

**QLDC Council****27 August 2015****Report for Agenda Item: 16****Department: Operations****Affected Person's Approval – 16 Manchester Place, Queenstown****Purpose**

- 1 The purpose of this report is to consider whether or not the Council should provide an Affected Person's Approval (APA) to allow fencing, excavation, re-contouring and replanting of reserve land at Manchester Place, Queenstown.

**Recommendation**

- 2 That Council:

1. **Note** the contents of this report.
2. **Agree** to provide an affected person's approval for resource consent application RM150356 with plans dated 2<sup>nd</sup> July 2015 at 16 Manchester Place, varying a breach of setback adjacent to recreation reserve and re-contouring and replanting the recreation reserve legally described as Lot 4, DP 23944 on computer freehold register OT16A/384, provided:
  - a. Council receives a bond of \$7,500 from the applicant; and
  - b. The applicant volunteers a condition of consent for RM150356 to enter into a memorandum of understanding (MOU) with Council outlining the responsibilities of the consent holder in relation to the works in the reserve to ensure works are appropriate, the area is maintained by the consent holder and other appropriate standard Council MOU conditions relating to landscaping in reserves.
3. **Delegate** to the Manager of Parks and Reserves the authority to sign an affected person approval on behalf of the Council.

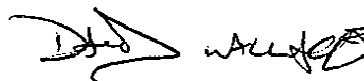
Prepared by:



Dan Cruickshank

Senior Property Manager  
APL Property  
5/08/2015

Reviewed and Authorised by:



David Wallace

Senior Planner – Parks and  
Reserves  
7/08/2015

## Background

- 3 Council owns an area of recreation reserve described as Lot 4, DP 23944, in computer freehold register OT16A/384. The land is sited between Vancouver Drive and Manchester Place on Queenstown Hill.
- 4 The reserve land acts as both open space and as a pedestrian link between Vancouver Drive and the block of reserve land at lower Windsor Place.
- 5 The current APA request to Council as an affected party is for a variation of three prior resource consent approvals obtained in 2014/15 [required to enable the construction of a garage on adjoining land owned by Catherine and Stanley Paris in the vicinity of the boundary with the reserve land]. As a result of engineering requirements and constraints, the most recent approval (prior to the current request) had the garage located 600mm closer to the Northern boundary.

## Comment

- 6 Council has been asked to provide affected party approval to resource consent application RM150356 with plans dated 2<sup>nd</sup> July 2015.
- 7 Council is considered an affected party to this resource consent because of proposed re-contouring of the adjacent recreation reserve and replanting required as a result of the excavation work that has been carried out. Excavation near to the boundary has been previously approved under the previous resource consents obtained in 2014/15.
- 8 Property managers and the Manager of Parks and Reserves have both conducted site visits to the land, where the following issues were identified:

### a) Excavation of Reserve.

Construction of the garage at 16 Manchester Place is already well underway. Excavating the platform for the garage exposed hard green schist along 2/3<sup>rd</sup>'s of boundary and softer rock on the western 1/3<sup>rd</sup>.

The structural and geotechnical engineers require a safe 25 degree max batter above hard rock and above 2.7m retaining height where there is soft rock.

Due to this it is practical to construct the boundary fence within the reserve land approximately 500mm over a 22 metre distance. The actual boundary of the land will not be legally changed, and the land on either side of the fence will retain its reserve status. The adjoining owner will not be granted any right of occupation of the reserve, and the fencing is simply being constructed inside the boundary because that is the safest and most practical location. The impact on the usable area of the reserve is negligible.

### b) Fencing of Reserve boundary

The previous resource consent provided for excavation of the rock within close proximity of the boundary creating a need to fence the edge of the reserve to maintain a safe space for recreational users over a 22m distance.

The applicant has proposed to construct a wooden fence in the vicinity of the boundary (as explained above) with style to be approved by Council and built by a licensed building practitioner.

The full cost of the construction of the fence will be borne by the applicant.

c) New contour of Reserve

The applicant has asked permission to excavate a top soil batter on the reserve no greater than 25 degrees in slope to meet the approval of structural and geotechnical engineers and to decrease the likelihood of any slumping on the reserve land.

d) Infrastructure on the Reserve

A Council 300mm storm water pipe is located on the reserve land within 5 metres of the boundary. Excavation of the batter leading up to the pipe will be subject to the applicant ensuring the infrastructure assets are unaffected and will be carried out following the approval of the Council infrastructure team. Conditions have been specified in the previous resource consent RM150099 to manage this.

e) Planting plan for the Reserve

The Manager of Parks and Reserves has indicated his approval to remove two exotic trees on the reserve land sited on the proposed batter excavation along with replanting the excavated area. The applicant will need to supply a detailed landscaping plan to Council for approval prior to both parties entering the Memorandum of Understanding. The cost of the planting will be borne solely by the applicant.

f) Bond requirement

In order to ensure that the works are carried out as agreed and set out in this report, it is recommended that Council enter a memorandum of understanding with Catherine and Stanley Paris, as applicant and take a \$7,500 bond. The memorandum of understanding will also address the refund of the bond. This will have to be volunteered as a condition of the consent for which this affected party approval is sought.

g) Garage placement

The resource consent variation relocates the garage a further 600mm from the boundary. This change reflects the location of the current construction. It marginally benefits the reserve and was required due to construction constraints.

- 9 The applicant has also supplied their construction companies Site Safe health and safety plan.

## ***Options***

10 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

11 Option 1 To approve the APA for Catherine & Stanley Paris to vary a resource consent for a breach of setback adjacent to recreation reserve as well as re-contouring and replanting the recreation reserve.

Advantages:

12 Approving the APA will:

- a. enable the adjoining owner to achieve resource consent for the development in a timely manner.
- b. allow the reserve to be fenced in a style approved by Council, taking away the risk to fall of park users.
- c. result in new planting on the reserve of a type approved by Council, replacing existing wilding trees and bushes.

Disadvantages:

13 Approving the APA will confirm the loss of use of reserve land created by the excavation.

14 Option 2 Not to approve the APA for Catherine & Stanley Paris to vary a resource consent for a breach of setback adjacent to recreation reserve as well as re-contouring and replanting the recreation reserve.

Advantages:

15 Refusing to approve the APA would not confirm the loss of use of the reserve land created by the excavation.

Disadvantages:

16 Refusing to approve the APA:

- a. will not enable the adjoining owner to achieve resource consent for the development in a timely manner.
- b. would require the developer to find some other means to retain the Council reserve land, potentially at considerable cost.
- c. may require Council to fence the reserve boundary and being required to share the cost of the fence 50:50 under the Fencing Act 1978.
- d. would not result in new planting on the reserve.

17 This report recommends Option 1 for addressing the matter.

### ***Significance and Engagement***

- 18 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because it does not involve a Council significant asset important to the Queenstown Lakes District community. It does not impact on Council's capability and capacity.

### ***Risk***

- 19 This matter related to the operational risk OR027 levels of service, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk as it requires a decision from Council for a private activity.
- 20 Option 1 recommended above mitigates the risk by providing the applicant with a decision in a timely manner and following due process.

### **Financial Implications**

- 21 There are no financial implications with approving this request. All associated costs related to the works contemplated by the resource consent will be met by the applicant, including the costs associated with re-contouring, fencing and replanting. This will be documented in a memorandum of understanding and a \$7.500 bond will be required to protect the Council's position.

### **Council Policies, Strategies and Bylaws**

None.

- 22 This matter is included in the 10-Year Plan/Annual Plan

- Administration associated with overseeing this approval will be covered in existing property budget provisions.

### **Local Government Act 2002 Purpose Provisions**

- 23 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by providing a timely decision to a member of the public;
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

### **Consultation: Community Views and Preferences**

24 No consultation is proposed. The persons who are affected by or interested in this matter are predominately the users of the reserve land, and it is considered that the impact upon their actual use of the land will not be material.

### **Legal Considerations and Statutory Responsibilities**

The Council has the power to carry out and/or authorise the contouring, fencing, planting and general improvement of recreation reserve under the terms of the Reserves Act.

### **Attachments**

- A Affected Person's Approval 16 Manchester Place – Application letter
- B Affected Person's Approval 16 Manchester Place – Plans
- C Affected Person's Approval 16 Manchester Place – Photos

# ELLIOTT

ARCHITECTS LTD

EDWIN ELLIOTT ANZIA  
Registered Architect  
B Arch (Honours) NZCAD

P.O. BOX 1115  
QUEENSTOWN  
NEW ZEALAND  
PHONE (03) 442 6955

Email [edwin@elliottarchitect.com](mailto:edwin@elliottarchitect.com)

12 May 2015

Richard Kemp

Planner

QLDC.

Private Bag 50072

Queenstown

Dear Richard,

Variation to RC for S and C Paris Re approved RC 140597 and RM 140925: ER. AEE

Refer to the attached application for this variation:

The proposed change is shown on the attached drawings, and has supporting information from Geo Tech Engineer, Structural engineer and photos.

We copy this as attachment.

A batter is required to be formed above the hard rock (2 thirds of right side excavation), this is after any loose rock removed at top. A cross section through this is shown at Section ZZ for this. The safety fence and planting will be carried out all in accordance to approved RC and variations.

At the left western end the condition of Rock is softer, see pics: and hence a batter Slope as required by structural engineer will go further into site. This is the area where there is a few trees (birches Shown) being at section YY attached. This is also shown on plan. The extent of the abtter will mean the wilding trees will need removed in this area, which may have been a former Gully. This area highlighted would be replanted as shown in appropriate ground cover Natives and safety fence where shown. The Owners as per approval are provided the planting in this area and will ensure ensure it is irrigated.

The affect of this change will be no more than minor. The writer would be available for a meeting on this item to discuss.

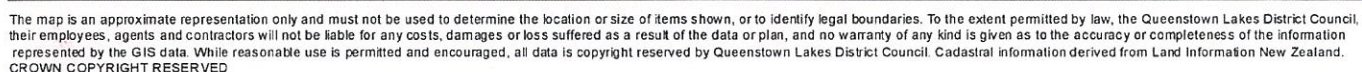
Should require any further info please contact the writer.

Yours Faithfully

Edwin Elliott

Registered Architect







38  
257

✓ DATED 7 MAY 2015  
SITE PLANT

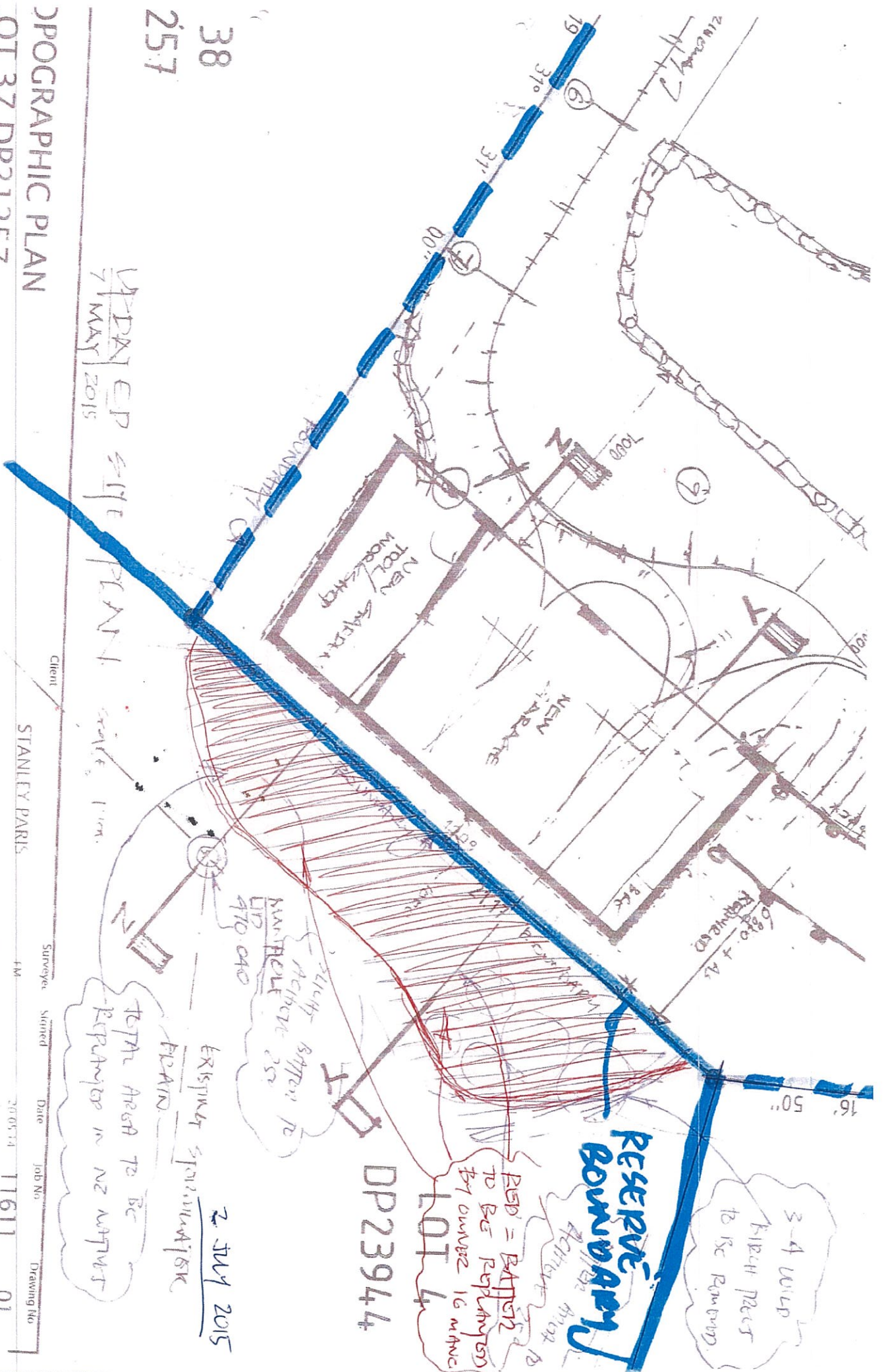
STANLEY PARIS

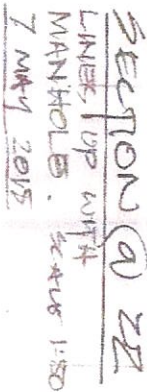
Drawing No.

©

1.200 @ A3

*L. J. GIBLIN & L. E. GRAY*





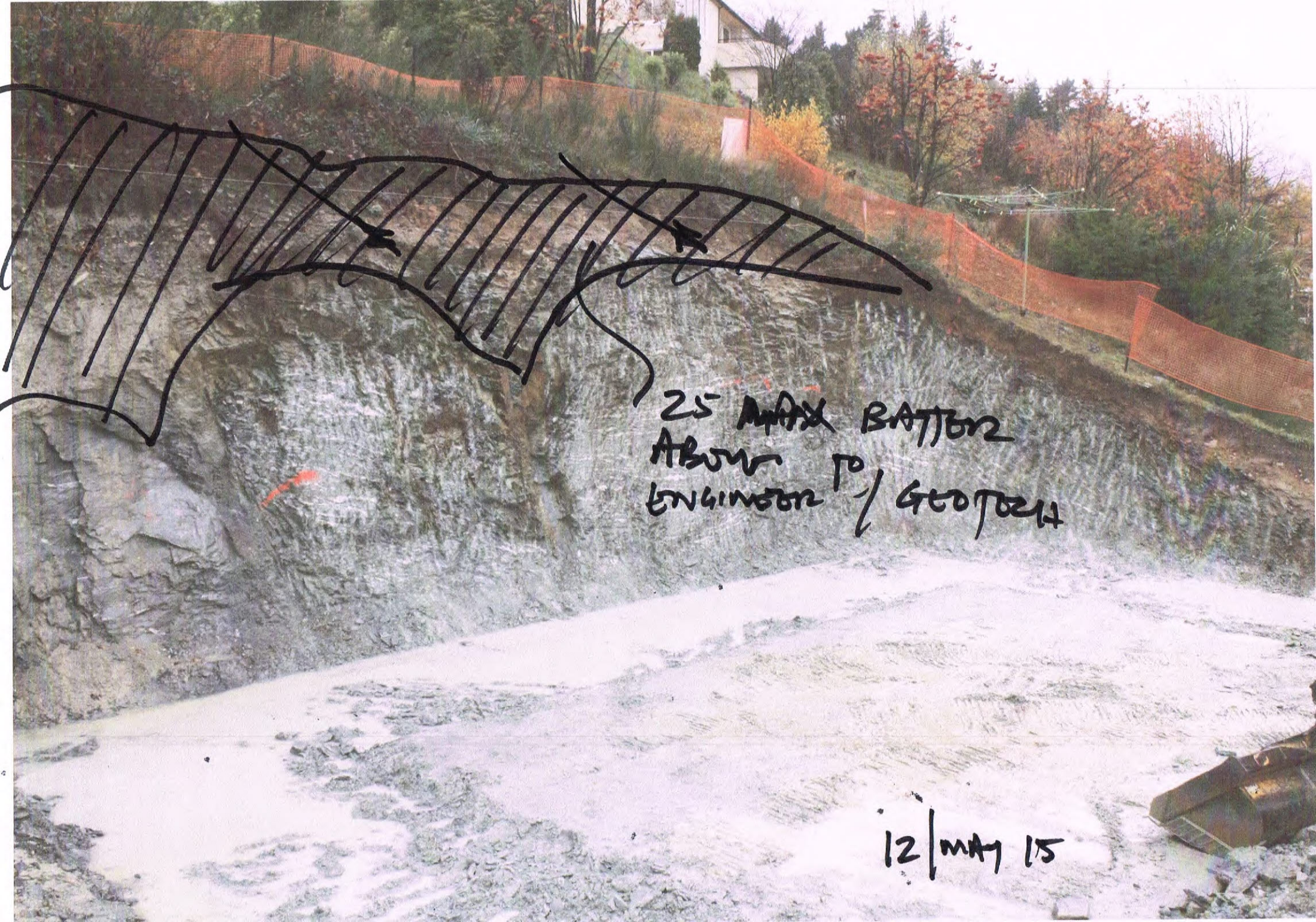
2 July 2015





2 JULY 2015





25 MAX BATTER  
ABOVE  
ENGINEER TO / GEOTECH

12/MAY 15



Remove these rocks  
None!

BATTEN  
TOP SOIL TO  
BE TO 250.  
AS PER  
ENGINEER  
GEO TECH  
REQUIREMENTS.

BATTEN TOP SOIL ABOVE  
TO 250 MAX TO  
ENGINEER & GEO TECH  
REQUIREMENTS.

12/MAY/15







