

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 9 –
Resort Zones (Jacks
Point)

**MEMORANDUM OF COUNSEL ON BEHALF OF THE QUEENSTOWN LAKES
DISTRICT COUNCIL REGARDING LOCATION OF HOMESITE 36 ON THE JACKS
POINT STRUCTURE PLAN**

2 May 2017

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MAY IT PLEASE THE PANEL

1. This memorandum is filed on behalf of Queenstown Lakes District Council (**Council**) and relates to Homesite 36, which is a homesite that is included on the Operative District Plan (**ODP**) Jacks Point Structure Plan, and has also been notified on the Proposed District Plan (**PDP**) Jacks Point Structure Plan, albeit in a different location. The location of Homesite 36 was then not changed through any of the amended versions of the Structure Plan promoted by Jacks Point Residential No. 2 and others,¹ or by the Council, following notification.

Summary

2. The notified location of Homesite 36 is different to its location on the ODP Structure Plan. The notified location is entirely within the Outstanding Natural Landscape (**ONL**) boundary line as agreed by the landscape experts for the Council and Jacks Point Limited following the hearing, whereas the ODP location is outside the agreed ONL line. No landscape evidence has considered the effects of the notified location. The PDP maximum building height rule still refers to the height datum of the ODP location, so any building on Homesite 36 would be restricted to 1.4m in height.
3. The Council therefore seeks a direction from the Panel on whether the Council should provide supplementary landscape evidence on the effects of the new location of Homesite 36, and leave to do so if required. The Council's landscape expert is available for a site visit on 8 May 2017.

Change in location of Homesite 36

4. It has come to the Council's s42A report author's attention that the location of Homesite 36 in the Proposed District Plan (**PDP**) is different to its current location on the ODP Structure Plan. The Structure Plan included as Appendix 5 of the s42A report (prepared by Darby Partners upon request) confirms that of the Homesites that exist in the ODP, this is the only Homesite that has been moved. In the ODP² Homesite 36 is located directly east of a wetland. In the

1 Submitters #762, #856 and #1275. See also section 7 of the s42A report, which responds to the changes proposed to the notified Structure Plan by these submitters on 15 December 2016.

2 Section 12, page 12-27, Figure 2.

PDP,³ Homesite 36 is located directly north of that wetland. The site specific rules that apply to the Homesite (for example height of buildings) have not changed in the PDP, despite the change in location.

5. The s32 report attached to the notified Chapter 41 makes no mention of any of the existing/ operative Homesites (Homesites 1 - 36). The change in location in the PDP was not picked up during preparation for the Jacks Point hearing, during the hearing nor the Council's reply.
6. The Council understands from Dr Marion Read that when she undertook site visits with Ms Yvonne Pfluger (the landscape expert for Jacks Point Limited), the focus was on the potential *new* homesites sought through submissions (specifically through the amended Structure Plan provided by Jacks Point Limited dated 15 December 2016) rather than the notified homesites, and the two landscape experts did not discuss or assess the change in location of Homesite 36.
7. A Joint Witness Statement (**JWS**) by Dr Read and Ms Pfluger was filed on 14 February 2017. The Panel then requested the experts to undertake a further site visit and on 26 February 2017 an amended map was filed, showing an amended ONL (represented by a blue dashed line), that included notified Homesite 36 in its entirety.⁴ By contrast, the ODP location of Homesite 36 is entirely outside the agreed (PDP) ONL line.
8. The following appendices are provided to assist the Panel:
 - (a) **Appendix 1** – ODP location of Homesite 36;
 - (b) **Appendix 2** – notified PDP location of Homesite 36;
 - (c) **Appendix 3** – close-up from Appendix 5 of s42A report, showing the shift in location of Homesite 36 (with the blue Homesites being the operative and the black Homesites being the proposed); and
 - (d) **Appendix 4** – map showing the ONL line (blue dashed line) agreed by Dr Read and Ms Pfluger, filed on 26 February 2017).

3 Part 41.7 of notified Chapter 41.

4 This represented a change from the JWS, in which the south-west corner of Homesite 36 was shown as outside the agreed ONL line.

Maximum building height

9. In both the ODP and PDP, the maximum building height for Homesite 36 is 5m above the specified datum level. The relevant ODP zone standard (12.2.5.2(ii)(c)) and reply PDP Rule 41.5.13.3 both state that the datum for Homesite 36 is 400.3 masl. No change was sought to this rule by any submitter and the s42A author did not recommend any change to the datum level.
10. The Council has liaised with counsel for the Jacks Point submitters on the height / datum of the notified location of Homesite 36. Ms Baker-Galloway has advised that the notified datum is 403.90 metres above sea level (**masl**).
11. Notified Rule 41.5.13.3 would therefore only allow a maximum building height of 5m above 400.3 masl in this location, notwithstanding that the notified location on the Structure Plan is at 403.90 masl. This would translate to a building that is 1.4 m⁵ above the existing ground level and so would need to be set well into the landscape.
12. Ms Baker-Galloway has also advised that the notified location of Homesite 36 is the location that Jacks Point consider is most appropriate. The Council notes therefore that the change in location was not unintentional.

Consent Notice 7832508.3

13. Notified Homesite 36 is situated on Lot 36 DP 381477 (CT 326409). Page 5 of the title contains a map showing two areas on Lot 36 (Area ZM being a Designated Wetland Area, and Area ZL being a Designated Homesite Area). Page 35 of the title also shows Area ZL. The Council considers it is clear that Area ZL corresponds to the ODP location of Homesite 36, being directly east of the wetland.

5 Under the notified provisions, the maximum building height is 5m above the notified datum of 400.3 masl (that is, 405.3m). Since the actual datum of the notified location is 403.9 masl, the maximum height possible without breaching the notified provisions is the difference between 403.9m and 405.3m (that is, 1.4m).

14. There is one Consent Notice registered on the title (7832508.3). Condition b) states:

No residential dwellings or built improvements (with the exception of fencing in accordance with Rule 12.2.2.1(v) of the Partially Operative District Plan) are permitted outside of the designated homesite areas as annotated on the survey plan attached to the certificate of title for the property.

15. Condition c) requires the area outside Homesite 36 to be retained as open space.
16. If the Panel decides that the notified location of Homesite 36 is appropriate, the landowner would need to apply to Council to change the Consent Notice before a dwelling could be constructed.

Scope to amend the location of Homesite 36 and evidence on the alternative locations

17. If Homesite 36 remains in the notified location, the notified rules only allow a dwelling to extend 1.4m above ground level and there is no scope in submissions to amend the height standard.
18. There is scope for Homesite 36 to revert to its ODP location through the submissions of Alexander Schrantz (195), Clive and Sally Geddes (540), Margaret Joan Williams (605), Tim and Paula Williams (601), and Scope Resources Ltd & Southern Beaver Ltd (342). These submissions all generally seek a return to the ODP framework and structure plan.

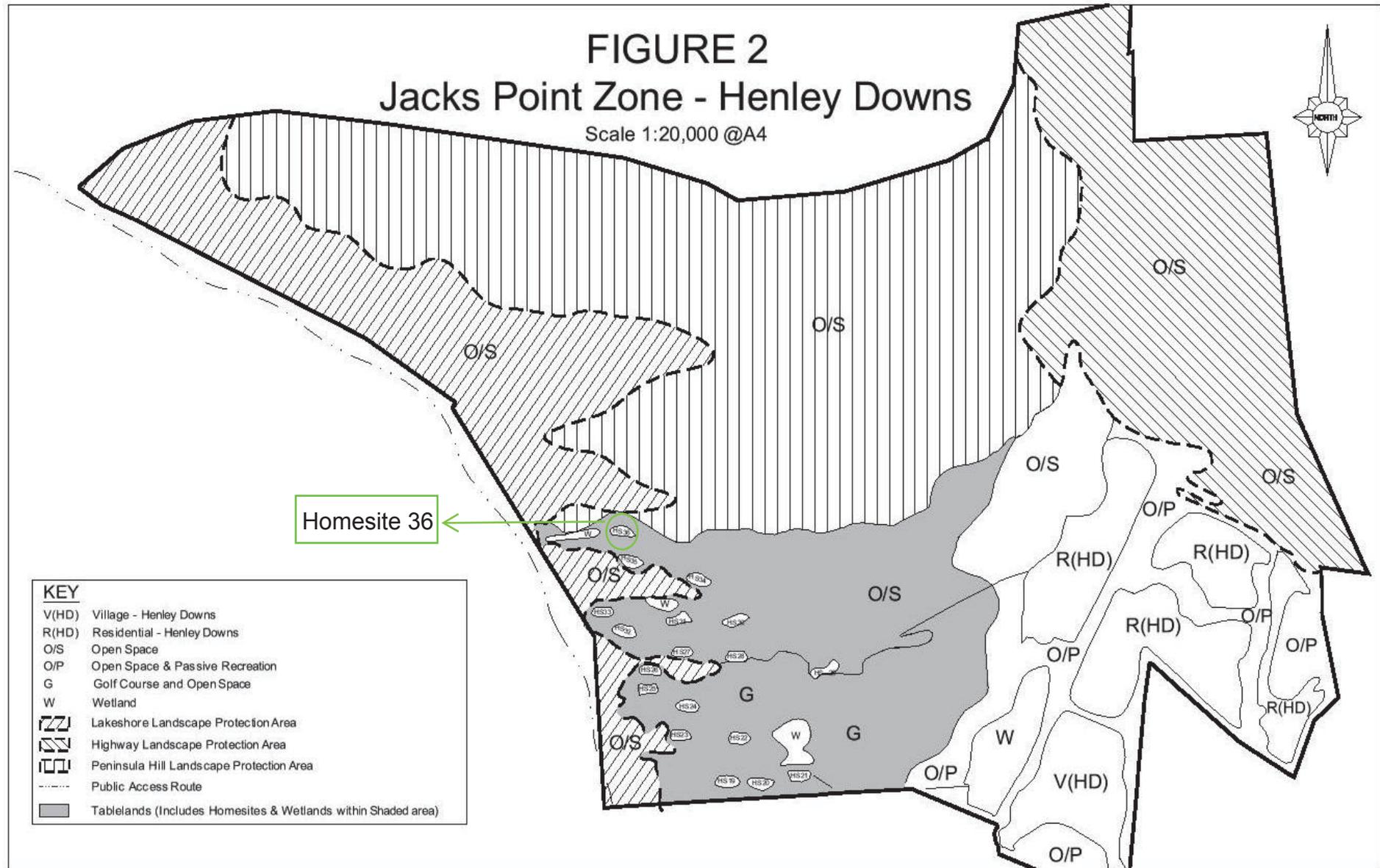
19. The Council's landscape expert for this hearing, Dr Read, has not assessed the appropriateness of the notified location or a building in that ODP location. If the Panel wishes the Council to provide supplementary landscape evidence on this matter, Dr Read is available on 8 May 2017 to undertake a site visit and could provide written evidence after that date. The Council respectfully seeks a direction from the Panel as to whether supplementary landscape evidence is required, and leave to do so if it is required.
20. As the Panel are not issuing any recommendations in the near future, it is submitted that there should be no prejudice to any party, to revisit this discrete matter, and if evidence is required from the Council, the Council would not oppose the filing of rebuttal evidence by submitters who have an interest in Homesite 36.

DATED this 2nd day of May 2017



S J Scott
Counsel for Queenstown Lakes District
Council

APPENDIX 1
LOCATION OF HOMESITE 36 IN OPERATIVE DISTRICT PLAN



APPENDIX 2
LOCATION OF HOMESITE 36 IN PROPOSED DISTRICT PLAN



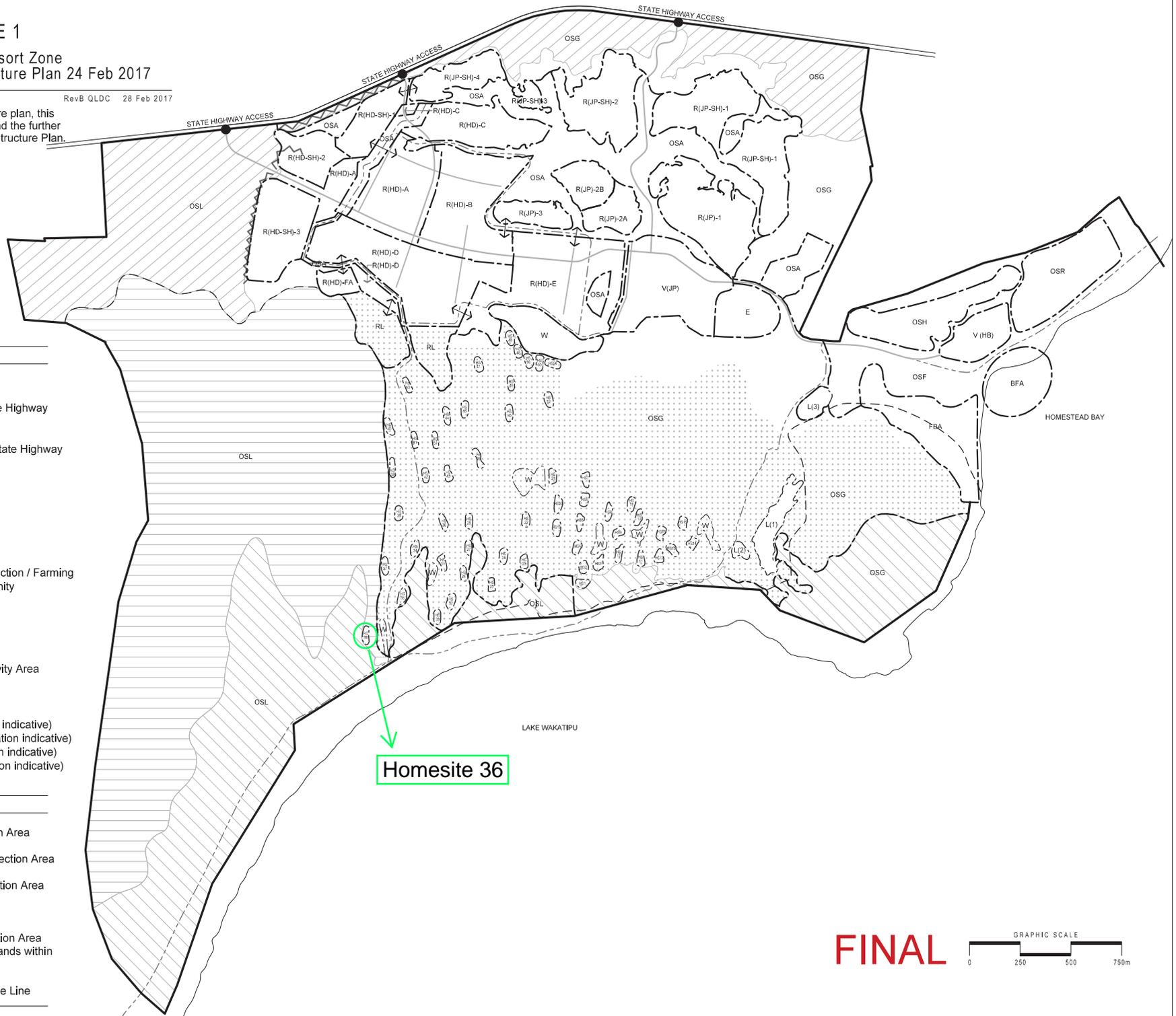
FIGURE 1

Jacks Point Resort Zone
Council Right of Reply Structure Plan 24 Feb 2017

Scale 1:25,000 (A4), 1:12,500 (A2)

RevB QLDC 28 Feb 2017

NOTE: Where provisions refer to the structure plan, this shall be taken to mean this Structure plan and the further explanation contained in Standard 41.5.1 - Structure Plan.



KEY

- R(JP) Residential Jacks Point
- R(JP-SH) Residential Jacks Point - State Highway
- V(JP) Village Jacks Point
- R(HD) Residential Hanley Downs
- R(HD-SH) Residential Hanley Downs - State Highway
- RL Rural Living

- E Education
- L Lodge
- HS Preserve Homesites

- W Wetland
- OSG Open Space Golf
- OSL Open Space Landscape Protection / Farming
- OSA Open Space Residential Amenity

- V(HB) Village Homestead Bay
- OSH Open Space Horticulture
- OSR Open Space Residential
- OSF Open Space Foreshore
- FBA Farm Buildings and Craft Activity Area
- BFA Boating Facilities Area

- Activity Area
- - - Public Access Route (location indicative)
- Secondary Road Access (location indicative)
- Primary Road Access (location indicative)
- ↔ Key Road Connections (location indicative)

OVERLAYS

- Highway Landscape Protection Area
- Peninsula Hill Landscape Protection Area
- Lake Shore Landscape Protection Area
- State Highway Mitigation
- Tablelands Landscape Protection Area (includes Homesites and Wetlands within Tablelands area)
- Outstanding Natural Landscape Line

FINAL



APPENDIX 3
EXTRACT FROM APPENDIX 5 OF SECTION 42A REPORT, SHOWING SHIFT IN
LOCATION OF HOMESITE 36
(BLUE HOMESITES = OPERATIVE, BLACK HOMESITES = PROPOSED)



APPENDIX 4
MAP SHOWING ONL LINE AGREED BY DR READ AND MS PFLUGER
(FILED 26 FEBRUARY 2017)

