

ORIGINAL

Decision No: C /04 /2000

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of an appeal under section 120 of
the Act

BETWEEN BENDEMEER FARM LIMITED

RMA: 938/95

Appellant

AND

QUEENSTOWN LAKES
DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment J R Jackson (sitting alone under section 279 of the Act)

IN CHAMBERS at CHRISTCHURCH

RECORD OF DETERMINATION OF APPEAL

Background

[1] On 1 February 1995 Bendemeer Farm Limited ("the appellant")
applied to the Queenstown Lakes District Council ("the Council") for:

- (1) a subdivision consent to subdivide 110 hectares (272 acres)
of the land for a small village settlement into 79 allotments.
- (2) a land use consent to enable construction of:



- 75 dwellings and accessory outbuildings on 75 allotments, (being allotment numbers 1 to 75);
- a tourist accommodation lodge on allotment number 76;
- the right to utilise an existing structure (known as “the woolshed”) as a gallery/café on allotment 1; and
- associated roading and servicing;

on land located on the hilltop plateau above and to the east of Lakes Hayes, three Kilometres south of Arrowtown, and immediately north of State Highway 6. It’s legal description is Part Lot 2 DP 18242 of Blocks VII, VIII and IX Shotover Survey District (Certificate of Titles 15A/865).

[2] In 1995 the Wakatipu Environmental Society Incorporated (“WES”) filed a submission opposing the grant of the subdivision consent and the land use consent (“the resource consents”).

[3] A hearing committee of the Council heard both of the applications and on 11 August 1995 the committee gave its decision refusing the resource consents. On 24 August 1995 the Planning Tribunal (as the Court then was) received a notice of appeal from the appellant. The appellant sought that the decision be overturned and the resource consents granted. WES filed a notice under section 271A of the Resource Management Act 1991 (“the RMA”) stating that it wished to be a party to the proceeding.

[4] The court received a letter from the appellant (dated 11 November 1997) stating that it wished to have a formal pre-hearing conference to resolve the remaining issues between the parties and in particular the position of WES. On 3 December 1997 the Court sent notice of a pre-hearing conference (to be held on 8 December 1997) to the appellant, the Council and WES. Unfortunately there was some confusion over whether or not WES received that notice.

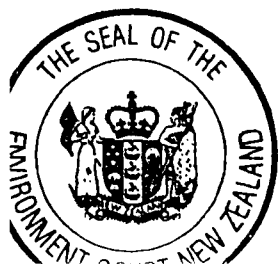


[5] On 8 December 1997 the Court held a pre-hearing conference in Queenstown in respect of this proceeding ("the pre-hearing conference"). The only parties to appear at the pre-hearing conference were the appellant and the Council. The court issued a minute to the parties dated 16 December 1997 setting the timetable for the exchange of evidence. Subsequently, the remaining parties (as they thought they were) reached an agreement as to a proposed consent order and therefore (understandably) did not feel any need to comply with the timetable. However in a decision C33/98 (dated 2 April 1998), the court found (from the evidence in the affidavits) that WES did not receive proper notice of the pre-hearing conference. Because of that WES did not appear at the pre-hearing conference. Consequently the Court refused to strike out WES's case and refused to award costs to the appellant.

[6] This appeal is now linked with WES reference (RMA1394/98b) relating to the granting of the Bendemeer Special Zone in 1998 Queenstown Lakes District Proposed District Plan since that sets the framework in which these resource consents should be granted (if at all).

[7] The Court received a letter (dated 1 February 1999) from the appellant requesting that this appeal is given priority because this appeal was filed with the Court since 1995, and in a decision W42/99 (dated 22 March 1999) the Court gave priority to this appeal.

[8] Subsequently, at a further pre-hearing conference, the Court received a memorandum of the parties ("first memorandum") dated 22 November 1999, signed by counsel for the appellant, counsel for the Council and a representative of WES. This set out a manner in which the appeal with the approval of the Court might be determined by consent. The Court adjourned the proceeding until a memorandum was filed with the



Court as to the size of the building platforms proposed in Bendemeer special zone and secondly, to accompany a landscape plan to be agreed by the parties.

[9] The Court has since received from the parties a further memorandum ("second memorandum") dated 14 February 2000. The second memorandum is signed by all parties and addresses some of the concerns that the Court raised with counsel. On 5 May 2000 the Court raised further landscape issues with the parties which were resolved at a conference of the parties in Queenstown on 8 May 2000 and by a final letter from the appellant's solicitors dated 30 May 2000.

[10] The Court still has some concern over two issues:

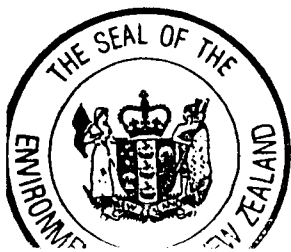
- (a) the unnatural allotment boundaries - which in some cases ignore the topography completely, presumably for ease of surveying (not a satisfactory reason); and
- (b) the density of development along the eastern edge of the land.

However, because the parties have agreed all matters and because in other respects the proposal is laudable in its efforts to achieve sustainable management of a large (in the context of the Wakatipu basin) area of land (110 hectares) I will make the orders as sought.

Orders

[11] Having considered the notice of appeal and the memoranda of consent this Court, by consent, orders:

- (1) Appeal RMA 938/95 is allowed to the extent set out in orders (2) and (3) below.



- (2) Under section 290(2) of the Act the subdivision consent is granted to Bendemeer Farm Limited to subdivide Lot 2 DP1824 (110 hectares) into 79 allotments, subject to the following conditions:

- (1) *That the Application proceed generally in accordance with the plans marked as:*

Appendix "A" - Allotments; and

Appendix "B" - Building Envelopes - (attached to and forming part of this consent).

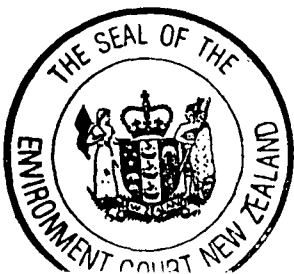
- (2) (a) *Lots 77 (including the private roads) and 79 of the subdivision shall be held in 76 undivided shares; and*
 (b) *One such undivided share shall be amalgamated with each of the titles to Lots 1 to 76.*

- (3) *That any easements necessary to convey water, sewage, electricity, telecommunications, stormwater or any other utility services to and from the site be granted, reserved or created.*

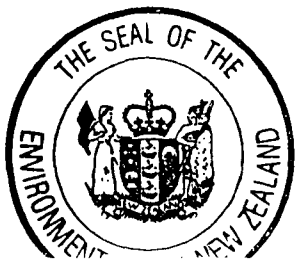
- (4) *Buildings on:*

- *the residential allotments numbered 1 to 75 and;*
- *the tourist accommodation lodge allotment (Lot 76)*

shall be located within the building platforms shown on the plans marked as Appendix "B" (attached to and forming part of this consent). The building platforms shall be surveyed and plotted on the Scheme Plan at the time of submitting such Plan for approval under Section 223 of the Resource Management Act 1991.



- (5) *Subject to sub-clause (6) hereof a reserve contribution of \$13,162.50 (including Goods and Services Tax) being the value of 130 m² per residential allotment shall be paid by the Appellant at the time of submitting the Certificate of Compliance for approval under Section 224(c) of the Resource Management Act 1991, provided that should the subdivision of the allotments proceeds in stages then the reserve contribution payable in respect of each stage shall be paid at the time of submitting the Certificate of Compliance for such stage for approval under Section 224(c) of the Resource Management Act 1991. This records that the consent holder agrees that the value of the land shown as "Lot 78" shall be allowed as credit against the reserve contribution otherwise payable, the value of such land to be assessed as \$1.20 per square metre plus GST.*
- (6) *In addition to the sums noted in clause (5) hereof, the Applicant shall pay a reserve contribution of \$351.00 (including Goods and Service Tax) for the tourist accommodation lodge allotment and the woolshed allotment, such sums to be paid at the time of submitting the Plan of Subdivision for such allotments for approval under Section 223 of the Resource Management Act 1991.*
- (7) *All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being New Zealand Standard 4404:1981 with the amendments to that standard adopted on 1 June 1994, together with associated standards and Codes of Practice*



to meet the acceptance of the Queenstown Lakes District Council's, Operations and Infrastructural Assets Manager.

(8) The owners representative as defined in Section 104 NZS 4404:1981 shall be nominated by the owner of the land. Written notification shall be supplied to the Council confirming the appointment.

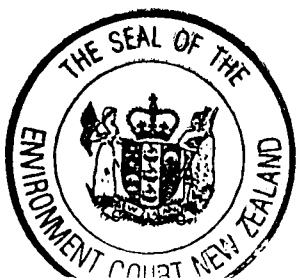
(9) Prior to the commencement of any works on the land being subdivided, the applicant shall provide to the Queenstown Lakes District Council for approval, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate to detail the following required engineering works:

(a) The provision of:

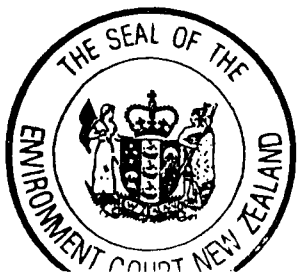
(i) a separate water supply system adequate to supply each of the new allotments created by the subdivision. This supply shall (other than for Lots 1 and 20) comply with the requirements of the New Zealand Fire Service Code of Practice 1992 and NZS 4404:1981 for a Class E risk classification.

(ii) A maintenance programme for the water supply system.

(b) The provision of a foul sewage reticulation system to serve each of the new allotments created by this subdivision (other than Lots 1 and 20) in accordance with Condition (7) above.



- (c) *The provision of a stormwater drainage system to collect, control and dispose of all stormwater falling within the site or conveyed onto the site to be subdivided in accordance with Condition (7).*
- (d) *Earthworks on all sites are to be generally limited to those necessary for building platforms, services, roading installation, and landscaping (including pond development) and shall proceed in accordance with the staging of development (if any). The Appellant shall ensure that dust from the site during any such earthworks does not cause a nuisance beyond the boundary of the land the subject of this consent through the implementation of dust suppressant measures.*
- (e) *The applicant's soils engineer as defined in Section 203 of NZS 4404:1981 will review the drawings and specifications defining the earthworks proposed. A written report shall be supplied to the Council which shall include details of proposed intermediate inspections required to supervise the construction works, in particular cut and fill batters. Intermediate inspection reports will be submitted to the Council.*
- (f) *The construction of the formed sealed entrance to the property to be constructed from the carriageway of State Highway 6, and the upgrading of the highway in this area, as follows:*



- (i) *The access road to the subdivision shall have 250m clear sight distance, including all pavement markings, along State Highway 6, measured according to Diagram 1 Appendix 12 of the Queenstown Lakes District Council's proposed District Plan.*
 - (ii) *The design of access from State Highway 6 shall generally be in accordance with the plan marked as Appendix "C" (attached to and forming part of this order), the design of such works to be in accordance with NAASRA, Part 5 and Transit New Zealand's Roading Design Guide RD 1 "Intersection at Grade".*
 - (iii) *Drainage shall be provided such that no stormwater is discharged to the State Highway or its drainage system.*
 - (iv) *Transit New Zealand shall be consulted on the design of the access road as Transit approval is required under Section 51 of the Transit New Zealand Act 1989 for disturbance of the state highway reserve.*
 - (v) *All access to the gallery/café shall be from the internal access road, with no access from State Highway 6 for pedestrians or vehicles etc.*
- (g) *The provision of all new roading and carpark formation, seal, kerb and channel, footpaths, vehicle crossings and street lighting within the boundaries of the property the subject of this Consent as required by, and to the satisfaction of, the Queenstown Lakes District Council Operations and Infrastructural*



Assets Manager. The standard of roading shall generally be in accordance with Queenstown Lakes District Council's subdivision Standard being NZS 4404:1981 as amended, or otherwise as approved by the Queenstown Lakes District Council's Operations and Infrastructural Assets Manager. All roading shall remain private road as defined in Part XXI of the Local Government Act 1974.

- (h) The appellant shall supply a water storage capacity to accommodate a minimum fire fighting static reserve as determined by the Queenstown Lakes District Council Operations and Infrastructural Assets Manager. Any structures to provide such storage shall be buried underground.*
- (10) Prior to certification pursuant to Section 224(c) of the Resource Management Act 1991, the appellant shall complete the following:*
 - (a) Construction of the engineering works as detailed in the approved plans submitted in accordance with Condition (9) above.*
 - (b) On completion of the earthworks the soils engineer shall submit a written report to the Council attesting to the compliance of the earthworks with the specifications, and as to the suitability of the subdivision for building construction and allotment access.*



Specific requirements as they relate to individual allotments will be included as consent notices on the appropriate titles.

(c) *All fill material shall be placed in accordance with NZS 4431:1989 Code of Practice for Earthfill for Residential Development and amendment No. 1.*

(d) *The provision of underground power and telephone connections to each of the allotments created by this subdivision.*

(e) *The submission of 'as-built' plans for this subdivision in accordance with NZS 4404:1981.*

(11) *That each of the residential (other than Lot 20), tourist accommodation lodge and the woolshed lots (as other than to sewage) shall be connected to the Respondent's Lake Hayes Community Sewerage and Water Schemes or any other Council reticulated facilities and the Appellant shall pay to the Respondent in respect to the costs of providing such services, including any connection fees and costs incurred by Council in upgrading the scheme or providing the same so as to enable the allotments to be serviced a maximum sum as noted hereafter, such sum to be subject to adjustment once actual costs are determined.*

(a) *Residential and Woolshed allotments*

(1) *Water \$3,935.00 per allotment (GST inclusive)*

(2) *Sewerage \$7,310.00 per allotment (GST inclusive)*



(b) *Tourist Accommodation Lodge allotment*

(1) *Water \$133,790.00 (GST inclusive)*

(2) *Sewerage \$248,540.00 (GST inclusive)*

In respect to sewage connections the Appellant shall meet the total costs of reticulating the sewage from the Lots to the point of connection at the Respondents Bendemeer pumping station situated on the Lake Hayes-Arrowtown Road.

(12) *If the subdivision proceeds in stages then:*

(a) *the costs of providing the services referred to herein shall be payable in respect of each stage, and shall, subject to any agreement with the Respondent to the contrary, be paid at the time of submitting the Certificate of Compliance of such stage for approval under Section 224(c) of the Resource Management Act 1991; and*

(b) *this records that it is agreed by the consent holder that in respect of the connection fees for water for the first stage the Appellant shall pay to the Respondent a minimum sum equivalent to connection fees payable for 40 residential lots and should such first stage not include 40 lots then the Respondent will hold to the credit of the Appellant a sum equivalent to the fees paid for such number of lots (being 40 less that number of lots included in the first stage) not so connected and such sum shall be used as a deposit on fees payable for water connection in future stages.*



(13) *A Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on each of the allotments the subject of this consent providing for the establishment of a Management Company and providing that each lot owner is to be a member of a management company which shall be responsible for and obtain contributions from the lot owners for:*

- (a) Maintenance of proposed roads, carriageways, footpaths and street lighting.*
- (b) Maintenance of stormwater, water and sewage systems.*
- (c) Maintenance of a community refuse collection scheme whereby refuse is disposed of at a transfer station administered by the Queenstown Lakes District Council.*
- (d) Maintenance of Lot 77 excluding private roads and Lot 78 as open space recording that open space has been provided both for the purposes of amenity for those residing within the subdivision and to ensure that the ice sculptured legibility of the site and in particular when viewed from State Highway 6 to the south of the site, Morven Ferry and Arrow Junction Roads and other public place to the south of the site, other than the Crown Range Road, is not compromised.*



- (14) *The Queenstown-Lakes District Council may on the first and every subsequent annual anniversary of determination of the Consent serve notice on the Consent Holder in accordance with Section 129 of the Resource Management Act 1991 of its intention to review the conditions of this Consent for the purposes of determining whether the conditions of the Consent are adequate to deal with any adverse effects on the environment which may arise from the exercise of the consent.*
- (15) *The Consent Holder shall be responsible for meeting the costs of the Respondent monitoring and enforcing and of the conditions of the consent.*
- (16) *That the Consent Holder shall pay to Civic Corporation Limited all required administrative charges fixed by the Council pursuant to Section 36 of the Resource Management Act in relation to:*
- (a) *the administration, monitoring and supervision of this Consent; and*
 - (b) *charges authorised by regulations.*
- (17) *The Consent Holder shall pay to Civic Corporation Limited an initial fee of \$75.00 for the costs associated with the monitoring of this resource consent in accordance with Section 35 of the Resource Management Act 1991.*



(18) This Resource Consent shall lapse on the seventh anniversary of any determination of the Court granting the Consent.

- (3) Under section 290(2) of the Act land use consents are granted to Bendemeer Farm Limited to allow residential dwellings and accessory outbuildings on 75 of the allotments, being allotment numbers 1 to 75, a tourist accommodation lodge on allotment number 76 and the right to utilise an existing structure (Known as "the woolshed") as a gallery/café on allotment number 1, subject to the following conditions:

LAND USE CONSENT ONE: GALLERY CAFÉ (LOT 1)

- (1) It is acknowledged that the café/gallery may be utilised in association with the activities for the supply of liquor pursuant to the Sale of Liquor Act 1991 subject to any consents being granted under such Act for the supply and consumption of alcohol on the premises.*
- (2) All vehicular and pedestrian access to the gallery/café shall be from the internal access road with no direct access from State Highway 6 for vehicles and/or pedestrians.*
- (3) Fifteen car parks and one coach park shall be constructed for the use of the patrons of the gallery/café. The layout and design of the parking areas shall be in accordance with the plans submitted to the Queenstown Lakes District Council's Operators and Infrastructural Assets Manager for approval prior to the building consent being granted.*



- (4) *That this consent does not authorise any exterior additions to the building which will be subject to further applications for resource consent. Prior to this consent being given effect to a Conservation Management Plan for the development and the use of the building will be prepared by a qualified conservation architect and approved by the Queenstown-Lakes District Council's Planner.*
- (5) *No signage for the gallery/café shall be permitted either on or adjacent to the site other than signage incorporated in one sign authorised by Land Use Consent 2 below.*
- (6) *That the consent holder shall pay to the Council a development levy of \$2,812.50 (including Goods and Services Tax) being a development levy for the upgrading of the woolshed and its proposed use. The development levy shall be payable at the time building consent for the upgrading of the woolshed is applied for. The estimated cost of upgrading the woolshed is \$500,000.00 plus Goods and Services Tax.*
- (7) *That landscaping and planting shall be undertaken in accordance with:*
Bendemeer Farm Ltd Management Units Plan 9186/2 - (Appendix "D");
Bendemeer Farm Limited - Master Plan Planting Plan 9186/2 prepared by Baxter Brown (Appendix "E"); and
Landscape Management Units: Notes (Appendix "F").
- (8) *That at the expiry of 10 years from the date of establishment of the landscaping, which shall be*



undertaken within the first planting season following the determination of the Court in respect of this appeal, at least 80% of the plant shall remain. Landscaping shall be maintained in conformity with:

- (a) the Landscape Management Strategy submitted as part of the original application;*
 - (b) more particularly with the plans and notes annexed as Appendices "D", "E", and "F"; and*
 - (c) generally so as to not compromise the ice sculptured legibility of the site and in particular when viewed from State Highway 6 to the south of the site, Morven Ferry and Arrow Junction Roads, and any other public place to the south of the site other than the Crown Range Road.*
- (9) Any exterior lighting shall be no higher than four metres above ground level and be downwards shining so as to avoid any direct light spill from the development onto neighbouring properties. The specification for and location of all exterior lighting shall be considered as part of the landscape plan.*
- (10) That covenants pursuant to Section 108(1)(c) of the Resource Management Act 1991 are to be registered against the title to the Lot 1 (Gallery Café) providing for the matters set out in conditions (7) to (9) above.*
- (11) All reticulation of services from the boundary of the lot to the building shall be underground.*



- (12) *The consent holder shall be responsible for meeting the costs of the Respondent monitoring and enforcing the conditions of the consent.*
- (13) *That the consent holder shall pay to Civic Corporation Limited all required administrative charges fixed by the Council pursuant to Section 36 of the Resource Management Act in relation to:*
- (a) *the administration, monitoring and supervision of this consent; and*
 - (b) *charges authorised by regulations.*
- (14) *The consent holder shall pay to Civic Corporation Limited an initial fee of \$75.00 for the costs associated with the monitoring of this resource consent in accordance with Section 35 of the Resource Management Act 1991.*
- (15) *This resource consent lapses on the expiry of five years from the date of the determination of the Court granting the Consent.*
- (16) *The Queenstown-Lakes District Council may on the first and every subsequent annual anniversary of determination of the consent serve notice on the consent holder in accordance with Section 129 of the Resource Management Act 1991 of its intention to review the conditions of this consent for the purposes of determining whether the conditions of the consent are adequate to deal with any*



adverse effects on the environment which may arise from the exercise of the consent.

LAND USE CONSENT TWO: RESIDENTIAL ALLOTMENTS
(LOTS 1-75)

- (1) Buildings on residential allotments shall be located within the building platforms shown on the Scheme Plans of Subdivision marked as appendix "B".*
- (2) Except on Lots 59 and 73 no part of any dwelling house shall exceed 7 metres in height above the existing ground level as at the date of determination of this appeal and as shown on the plans marked as appendix "A" and appendix "B" (attached to and forming part of this consent), and no part of any other building erected on such lots shall exceed 5 metres in height.*
- (3) On Lots 59, and 73 no part of any dwelling house or other building erected on such lots shall exceed 5 metres in height above the existing ground level as at the date of determination of this appeal.*
- (4) A covenant pursuant to Section 108(2)(c) of the Resource Management Act 1991 shall be registered on each of the allotments the subject of this consent providing for the following:*
 - (a) The lots may not be further subdivided, whether by way of unit title, cross leasing or any other form of subdivision.*



- (b) *That not more than one dwelling (together with private garage and other accessory buildings) may be erected on each Lot.*
- (c) *Design guidelines (including height restrictions) to be followed for the erection of dwellings and other buildings on the lots.*

The wording of the covenant shall be approved by the Queenstown Lakes District Council's District Planner prior to execution and registration and evidence of its registration against the titles to the properties shall be provided to the District Planner.

- (5) *The external colour of any materials used in construction of building on the lots shall comply with the colour palette marked as "Appendix E" (attached to and forming part of this order).*

- (6) *That landscaping and planting shall be undertaken in accordance with:*

Bendemeer Farm Limited Management Units Plan 9186/2 - (Appendix "D");

Bendemeer Farm Limited - Master Plan Planting Plan 9186/2 prepared by Baxter Brown (Appendix "E"); and Landscape Management Units: Notes (Appendix "F").

- (7) *That at the expiry of 10 years from the date of establishment of the landscaping, which shall be undertaken within the first planting season following the*



determination of the Court in respect of this appeal, at least 80% of the plant shall remain. Landscaping shall be maintained in conformity with

- (a) the Landscape Management Strategy submitted as part of the original application;*
- (b) more particularly with the plans and notes annexed as Appendices "D", "E", and "F"; and*
- (c) generally so as to not compromise the ice sculptured legibility of the site and in particular when viewed from State Highway 6 to the south of the site, Morven Ferry and Arrow Junction Roads, and any other public place to the south of the site other than the Crown Range Road.*

(8) If the subdivision proceeds in stages then the landscaping shall be carried out in respect of each stage within the first planting season after Queenstown-Lakes District Council has given its approval under Section 223 of the Resource Management Act 1991 to the plan of subdivision in respect to that stage.

(9) Any street lighting shall be no higher than four metres above ground level and be downwards shining so as to avoid any direct light spill from the development onto neighbouring properties. The specification and location of all such lighting shall be considered as part of the landscaping plan.

(10) That covenants pursuant to Section 108(1)(c) of the Resource Management Act 1991 are to be registered against the title to the Residential Allotments (Lots 1-75)



providing for the matters set out in conditions (5) to (9) and in particular such covenant shall provide for protection of the ice sculptured legibility of the land in particular when viewed from State Highway 6 to the south of the site, Morven Ferry and Arrow Junction roads and any other public places to the south of the site other than the Crown Range Road.

(11) The consent holder shall be responsible for meeting the costs of the Council in monitoring and enforcing any conditions of the consent.

(12) That all internal reticulation of services within the lots authorised by the consent shall be underground.

(13) Only one solid fuel burning fireplace shall be permitted per dwelling and shall comply with the standards imposed in the Otago Regional Council Proposed Air Plan and any amendments thereto.

(14) Only one sign visible from State Highway 6 shall be permitted adjacent to the entrance from State Highway 6 and such sign shall not exceed 2 m², be constructed of timber, metal or stone (or any combination thereof) and the final design of such shall be subject to the approval of the Queenstown Lakes District Council Planner.

(15) That all services to the buildings from the boundary of the lots shall be placed underground.



(16) *That the consent holder shall pay to Civic Corporation Limited all required administrative charges fixed by the Council pursuant to Section 36 of the Resource Management Act in relation to:*

(a) *the administration, monitoring and supervision of this Consent; and*

(b) *charges authorised by regulations.*

(17) *The consent holder shall pay to Civic Corporation Limited an initial fee of \$75.00 for the costs associated with the monitoring of this resource consent in accordance with Section 35 of the Resource Management Act 1991.*

(18) *This resource consent shall lapse fifteen years from the date of the determination of the Court granting the Consent.*

(19) *The Respondent may on the first and every subsequent annual anniversary of the date of any determination of the Court granting Consent in accordance with Section 129 of the Resource Management Act 1991 serve notice on the Consent Holder of its intention to review the conditions of this Consent for the purposes of determining whether the conditions of the Consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the Consent and which it is appropriate to deal with at a later stage.*



LAND USE CONSENT THREE: TOURIST ACCOMMODATION
LODGE (LOT 76)

- (1) *This Consent authorises the establishment of a tourist accommodation lodge on Lot 76 shown on the plans marked as Appendix "A" and Appendix "B" (attached to and forming part of this order).*
- (2) *The tourist accommodation lodge shall be constructed on the building platform shown on the plans marked as Appendix "B" (attached to and forming part of this order).*
- (3) *That no part of the tourist accommodation lodge shall exceed 9 metres in height above the existing ground level as at the date of the determination of this Appeal and as shown on the plans marked as Appendix "A" and Appendix "B" (attached to and forming part of this order).*
- (4) *That no more than four solid fuel fireplaces shall be allowed within the lodge and such fires shall comply with the standards imposed in the Otago Regional Council Proposed Air Plan and any amendments thereto.*
- (5) *That the lodge shall contain a maximum of fifty (50) beds.*
- (6) *That on-site parking for 20 cars and two coaches shall be provided within the boundaries of the allotment. The layout and design of the parking area shall be in accordance with plans submitted to the Queenstown Lakes District Council's Operations and Infrastructural Assets*



Manager for approval prior to the building consent being granted.

- (7) That the Appellant shall pay the respondent a development levy of \$56,250.00 (including Goods and Services Tax) payable at the time Building Consent for the lodge is applied for. (The estimated cost of the lodge being \$10,000,000.00).*
- (8) That landscaping and planting shall be undertaken in accordance with Appendices "D" to "F".*
- (9) That at the expiry of 10 years from the date of establishment of the landscaping, which shall be undertaken within the first planting season following the determination of the Court in respect of this appeal, at least 80% of the plant shall remain. Landscaping shall be maintained in conformity with the Landscape Management Strategy submitted as part of the original application and shall be maintained so as to not compromise the ice sculptured legibility of the site and in particular when viewed from State Highway 6 to the south of the site, Morven Ferry and Arrow Junction Roads, and any other public place to the south of the site other than the Crown Range Road.*
- (10) Final floor plans and elevations for the lodge will be subject to the approval of the Queenstown Lakes District Council's District Planner prior to building consent being granted. The colour of any external materials used in the construction of the building shall comply with those*



specified in the colour palette marked as "Appendix G" (attached to and forming part of this consent). It is envisaged that the materials to be used on the exterior of the lodge shall be timber, plaster, stone, and Colorsteel. The final design of the lodge will reflect the design themes contained in the original application for resource consent.

(11) Any exterior lighting shall be no higher than four metres above ground level and be downwards shining so as to avoid any direct light spill from the development onto neighbouring properties. The specification and location of all exterior lighting shall be considered as part of the landscape and planting management plan.

(12)(a) That a Covenant pursuant to Section 108(2)(c) of the Resource Management Act 1991 is to be registered against the Title to the property for the tourist accommodation lodge providing for the matters set out under Land Use Consent 2 - Residential Allotments clause (4) above (where applicable and with all necessary changes).

(b) That covenants pursuant to Section 108(1)(c) of the Resource Management Act 1991 are to be registered against the title to the Lot 76 providing for the matters set out in conditions (8) to (10) and in particular such covenant shall provide for the protection of the ice sculptured legibility of the land in particular when viewed from State Highway 6 to the south of the site, Morven Ferry and Arrow Junction roads and any other public places to the south of the site other than the Crown Range Road.



(13) *The sale and consumption of alcohol shall be permitted subject to obtaining the necessary licences under the Sale of Liquor Act 1991.*

(14) *All reticulation of services from the boundary of the lots to the Tourist Accommodation Lodge shall be placed underground.*

(15) *The consent holder shall be responsible for meeting the costs of the Respondent monitoring and enforcing any conditions of the Consent.*

(16) *That the consent holder shall pay to Civic Corporation Limited all required administrative charges fixed by the Council pursuant to Section 36 of the Resource Management Act in relation to:*

(a) *the administration, monitoring and supervision of this Consent; and*

(b) *charges authorised by regulations.*

(17) *The consent holder shall pay to Civic Corporation Limited an initial fee of \$75.00 for the costs associated with the monitoring of this resource consent in accordance with Section 35 of the Resource Management Act 1991.*

(18) *The Respondent may on the first and every subsequent annual anniversary of the date of any determination of the Court granting Consent in accordance with Section 129 of the Resource Management Act 1991 serve notice on the*



Consent Holder of its intention to review the conditions of this Consent for the purposes of determining whether the conditions of the Consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the Consent and which it is appropriate to deal with at a later stage.

(19) This resource consent lapses on the expiration of seven years from the date of determination of the Court granting this Consent.

(4) The attached Appendices are part of this order and comprise the appendices referred to in the various resource consents:

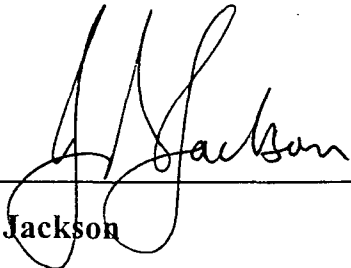
- A Allotments
- B Building Envelopes
- C Access from SH6
- D Bendemeer Farm Ltd Landscape Management Units 91186/2
- E Bendemeer Farm Ltd Master Plan and Planting Plan 9186/2
- F Landscape Management Units: Notes
- G Colour Palette

(5) Leave is reserved to apply to make any consequential additions or corrections.



(6) There is no order as to costs.

DATED at **CHRISTCHURCH** this *12th* day of June 2000.



J R Jackson
Environment Judge



"A" Allotments

Area Schedule

Lot No.	Area	Lot No.	Area
Lot 1	7,500 m ²	Lot 41	3,000 m ²
Lot 2	6,500 m ²	Lot 42	3,000 m ²
Lot 3	6,000 m ²	Lot 43	2,500 m ²
Lot 4	6,000 m ²	Lot 44	2,000 m ²
Lot 5	8,000 m ²	Lot 45	2,500 m ²
Lot 6	5,500 m ²	Lot 46	2,500 m ²
Lot 7	5,000 m ²	Lot 47	2,000 m ²
Lot 8	4,200 m ²	Lot 48	2,100 m ²
Lot 9	3,000 m ²	Lot 49	1,850 m ²
Lot 10	2,800 m ²	Lot 50	1,750 m ²
Lot 11	2,250 m ²	Lot 51	1,750 m ²
Lot 12	2,250 m ²	Lot 52	1,850 m ²
Lot 13	2,500 m ²	Lot 53	2,000 m ²
Lot 14	2,400 m ²	Lot 54	2,000 m ²
Lot 15	2,380 m ²	Lot 55	2,000 m ²
Lot 16	2,260 m ²	Lot 56	2,500 m ²
Lot 17	2,500 m ²	Lot 57	2,500 m ²
Lot 18	6,000 m ²	Lot 58	3,500 m ²
Lot 19	5,000 m ²	Lot 59	2,500 m ²
Lot 20	50,000 m ²	Lot 60	2,500 m ²
Lot 21	2,500 m ²	Lot 61	2,500 m ²
Lot 22	2,500 m ²	Lot 62	3,500 m ²
Lot 23	2,500 m ²	Lot 63	2,500 m ²
Lot 24	3,200 m ²	Lot 64	2,500 m ²
Lot 25	3,200 m ²	Lot 65	8,100 m ²
Lot 26	2,500 m ²	Lot 66	4,100 m ²
Lot 27	2,500 m ²	Lot 67	3,000 m ²
Lot 28	2,800 m ²	Lot 68	3,000 m ²
Lot 29	4,500 m ²	Lot 69	3,500 m ²
Lot 30	4,500 m ²	Lot 70	4,200 m ²
Lot 31	3,000 m ²	Lot 71	7,200 m ²
Lot 32	2,500 m ²	Lot 72	6,200 m ²
Lot 33	2,100 m ²	Lot 73	8,100 m ²
Lot 34	2,800 m ²	Lot 74	12,000 m ²
Lot 35	2,100 m ²	Lot 75	8,100 m ²
Lot 36	2,500 m ²	Lot 76	14,000 m ² - Lodge
Lot 37	2,500 m ²	Lot 77	Open space/roading
Lot 38	3,800 m ²	Lot 78	Escarpment-north
Lot 39	3,800 m ²	Lot 79	Open space-west
Lot 40	3,500 m ²	Lot 80	Open space-south

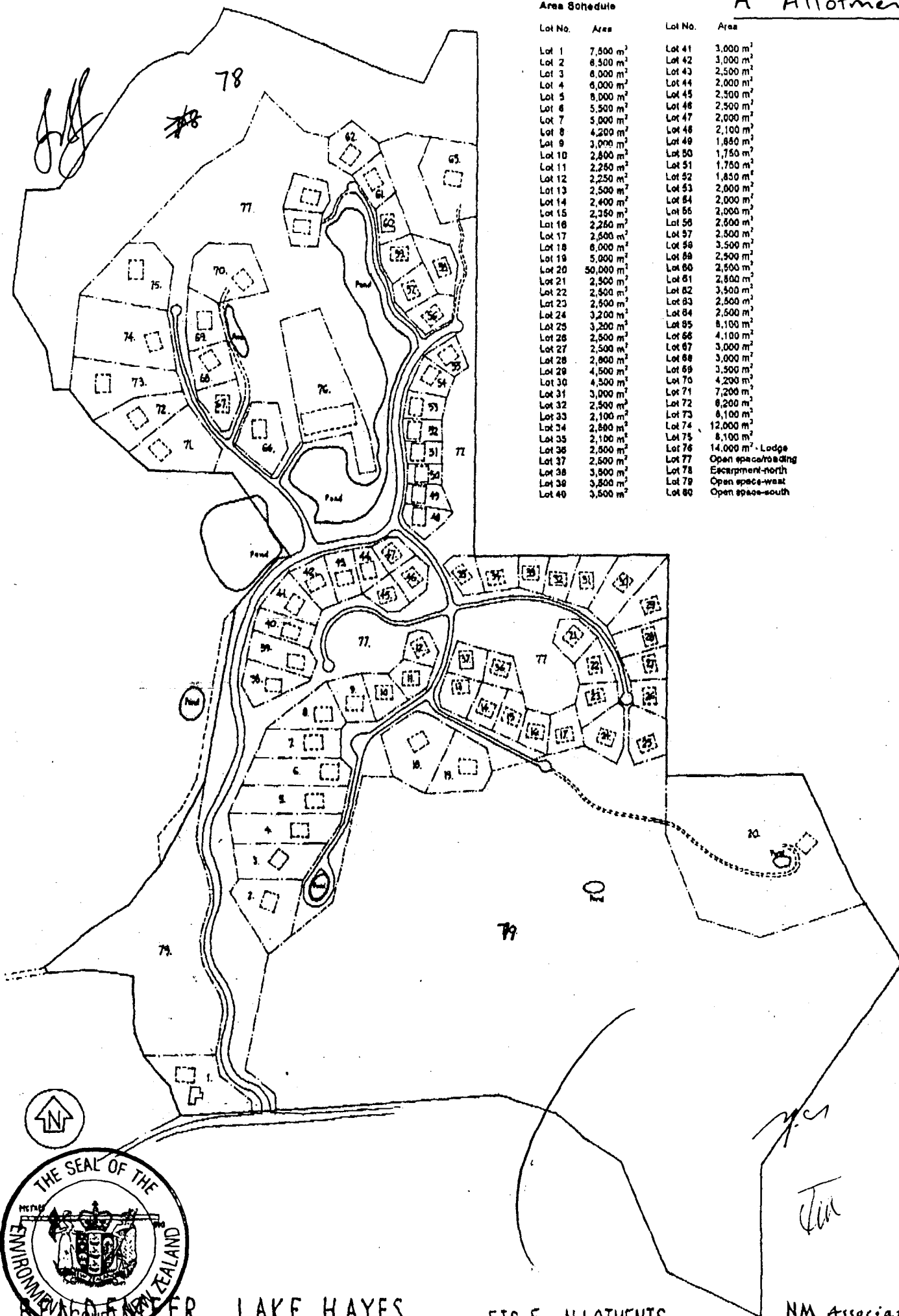
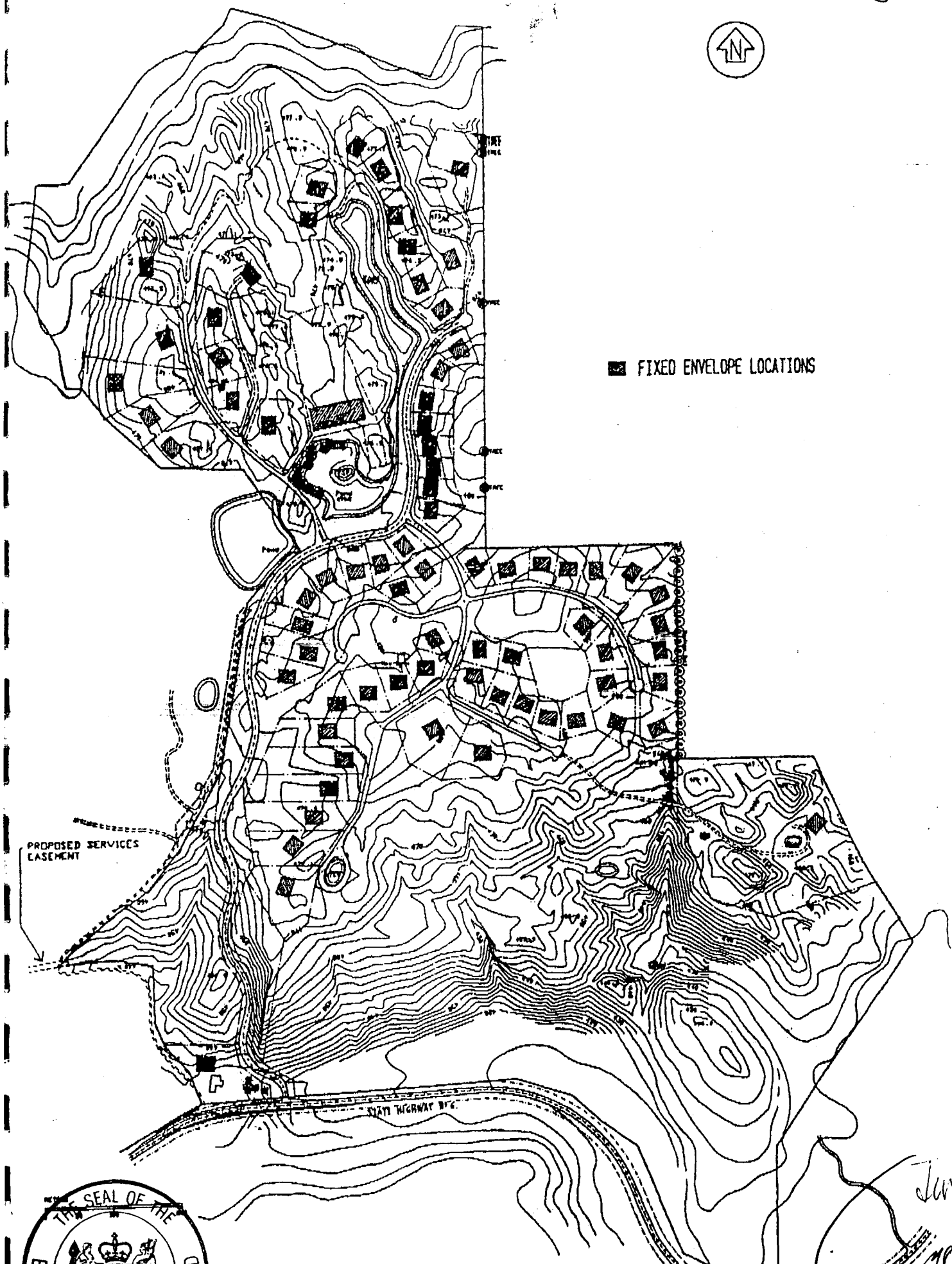


FIG 5 ALLOTMENTS

NM Associates

ARCHITECTS AND PLANNERS
12 Lambton House, 180 Lambton Quay
PO Box 5114, Wellington

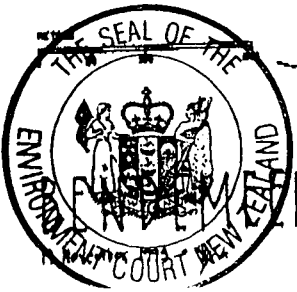
"B" Building Envelop:



■ FIXED ENVELOPE LOCATIONS

PROPOSED SERVICES EASEMENT

STATE HIGHWAY No. 6

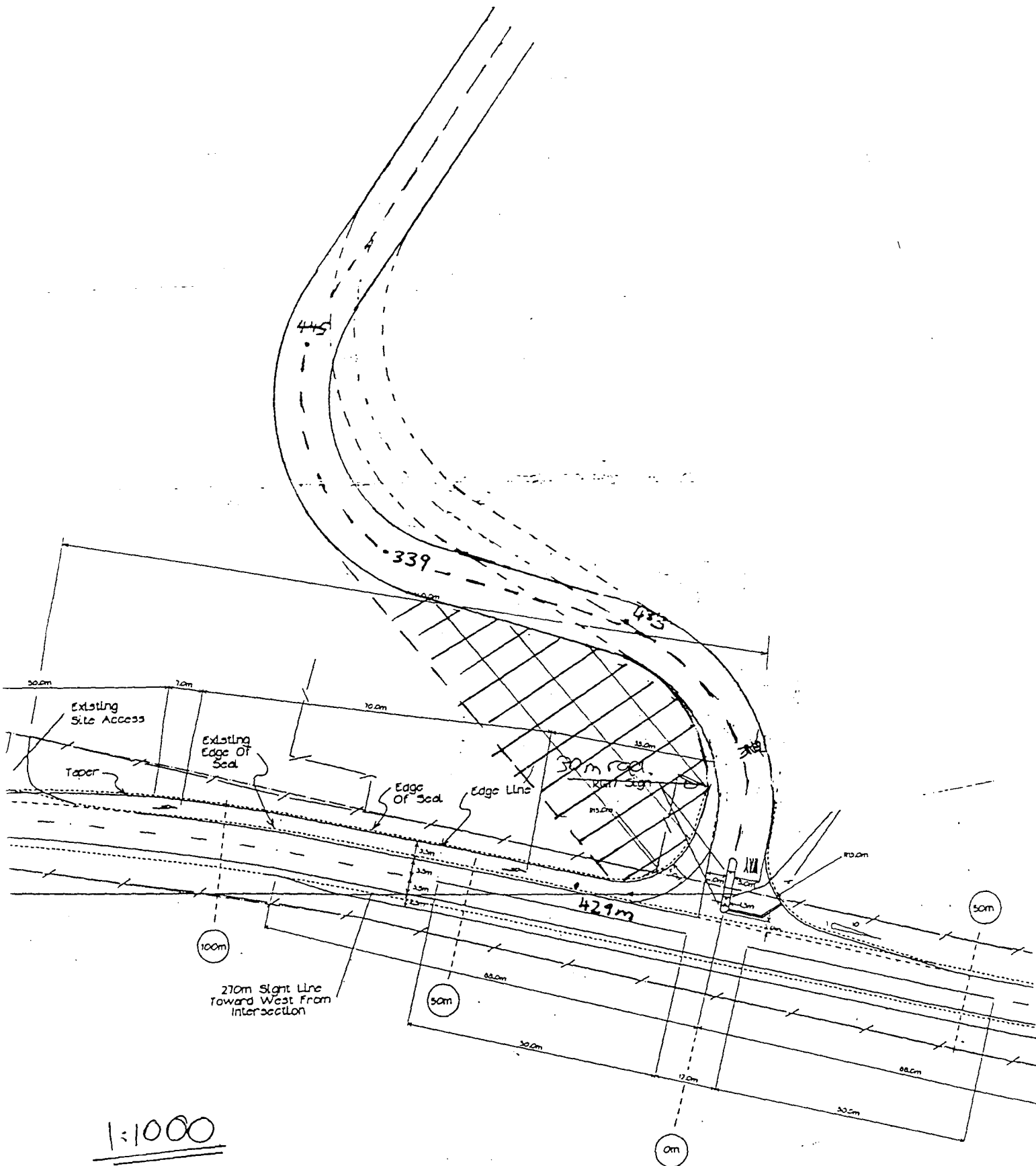


LAKE HAYES.

FIG A1 BUILDING ENVELOPES

Jan
1997
NM Associates
ARCHITECTS AND PLANNERS
12 Lambton House, 180 Lambton Quay
PO Box 3218, Wellington
ph: 04 488-8323 fax: 04 473-4335

"C" Access from SH6



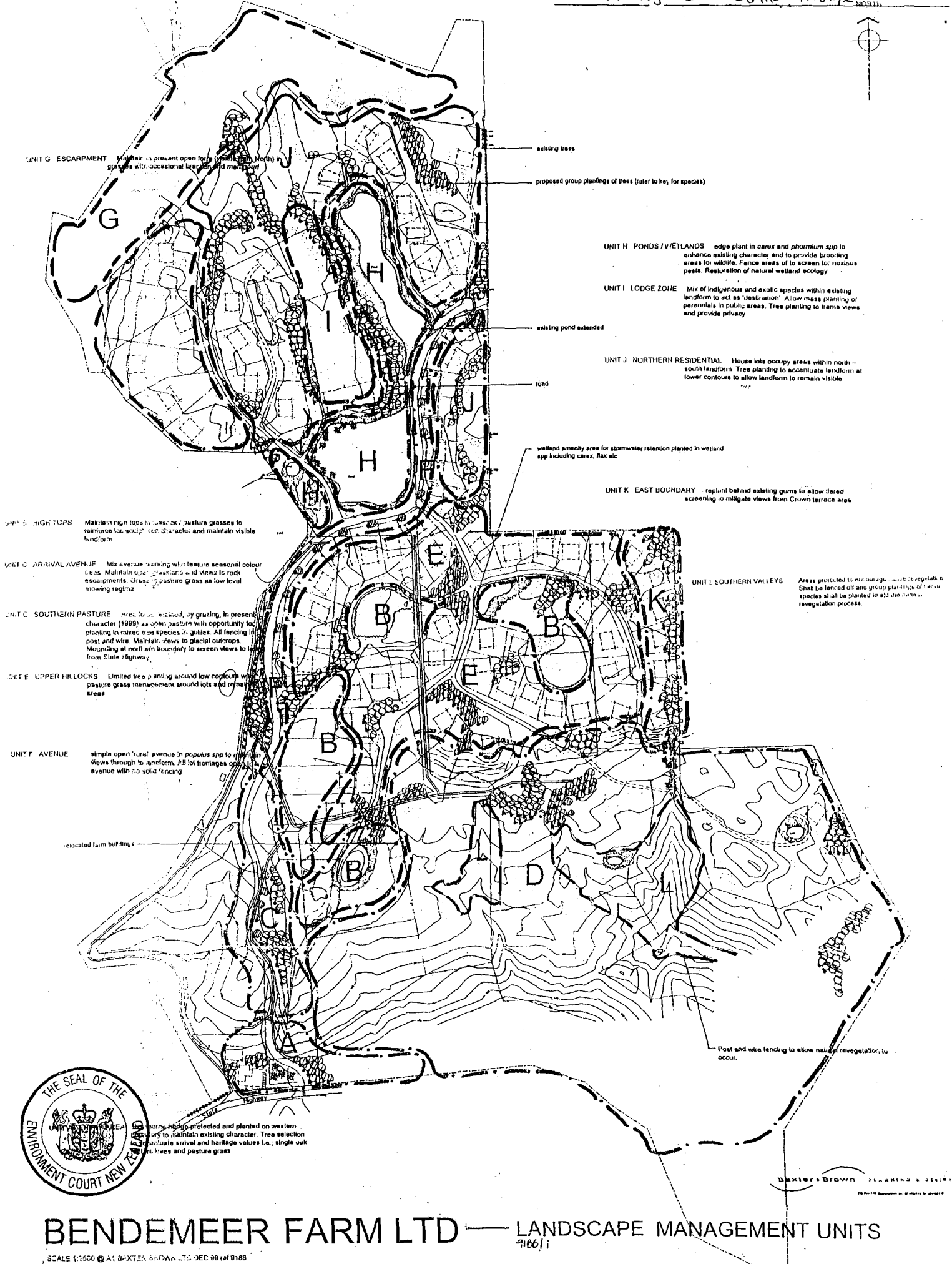
1:1000



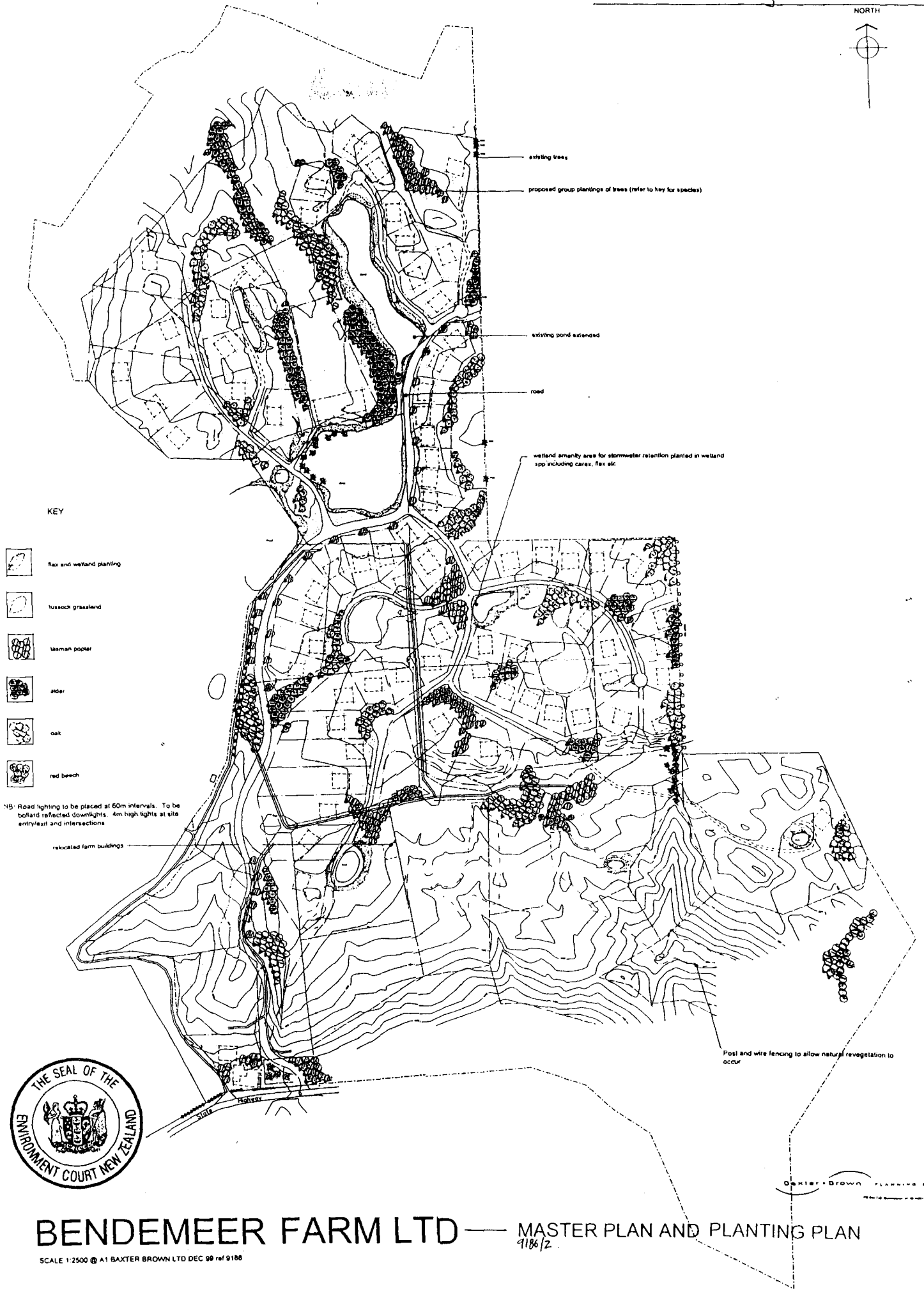
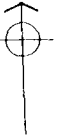
270m Slight Line Toward The West From Intersection

Existing Road Level At Centre Line Of Road

"D" Bendemeer Farm Ltd Landscape Management Units 9/186/2



NORTH



9186

LANDSCAPE MANAGEMENT UNITS FOR BENDEMEER FARM LTD

(refer plans Marked 9186/1, 9186/2)

The notes outlined below are attached to the plan and are intended to provide guidelines for the landscape development of each unit, as outlined on the plan.

UNIT A ENTRY AREA

Hawthorne hedge protected and planted on western boundary to maintain existing character. Tree selection to accentuate arrival and heritage values i.e. single oak feature trees and pasture grass.

UNIT B HIGH TOPS

Maintain high tops in tussock/pasture grasses to reinforce ice sculptured character and maintain visible landform.

UNIT C ARRIVAL AVENUE

Mixed avenue planting with feature seasonal colour trees and populus spp. Maintain open grassland and views to rock escarpments. Grass in pasture grass as low level mowing regime.

UNIT D SOUTHERN PASTURE

Area to be retained, by grassing, in present character (1999) as open pasture and with retention and enhancement of regenerating native species in gullies. Gullies to be fenced. All fencing in post and wire. Maintain views to glacial outcrops. Mounding at northern boundary to screen views to lots from State Highway.

UNIT E UPPER HILLOCKS

Limited tree planting around low contours with pasture grass management around lots and remaining area.

UNIT F AVENUE

Simple open 'rural' avenue in populus spp to maintain views through to landform. All lot frontages open to avenue with no solid fencing.

UNIT G ESCARPMENT

Maintain in present open form (visible from North) in grasses with occasional bracken and matagouri.

UNIT H PONDS/WETLANDS

Edge plant in carex and phormium spp to enhance existing character and to provide brooding areas for wildlife. Fence areas off to screen for noxious pests. Restoration of natural wetland ecology.

UNIT 1 LODGE ZONE

Mix of indigenous and exotic species within existing landform to act as 'destination'. Allow mass planting of perennials in public areas. Tree planting to frame views and provide privacy.



Jim

7.5.97

UNIT J NORTHERN RESIDENTIAL

House lots occupy areas within north – south landform. Tree planting to accentuate landform at lower contours to allow landform to remain visible.

UNIT K EAST BOUNDARY

Replant behind existing gums, to allow tiered screening, to mitigate views from Crown Terrace area.

UNIT L SOUTHERN VALLEYS

Areas protected to encourage native revegetation. Shall be fenced off and group plantings of native species shall be planted to aid the natural revegetation process.

Landscape Controls:

The controls listed below refer to all major tree planting within building lots. The principal intent of the controls listed below is to retain and accentuate the natural contour of the landscape and to promote continuity in the planting framework.

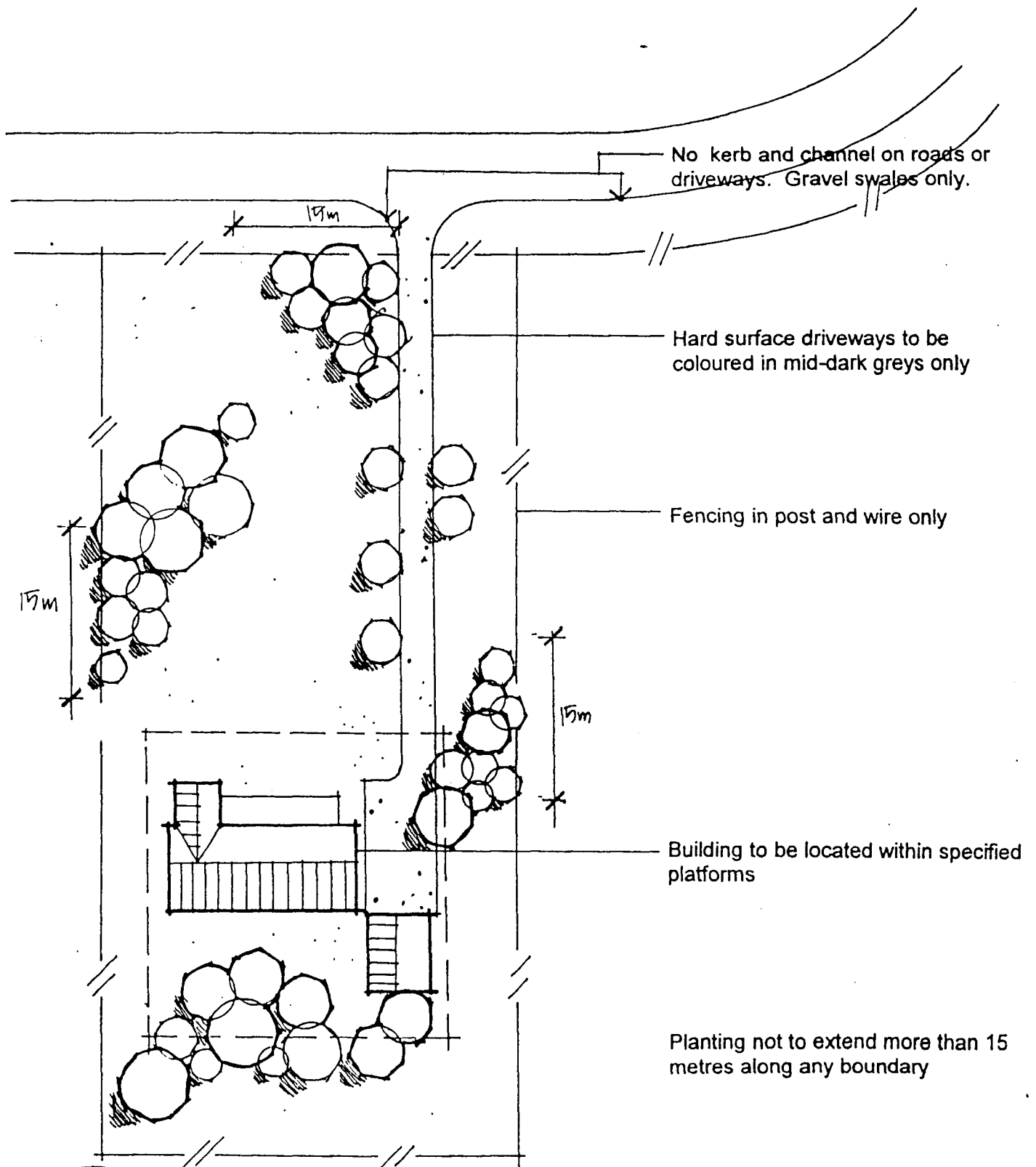
1. Tree planting should run with contour, not against it.
2. Tree planting should be used to accentuate and enhance landform. Planting on ridges and skylines should be avoided.
3. Tree planting should be used to provide aesthetics, shelter and screening within the property and shall not be used to demarcate legal boundaries (along fence-lines).

(Refer sketches and examples are attached).

9186-pb4-doc-pk



Jun 7.7.



BENDEMEER

LOT - GUIDELINES

1:500

Jan 90
REF: 9106

Appendix 2 - Colour Palette

2.1 Colour Palette - Applicable to all Zones Except Where Alternatives are Provided by Clauses 2 and 3 Below or where a Rule in the Plan Excludes the Need to Comply

i Colour Designations

The colours are from British Standard 5252 (1976).

ii Roofs, Walls and Trim

The following colours can be used for roofs, walls, and trim in any location.

Grey	10A03	10A05	10A07	10A09	10A11				
Red	04C39								
Red Yellow	06C33	06C35	06C37						
Yellow Red	08B17	08B19	08B21	08B23	08B25	08B27	08B29	08C33	08C35
	08C37	08C39							
Yellow	10B17	08B19	10B21	10B23	10B25	10B27	10B29	10C33	10C35
	10C35	10C37	10C39						
Green Yellow	12B17	12B19	12B21	12B25	12B27	12B29	12C33	12C35	12C37
	12C39	12C40							
Blue	18B21	18B23	18B25	18B27					

iii Walls and Trim

The following colours are in addition to those above but are too light for general use on roofs.

Grey	10A01		
Yellow Red	08B15	08C31	
Yellow	10B15	10C31	
Green Yellow	12B15	12C31	

Trim and Accents

The following colours are for use in the Rural Uplands, Rural Downlands, Rural-Residential, Rural Tourist, Urban and Millbrook Resort Zones for fascia boards, spouting and downpipes, windows and window frames, window sills and doors and door frames.

Grey	08A14
------	-------



Handwritten signature and initials

Red	04C37	04C40	04D43	04D44	04D45	04E53	04E55	04E56	04E58
Yellow Red	08E51	08E53	08E55	08E56					
Yellow	10E50	10E51	10E53	10E56					
Green Yellow	12D43	12D44	12D45						
Blue	18C35	18C37	18C39						
Purple Blue	20C35	20C37	20C39						
Violet	22B27	22C35	22C37	22C39					
Purple	24C35	24C37	24C39						

v Town Centre Zones, Frankton Corner Shopping Centre Zone, Business, Industrial and Airport Zones

No limit on colour for accent and trim.

2 Schedule of Building Materials - Arrowtown Low Density Residential Zone (Scenic Protection Area)

Primary ~~exterior~~ building elements shall be restricted to the following materials:

A	<u>Roofs:</u>	i	Tiles	-	Concrete ("Monier" type only)
		ii	Shingles	-	Asbestos Asphalt
		iii	Metal	-	Trough section long-run galvanised steel ("Brownbuilt", Dimondeck", "Minideck" or similar)
B	<u>Walls:</u>	i	Timber	-	Weatherboards
			Types	-	Redwood Western Red Cedar New Zealand Oregon Rimu Tanalised Treated Pinus
			Profiles	-	Horizontal: Bevel back Shiplap Rusticated
				-	Vertical: Shiplap Board and Batten

It should be noted that only traditional profiles are allowed.

Masonry	-	Concrete block
	-	Spilt concrete block*
	-	Brick*
	-	Stone local schist (stacked only)



Handwritten signature and initials.