

From: Tim Walsh <tim@novogroup.co.nz>
Sent: Friday, 21 July 2023 5:31 pm
To: Cottam, Rachel
Cc: [REDACTED]

Subject: TRIM: RMA/2022/3611 - Response to Council's visual effects peer review
Attachments: 2023-06-20 Braeburn - Letter to Tim Walsh - Landscape peer review.pdf; 2022_138 Braeburn Properties Portlink Industrial Subdivision_Landscape RFI Response_C.pdf; 2021_138 Braeburn Properties - Portlink Industrial Subdivision_RFI_C.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Rachel

Thank you for sending Jeremy Head's visual effects peer review and inviting commentary which can be considered by the commissioner.

Dave Compton-Moen of DCM has provided the attached response (including a graphic supplement with visuals to support his assessment). Mr Compton-Moen finds that the adverse visual effects of the proposal are less than minor taking account of the permitted baseline.

I also note that Mr Compton-Moen considers the proposed landscape treatment of the southwest bund will improve the ecological and amenity values of the esplanade reserve. This contradicts the views of Council experts on this matter.

In addition to Mr Compton-Moen's response, I make the following comments:

1. In section 2 of the report, Mr Head references 2009 evidence that informed the Portlink plan change. Given that there is no uncertainty in the District Plan on the matter, it is not necessary to read behind the Plan. If the matters referenced by Mr Head were important, they would have been expressed in the District Plan. The applicant's solicitor addresses this matter in the attached letter.
2. In section 3 Mr Head considers a summary of community concerns that was provided to him by Council. Community concerns should not have been considered. The s95 decision is yet to be made, and therefore submissions have not been invited. The applicant's solicitor addresses this matter in the attached letter.
3. In section 4 and throughout, Mr Head considers that the permitted baseline extends from natural ground rather than existing ground that results from consented earthworks. This was addressed this in the application as follows:

The northern portion of Portlink Industrial Park is subject to an 11-metre building height restriction measured from ground level – ground level as defined in the District Plan as:

natural ground level or, where the land has been subdivided, the level of the ground existing when works associated with any prior subdivision of the land were completed...

Currently, height within this area is technically measured from natural ground, which is lower than the existing ground level due to (consented) earthworks which raised the ground level across a large area of Portlink Industrial Park. However, for the purposes of assessing effects in this application, we consider an 11-metre height limit measured from existing ground. While we acknowledge that this does not (yet) represent the permitted baseline in respect of building height, it would following a controlled activity subdivision. The subdivision component of this application will establish the new ground level for the site.

While subdivision would have ideally preceded the land use component, it was considered in the public interest to apply for land use without delay – hence the combined application.

It is reasonable to consider that 11-metre-high buildings could occupy a large portion of the area subject to the height restriction. It is also possible that permitted activities, such as temporary outdoor storage of items (such as wrecked vehicles) may be stacked higher than 11 metres within this area provided any such storage would not constitute a 'building' as defined in the District Plan.

Building height is unrestricted through the remainder of Portlink Industrial Park. In respect of this land, it is not unrealistic to anticipate the construction of buildings approximately 20-25 metres in height.

These factors are important when considering the potential adverse effects of proposed activities within the northern ODP Green Space and in respect of buildings over 11 metres in height within the ODP 11-metre height limit area.

While the references to the 'permitted baseline' in the landscape assessment ought to have been qualified with the word 'future',

it was prepared in the context of the application which provided the above explanation. In any case, I consider Mr Head's reliance on the permitted baseline ignores the reality that the existing ground level will be where building height is measured from in the near future.

Best regards

Tim Walsh

Senior Planner

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20 June 2023

Tim Walsh
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By Email

Dear Tim

BRAEBURN PROPERTY LIMITED: APPLICATION IN RELATION TO 320 & 320A CUNMOR TERRACE

Summary

- 1 You have asked us for advice in relation to a report the Council has provided by Mr Jeremy Head, a landscape architect, providing a peer review of the Visual Impact Assessment provided for Braeburn Property Limited (*Braeburn*), and outlining his assessment of visual impacts (*Peer Review*).
- 2 In summary, we consider that:
 - 2.1 it was not appropriate for Mr Head to consider evidence from 2009 that informed the Portlink plan change as this is contrary to proper principles of plan interpretation; and
 - 2.2 Mr Head should not have taken community concerns into account in assessing the extent of visual effects. He should be reaching a conclusion on visual impacts based on his own expertise and assessment.

Background

- 3 Braeburn has applied for resource consent to authorise a boundary adjustment and associated vesting of an esplanade reserve, as well as resource consent to authorise various activities within the Landscape and Stormwater Area (Green Space) shown on the Portlink Industrial Park Outline Development Plan (*RMA/2022/3611*).
- 4 The Council has provided a Peer Review by Mr Jeremy Head which outlines his assessment of visual impacts. We understand that Braeburn's landscape expert is providing a response to various matters raised in the Peer Review.
- 5 In addition, you have asked us for our opinion regarding Mr Head's consideration of evidence from Mr Craig who provided evidence for the Council in 2009 in relation to the original plan change request to rezone the site. You have also asked whether Mr Head should have considered community concerns in undertaking his visual assessment.



Consideration of evidence that informed the Portlink plan change

6 In section 2 of the Peer Review, Mr Head discusses the Outline Development Plan for the Portlink Industrial Park (*ODP*). As part of this discussion, Mr Head states that he considers the background to the *ODP* to be relevant and summarises landscape evidence from a Mr Craig who provided evidence for the Council in 2009 in relation to the original plan change request to rezone the site.

7 When interpreting rules in planning documents, *Powell v Dunedin City Council* established that (in summary):¹

7.1 the words of the document are to be given their ordinary meaning unless it is clearly contrary to the statutory purpose or social policy behind the plan or otherwise creates an injustice or anomaly;

7.2 what is meant by plain and ordinary meaning should be determined with reference to “*what would an ordinary reasonable member of the public examining the plan, have taken from*” the planning document;

7.3 the interpretation should not prevent the plan from achieving its purpose; and

7.4 if there is an element of doubt, the matter is to be looked at in context and it is appropriate to examine the composite planning document.

8 Reading the words of a planning document with reference to its plain and ordinary meaning is therefore the starting point in any interpretation exercise.

9 Our view is that it was not appropriate for Mr Head, absent ambiguity in the plan provisions, to consider evidence that informed the Portlink plan change. The plain and ordinary meaning of the words in the *ODP* is that there is an 11m building height limit on the area identified. No anomaly, inconsistency or absurdity occurs with this interpretation.

10 This approach is also consistent with the intent and purpose of the *ODP*, which is to guide the form of the Portlink Industrial Park.

11 To the extent that Mr Head has sited earlier evidence (seemingly in an effort to suggest plan provisions should be interpreted or applied differently to what is on their face) then this should be given no weight.

Consideration of community concerns

12 In section 3 of the Peer Review, Mr Head considers and appears to rely on community concerns that we assume have been provided to him by way of a summary from the Council.

13 Mr Head should be reaching a conclusion on visual impacts based on his own expertise and assessment. Similar to the correct approach to interpretation set

¹ *Powell v Dunedin City Council* [2004] NZRMA 49 (HC), at [35], affirmed by the Court of Appeal in *Powell v Dunedin City Council* [2005] NZRMA 174 (CA), at [12].



out above, we do not consider community feedback/concerns as being matters that should directly inform the basis of a landscape assessment. Landscape should instead be assessed on the basis of the plan provisions as overlaid by appropriate landscape-related matters (noting this is often undertaken with reference to the criteria set out in *Wakatipu Environmental Society Inc. & Ors v QLDC* [2000] NZRMA 59 (i.e. the 'amended Pigeon Bay criteria').

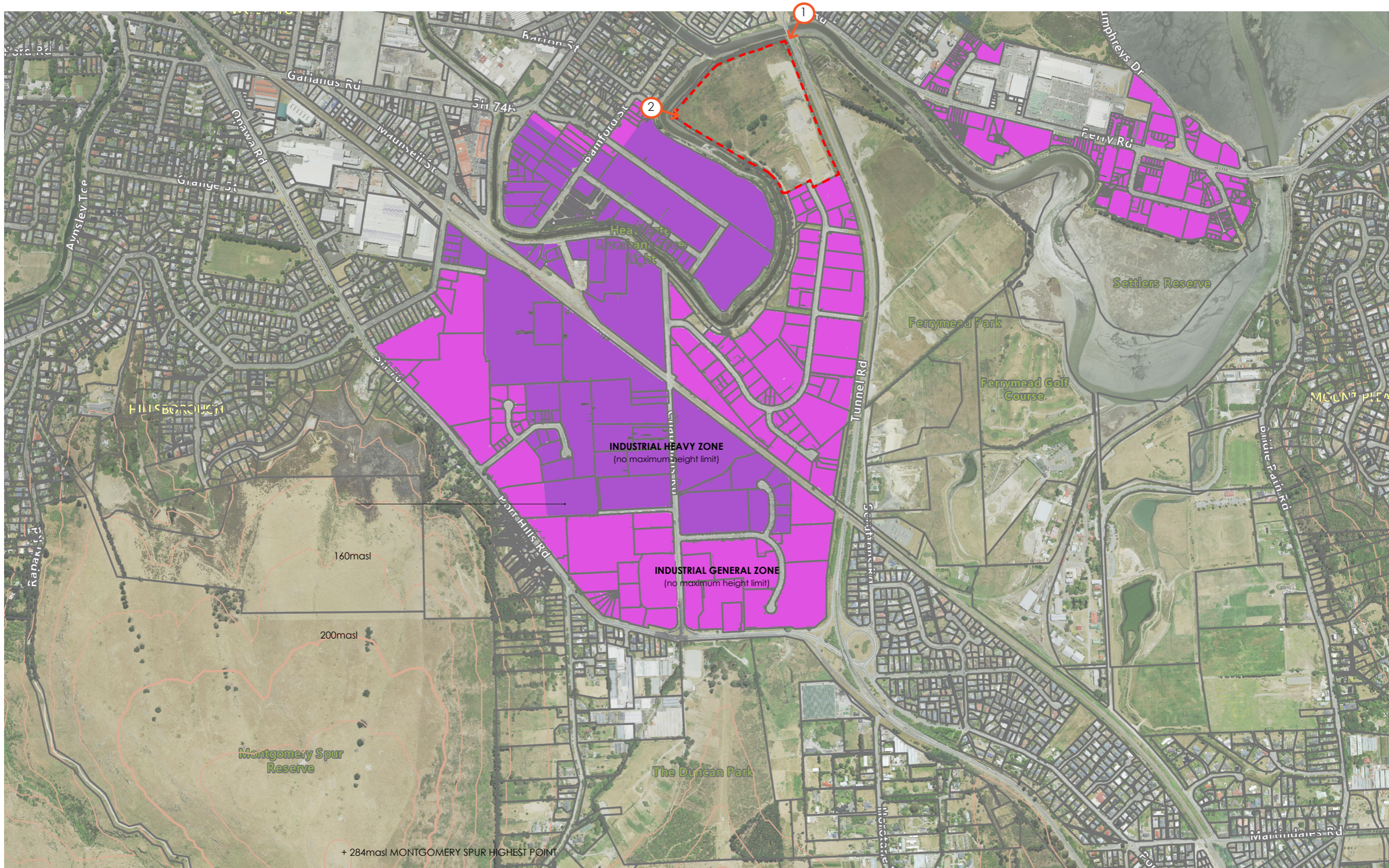
14 Mr Head should not be taking the community concerns into account in assessing the extent of visual effects.

15 Please let us know if we can be of further assistance.

Yours sincerely

Jo Appleyard

Partner



Client / project name: BRAEBURN PROPERTIES- PORTLINK SUBDIVISION
 Drawing name: **ADDITIONAL VIEWS - PLAN**
 Designed by: CG
 Drawn by: CG/ NK
 Original issue date: 23 MARCH 2023
 Scale:

Revision no: **Amendment:**
 A RFI update
 B Minor amendment
 C Addition of cross section

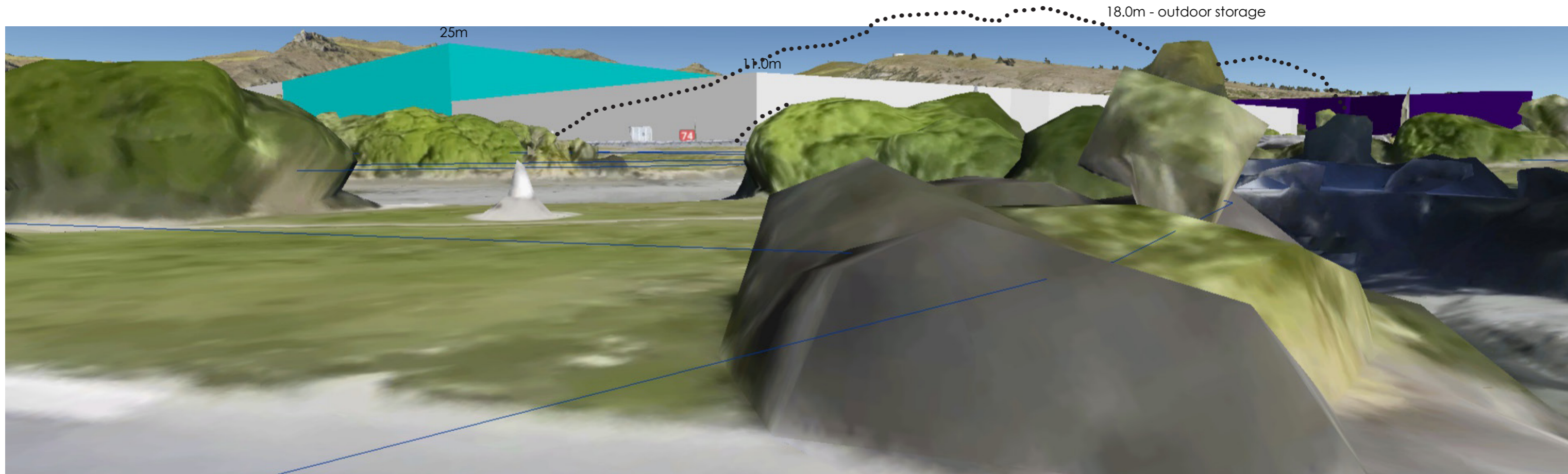
Approved **Date**
 CG 23/03/2023
 CG 28/03/2023
 DCM 21/07/2023



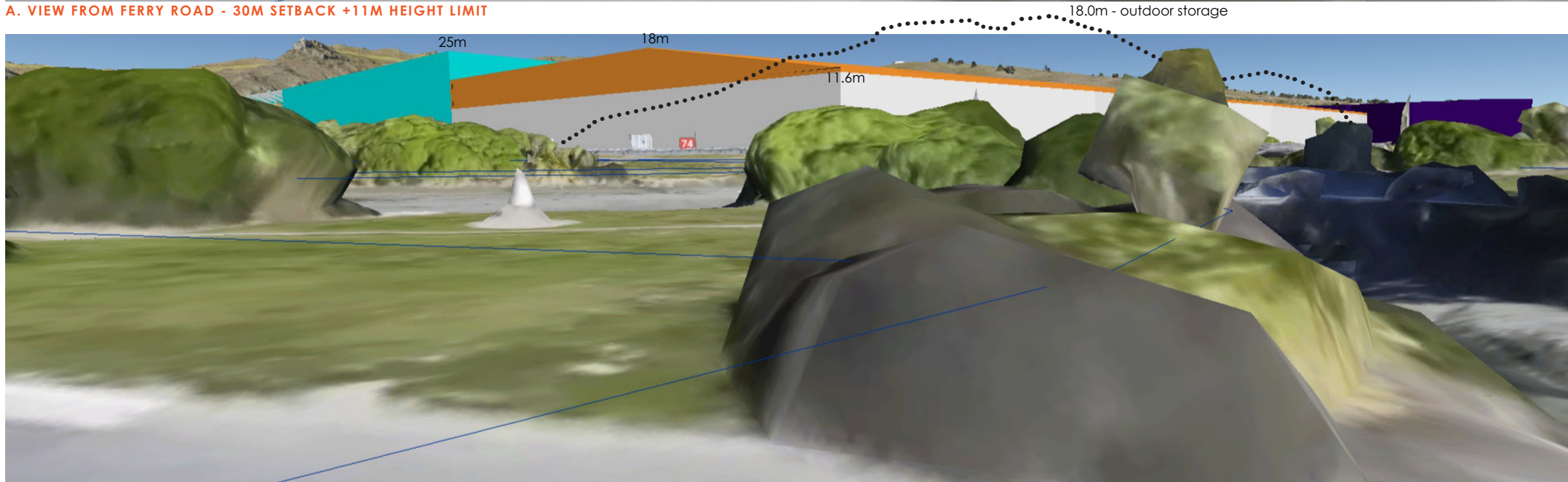
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 ARCHITECT



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A. VIEW FROM FERRY ROAD - 30M SETBACK +11M HEIGHT LIMIT



B. VIEW FROM FERRY ROAD - PROPOSED +11.6M HEIGHT LIMIT

Client / project name: BRAEBURN PROPERTIES- PORTLINK SUBDIVISION
 Drawing name: **VIEW 1 FROM FERRY ROAD**
 Designed by: CG
 Drawn by: CG/ NK
 Original issue date: 23 MARCH 2023
 Scale:

Revision no: **Amendment:**
 A RFI update
 B Minor amendment
 C Addition of cross section

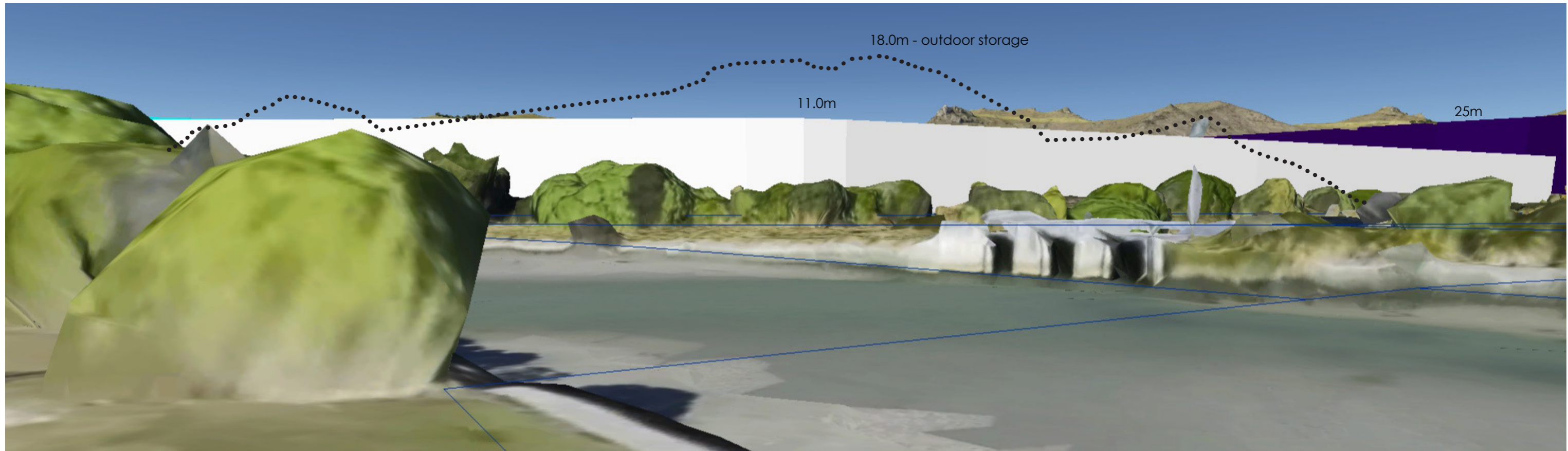
Approved **Date**
 CG 23/03/2023
 CG 28/03/2023
 DCM 21/07/2023



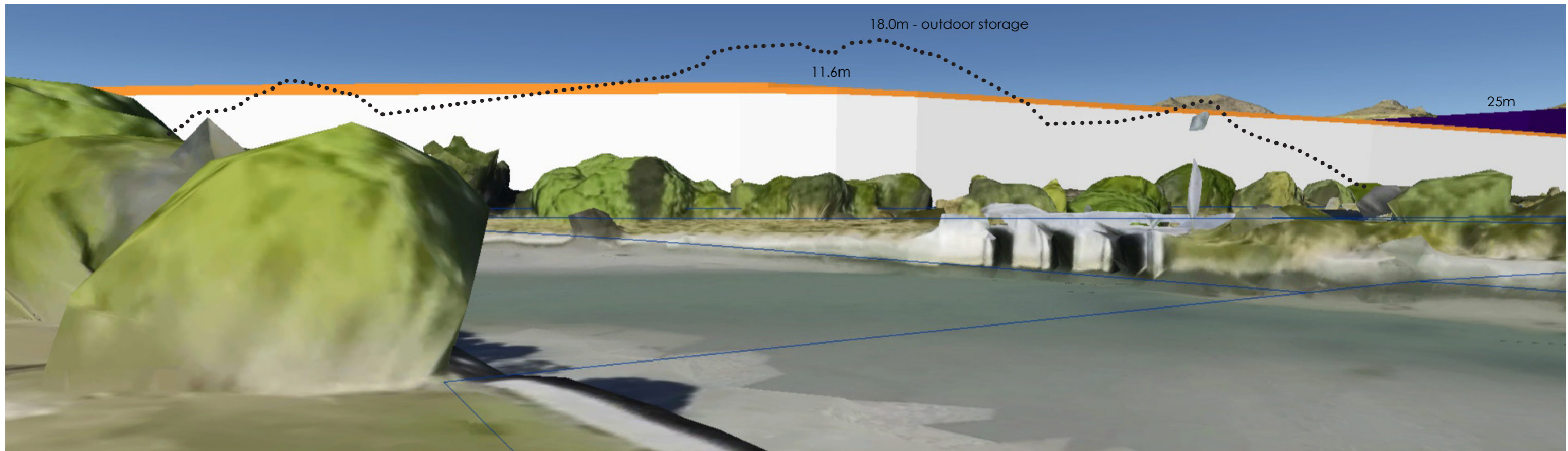
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A. VIEW FROM NEAR 32 GOULD CRES - 30M SETBACK +11M HEIGHT LIMIT



B. VIEW FROM NEAR 32 GOULD CRES - PROPOSED +11.6M HEIGHT LIMIT

Client / project name: BRAEBURN PROPERTIES- PORTLINK SUBDIVISION
 Drawing name: **VIEW 2 FROM NEAR 32 GOULD CRES**
 Designed by: CG
 Drawn by: CG/ NK
 Original issue date: 23 MARCH 2023
 Scale:

Revision no:	Amendment:
A	RFI update
B	Minor amendment
C	Addition of cross section

Approved	Date
CG	23/03/2023
CG	28/03/2023
DCM	21/07/2023



REGISTERED
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Project no / drawing no: 2021_138/L1016 Revision: C



NOVO GROUP LIMITED
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CHRISTCHURCH

Ref: 2022_138 Braeburn Properties Portlink Industrial Subdivision_Landscape RFI Response_C

Attention: Tim Walsh

Richard Peebles

Ben Owen

Friday, 21 July 2023

**PORTLINK INDUSTRIAL SUBDIVISION – LANDSCAPE AND VISUAL
RFI RESPONSE_B**

Dear Tim, Richard and Ben

The following memo is in response to the Landscape Peer Review and Visual Assessment of the proposed subdivision at 320 and 320A Cumnor Terrace, Christchurch prepared by Mr Jeremy Head, a consultant Landscape Architect on behalf of the Council, dated 17 May 2023.

Our office prepared the original Landscape and Visual Impact Assessment in November 2022 and then a subsequent RFI Response in March 2023. Additional drawings and plans were submitted along with this response. These documents were prepared by Mr Chris Greenshields and Ms Nika Kent. I have read these documents and agree with their findings.

From the Peer Review and Visual Assessment report it appears there are 5 main issues which require further clarification. These are:

1. The Permitted Baseline established by the District Plan;
2. The established final ground level;
3. Any discernible difference between 11.0m and 11.6m
4. The visual assessment;
5. The ability for the imported soil to achieve good plant health.

1. THE PERMITTED BASELINE ESTABLISHED BY THE DISTRICT PLAN

Outdoor storage yards are a permitted activity in the Industrial zone with no maximum height restriction. The photo below shows a scrap metal yard in Bromley where material is estimated to be stacked to a height of 12-14m. There is the potential for any type of material to be stacked to a greater height than the proposed 11.6m or 18m height limits. Other materials could include crushed cars, crushed concrete or construction demolition material as shown in the images following.



- **Figure 1 - Photo of the outdoor storage yard at 150 Maces Road, Bromley (Industrial Heavy Zone) – Annex Metals**



- **Figure 2 - A photo of the same scrap metal piles at 150 Maces Road, taken from a distance approximately 175m. The height is estimated to be 12-14m in height.**



- **Figure 3 - Photo taken from the adjacent cemetery looking at the stockpile on 150 Maces Road – the distance to the stockpile is approximately 80m and the estimated height is 12-14m.**

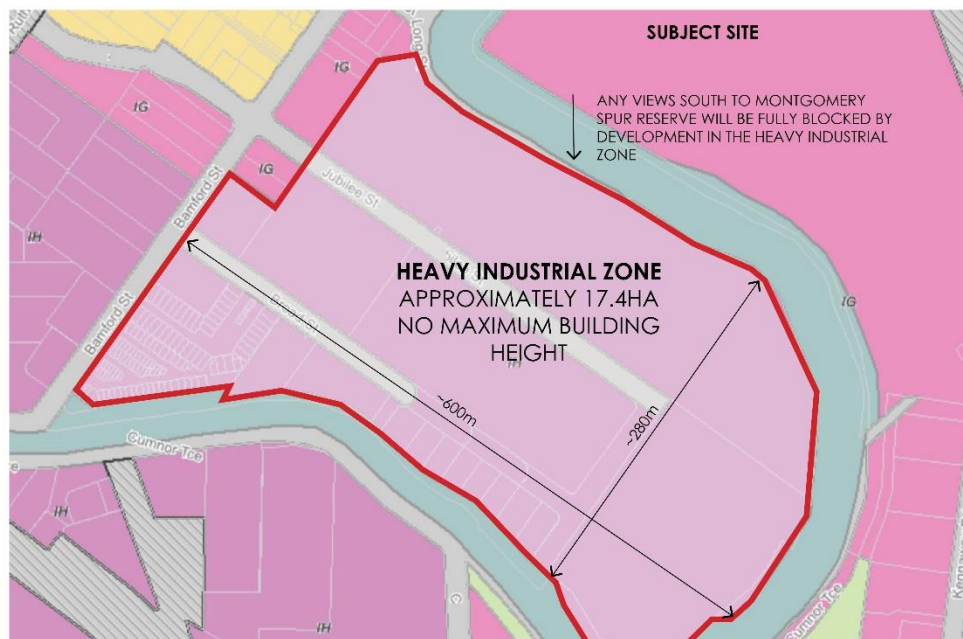


- **Figure 4 - Concrete piles at 59 Owaka Road, Hornby (Industrial Park Zone)**



- **Figure 5 - Construction material being sought into piles at 59 Owaka Road, Hornby**

We note the Industrial Heavy zoned land on Long Street, to the south of the site, does not have a maximum building height unless within 20m of a Residential zone where a 15m height restriction is required (Rule 16.5.2.1).



- **Figure 6 - the image above shows the Heavy Industrial area immediately to the south-southeast of the proposal site**

Further, as identified in previous assessments, land to the south of the 11 metre building height restriction area of the Portlink Zone has no height restriction.

All these aspects provide a permitted baseline environment which informs assessment of visual effects below, noting that views through to the Port Hills and notably Montgomery Spur are not protected from future development.

2. THE ESTABLISHED FINAL GROUND LEVEL

The original ground level was raised due to flood management requirements. It is my understanding height is measured from existing ground level where the land has been subdivided. The proposed subdivision will confirm the existing ground level which was created by way of authorised earthworks. In my view, it seems logical to measure height from existing ground rather than original ground.

In any case, whether the height limit is taken from the original ground level or the existing finished level, I do not consider that this will result in effects that are more than Low due to the quality of the existing views, the proximity of viewers and the permitted baseline established by the District Plan. I have addressed this below in Section 4.

3. ANY DISCERNIBLE DIFFERENT BETWEEN 11.0M AND 11.6M, CLOSER PROXIMITY TO BUILDINGS/ OUTDOOR STORAGE AND UNRESTRICTED HEIGHT TO THE SOUTH

For reference, 11m is the maximum height proposed for Medium Density Residential development in Christchurch City, or equivalent to a 3-storey building. The closest residential properties are over 70m from the edge of proposed buildings or outdoor storage, looking across either the river reserve or Long Street and the Heathcote River, noting that the buildings/outdoor storage will potentially also be 13-16m closer than what was originally intended in the ODP. Even at this closer distance the additional 600mm does not create any visual dominance or shading issues due to the intervening distance between the building/outdoor storage and the viewer.

The change will be discernible with the possibility of the new high limit interrupting views of the Port Hills. I have however assessed the proposed change taking into account the General Industrial land to the south which does not have any height limit.

From 78m, there would likely still be a discernible difference between an 11-meter-high structure¹ and an 11.6-meter-high structure. Using the following formula it is possible to calculate the angular size for each structure:

- a. 11m high structure: Angular size = 11 meters / 78 meters \approx 0.141 radians
- b. 11.6m high structure: Angular size = 11.6 meters / 78 meters \approx 0.149 radians

¹ I use the term 'structure' to refer to buildings and/or outdoor storage.

The difference in angular size between the two structures would be approximately 0.008 radians (0.0456 degrees). The average human eye can perceive a level of acuity of approximately 1 arcminute (0.00029 radians- 0.0166 degrees), the difference in angular size between the structures (0.008 radians) will be discernible but its change is considered Very Low-Low.

Of key importance to current views, particularly from Viewpoint 6 (public track along the true left of the Opawaho-Heathcote River) looking south are the views which are possible of the Port Hills which may be affected by the buildings/outdoor storage moving closer to the river and being higher, up to 11.6m. When looking at these views it is necessary to acknowledge the General Industrial Land to the south of the 11.0m height limit overlay which does not have a maximum building height. Using simple trigonometry on the same alignment as Section AA (Attachment 2), it is possible to determine that a 31m high building on the No Building Limit Height area would have the same effect as the proposed 11.6m proposal, interrupting views of the Crater Rim and Port Hills. A 31m high structure in a general industrial area is not considered fanciful with the following potential examples:

- Drying towers for a Milk Powder factory
- Warehouses for distribution centres which require high stud heights to accommodate storage or logistic facilities.
- Manufacturing buildings
- Power plants.
- Silos for the storage.



4. THE VISUAL ASSESSMENT

Based on Section 3 above, I have reviewed the Peer Reviewer's Summary of Potential Visual Effects and have the following comments:

	Viewpoint	Peer Review Assessment	Peer Review Assessment – mitigated	Distance	Comment	My assessment
1	853-909 Ferry Road (attachment 3, upper image)	Moderate-High	Moderate	130m	For shorter views it will be difficult to discern the difference between 11.0m and 11.6m. Only a relatively small portion of the outdoor storage/buildings will be visible above existing vegetation, and views of Montgomery Spur would also be blocked by permitted outdoor storage.	Very Low
2	32-38, 44, 44A, 52, 54 Gould Cres (attachment 5, lower image)	Moderate	Low-Moderate	80m	There will be a loss of views of the Port Hills with the existing permitted baseline from this viewpoint as outlined in Section 3 above. When looking at the greater 600mm height proposed and the closer proximity to the river, taken from the new ground level, the change will be discernible from this location but when compared to the view with the established permitted baseline any effects are considered low.	Low

3	Remainder of Gould Cres (attachment 5, upper image)	Moderate - Low	Low	120m	As mentioned in the peer review report, partial views of the Port Hills will be possible of both the 11.0m high scenario and the 11.6m scenario and closer proximity. The intervening distance means that the difference between 11 and 11.6m will be difficult to discern.	Very Low
4	Long and Barton Streets (attachment 9, Attachment 10 upper image)	Moderate	Low	80-90m	At this distance the additional height and closer proximity will be discernible but it will not increase any loss of views towards the Port Hills or create any visual dominance issues. The resultant change is therefore considered to be Low.	Low
5	Travellers in the receiving environment (Attachments 2-10)	Low	Very Low	Varies	Agree with Mr Head's findings although I consider the effects to be Very Low from Day 1 due to the transient nature of views of the Proposal at high speed.	Very Low
6	Travellers on Tunnel Road / SH74	Low	Very Low	Varies	As above noting the permitted baseline which is established on the site. Travellers will also see the proposal in context with future development on the unrestricted General Industrial sites where there is no height restriction.	Very Low
7	Recreational users on Tow Path and Reserve (Attachments 3, 4- upper image)	Moderate	Moderate-Low	80-120m	The additional 600mm and closer proximity will be discernible for views within 100m of the site but as people move further away the additional height will become less discernible. At this distance there are no visual dominance or shading issues created by the additional height. Partial views of Montgomery Spur will still be possible but interrupted from time to time by activities but for the	Low

					most part still be possible, noting that the views of the could be totally lost with permitted outdoor storage on the site.	
8	Recreational users on public riverside paths and footbridge over the Woolston cut and Gould Reserve (Attachment 1)	Low	Very Low	Varies	I agree with the assessment Mr Head has made for these viewers. The apparent height difference and closer proximity will largely not be discernible as people move through the site and views of the Port Hills vary. Existing planting and intervening structures also help to 'disrupt' or clutter the view helping to make it easier for small changes to be absorbed.	Very Low
9	Recreational users on riverside paths on the Opawaho/Heathcote River (Attachments 5 – lower image, Attachment 9 – upper image)	Moderate	Very Low	Varies	As outlined above, the distance to the proposal varies as people move through the space and views to the Port Hills are interrupted and then open up again. The height difference between 11.0 and 11.6m combined with the closer proximity will be discernible but given the transient nature of the views, any effects are considered to be Low.	Low

5. THE ABILITY FOR THE IMPORTED SOIL TO ACHIEVE GOOD PLANT HEALTH.

We, our office, support the site assessment undertaken by Outer Space on 29 May 2023, where bund soil investigations found depths ranged from 0.8m to 1m. This soil depth and quality is more than sufficient to achieve successful establishment of the proposed planting, including proposed tree species. Use of fertilizer and a suitable dripper irrigation system will further support healthy plant establishment to achieve desired visual screening and ecological outcomes over time. It is common practice to ameliorate existing soil conditions with fertilizer and compost to ensure a good growing medium can be achieved without removing existing material.

A previous track record project of this success is Peacocks Gallop, Main Road into Sumner. Here the rock baskets were mounded with a soil mix of 0.6 - 0.75m depth and irrigation was placed on top of the rock benches and planted in approximately 2019. Native plant species used there are similar to those stated in the proposed landscape plans for the bunds. See below Figure 1 (Feb 2022), this clearly demonstrates considerable screening and plant success achieved over time, vegetation is now approximately 4-5m high. This site also has the successful establishment of planting areas specifically created for Lizard habitat on the upper benches.



- **Figure 8 - Peacocks Gallop and restoration planting undertaken on rock benches**

RECOMMENDATIONS FROM MR HEAD'S REPORT

As outlined above I do not consider it necessary to implement Recommendations 1, 3 and 4. The proposed additional height of 600mm is largely indiscernible from the majority of viewpoints assessed above and the need to retain views from Ferry Road to Montgomery Spur is not warranted.

While I do not consider Recommendation 2 to be necessary, there are benefits in painting the acoustic fence a recessive colour until planting establishes. A fence of 2.4m is not 'out of character' with an industrial area and does not cause any visual effects.

CONCLUSIONS

Overall, I consider that, in failing to properly account for the permitted baseline, the peer review has assessed effects for many of the viewpoints to be higher than they actually are. I consider that any adverse visual effects are to be Low (or Less than Minor).

I am confident that the proposed planting and soil treatment will result in good plant growth, improving the ecological and amenity values of the esplanade reserve adjoining the site (including the southwest bund). This is based on previous restoration projects undertaken by myself and people in our office.

Please do not hesitate to contact me if you have any queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Compton-Moen', with a long horizontal flourish extending to the right.

David Compton-Moen

Urban Designer / Landscape Architect

DIRECTOR OF DCM URBAN DESIGN LIMITED