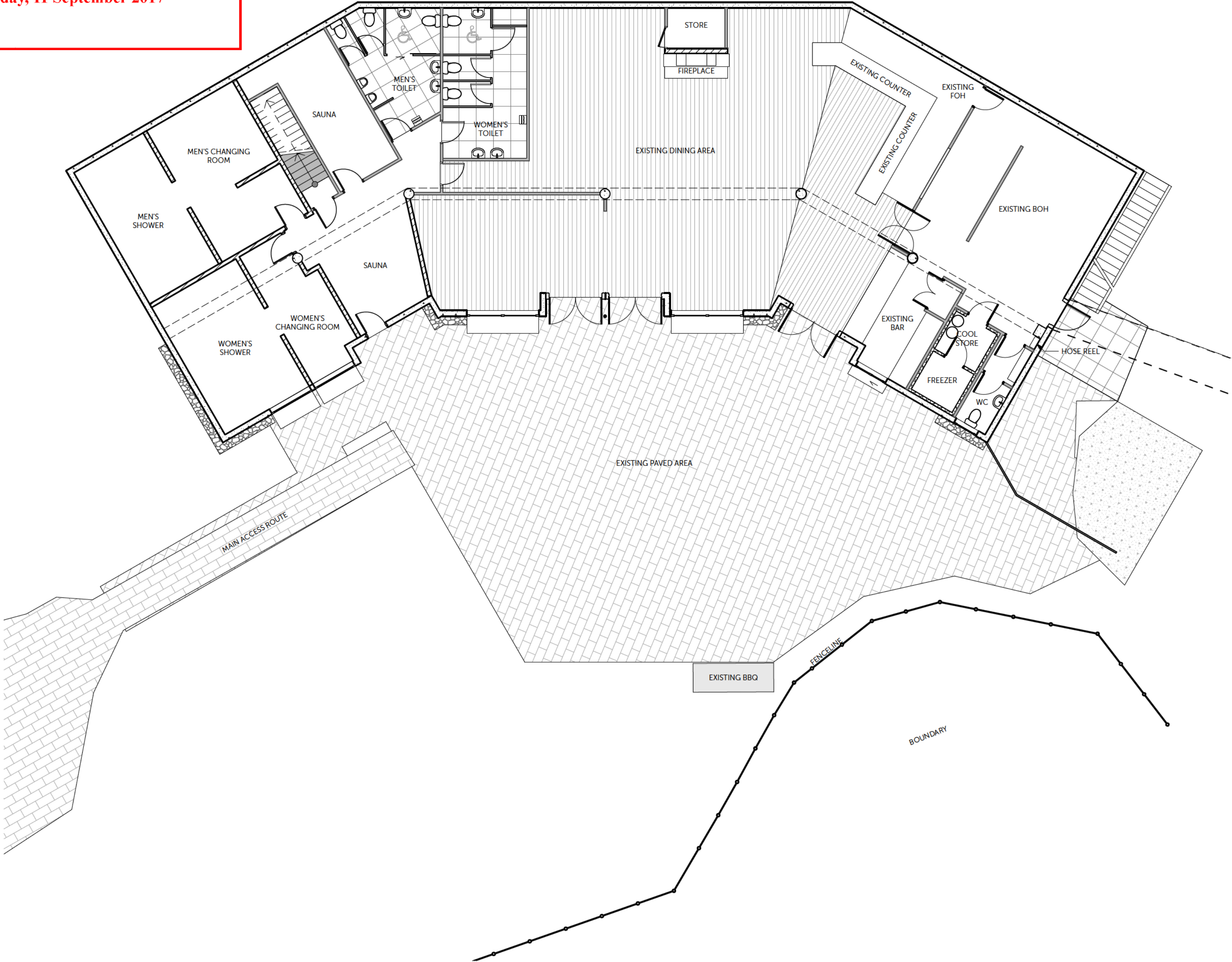
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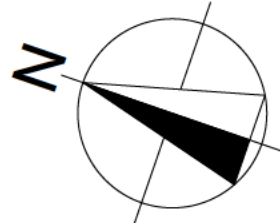
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Issue Date	23/08/17			
Job #	Sheet	Issue	Revision	
2168	103	01	01	

Co-ordination



Existing Floor Plan
1:100



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Date	Date

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Design CR	Drawn CR
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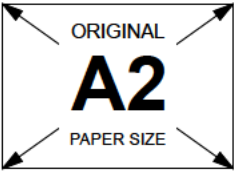
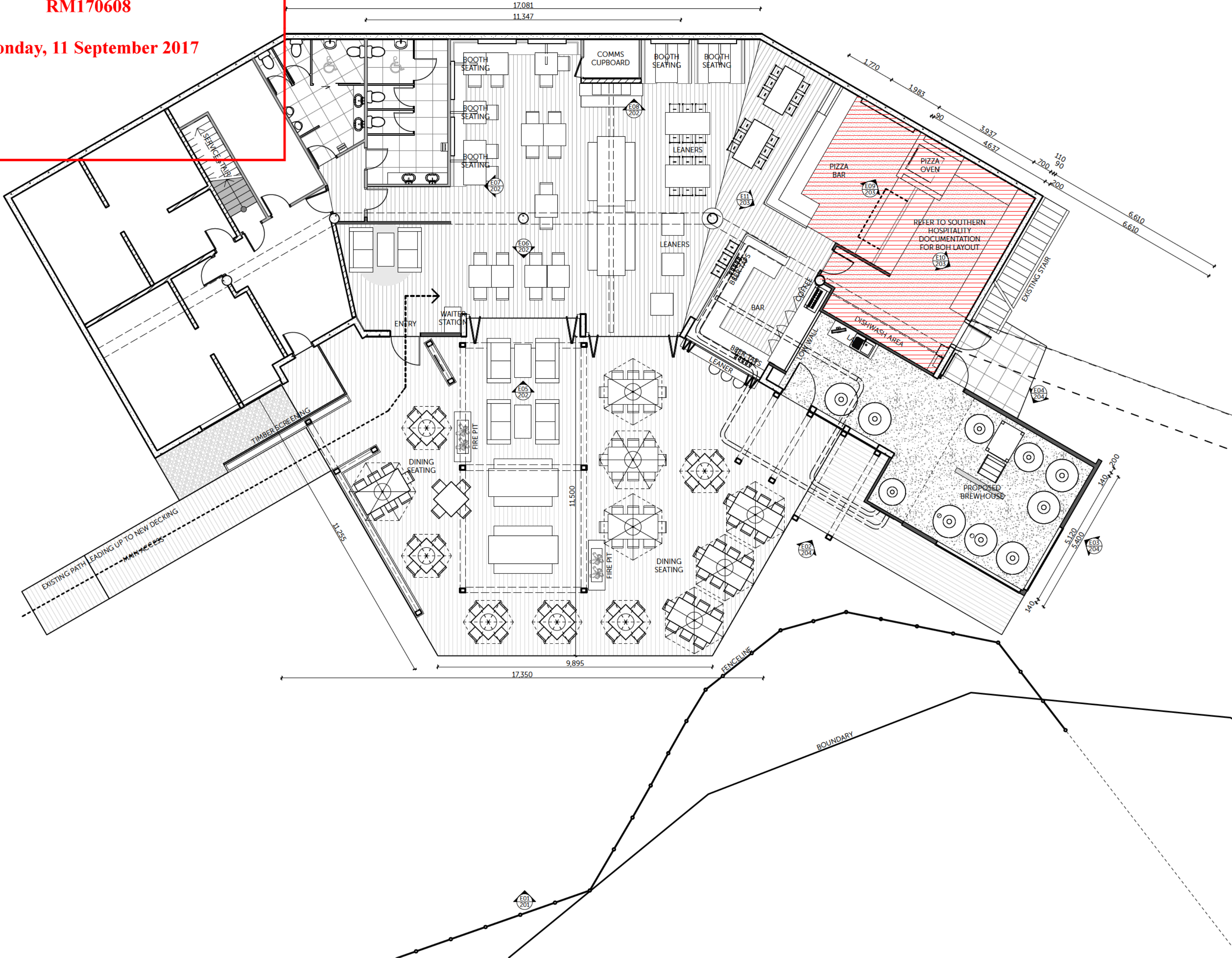
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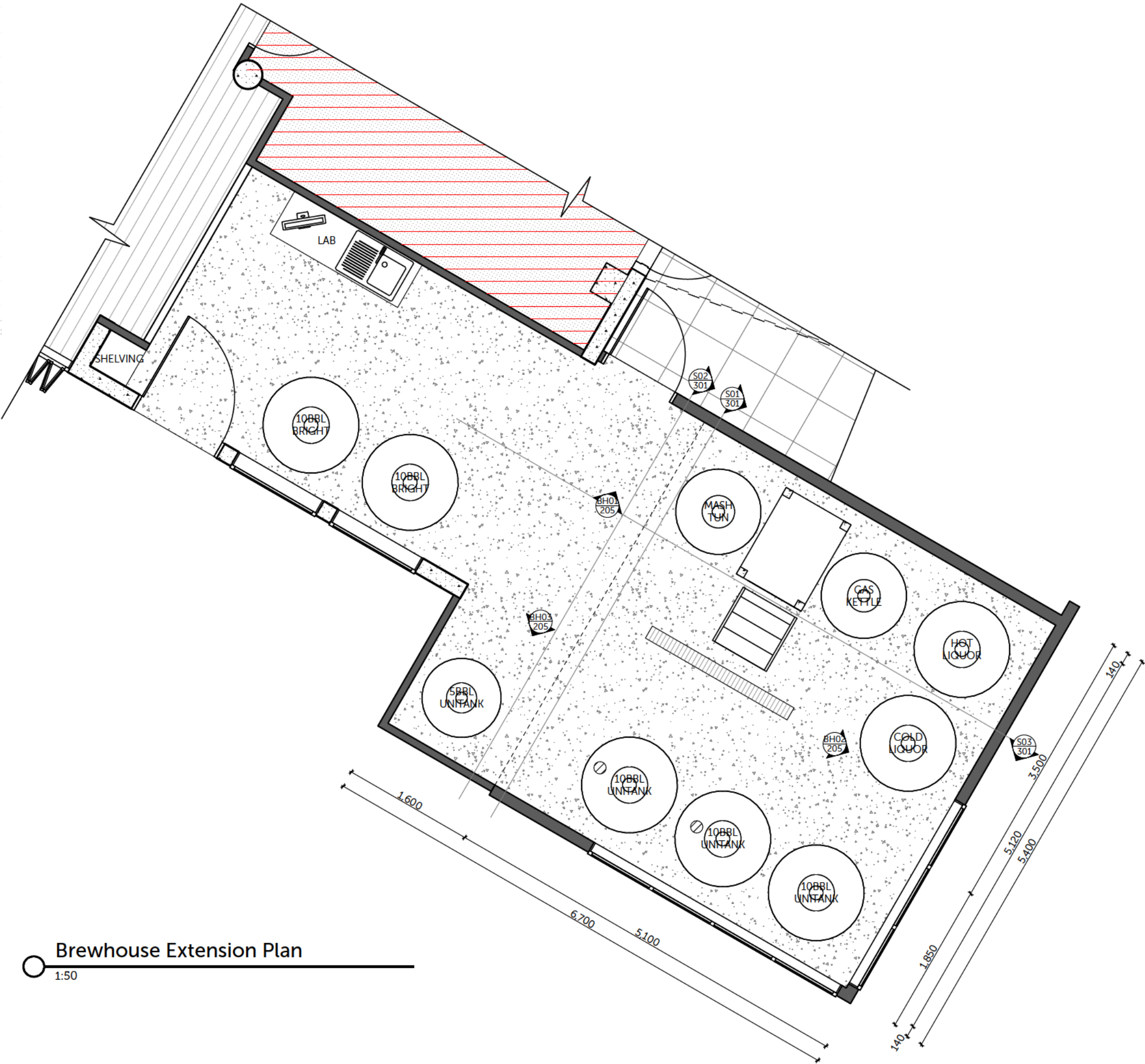
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Issue Date	23/08/17
Job #	2168
Sheet	104
Issue	01
Revision	01

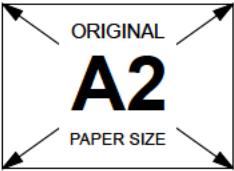
Co-ordination



Proposed Floor Plan
1:100



Brewhouse Extension Plan
1:50



Checked by	Approved by
Date	Date

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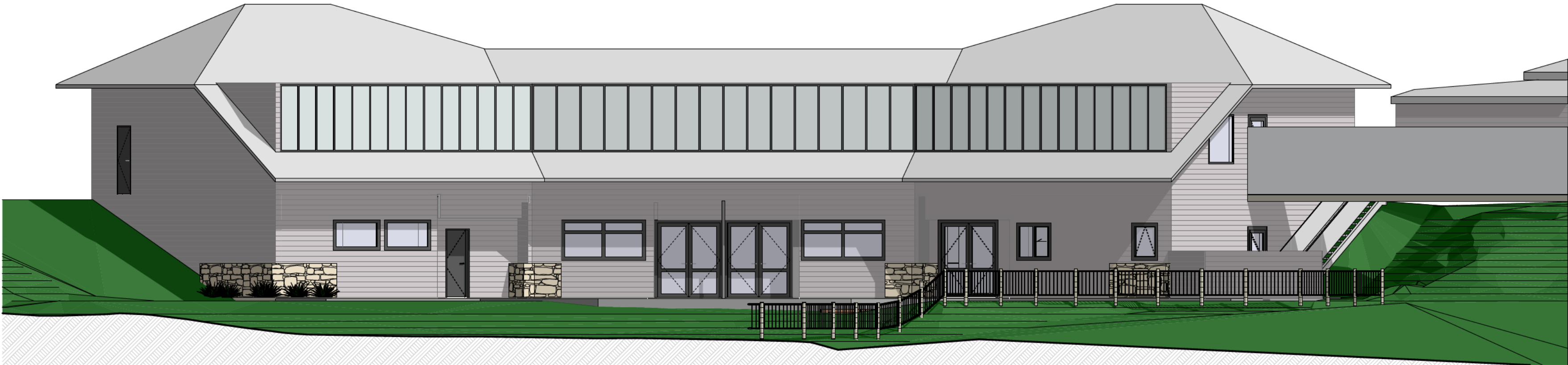
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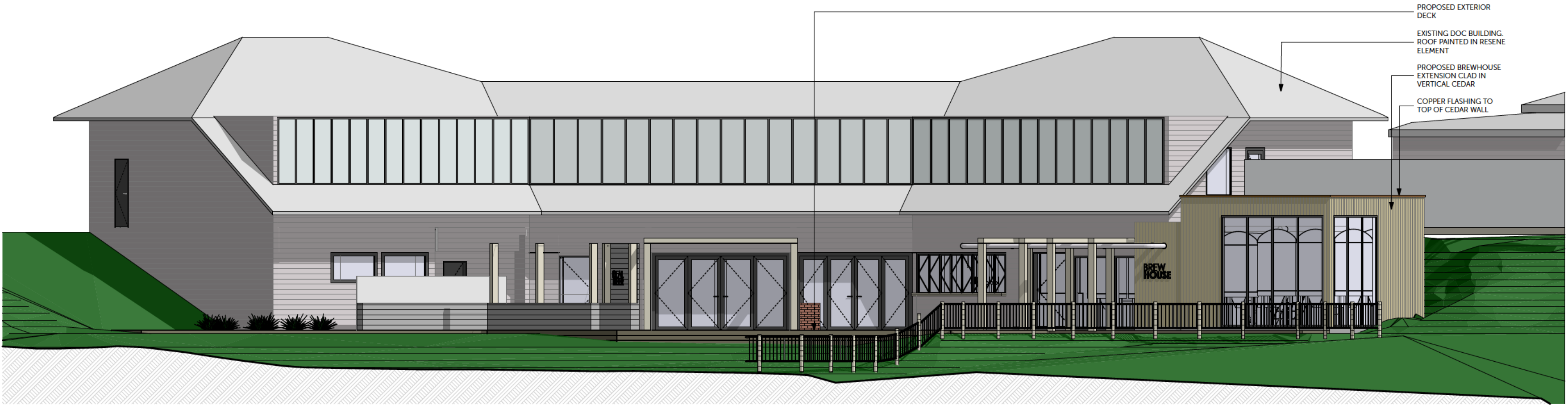
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Real Journeys
Queenstown
1 Arthurs Point Road,
Arthurs Point

Brewhouse Plan			
Issue Date	23/08/17		
Job #	Sheet	Issue	Revision
2168	112	01	01
C	WIP	1	



E01 - Existing Exterior Elevation
1:100



E01 - Proposed Exterior Elevation
1:100

Checked by	Approved by
Date	Date

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The contractor shall verify all measurements prior to setup and commencement of work. Use figured dimensions in preference to scaling.

Design CR	Drawn CR
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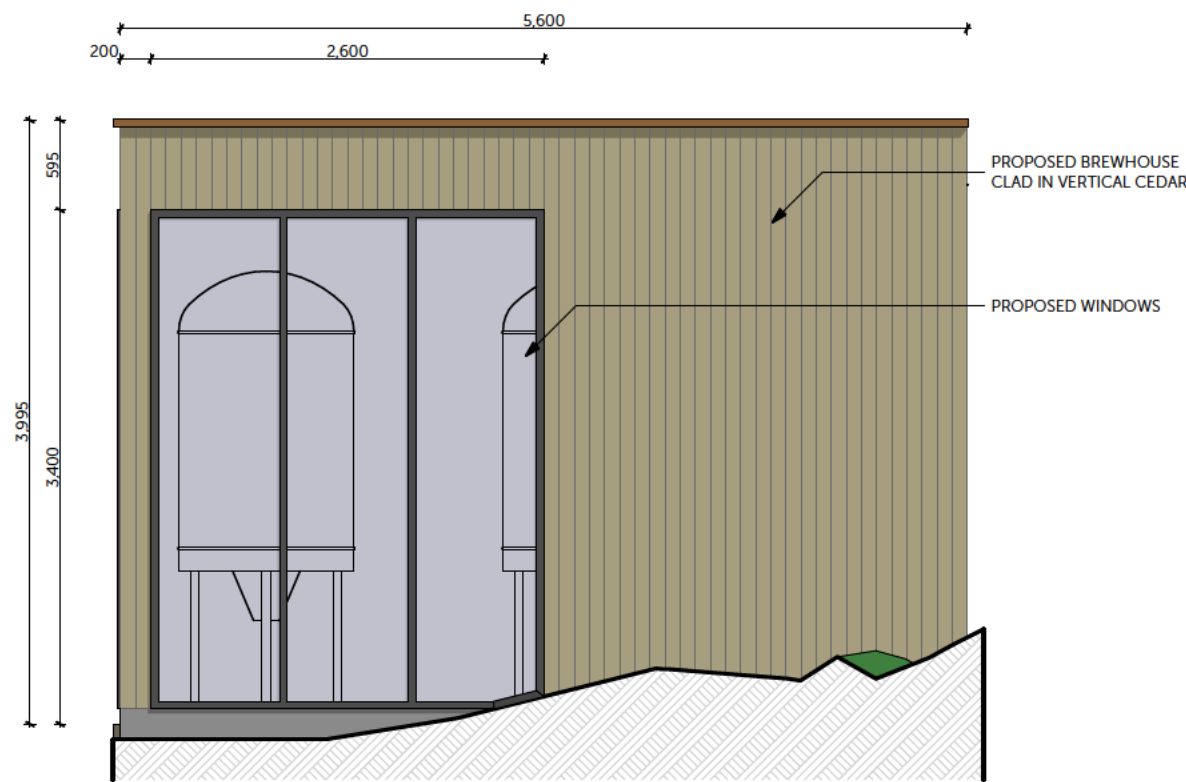
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Real Journeys
Queenstown
1 Arthurs Point Road,
Arthurs Point

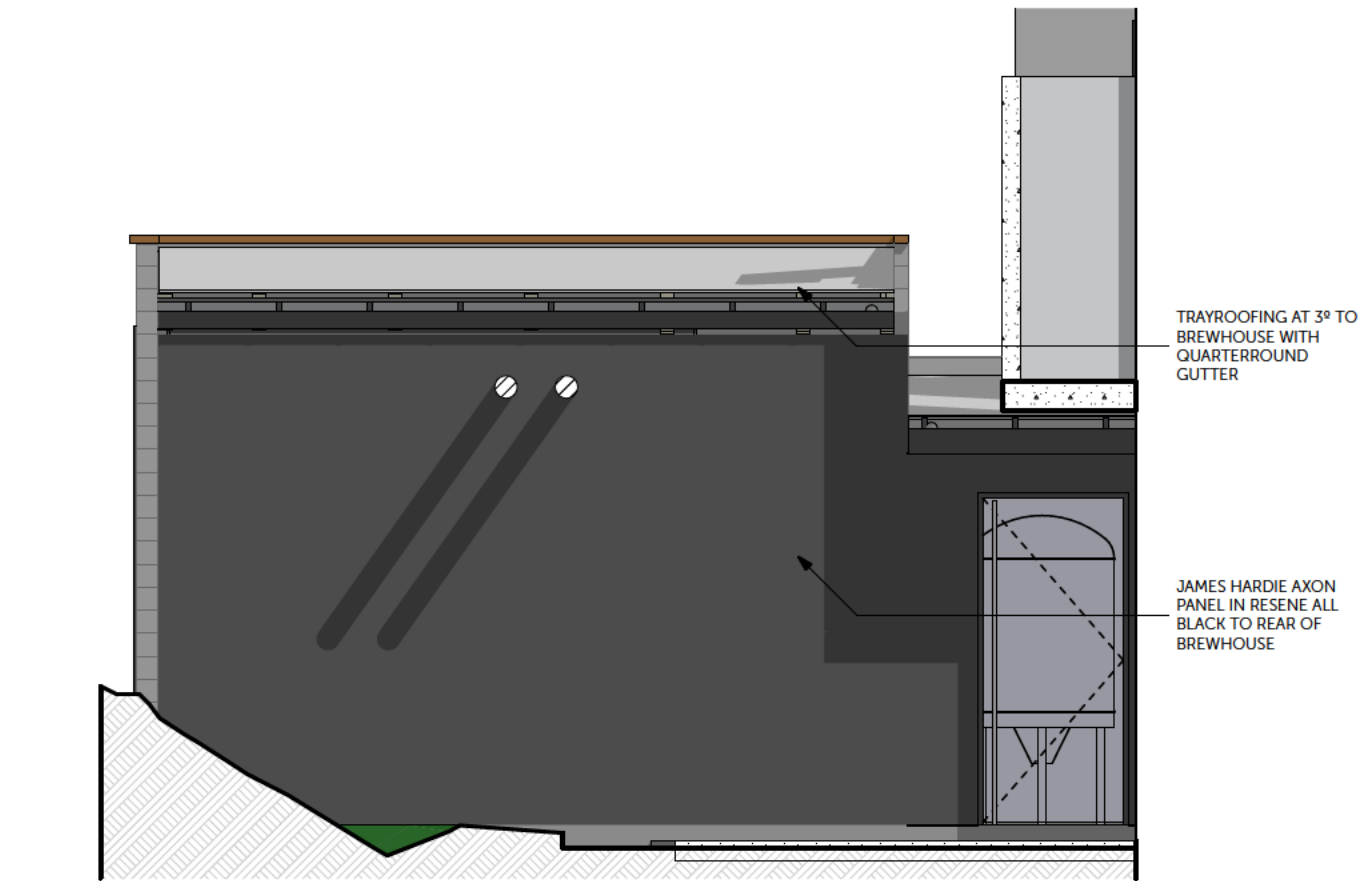
Proposed + Existing Exterior Elevations			
Issue Date	23/08/17		
Job #	Sheet	Issue	Revision
2168	201	01	01
Co-ordination			



E02 - Elevation
1:50



E03 - Elevation
1:50



E04 - Elevation
1:50

Checked by	Approved by
Date	Date

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The contractor shall verify all measurements prior to setout and commencement of work. Use figured dimensions in preference to scaling.

Design	Drawn
CR	CR

Job Details

Real Journeys
Queenstown
1 Arthurs Point Road,
Arthurs Point

Proposed Brewhouse Exterior
Elevations

Issue Date 23/08/17

Job #	Sheet	Issue	Revision
2168	204	01	01

Co-ordination



DECISIONS OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

CHANGE OF CONDITIONS – SECTION 127

NOTIFICATION UNDER s95 AND DETERMINATION UNDER s104

RESOURCE MANAGEMENT ACT 1991

Applicant:	Go Orange Limited
RM reference:	RM191325
Application:	Application under section 127 of the Resource Management Act 1991 (RMA) to change Conditions 9 and 10 of resource consent RM170608 to provide for live and amplified acoustic music in outdoor areas between the hours of 12pm and 8pm, and no more than three days of live music in any seven consecutive day period, and the requirement of a Noise Management Plan in accordance with resource consent RM191325
Location:	1 Arthurs Point Road, Arthurs Point, Queenstown
Legal Description:	Section 1 Survey Office Plan 23662 and Section 3-4 Survey Office Plan 23901 held in Record of Title OT15B/790
Operative Zoning:	Rural General
Proposed Zoning:	Rural
Activity Status:	Discretionary
Decision Date:	3 April 2020
Re-Issue Date:	23 April 2020

SUMMARY OF DECISIONS

1. Pursuant to sections 95A-95F of the RMA the application will be processed on a **non-notified** basis given the findings of Section 6.0 of this report. This decision is made by Andrew Woodford, Senior Planner, on 3 April 2020 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 of the RMA, consent is **GRANTED** subject to the change to conditions outlined in Section 6.5 of this decision. An updated set of conditions of RM170608 is provided in Appendix 1 of this decision. The consent only applies if the conditions outlined are met. To reach the decision to grant consent the application was considered (including the full and complete records available in Council's electronic file and responses to any queries) by Andrew Woodford, Senior Planner, as delegate for the Council.
3. Pursuant to section 133A of the RMA this consent is being re-issued due to Condition 9, as varied, not being explicitly clear on whether sound from speakers related to indoor or outdoor speakers. The intent of the condition was to clarify outdoor background sound levels. The inclusion of the word 'outdoor' in condition 9 clarifies the intent of the condition and avoid any potential for future confusion. This omission is considered to be a minor defect in the consent and the consent can be re-issued pursuant to section 133A of the RMA. The decision to re-issue the decision is authorised by Alana Standish, Team Leader Resource Consents, as delegate for Council on 23 April 2020. This re-issue is made 13 days after the grant of the consent.

1. PROPOSAL AND SITE DESCRIPTION

Proposal

Consent is sought under section 127 of the RMA to change conditions 9 and 10 of resource consent RM170608 which was granted on 13 September 2017 for land use consent to establish a restaurant, bar and brewery within the existing Cavell's building, and to undertake additions and alterations to an existing building which infringe internal setbacks and associated earthworks. The original non-notified proposal was a non-complying activity to establish a commercial activity within the Rural General zone, under the ODP. Presently Condition 9 of RM170608 restricts all live and amplified music above background levels in outdoor areas, at all times. It is understood this condition was included to prevent outdoor events and outdoor music events from being held at the subject site. The applicant now proposes, subject to obtaining consent under section 127, to provide live and amplified acoustic music between the hours of 12pm and 8pm, but limited to no more than three days of live music in any seven consecutive day period.

The applicant's proposal is to amend conditions 9 and 10 of RM170608 as follows (changes shown in **bold underline** and ~~striketrough~~)

- 9) ~~The consent holder shall ensure that no live or amplified music shall be permitted on the outdoor decking area, with any music played outside being at a background level.~~
The sound pressure level of any music above a background level in the outdoor decking area shall be limited to no greater than 73 dB LAeq (30s) at a distance of 6 metres from the noise source (speaker). Any live music shall not include bass or drums. Where music is amplified only two speakers may be used and the system shall be calibrated by a Sound Engineer. The following measures shall also be implemented:
- a. Any music above a background level shall be limited in duration to no more than 6 hours in the period between 1200 and 2000 hours; and***
 - b. Live music shall be limited to no more than three days in any seven consecutive day period.***
- Advice Note: For the purposes of clarity, live music events are not restricted to a continuous six hour period and may be broken up across the period specified, 1200 to 2000 hours. No gap less than 15 minutes is to be counted as a 'break' between performances and is to be considered as part of a continuous music performance.***
- 10) Within three months of the grant of consent ~~RM191325~~, **The** consent holder shall submit for approval a Noise Management Plan to address the increase in patronage and extended operating hours and outline management procedures to ensure compliance with Conditions 5-9. Once approved, the activity **granted in accordance with RM170608 and subsequently varied under RM191325** shall be carried out in accordance with the approved Noise Management Plan. The Noise Management Plan may be amended by the consent holder at any time subject to the approval of the Manager: Resource Consents Planning and Development

The applicant has provided a detailed description of the proposal, the site and locality and the relevant site history in Sections 1 to 3 of the report entitled *Application to change conditions of RM170608: Go Orange Limited, 1 Arthurs Point Road, Arthurs Point, Queenstown*, prepared by Natalie Reeves of Town Planning Group, and submitted as part of the application (hereon referred to as the applicant's AEE, and attached as Appendix 2). This description is considered accurate and is adopted for the purpose of this report along with the following additions:

On the 17 March the applicant's agent via email liaised with Andrew Woodford, Senior Planner regarding the hours of operation and the proposed frequency of live music events to be held. The outcomes of this meeting are included in an email as an addendum to Appendix 2 of the Applicant's AEE.

Finally on 1 April 2020 the applicant agreed to amend condition 10 to read as shown below:

10) ~~Within three months of the grant of this consent, The approved Noise Management Plan (dated xxx) submitted in accordance with RM191325~~ consent holder shall submit for approval a noise management plan to address the increase in patronage and extended operating hours and outline management procedures to ensure compliance with Conditions 5-9. ~~Once approved, the~~ **The activity granted in accordance with RM170608 and subsequently varied under RM197325 shall be carried out in accordance with the approved Noise Management Plan. The Noise Management Plan may be amended by the consent holder at any time subject to the approval of the Manager: Resource Consents Planning and Development.**

In order for the NMP to accurately reflect the proposed changes to the consented activity, it was recommended that the agent update the NMP with the amended wording for conditions 9 and 10. Due to concerns associated with costs incurred, the agent refused to update the NMP. Subsequently, the wording for condition 10 has been amended to read as shown in the proposal above, to ensure that the applicant submits an updated NMP for Council's approval within three months of issue of the decision.

2. ACTIVITY STATUS

2.1 RESOURCE MANAGEMENT ACT 1991

The proposed activity requires resource consent for the following reasons:

- A **discretionary** activity consent pursuant to section 127(3)(a) of the RMA, which deems any application to change or cancel consent conditions to be a discretionary activity. It is proposed to change Conditions 9 and 10 of resource consent RM170608 to provide live and amplified acoustic music between the hours of 12pm and 8pm, and limited to no more than three days of live music in any seven consecutive day period; and for the inclusion of an approved Noise Management Plan in accordance with resource consent RM191325.

2.2 ACTIVITY STATUS SUMMARY

Overall, the application is considered to be a **discretionary** activity under the RMA.

3. SECTION 95A – PUBLIC NOTIFICATION

Section 95A of the RMA requires a decision on whether or not to publicly notify an application. The following steps set out in this section, in the order given, are used to determine whether to publicly notify an application for a resource consent.

3.1 Step 1 – Mandatory public notification

The applicant has not requested public notification of the application (s95A(3)(a)).

Public Notification is not required as a result of a refusal by the applicant to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the RMA (s95A(3)(b)).

The application does not involve exchange to recreation reserve land under section 15AA of the Reserves Act 1977 (s95A(3)(c)).

3.2 Step 2 – Public notification precluded

Public notification is not precluded by any rule or national environmental standard (s95A(5)(a)).

The proposal is not a controlled activity; or a restricted discretionary or discretionary subdivision or residential activity; or a restricted discretionary, discretionary or non-complying boundary activity as defined by section 87AAB; therefore, public notification is not precluded.

The proposal is not a prescribed activity (s95A(5)(b)(i-iv)).

3.3 Step 3 – If not precluded by Step 2, public notification is required in certain circumstances

Public notification is not specifically required under a rule or national environmental standard (s95A(8)(a)).

A consent authority must publicly notify an application if it decides, in accordance with s95D, that the proposed activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

An assessment in this respect is therefore made in section 3.3.1 - 3.3.3 below:

3.3.1 Effects that must be disregarded (s95D(a)-(e))

- A: *Effects on the owners or occupiers of land on which the activity will occur and on adjacent land (s95D(a)).*
- B: *An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect (s95D(b), accordingly, a permitted baseline assessment is undertaken (if applicable) in section 3.3.2 below)).*

3.3.2 Permitted Baseline (s95D(b))

The consent authority **may** disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. A change of consent conditions requires resource consent as a discretionary activity, therefore the permitted baseline is not applicable.

3.3.3 Assessment: Adverse Effects On The Environment

Taking into account sections 3.3.1 and 3.3.2 above, the following assessment determines whether the proposed activity will have, or is likely to have, adverse effects on the environment that are more than minor that will require public notification (s95A(8)(b)).

Given this is a consent for a discretionary activity, the Council is not restricted in the matters it is required to consider. Accordingly, the following matters have been considered in this assessment:

Amenity Effects

The applicant's acoustic report prepared by Acoustic Engineering Service (AES) states that noise emissions are anticipated to be 73 dB LAeq (30 s) which is of a level the activity will continue to comply with the noise limits of the Operative District Plan (ODP) and Proposed District Plan (PDP). The change to conditions only relates to the daytime period between 1200h and 2000h and therefore the relevant noise limit is 50 dB LAeq(15 min) applying within notional boundaries (20m from) houses in the rural zone and within site boundaries in residential zones. It is noted that low density residential development surrounds the subject site both directly across the Shotover River on the true right and to east and north. These residential areas are zoned a mix of Lower Density Suburban Residential and Rural as outlined under the PDP. The report prepared by Acoustic Engineering Service (AES) has been reviewed by Council's Acoustic specialist, Dr Stephen Chiles. Dr Chiles has considered potential noise effects and states in his report dated 27 December 2019 (see Appendix 3):

'the ODP/PDP/condition 8 noise limit represents a good standard of residential amenity'

The proposal is for live music to be played outdoors for no more than six hours in the period between 1200 and 2000 hours; and no more than three days in any seven consecutive day period. Dr Chiles provides the following comment:

'As a temporary occasional effect this should not be significant, but if it were more frequent this would likely to have a material impact on amenity'

Given the time restriction based on the number of hours within which the activity can operate, and limit to three consecutive days in any seven days together with the limit of noise emissions, Mr Chiles considers the temporary occasional effect of the proposed activity not to be significant. The conditions of consent volunteered by the applicant will ensure that the amenity values of the wider environment are appropriately mitigated and not adversely impacted by the proposal. As such, any such amenity effects, are considered to be no more than minor.

In addition, the Noise Management Plan prepared by Acoustic Engineering Services has been updated to meet the requirements of Condition 10 which include the following provisions:

- No more than 160 people may occupy outdoor areas between the hours of 8am and 10pm;
- No more than 40 people shall occupy outdoor areas between the hours of 10pm and 2am the following day;
- All doors and windows are to be shut between the hours of 10pm and 8am the following day;
- Live and amplified music shall not include the use of live drums or bass; and
- A noise level no greater than 73 dB LAeq (30sec) as measured at a distance of 6m from the noise source (speaker);
- All music played above background levels will be limited to a duration of 6 hours or less;
- Only two single speakers are to be used where noise is above background levels;
- The speakers will face the restaurant i.e. directly east;
- The speaker system is to be calibrated and reviewed by a sound engineer.

The proposal complies with the noise limits under the PDP and the proposed level of noise of 73 dB LAeq (30 s) at 6m is considered reasonable. Given that the proposal is limited to no more than three days in any seven consecutive day period, limited in duration to no more than six hours between 12pm and 8pm and that the noise emissions comply with PDP standards, it is considered that the effect on amenity will be acceptable. Furthermore, the approved Noise Management Plan will be included within condition 10 to be implemented as part of the proposed activity to ensure that any potential adverse effects on the surrounding environment are appropriately mitigated. Overall, it is concluded that adverse noise effects on the wider environment will be no more than minor.

3.3.4 Decision: Effects On The Environment (s95A(8))

Overall, on the basis of the above assessment, the proposed activity is not likely to have adverse effects on the environment that are more than minor. Therefore, public notification is not required under Step 3.

3.4 Step 4 – Public Notification in Special Circumstances

There are no special circumstances in relation to this application.

4. LIMITED NOTIFICATION (s95B)

Section 95B(1) requires a decision on whether there are any affected persons (under s95E). The following steps set out in this section, in the order given, are used to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.

4.1 Step 1: certain affected groups and affected persons must be notified

Limited notification is not required under Step 1 as the proposal does not affect customary rights groups, customary marine title groups nor is it on, adjacent to, or may affect land subject to a statutory acknowledgement (s95B(2)-(4)).

4.2 Step 2: if not required by Step 1, limited notification precluded in certain circumstances

Limited notification is not precluded under Step 2 as the proposal is not subject to a rule in the District Plan or is not subject to a NES that precludes notification (s95B(6)(a)).

Limited notification is not precluded under Step 2 as the proposal is not a controlled activity or is not a prescribed activity (s95B(6)(b)).

4.3 Step 3: if not precluded by step 2, certain other affected persons must be notified

If limited notification is not precluded by Step 2, a consent authority must determine, in accordance with section 95E, whether the following are affected persons:

Boundary activity / Prescribed activity

The proposal is a not boundary activity where the owner of an infringed boundary has provided their approval, and it is not a prescribed activity (s95B(7)).

Any other activity

If not a boundary activity or prescribed activity, the proposed activity falls into the 'any other activity' category (s95B(8)), and the effects of the proposed activity are to be assessed in accordance with section 95E (see the assessment below in section 4.3.3).

4.3.1 Considerations in assessing adverse effects on Persons (S95E(2)(a)-(c))

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect. In this case the permitted baseline assessment is found within section 3.3.2 above. That assessment concludes that as the proposed activity is a discretionary activity under section 127 of the RMA, there is no applicable permitted baseline.
- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in [Schedule 11](#).

4.3.1 [ii] Persons who have provided written approval (s95E(3))

No persons have provided their written approval to the application.

4.3.2 Assessment: Effects on Persons

Taking into account the exclusions in section 95E(2) and (3), the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor:

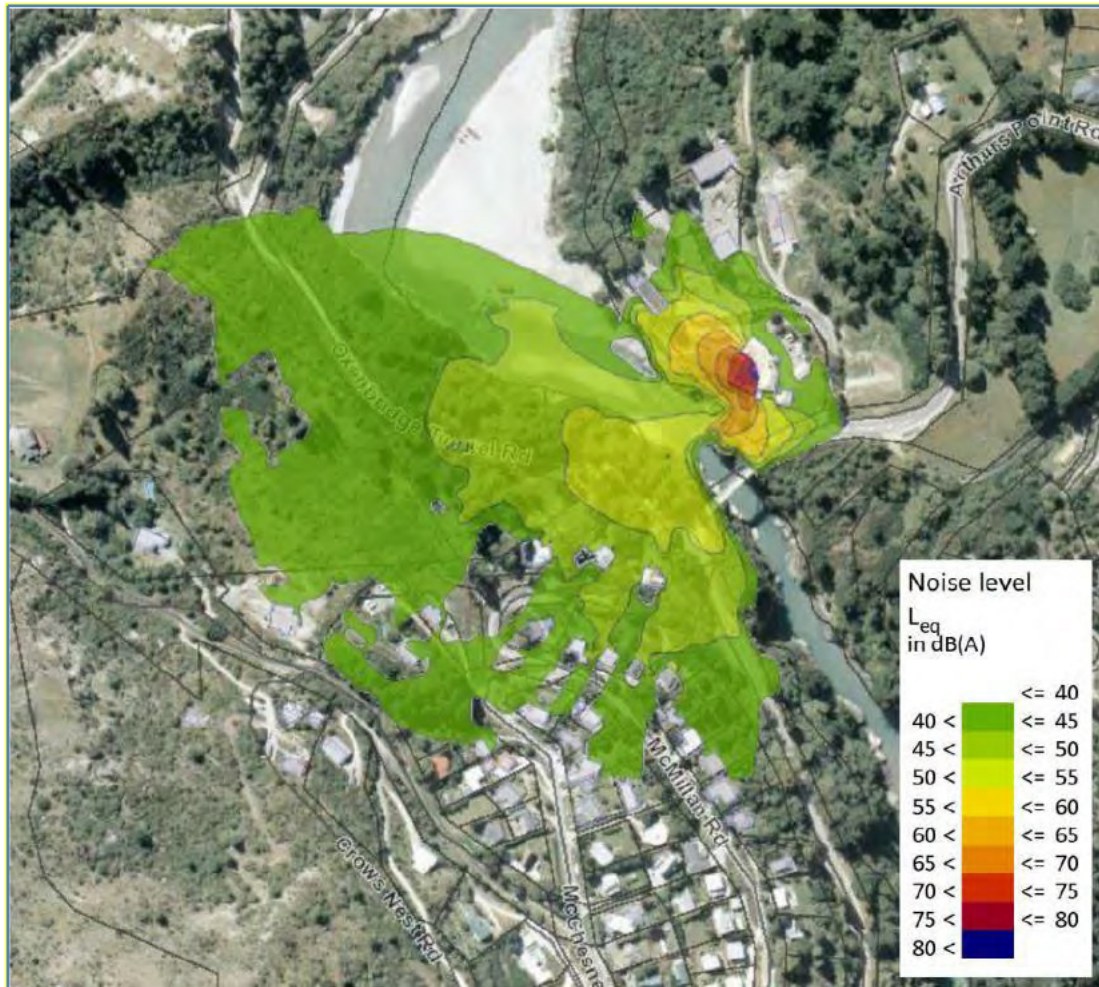


Figure 1: Plan of noise emissions from the subject site with amplified music (Source: Noise Assessment: Applicants AEE – Appendix 2)

Section 6 of the Applicant's AEE provides an assessment of actual and potential effects. As the Applicant's AEE is considered to be accurate it is adopted for the purpose of this report, along with the following additions:

Rural Amenity Effects

The proposal to establish the restaurant, bar and brewery was processed on a non-notified. It is important to note that the original application under RM170608 did not provide for live music and a condition of consent was included to ensure that live music was not permitted under the decision.

The plan shown in Figure 1 above demonstrates noise emissions from the application site with amplified music, as detailed in the noise assessment prepared by Acoustic Engineering Services (AES). The applicant has volunteered a condition of consent to ensure compliance with the noise limits specified in condition 8 (i.e. the PDP noise limits), together with the mitigation measures detailed in the (Noise Management Plan (NMP) and existing the conditions of consent. The proposal meets ODP Rural General Zone and the PDP Rural Zone noise limits and will maintain character and amenity levels anticipated for the Zone. As the level of noise produced is in accordance with permitted activity limits and, coupled with the restrictions on hours of operation and number of days per week, it is considered that there will be no change in consented adverse noise effects on owners/occupiers of adjoining or adjacent properties or other sensitive receivers within the Rural Zone.

Lower Density Suburban Residential Zones Effects

The applicant's modelling shows that the noise limits anticipated in the Residential Zone will not be exceeded when the live music is played. The applicant has proposed to amend condition 9, to limit the noise to 73 dBLA eq (30s) measured from 6m. This level of noise onsite will ensure that the noise received off site is within the permitted limits of the PDP. Dr Chiles has reviewed this proposal and agrees with the modelling provided within the application. To ensure that any potential adverse effects resulting from the proposed activity, the applicant proposes to vary condition 10 to provide for the inclusion of an approved NMP. As part of the noise management procedures detailed in the NMP, the consent holder must ensure that all duty managers are informed of the Noise Management Plan requirements and shall be appointed as the Noise Liaison Officer (NLO). The NLO will act as the nominated local residents' liaison to respond to any complaints in relation to effects associated with the proposal. As such, compliance with the permitted activity limits will be met providing the applicant complies with the matters detailed within condition 9. Further, the approved NMP included within condition 10 is considered to appropriately mitigate any potential adverse effects associated with the proposed activity. Accordingly, any such effects on surrounding owners and occupiers are considered to be less than minor.

4.3.3 Decision: Effects on Persons (s95B(1))

In terms of section 95E of the RMA, no person is considered to be adversely affected.

4.4 Step 4 – Further Limited Notification in Special Circumstances (s95B(10))

Special circumstances do not apply that require limited notification.

5. OVERALL NOTIFICATION DETERMINATION

In reliance on the assessment undertaken in sections 3 and 4 above, the application is to be processed on a non-notified basis.

6. S104 ASSESSMENT

6.1 EFFECTS (s104(1)(a))

Actual and potential effects on the environment have been outlined in Section 4 of this report. Conditions of consent can be imposed under s108 of the RMA as required to avoid, remedy or mitigate adverse effects.

6.2 RELEVANT DISTRICT PLAN PROVISIONS (s104(1)(b)(vi))

The relevant objectives and policies are contained within Parts 4 (District Wide Issues), 5 (Rural Amenity), and of the ODP. The relevant objectives and policies of the PDP are contained within Chapter 21 (Rural) and 36 (Noise). An assessment of the objectives and policies is provided within section 7 of the applicant's AEE, and is considered accurate and is adopted for the purposes of this report.

Operative District Plan and Proposed District Plan Weighting

In this case, as the conclusions reached in the above assessment lead to the same conclusion under both the ODP and PDP, no weighting assessment is required.

6.3 OTHER MATTERS (s108 AA) – conditions of resource consent

The applicant has proposed a variation to Condition 9 as per the email dated 17 March 2020 and as stated in section 1 of this report. In order to provide greater clarity and surety to Council and indeed the applicant, the proposed condition 9 has been re-worded as outlined in 6.5 of this report. The variation to condition 9 is required in order to provide certainty to the applicant as to what the background outdoor noise level is while live music is being played on the outdoor decking area. Such a change is considered necessary to avoid any future ambiguity to all parties as to what a 'background level' actually is and in fact provides the applicant with a very achievable and enforceable condition of consent. With respect to the content of condition 9 as outlined in section 6.5 of this report, the condition merely sets out in a clear and concise manner the condition proposed in the applicant's email dated 17 March 2020.

It is noted that the applicant has provided a draft Noise Management Plan (NMP) as part of this application. In order to ensure that the applicant provides a finalised copy of the NMP, for Council's approval, which addressed the conditions set out in section 6.5 of this report, it is recommended that condition 10 of RM191325 is varied to ensure that proposed outdoor music activity is implemented in accordance with the NMP.

It is considered that the new condition wording for condition 10 should be amended as shown below, changes shown in bold underline and strikethrough):

10) Within three months of the grant of consent, ~~RM191325, the~~ **the** consent holder shall submit for approval a Noise Management Plan to address the increase in patronage and extended operating hours and outline management procedures to ensure compliance with Conditions 5-9. Once approved, the activity **granted in accordance with RM170608 and subsequently varied under RM191325** shall be carried out in accordance with the approved Noise Management Plan. The Noise Management Plan may be amended by the consent holder at any time subject to the approval of the Manager: Resource Consents Planning and Development.

6.4 PART 2 OF THE RMA

Part 2 outlines that the purpose of the RMA is to promote the sustainable management of natural and physical resources. Section 7 directs decision makers to have regard to the maintenance and enhancement of amenity values, the efficient development of physical resources, and the maintenance and enhancement of the quality of the environment.

Overall, it is considered that the changes to conditions 9 and 10 of RM170608, would avoid or mitigate any potential adverse effects on the environment while providing for sustainable management of resources and is therefore in keeping with the Purpose and Principles of the RMA.

6.5 DECISION ON VARIATION PURSUANT TO SECTION 127 OF THE RMA

Consent is **granted** for the application by RM191325 to change Conditions 9 and 10 of resource consent RM170608, such that:

- 1 Conditions 9 and 10 of resource consent RM191325 is amended to read as follows (deleted text struck-through, added text underlined):
- 9) ~~The consent holder shall ensure that no live or amplified music shall be permitted on the outdoor decking area, with any music played outside being at a background level.~~ The sound from any outdoor loudspeaker must not exceed a background level of 75 dB LAeq (5 min) measured at 0.6 metres from the loudspeaker, other than during live music. Live music must only occur subject to the following limitations:
 - a. The sound from live music in the outdoor decking area must not exceed 73 dB LAeq(30s) measured at 6 metres from the sound source (speaker or musician).
 - b. There must be no bass or drums.
 - c. There must not be more than two loudspeakers.

- d. Amplified sound must be calibrated by a Sound Engineer prior to use to ensure compliance with the noise limit 73 dB LAeq(30s)
 - e. Live music must be less than 6 hours duration in the period between 1200 and 2000 hours; and
 - f. Live music must be limited to no more than three days in any seven consecutive day period.
- 10 Within three months of the grant of consent **RM191325**, the consent holder shall submit for approval a Noise Management Plan to address the increase in patronage and extended operating hours and outline management procedures to ensure compliance with Conditions 5-9. Once approved, the activity **granted in accordance with RM170608 and subsequently varied under RM191325** shall be carried out in accordance with the approved Noise Management Plan. The Noise Management Plan may be amended by the consent holder at any time subject to the approval of the Manager: Resource Consents Planning and Development

Advice note

- All other conditions of RM170608, shall continue to apply.

8. OTHER MATTERS

Local Government Act 2002: Development Contributions

A development contribution is required for the Canyon Food and Breweries development as a whole. This section 127 application itself is not considered a "Development" in terms of the Local Government Act 2002 as it will not generate a demand for network infrastructure and reserves and community facilities.

Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

This resource consent is not a consent to build under the Building Act 2004. A consent under this Act must be obtained before construction can begin.

The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

If you have any enquiries please contact Andrew Woodford on phone [REDACTED] or email [REDACTED]

Report prepared by



Helen Pickles

CONSULTANT PLANNER

Decision made by



Andrew Woodford

SENIOR PLANNER

Re-Issued report prepared by



Andrew Woodford

SENIOR PLANNER

Decision made by



Alana Standish

TEAM LEADER RESOURCE CONSENTS

APPENDIX 1 – Updated RM170608

APPENDIX 2 – Applicant's AEE and Conditions of Resource Consent email from agent dated 17 March 2020

APPENDIX 3 – Acoustic Specialist Report dated 27 December 2019 and email 27 January 2020

APPENDIX 1 – UPDATED CONDITIONS OF RM170608

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - 'Existing Site Plan' Sheet 101 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Proposed Site Plan' Sheet 102 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Existing Floor Plan' Sheet 103 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Proposed Floor Plan' Sheet 104 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Brewhouse Plan' Sheet 112 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Proposed & Existing Elevations' Sheet 201 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017
 - 'Proposed Brewhouse Exterior Elevations' Sheet 204 Issue 01 Revision 01 by Element 17 Limited dated 23/08/2017

stamped as approved on 11 September 2017

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

- 2a. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
- 2b. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.

External Appearance

3. The materials and colours that have been approved under this resource consent are as follows:

Element	Material	Colour
Primary Cladding	Vertical Cedar	Selected from a recessive range of natural browns, greys or greens, LRV less than 35%
Secondary Cladding	James Hardie Axon Panel	Selected from a recessive range of natural browns, greys or greens or black, LRV less than 35%
Roof / wall	Profiled metal roofing	Selected from a recessive range of natural browns, greys or greens, LRV less than 35%
Joinery	Powder coated aluminium	Selected from a recessive range of natural browns, greys or greens, LRV less than 35%

Any amendment to this schedule of colours and materials shall be provided by the consent holder to the Monitoring Planner of the Council for certification prior to being used on the building. Colours shall be in the natural range of natural greens, browns, or greys with a light reflectance value (LRV) of 36% or less.

Activity

4. The sale and supply of alcohol (on and off licence) shall only occur between the hours of 8am and 2am, seven days per week.
5. Between 8am and 10pm, the consent holder shall ensure that no more than 160 people shall occupy the outdoor areas of the licenced premise.

6. Between 10pm and 2am the following day, the consent holder shall ensure that no more than 40 people shall occupy the outdoor area of the licenced premise, with this limited to the deck adjacent to the southern entry/exit of the building.
Note: This could be achieved by stacking or removal of the dining furniture, or roping off a portion of the area such that only approximately 40 people can be accommodated.
7. As part of timely entry and exit, the consent holder shall ensure that all doors and windows to the premises must remain closed from 10pm until 8am the following day.

Noise

8. The consent holder shall ensure that activities be conducted so that the following noise limits measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 shall not be exceeded at any point within the notional boundary of any residential unit in the Rural General Zone or at any point within the Low Density Residential Zone:
 - (i) daytime(0800 to 2000 hrs) 50 dB LAeq(15 min)
 - (ii) night-time (2000 to 0800 hrs) 40 dB LAeq(15 min)
 - (iii) night-time (2000 to 0800 hrs) 70 dB LAFmax
9. The sound from any outdoor loudspeaker must not exceed a background level of 75 dB LAeq (5 min) measured at 0.6 metres from the loudspeaker, other than during live music. Live music must only occur subject to the following limitations:
 - a. The sound from live music in the outdoor decking area must not exceed 73 dB LAeq(30s) measured at 6 metres from the sound source (speaker or musician).
 - b. There must be no bass or drums.
 - c. There must not be more than two loudspeakers.
 - d. Amplified sound must be calibrated by a Sound Engineer prior to use to ensure compliance with the noise limit 73 dB LAeq(30s)
 - e. Live music must be less than 6 hours duration in the period between 1200 and 2000 hours; and
 - f. Live music must be limited to no more than three days in any seven consecutive day period.
10. Within three months of the grant of consent RM191325, the consent holder shall submit for approval a Noise Management Plan to address the increase in patronage and extended operating hours and outline management procedures to ensure compliance with Conditions 5-9. Once approved, the activity granted in accordance with RM170608 and subsequently varied under RM191325 shall be carried out in accordance with the approved Noise Management Plan. The Noise Management Plan may be amended by the consent holder at any time subject to the approval of the Manager: Resource Consents Planning and Development

Review

11. Within six months of the date of this decision; and/or upon the receipt of information identifying non-compliance with the conditions of this consent, and/or within ten working days of each anniversary of the date of this decision, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
 - (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.

- (b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
 - (c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.
12. As part of the review clause stated in condition 11 of this consent, the Council may have the noise management plan audited at the consent holder's expense.

Advice Notes

1. No signage has been proposed as part of this proposal. Should a sign be required in the future, a sign permit from Queenstown Lakes District Council should be granted PRIOR to erection.
2. The consent holder is advised that if the wastewater discharging from the premise exceeds the parameters in the Queenstown Lakes District Council Trade Waste bylaw the Consent holder will be required to be monitored. For monitoring to take place the following needs to be installed or taken into consideration.

- A water meter to enable council to monitor daily water consumption.
- A designated sampling point to set up a 24 hour sampler if required.

The consent holder is advised to consult with Queenstown Lakes District Council Trade Waste officers to address the above.

3. For the purposes of clarity, live music events are not restricted to a continuous six hour period and may be broken up across the period specified, 1200 to 2000 hours. No gap less than 15 minutes is to be counted as a 'break' between performances and is to be considered as part of a continuous music performance.

For Your Information

Monitoring

The conditions in your decision will advise if monitoring is required. To assist with compliance of your resource consent, and to avoid your monitoring deposit being used before your development starts, please complete the ["Notice of Works Starting Form"](#) and email to the Monitoring Planner at RCMonitoring@qldc.govt.nz

Environmental Management Plan

Please be aware of your requirements to appropriately manage environmental effects associated with your activity. Site management means having adequate controls in place on your site. This will ensure compliance is achieved and harmful by-products of construction activities do not damage the environment or cause nuisance to neighbours. We've provided some [advice](#) to help you mitigate any possible adverse effects that may be generated on your site as a result of construction related activities.

Engineering Acceptance

You may also have conditions that require you to apply for Engineering Acceptance. To apply, please complete the [Engineering Acceptance Application Form](#) and submit to engineeringapprovals@qldc.govt.nz. Further information regarding Engineering Acceptance can be found [here](#).

Development Contribution

If this decision requires a development contribution (DC) charge, we will be sending a notice in due course. To answer questions such as what is a DC charge, when a DC charge is triggered and timing of payments, this information is available [here](#).

If you wish to make a DC estimate calculation yourself, please use this [link](#). Full details on current and past policies can be found [here](#).

**APPENDIX 2 – APPLICANT’S AEE AND CONDITIONS OF RESOURCE CONSENT EMAIL FROM
AGENT DATED 17 MARCH 2020**



5 December 2019

Our Ref: 2191-18-AEE

Planning Unit

Queenstown Lakes District Council

Private Bag 50072

Queenstown 9348

VIA EMAIL: resourceconsent@qldc.govt.nz

Dear Sir / Madam

**APPLICATION TO CHANGE CONDITIONS OF RM170608: GO
ORANGE LIMITED, 1 ARTHURS POINT ROAD, ARTHURS POINT,
QUEENSTOWN**

Pursuant to section 127 of the Resource Management Act 1991 ("RMA"), Go Orange Ltd ("**Applicant**") hereby submit a request to vary the consent conditions of RM170608. RM170608 was originally issued to Canyon Food and Brew however, this company has now been amalgamated with Go Orange Limited who should now be the consent holder.

The proposed changes relate to the playing and performing of amplified music in outdoor areas during day time hours above background levels. Presently Condition 9 of RM170608 places a blanket ban on all live and amplified music above background levels in outdoor areas, at all times. The applicant wishes to modify this such that amplified music, inclusive of live performances and excluding drums or bass, can be performed in outdoor decking areas between 0800 to 2000 hours. The applicant also proposes to change their noise management plan in order to mitigate any adverse effects and ensure clear provisions are outlined to staff.

This application addresses matters which are relevant to the consideration of a variation to a resource consent and includes an assessment of environmental effects in such detail that corresponds with the scale and significance of the effects of the proposed changes.

Offices in Christchurch, Queenstown & Auckland

Website: www.townplanning.co.nz | Postal: PO Box 2559, Queenstown 9300 | Phone: 0800 22 44 70

A payment of \$1,900, being the appropriate fee deposit for an application seeking to vary the conditions of a resource consent will follow immediately upon receipt of an invoice and the allocated RM reference. A completed application form is enclosed as **Attachment [A]**.

1. INTRODUCTION

RM170608 was approved on September 13 2017 and is appended as **Attachment [B]**. The consent authorises the use of land to establish a restaurant, bar and brewery within the existing building including alterations and additions to the existing building, internal setback infringements and all associated earthworks. All works associated with the construction and alteration of the building have since been completed.

RM170608 has a number of conditions related to the use of outdoor areas and the playing of amplified music, with the intention to mitigate effects on nearby residential properties. The noise limits imposed via condition 8 are a reflection of the District Plan day and night time noise limits for the Rural General and Low Density Residential Zones. To achieve these noise limits, condition 9 prohibits the playing of any live music in outdoor areas and restricts all music to only 'background levels'. For the purposes of clarity, 'background noise level' is defined as a level which allows two patrons over one metre apart to hold a conversation at 'normal' voice levels, or 70 dBA, whichever is the lesser. Following requests received from patrons to commission live musical performances, the Applicant has undertaken investigations which confirm such performances could occur whilst maintaining compliance with the current noise limits imposed via condition 8.

In summary, this Assessment of Environmental Effects ("**AEE**") report considers the effects of the proposal and determines that the proposal will have less than minor adverse effects on the surrounding environment. The primary effects considered in this application are effects of playing amplified music during day time hours on nearby rural and residential zones and any subsequent effects on rural and residential character and amenity.

The proposed development and activities will be entirely appropriate in the context of the receiving environment and will not give rise to any significant adverse effects. The proposal is consistent with the objectives and policies of the District Plan. The overall conclusion is that the proposal is consistent with the purpose and principles of the Resource Management Act 1991 ("RMA") and accords with the definition of sustainable management.

2. SITE & SURROUNDS

The site is located at 1 Arthurs Point Road, Arthurs Point, located on a small river terrace above the true left of the Shotover River, as shown in Figure 1 below.

The site is legally described as Section 1 Survey Office Plan 23662 and Section 3-4 Survey Office Plan 23901, contained in Freehold Register OT15B/790 and has an area of approximately 5,420m². The site includes the Morning Star Beach Recreation Reserve. The title and relevant details are appended as **Attachment [C]**. Morning Star Recreation Reserve

is managed by the Department of Conservation (DOC) on behalf of the Crown. It is classified as a recreation reserve under the Reserves Act 1977.

The subject site is legally owned by Her Majesty the Queen, with Instruments 884070.2 and 884070.3 providing for lease of the site. Consent Notice 884070.1 requires the site to be connected to a reticulated sewage scheme supplied by the Queenstown Lakes District Council (QLDC). Transfer 889020 created water and right of way easements across the wider site, included within these is the vehicle access serving 1 Arthurs Point.

The Go Orange, building has been located within the application site for over 25 years. The building is situated adjacent to and below the entrance to the Morning Star Recreation Reserve. Vehicle access to the site is via an existing internal road that extends off the main entrance way. The building faces west over the Shotover River. The primary existing entrance to the building is through doors on the western side of the building.



Figure 1: Site location plan (Source: QLDC GIS 2018)

The ground floor of the building contains Canyon Food and Brew Company and Go Orange Limited Rafting. The upper floor is occupied by DOC for offices. The building is currently used in the manner authorised under RM170608, for the operation of a restaurant, bar and brewery. The facilities are open generally from midday (11:30 am) until late. Activity in the outdoor areas is shutdown at 10 pm with all guests moved indoors and all windows and doors closed after this time. No live or amplified music is permitted in outdoor areas at any time and any music played in outdoor areas must be limited to background levels. All activities carried out onsite must comply with the following limits:

- (i) Daytime (0800 to 2000 hrs) 50 dB $L_{Aeq}(15 \text{ min})$
- (ii) Night time (2000 to 0800 hrs) 40 dB $L_{Aeq}(15 \text{ min})$
- (iii) Night time (2000 to 0800 hrs) 70 dB L_{AFmax}

Presently the site has a large outdoor deck and seating area with a number of tables, and umbrellas for guests to enjoy the surrounds during their dining experience. The site also hosts a number of private events for weddings and corporate functions. Live music is often requested by guests as is common for hospitality outlets.

For the purposes of the assessment below, the site is zoned Rural General under the Operative District Plan (ODP). The zoning of the subject site has not changed under the Proposed District Plan (PDP).

Low density residential development surrounds the subject site both directly across the Shotover River on the true right and to east and north. These residential areas are subject to mixed zoning provisions as limited to Low Density Suburban Residential and Rural as outlined under the ODP and PDP. The closest residential units are located on McMillan Road, within the Low Density Residential Zone as identified in [Figure 2](#) below.



Figure 2: Site plan identifying closest residential units to the subject site as indicated by red pin.

3. PROPOSAL

In order to provide a comfortable and pleasurable dining and entertainment experience, the applicant wishes to be able to provide live and amplified acoustic music from time to time in accordance with requests from customers. Should the addition of live music be well received, the Applicant may host more regular late afternoon live music sessions. In order to respect the privacy and amenity of nearby residents, all live amplified outdoor musical performances will be limited to acoustic only, with no drums or bass. All live music will cease from 2000 to comply with condition 8 and outdoor activity will cease between 2200 and 0800.

In order to reflect the above, the following changes are proposed to condition 9 of RM170608 (text to be deleted as ~~striketrough~~ and text to be added as **bold and underlined**):

Condition 9:

~~The consent holder shall ensure that no live or amplified music shall be permitted on the outdoor decking area, with any music played outside being at a background level.~~

The sound pressure level of any music above a background level in the outdoor decking area should be limited to no greater than 73 dB L_{Aeq} at a distance of 6 metres. Any live music shall not include bass or drums. Where music is amplified only two speakers may be used and the system shall be calibrated by a Sound Engineer. Any music above a background level shall be limited in duration to no more than 6 hours in the period between 0800 and 2000 hours.

For the purposes of clarification, the Applicant is not proposing to breach condition 8. of their resource consent related to day and night time noise limits. The applicant has also updated their noise management plan for approval by the Manager: Resource Consents Planning and Development to meet Condition 10. The noise management plan has been updated in order to reflect the proposed changes and ensure clear operational procedures are established and followed by staff. A copy of the proposed Noise Management Plan can be found in **Attachment [D]**.

5. STATUTORY PROVISIONS

Section 127 of the RMA sets out the requirements for applications to change or cancel conditions of resource consents.

Section 127(3)(a) of the RMA requires that applications for changes to resource consent conditions be presented as if the application were for a discretionary activity, and thus an assessment of any effects that the proposed changes may have on the environment in accordance with Section 88 and the Fourth Schedule to the RMA follows.

Section 127(3)(b) stipulates that only the change of conditions and the resultant potential effects of these changes are to be considered.

Section 127(3) forms the first of two limbs of the test for the application. The second limb of the test is described in section 127(4), where it is stated that the local authority must consider the effects of the changes upon any affected parties. The original consent was processed on a non-notified basis. Subsequently, notice was not served on any persons considered adversely affected by the proposal and no submissions were called for through a notification process. As such, there are no parties that require notification as a result of the proposed change.

With regards to the abovementioned statutory requirements, we note the proposal is for only relatively minor amendments to site operations. It is appropriate that this assessment of effects

on the environment is therefore concise and focussed on the key effects as corresponds to the scale of the proposed changes.

Whilst the status of the application is Discretionary as afforded by provisions outlined under section 127 of the RMA, it is worth noting that the status of the activity would not change from that considered during the granting of the original application as the applicant still intends to comply with the day and night time noise limits outlined in condition 8 of RM170608.

6. ASSESSMENT OF ACTUAL AND POTENTIAL EFFECTS

Section 88 of the Act requires that the Applicant undertake an assessment of any actual or potential effects on the environment that may arise from the proposal, and the ways in which any adverse effects may be avoided, remedied or mitigated.

Pursuant to section 127(3)(c) of the Act, this assessment is generally confined to those matters related to the change. The assessment below also considers any potential effects on rural amenity values and any potential positive effects of the proposal.

Effects on rural amenity

The proposed changes relate only to the playing of amplified music in outdoor areas until 2000 hours; no changes are proposed to the noise level restrictions as outlined in Condition 8. The effects of the proposed changes have been assessed by an acoustic engineer with the results of all acoustic measurements and modelling presented in **Attachment [E]**. The results of the acoustic modelling conclude amplified music played above background levels during day time hours will comply with the noise limits outlined in Condition 8, as measured at the notional boundary of the closest residential units to the subject site, as identified in Figure 3 below, provided that the period of time over which music is played is restricted to 6 hours.

In order to ensure compliance with the maximum noise limits specified in Condition 8 and to mitigate the effects of the activity, the following controls have been recommended in the Noise Management Plan prepared by Acoustic Engineering Services, submitted to meet the requirements of Condition 10.

- No more than 160 people may occupy outdoor areas between the hours of 8am and 10pm;
- No more than 40 people shall occupy outdoor areas between the hours of 10pm and 2am the following day;
- All doors and windows are to be shut between the hours of 10pm and 8am the following day;
- Live and amplified music shall not include:
 - The use of live drums or bass;
 - A noise level no greater than 73 dB L_{Aeq} as measured at a distance of 6m from the noise source (speaker);

- All music played above background levels will be limited to a duration of 6 hours or less;
- Only two single speakers are to be used where noise is above background levels;
- The speakers will face the restaurant i.e. directly east;
- The speaker system is to be calibrated by a sound engineer.
- Further measures to ensure compliance with the maximum noise levels outlined in condition 8 are recommended in the noise management plan. These measures include identifying the responsibilities of the consent holder and outline complaint procedures. A copy of the noise management plan has been appended as **Attachment [D]**.

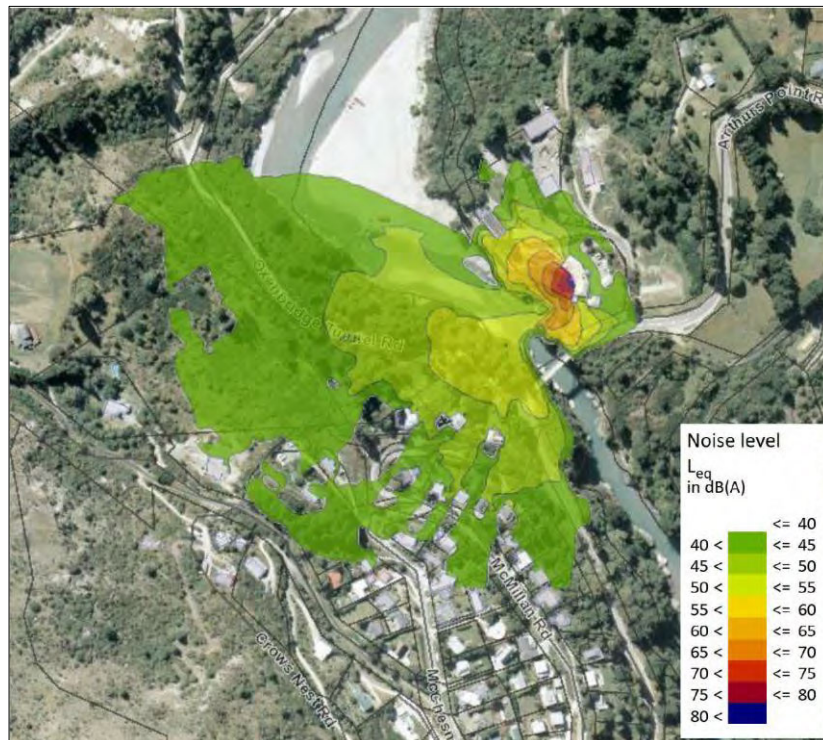


Figure 3: Map of noise emissions from the subject site with amplified music

As a result of the mitigation measures prescribed above, and as reflected in the conditions of consent, the applicant will continue to ensure compliance with the noise limits specified in condition 8. The noise limits set are a direct reflection of the limits outlined in both the ODP and PDP, as set for Rural Zones, to ensure the level of amenity and character is in keeping with that anticipated for the Zone; the same noise levels are outlined under the ODP. As such, the level of noise produced is in accordance with permitted activity limits. As there are no changes proposed to the level of noise produced, it is considered that there will be no change in consented adverse noise effects on residents or other sensitive receivers within the Rural Zone.

In addition to the above, the proposed changes will not trigger any change in effect on landscape and character of the area as observed from neighbouring properties as all activities

undertaken onsite are in accordance with that authorised via RM170608. There will be no change in scale of activity including number of people and vehicle movements. All current operational restrictions will be adhered to including the number of people permitted outside on the deck and outdoor operational hours.

Effects on Lower Density Suburban Residential Zones

Those properties located within the closest proximity to the subject site are zoned Lower Density Suburban Residential under the PDP. As part of living within a suburban area, a certain level of noise during daytime hours would reasonably be anticipated, with appropriate provisions outlined in Rule 36.5.2 of the PDP.

The level of noise produced from the playing of amplified music has been measured at the notional property boundaries of the two closest houses, numbers 53 and 57 McMillan Road, located on the true right bank of the Shotover River, directly facing the subject site. There is a structure located directly opposite the subject site on Oxenbridge Tunnel Road that is 'closer' when taking a direct measurement, but this site is subject to Designation 43 and is a sewage treatment facility owned and managed by the District Council and is therefore not considered to be a sensitive activity.

As the noise limits set for the Rural Zone are more onerous than those related to the Lower Density Suburban Residential Zone, and the noise levels do not exceed permitted activity limits, the effects of the proposed changes on those properties located within the Lower Density Suburban Residential Zone will be less than minor and are to be wholly anticipated within the zone.

Positive effects

The provision of amplified music in outdoor areas, including live acoustic performances, will positively affect the ambience and total dining experience of customers and visitors to Canyon Food and Brew. The applicant presently struggles to provide a level of dining and entertainment experience similar to that available to customers in other Queenstown hospitality outlets. The Arthurs Point area is a popular tourist destination with the Shotover Jet and raft operating out of the same building and on adjoining sites. Canyon Food and Brew offers customers a unique dining experience to compliment the water activities on offer. The restaurant and brewery also services the needs of nearby residential areas and the Swiss Bell Resort located a short distance north along Arthurs Point Road as it is the only dine-in facility in the Arthurs Point area. Overall, the proposal will contribute positively to the social and economic wellbeing of the community.

Summary

In conclusion, the effects of the proposal are considered to be less than minor. Overall, the effects of the proposal are considered to be positive as the ambience and quality of the dining experience offered will be enhanced without affecting the level of amenity enjoyed by neighbouring residences.

7. STATUTORY ASSESSMENT

Section 104 of the Act requires that the relevant provisions of the relevant operative and/or proposed plan(s), or any other matter the consent authority considers relevant and reasonably necessary, to be considered when assessing an application.

Given the discrete and focused nature of the proposal, the most relevant planning documents are considered to be the ODP and PDP. In this regard, the relevant objectives and policies of both District Plans which are most applicable to the proposal, are identified and assessed as follows:

Table 2: District Plan Objectives and Policies Assessment.

Objectives	Policies	Assessment
Operative District Plan		
4. District Wide Issues		
Objective 2 <i>Recreational activities and facilities undertaken in a way which avoids, remedies or mitigates significant adverse effects on the environment or on the recreation opportunities available within the District.</i>	<p>2.1 <i>To avoid, remedy or mitigate the adverse effects of commercial recreational activities on the natural character, peace and tranquillity of the District.</i></p> <p>2.2 <i>To ensure the scale and location of buildings, noise and lighting associated with recreational activities are consistent with the level of amenity anticipated in the surrounding environment.</i></p>	Consistent – the proposal is considered consistent with Objective 2. and Policies 2.1 and 2.2 related to noise as the proposal will not exceed the noise limits specified in condition 8 of the current consent.
5. Rural Areas		
3 – Rural Amenity <i>Avoiding, remedying or mitigating adverse effects of activities on rural amenity.</i>	3.3 <i>To avoid, remedy or mitigate adverse effects of activities located in rural areas</i>	Consistent – the proposal is consistent with Objective 3 and policy 3.3. The mitigation measures outlined in the consent conditions and reinforced via the noise management plan will ensure there will be no change in the level of amenity currently experienced by residents in nearby dwellings.



Table 2: Objective and Policy Assessment under the Proposed District Plan

Objectives	Policies	Assessment
Proposed District Plan		
21. Rural		
<i>21.2.1 – A range of land uses, including farming and established activities, are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values. Please</i>	<i>21.2.1.11 – Provide or the establishment of commercial, retail and industrial activities only where these would protect, maintain or enhance rural character, amenity values and landscape values.</i>	Consistent – Whilst located within a rural zone, the subject site is uniquely located within a largely residential area with remnant rural zoning still applying to the subject site and some surrounding areas. The site and adjacent areas were developed some time ago with commercial recreational activities undertaken onsite. The activities authorised via this consent are an extension of commercial recreational activities in an effort to accommodate the needs of tourists visiting the site and residents in the surrounding Arthurs Point residential areas. The proposed activity balances the anticipated amenity
<i>21.2.4 – Situations where sensitive activities conflict with existing and anticipated activities are managed to minimise conflict between incompatible land uses.</i>	<i>No relevant policies</i>	Consistent – the proposed activity is appropriately managed within permitted activity noise levels outlined in the PDP to minimise conflict between potentially incompatible land uses.
36. Noise		
<i>36.2.1 – The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse effects between land use activities.</i>	<i>36.2.1.1 – Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.</i>	Chapter 36 of the PDP sets out the level of noise considered reasonable to manage conflict between conflicting land uses, including sensitive residential activities and commercial or entertainment facilities. Through the noise limits outlined in the consent, alongside other mitigation strategies, all noise associated with the proposed activity is considered reasonable and any adverse effects will be less than minor.



8. POTENTIALLY AFFECTED PARTIES

The original application was processed and granted on a non-notified basis. Given the extent of the proposed changes, the proposal is not considered to give rise to any significant adverse effects. Accordingly, there are no parties that could be considered to be potentially affected by the proposed changes.

9. RESOURCE MANAGEMENT ACT (1991)

Section 5, Purpose and Principles

The purpose of the RMA, as set out under section 5 (2) is to promote the sustainable management of natural and physical resources. The relevant matters in Sections 6, 7 and 8 of the RMA also require consideration. There are no matters of national importance under Section 6 that need to be recognised and provided for in this application.

The RMA specifies that regard must be had to the relevant matters listed in section 7. The relevant matters include:

(b) The efficient use and development of natural and physical resources.

(c) The maintenance and enhancement of amenity values.

(f) Maintenance and enhancement of the quality of the environment.

The proposed changes will continue to provide for the activities authorised by RM170608 in a manner that efficiently utilises natural and physical resources and protects and maintains the amenity values unique to the Arthurs Point area. The proposed changes provide a number of positive effects to both customers and the operator, ensuring a pleasurable dining experience whilst having no material change in effect on the character and amenity experienced by nearby and neighbouring residents.

There are no matters under Section 8 that require consideration with respect to this application. The site is not identified or otherwise known to be of any cultural significance as outlined in the District Plan.

For the reasons outlined in this report, the proposal is consistent with the purpose and principles under Section 5, and the associated matters under Part 2 of the RMA. The proposal represents an efficient use of the natural and physical resource and will be undertaken in a manner which avoids, remedies and mitigates potential adverse effects on the environment. It is considered that the proposal is consistent with the purpose and principles of the RMA and accords with the definition of sustainable management.

Section 127, Change or cancellation of consent conditions

Section 127 of the RMA sets out the requirements for applications to change or cancel conditions of resource consents:

- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:*

...

- (b) *no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent...*
- (3) *Sections 88 to 121 apply, with all necessary modifications, as if—*
 - (a) *the application were an application for a resource consent for a discretionary activity; and*
 - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who—*
 - (a) *made a submission on the original application; and*
 - (b) *may be affected by the change or cancellation.*

We note that in ‘Body Corporate 97019 v Auckland City Council (2000 NZRMA 202)’ it was determined that:

“In deciding whether an application for variation is in substance a new application, the consent authority should compare any differences in the adverse effects likely to follow from the varied proposal with those of the activity in its original form. Where the variation would result in a fundamentally different activity, or one having materially different adverse effects, a consent authority may decide the better course is to treat the application as a new application”

It is considered that the proposed changes do not result in an activity that is materially different in nature to that approved by RM170608, and there are no significant differences in adverse effects on the environment compared to those authorised under the same. As such, it is considered the proposed changes can be treated as a variation to the original consent under s127 of the RMA.

8. CONCLUSION

The Applicant proposes a minor change to outdoor music activities, with subsequent and corresponding changes required to the conditions of RM170608. This application has addressed all of the assessment criteria relevant to the proposal and concludes that any potential adverse effects of the proposed changes are insignificant, and there are no parties considered to be adversely affected by the proposed changes.

Consequently, the proposed changes should be approved since they represent only minor changes to the approved development, which has been deemed to be in accordance with the purpose of the RMA.

If you have any queries regarding the enclosed, please do not hesitate to contact the writer in the first instance.

From: Natalie Reeves [REDACTED]
Sent: Tuesday, 17 March 2020 10:33 AM
To: Andrew Woodford
Cc: Brett Giddens; Helen Pickles
Subject: Canyon Food and Brew (RM191325) (2191-18)

Hi Andrew

Thanks for taking the time to meet yesterday. It was very productive and we are glad to reach agreement across all of the outstanding issues.

To summarise:

- As the District Plan clearly states in paragraph 2 of the opening section of [Chapter 36](#) and as reflected in Objective 36.2.1 and Policy 36.2.1.1, reasonable noise levels are considered to be the permitted activity noise limits for the Zone. Unreasonable noise is noise that which exceeds the limits for the Zone. As the proposal complies with the noise limits for the Zone, the proposed level of noise is considered reasonable.
- We agree to make the following changes to proposed Condition 9:

The sound pressure level of any music above a background level in the outdoor decking area shall be limited to no greater than 73 dB L_{Aeq}(30s) at a distance of 6 metres from the noise source (speaker). Any live music shall not include bass or drums. Where music is amplified only two speakers may be used and the system shall be calibrated by a Sound Engineer. The following measures shall also be implemented:

- Any music above a background level shall be limited in duration to no more than 6 hours in the period between 1200 and 2000 hours; and*
- Live music shall be limited to no more than three days in any seven consecutive day period.*

Advice Note: For the purposes of clarity, live music events are not restricted to a continuous six hour period and may be broken up across the period specified, 1200 to 2000 hours. No gap less than 15 minutes is to be counted as a 'break' between performances and is to be considered as part of a continuous music performance.

- No changes are required to the Noise Management Plan other than to update it to reflect the condition above.
- The requirement to undertake a one-off letter drop informing the site occupiers of the proposed activity at the following two houses will be included as an advice note to the consent:
 - 53 McMillan Road
 - 57 McMillan Road

We trust that the above will enable the consent to proceed to the point of Decision on a non-notified basis.

Please feel free to get in touch if you have any further questions or if you have a different recollection to the matters agreed as outlined above.

Kind regards,

Natalie Reeves

Planner | Town Planning Group (NZ) Ltd

PO Box 2559, Queenstown 9349

Mobile: [REDACTED]

Office Ph: [REDACTED]



Click here to follow us on [Linked In](#) and [Facebook](#)

Yours sincerely

Town Planning Group

Natalie Reeves

Planner

Encl: [A] Application Form
[B] Copy of RM170608
[C] Title
[D] Noised management plan
[E] Acoustic report

From: Duncan White [REDACTED]
Sent: Tuesday, 18 February 2020 12:03 PM
To: Wendy Baker - External
Cc: Marc Bretherton; Alex Todd
Subject: [PPG-W5920] NIL Stage 12 Subdivision RCA - RM200086 Northlake
Attachments: 1322_20200218_Stage 12 SUB Scheme Plans.pdf

Wendy,

Thanks for the recent discussion and update on the application. As discussed the updated scheme plan is attached. This amended scheme plan shows Lot 1035 as Drainage Reserve.

You also sought clarification of the terminology used in the Crang infrastructure report and what level do the terms original and existing refer to. Sheet 205 shows the difference in heights between current ground level (ie works completed under RM171190) and proposed finished levels. The difference between these two surfaces provides the volume of earthworks to be consented through this application. This is referred to as EXISTING and ORIGINAL. The resource consent application does not use the term existing or original, but calls the proposed earthworks works beyond those approved by RM171190 (ie from the levels consented under that approval). All calculated volumes are from the RM171190 surface and so the RCA and the infrastructure report are consistent.

As always it would be appreciated if this application could continue to process as rapidly as possible as NIL have contractors lined up to commence works as soon as the necessary consents are in place.

Regards

Duncan White
Planner
[REDACTED]

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APPENDIX 3 – ACOUSTIC SPECIALIST REPORT DATED 27 DECEMBER 2019 AND EMAIL 27 JANUARY 2020

Chiles Ltd

27 December 2019

Ref: 1401123

Queenstown Lakes District Council

By email: [REDACTED]

Dear Helen

Subject: RM191325 Acoustics comments

Chiles Ltd has been engaged by the Queenstown Lakes District Council to comment on noise effects associated with a resource consent application as set out below.

Reference	RM191325
Description	To change condition 9 of RM170608 to enable live amplified music in outdoor areas during daytime hours above background levels.
Location	1 Arthurs Point Road, Queenstown
Information reviewed	<ul style="list-style-type: none"> • Decision on RM170608 • Assessment of Environmental Noise Effects, Acoustic Engineering Services (AES), dated 17/07/17, • Assessment of Environmental Effects, Town Planning Group, 5/12/19 • Assessment of Environmental Noise Effects, AES, dated 30/10/19, and • Noise Management Plan, AES, dated 30/10/19.
Review type	Desktop
District plan	<p>Section 3.1 of the 2019 AES report correctly sets out the noise limits from the ODP and PDP, which are the same for the primary $L_{Aeq(15 \text{ min})}$ controls. Compliance with these noise limits is required by existing condition 8 of RM170608, which is not proposed to be changed. The AEE explicitly states that activity will continue to comply with the noise limits.</p> <p>The change to conditions only relates to the daytime period between 0800h and 2000h and therefore the relevant noise limit is 50 dB $L_{Aeq(15 \text{ min})}$ applying within notional boundaries (20m from) houses in the rural zone and within site boundaries in residential zones.</p>
RM170608 conditions 5 and 8	<p>Section 2.1 of the AES report raises an apparent inconsistency between existing conditions 5 and 8 of RM170608. AES considers that patrons allowed outside under condition 5 would generate more sound than allowed by the noise limits in condition 8 in the period between 2000h and 2200h. AES asserts there must be an error/oversight relating to condition 8.</p> <p>The application for RM170608 was made on the basis of compliance with the noise limits in condition 8. If condition 8 is more stringent than condition 5, that will be the controlling factor on how the outdoor area can be used between 2000h and 2200h. This could be regulated through the noise management plan.</p>

	There does not appear to be a mistake with condition 8, and all activity must be conducted to maintain compliance with these noise limits. This issue does not affect the current application which only relates to activity before 2000h.
Operational sound levels	<p>Section 3.2 of the AES report identifies relevant sound sources and predicts levels as shown in Figure 3.1. The scenario modelled relates to subdued music and activity. With those assumptions the predicted levels are in a credible range.</p> <p>The predictions indicate that sound levels would marginally comply with the daytime noise limit, if accounting for a duration adjustment.</p>
Potential noise effects	As set out in the AES report, the ODP/PDP/condition 8 noise limit represents a good standard of residential amenity. If the proposed occasional music did comply with the daytime noise limit then noise effects should be acceptable.
Conditions	<p>As set out above, the AES report shows only marginal compliance for a scenario that represents constrained activity. If consent were granted, conditions are recommended to give effect to those assumptions.</p> <p>It is recommended that the wording of condition 9 proposed in the AEE be further amended as follows:</p> <ul style="list-style-type: none"> • It should be explicit that there is no live/amplified music at other times, • The limit of 73 dB L_{Aeq} should be amended to read 73 dB $L_{Aeq(30s)}$, • The 6 hour limitation should be worded to relate to an overall period and not just the duration of the music itself excluding breaks between songs, • A control should be added on the frequency of occurrence of music, such as no more than one day in any seven consecutive days. <p>Existing Condition 10 requires a Noise Management Plan (NMP) to be submitted to QLDC within three months of the consent being granted (i.e. December 2017). It is unknown whether an NMP was submitted as required. A new NMP has been attached to the current AEE. That NMP lacks specific details relating to the site and people responsible for its implementation. There is also an absence of any requirement for noise monitoring, which is important given the marginal compliance with noise limits. It is recommended that if consent is granted, condition 10 should be amended to require the NMP to be resubmitted to the QLDC for certification within three months, including details of noise monitoring to be conducted.</p>

Yours sincerely

Chiles Ltd

Dr Stephen Chiles

From: Stephen Chiles [REDACTED]
Sent: Monday, 27 January 2020 4:23 PM
To: Helen Pickles
Subject: RE: RM191325 - Canyon Food and Brew (2191-18)

Hi Helen

The applicant has disagreed with/rejected various of my previous comments as set out in the email chain below. I maintain my previous comments, particularly where the NMP should set out definite actions that "will" occur as opposed to recommendations or uncertain actions that "should" occur. As such I do not consider the updated NMP adequate in those respects.

A new matter arising in this revision is that in the new section 6.2 on monitoring it only provides a reactive complaints driven monitoring process and not a proactive routine verification of compliance. Given the marginal predicted compliance, as I set out previously I recommend proactive monitoring under the NMP.

In terms of the adverse effect of more frequent music, this is most likely to influence the late evening period in summer months when general environmental sounds subside (such as road-traffic) and neighbours are more likely to be outside or have windows open. At these times the music is likely to change the nature of the sound environment due to its distinctive characteristics. You are correct that this would have most impact if neighbours were relaxing outdoors, or indoors with doors/windows fully open. As a temporary occasional effect this should not be significant, but if it were more frequent this would be likely to have a material impact on amenity.

Cheers

Stephen

Dr Stephen Chiles
Chiles Ltd
[REDACTED]

From: Helen Pickles [REDACTED]
Sent: 27 January 2020 10:10
To: Stephen Chiles [REDACTED]
Subject: FW: RM191325 - Canyon Food and Brew (2191-18)

Hi Stephen,

Please find the attached updated NMP. Please advise if you have any outstanding concerns.

As the naming of the individual who is wholly responsible for the implementation of the NMP, we can add this a condition to ensure that from an administrative perspective, someone is overall responsible, and will ensure the duty managers are aware of the requirements of the NMP.

In terms of the effects of everyday performances (if it goes beyond just occasional) what would you consider to be the amenity effects on surrounding neighbours. I would imagine there is potential for a depletion of enjoyment using ones outdoor spaces if there is music everyday. This would be helpful in the assessment of effects on neighbours in my report.

Kind regards and thanks

Helen

From: Natalie Reeves [REDACTED]
Sent: Friday, 24 January 2020 4:14 PM
To: Helen Pickles [REDACTED]
Cc: Brett Giddens [REDACTED]
Subject: RE: RM191325 - Canyon Food and Brew (2191-18)

Hi Helen

Please find the updated NMP as requested.

Have a good weekend.

Kind regards,

Natalie

From: Natalie Reeves
Sent: Friday, 24 January 2020 11:22 AM
To: Helen Pickles [REDACTED]
Cc: Brett Giddens [REDACTED]
Subject: RE: RM191325 - Canyon Food and Brew (2191-18)

Hi Helen

Responses to Stephen's questions included below in *red italics*.

From some of the commentary being provided I think it prudent to remember that what is being applied for is a change in conditions, not changes to the noise management plan. The changes sought still appropriately capture the activity and comply with the District Plan noise limits thus the Applicant does not want to be unnecessarily controls on the proposed activities. Whilst live music performances are not anticipated every night of the week and are not intended, to place a limitation on the frequency of events would inhibit the Applicant's operation.

As we have now largely agreed on the conditions, we request the application is taken off 'hold' with processing to resume. I will request changes to be made to the Noise Management Plan in accordance with the changes sent through previously and what is agreed upon below.

Please get in touch if you have any questions.

Thanks,

Natalie

From: Helen Pickles [REDACTED]
Sent: Tuesday, 21 January 2020 3:15 PM
To: Natalie Reeves [REDACTED]
Subject: FW: RM191325 - Canyon Food and Brew (2191-18)

Hi Natalie,

As discussed, I circulated the revised NMP and proposed condition wording to Stephen. Please find comments below, noting your recent comment that no NMP has been submitted to Council to date for approval. I have also asked Stephen about explicit naming of the person with the overall responsibility for the NMP (this is likely to be the owners) who then brief the duty manager/noise liaison officer.

I am still waiting for feedback from Andrew on the number of days, further to our conversation today.

With thanks

Helen

From: Stephen Chiles [REDACTED]
Sent: Tuesday, 21 January 2020 2:50 PM
To: Helen Pickles [REDACTED]
Subject: RE: RM191325 - Canyon Food and Brew (2191-18)

Hi Helen

That all seems to be progressing constructively. A few comments:

The proposal to include gaps of less than 15 minutes in the 6 hour total is appropriate. I recommend that should be an explicit condition rather than an advice note. *The advice note achieves the intended outcome with the 15 minute aspect only required to clarify matters.*

The proposal in the email below to limit music to no more than three days out of seven could result in activity more frequent than applied for given that the application refers to "occasional". For example, the proposed condition could allow for music on Friday, Saturday and Sunday every week. I am not aware of fixed guidance on this matter, but in terms of noise effects I recommend that "occasional" is better represented by one day a week than by three days a week. Alternatively, this could be conditioned as say four days a month to allow more intense activity some weeks, offset by periods of respite. *As discussed extensively on the phone, we do not propose to include any limit, nor are we required to given we intend to comply with the District Plan noise limits. Additionally, the Noise Management Plan, review clauses, complaints procedure and monitoring requirements will ensure that if there are any adverse effects beyond that which the plan anticipates, there are avenues for redress.*

Was the original NMP (before the variation) approved as required by condition 10 – please can you forward me a copy of the NMP that was approved? This condition should be rewritten to reflect the current status of the NMP. *Unnecessary.*

NMP section 1 last para states actions that "should" occur. This should be rewritten to set out actions that will be undertaken. *Will change from 'should' to 'will'. Unnecessary duplication as management procedures are already outlined in later sections of the report.*

NMP section 3 should be updated when the other conditions are finalised. *Agreed and intended.*

NMP section 4 uses wording "may be minimised" and "we recommend". This section should be rewritten to set out actions that will be undertaken and specify who will undertake each action. *Directly under paragraph 4.0 it states "The following mitigation and management measures will be adopted to ensure noise emissions from the facility are maintained at a reasonable level."*

NMP section 5 should explicitly name and give contact details of the individual person with overall responsibility for the NMP who will brief each duty manager/Noise Liaison Officer. (These details will probably need to be updated in the NMP from time to time) *Space is provided to do this. As discussed on the phone, the duty manager will be the noise liaison officer on each shift. Due to staff turnover, it is impractical to resubmit the form each time staff change (considering staff also change on a daily basis). The proposed wording to Duty Manager actually provides more certainty to the Council than what Mr Chiles is suggesting.*

NMP section 6 discusses actions that "should" be undertaken. This should be rewritten to set out actions that will be undertaken. *The proposed wording is considered the most grammatically correct with the intent appropriately conveyed.*

NMP section 6.2 should require each NMP update to be submitted to QLDC for information *Happy to specify this.*

Cheers

Stephen

Dr Stephen Chiles
Chiles Ltd

From: Helen Pickles [REDACTED]
Sent: 21 January 2020 10:01
To: Stephen Chiles [REDACTED]
Subject: FW: RM191325 - Canyon Food and Brew (2191-18)

Hi Stephen,

Please find attached updated NMP and proposed wording for condition 8, below.

These changes appear to align with your advice but wanted to double check that you are satisfied?

Look forward to your response

Many thanks

Helen

From: Natalie Reeves [REDACTED]
Sent: Friday, 17 January 2020 10:40 AM
To: Helen Pickles [REDACTED]
Cc: Brett Giddens [REDACTED]
Subject: RM191325 - Canyon Food and Brew (2191-18)

Hi Helen

Thanks for taking my call. In line with what we have discussed, I have drafted some changes to the NMP and condition 8 for you to please consider before I go back to AES. I have inserted the changes as comments to the attached pdf and the plan to be inserted is attached above.

The proposed changes to the conditions are as follows:

The sound pressure level of any music above a background level in the outdoor decking area should be limited to no greater than 73 dB L_{Aeq} (30s) at a distance of 6 metres from the noise source (speaker). Any live music shall not include bass or drums. Where music is amplified only two speakers may be used and the system shall be calibrated by a Sound Engineer. Any music above a background level shall be limited in duration to no more than 6 hours in the period between 0800 and 2000 hours;
a. ~~No more than three days in any seven consecutive day period.~~

Advice Note: For the purposes of clarity, live music events are not restricted to a continuous six hour period and may be broken up across the period specified, 0800 to 2000 hours. No gap less than 15 minutes is to be counted as a 'break' between performances and is to be considered as part of a continuous music performance.

Please feel free to call to discuss. Otherwise, please advise if you are happy with the above.

Kind regards,

Natalie Reeves

Planner | Town Planning Group (NZ) Ltd

PO Box 2559, Queenstown 9349

Mobile: [REDACTED]


Office Ph: [REDACTED]



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5 January 2021

Fiona Black


Transfer of RM170608

Dear Fiona

On the basis of the attached correspondence, this letter serves to confirm that resource consent RM170608 has been transferred from Go Orange Limited to Canyon Brewery Group Limited.

Please be advised that the resource consent and conditions have not been altered. This letter only serves to confirm receipt of the above advice.

A copy of the resource consent, originally granted to Go Orange Limited is attached for your information.

Regards



Francesca McAdam
Planner

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Greg Quin:

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COMPLIANCE CERTIFICATE - LOCATION

Issued in accordance with regulation 6.23 and regulation(s) 10.34 of the Health and Safety at Work (Hazardous Substances) Regulations 2017. This certificate certifies that the requirements prescribed in regulation 10.34 for a location compliance certificate have been met

Company# / NZBN: **2283807 / 9429032133325**

Certificate No: **000352-00044500**

PCBU Issued to:

RealNZ Limited

Level 2, 74 Shotover St

Queenstown 9300

(Steven)

Steven Brownlie (H&S Advisor) /Katie Cusack (Canyon Brewing)

safety@realnz.com

Site Location: **-44.98752057 168.67235631**

Queenstown Rafting / Canyon Brewery Cavells Bridge shared LPG facility

Shotover Operations Base

Arthurs Point 9371

0800 427 345 ROCKGAS SUPPLIED

Territorial Authority: Queenstown Lakes District Council

Class /GHS

2.1.1A: GHS flammable gas Category 1A

Substance:

**LPG: 10 x 45kg METERED Exchange Cylinders (5 on , 5 off)
services both Queenstown Rafting and Canyon Food and Brew**

Maximum Quantity (SFL):

450 kg

Details of Certification:

- Documented Emergency Response Plan is a combined resource & co-operated by Queenstown Rafting & Canyon Food & Brewing Co. MUST be in place & tested at least annually with records kept for at least 2 years.
- Greentech Control Services CFB001 rev0 pgs 1-4 and CFB002 rev0 pg1 23/2/2019
- This certificate is VALID while facility uses SWAP OUT / EXCHANGE cylinders only. Cylinders must be within test date.
- Suitable Fire Extinguisher (minimum 30:B capacity DRY POWDER) is to be kept within 30 metres of cylinders and within test tag date.
- Maintain required signage on facility at all times, including emergency numbers for Fire Service, Site Contact & Supplier Emergency numbers.
- The Location Compliance Certificate becomes INVALID when the facility is altered or IF IT IS TO BE INSITU FILLED. Should this occur please contact us at service@approvedcompliancescertifiers.co.nz for a new inspection to maintain compliance prior to cylinder filling taking place. For further LPG info please visit our website www.tst.co.nz.
- Hazardous substance Inventory to be maintained and kept current
- Safety data sheets to be held for each substance and kept within 5 years of issue date
- Signage to be maintained as legible and in good condition
- Suitable Extinguishers to be kept within test tag date annually and to be available within 30metres of substance locations.
- Site Plan to be updated if any changes are made to site
- Controlled zone and Hazardous Area to be managed inline with site plan.
- Maintain volume related separation distances inline with Sched 12 Tables of Health and Safety at Work (Hazardous Substances) Regulations 2017
- All staff training records to be maintained inline with requirements in regs 4.5 and 4.6.

The certificate becomes INVALID when any alteration to volumes, substances or facilities is undertaken.

PCBU is responsible for maintaining facilities in a compliance state throughout duration of this certificate

Issue Date:

08 Nov 2024

Date Comes into Force:

04 Dec 2024

Expiry Date:

04 Dec 2025

Greg Quin

Gregory David Quin

Disclaimer: This certifi
6.8(2)(a) to (d) of the

Compliance Certifier Registration

Previous cert number: 000352-00043977,

TST000352

Gregory David Quin (known as Greg Quin), being an individual compliance certifier authorised by WorkSafe New Zealand under, and in accordance with, regulation 6.8(2)(a) to (d) of the Hazardous Substances Regulations 2017