

**BEFORE INDEPENDENT COMMISSIONER AT CAMBRIDGE**

**IN THE MATTER** of the Resource Management Act 1991 (Act)

**AND**

**IN THE MATTER** of an application to the Waipa District Council by Kiwifruit Investments Ltd for retrospective resource consent under Section 88 of the Act to construct vertical and horizontal (overhead) artificial kiwifruit shelter at 582 Parallel Road, Cambridge.

**Council Reference** Resource consent – LU/0147/22

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**STATEMENT OF EVIDENCE OF SIMONE MARGARET WILLIAMS ON BEHALF OF THE  
APPLICANT**

**DATED: 05 October 2022**

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## **1.0 INTRODUCTION**

- 1.1 My full name Simone Margaret Williams. I am currently employed as a Senior Planner in the Cambridge Office of Barker and Associates Limited (B&A) an independent urban and environmental planning consultancy operating throughout New Zealand. I have been employed by Barker and Associates Limited since May 2022. Prior to that I worked as a Planner at both the Waipa District Council and Tasman District Council and as a Planner for a surveying consultancy. I have 12 years of experience in this field.
- 1.2 I hold the qualifications of a Post-Graduate Diploma in Resource Studies and a Bachelor of Environmental Management and Planning, obtained both from Lincoln University. I have intermediate membership with the New Zealand Planning Institute.
- 1.3 I have experience in the preparation and processing of applications for resource consent throughout New Zealand and in particular, in the Waikato Region. My experience includes representing the interests of both public and private sector clients. I am familiar with the statutory framework that is relevant to the current proposal, having provided advice to a number of clients seeking resource consent and having a working knowledge of the Waipa District Plan provisions.
- 1.4 In relation to this hearing, I am presenting expert planning evidence on behalf of Kiwifruit Investments Ltd. Kiwifruit Investments Ltd is seeking a resource consent from the Waipa District Council (WDC) to authorise the existing (retrospective) orchard shelters and to construct further vertical and horizontal (overhead) artificial kiwifruit shelter at 582 Parallel Road, Cambridge.
- 1.5 I was responsible for the preparation of the land use consent application and associated assessment of environmental effects.
- 1.6 While this hearing is not bound by the “Code of Conduct for Expert Witnesses” contained in the Environment Court Consolidated Practice Note 2014, I have nevertheless prepared my evidence in compliance with that Code and I agree to comply with it throughout the hearing process. Unless I state otherwise, my evidence is within my sphere of experience and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

## **2.0 SCOPE OF EVIDENCE**

- 2.1 I am presenting planning evidence in relation to the Kiwifruit Investments Ltd application. My evidence covers:
  - a) A description of the site and the surrounding environment;

- b) Issues raised by the submitters;
- c) An assessment of the receiving environment;
- d) Actual and potential environmental effects under the RMA evaluation process;
- e) Assessment of the relevant objectives and policies of the District Plan;
- f) Statutory assessment criteria considered under the RMA; and
- g) Conclusions and recommendations, including an analysis of the decision that has been recommended in the processing planner's s42A report.

2.2 In preparing this evidence I have read the opinions expressed through the submission that has been received from the adjacent landowners (Nicholas B Jennings and Vanessa L Jennings).

2.3 I have also read the s42A report by Waipa District Council's (WDC) processing planner (Ms Lomas) recommending that land use consent be declined. That recommendation is made on the basis that: the actual and potential effects on the submitters' property are not acceptable and are not able to be suitably avoided or mitigated in the short to medium term; the proposal is inconsistent with the objectives of the District Plan.

2.4 I disagree with the conclusion of the processing planner. My evidence is that the land use consent, as amended by this evidence, gives rise to adverse effects that will not be more than minor, are limited in extent and/or can be avoided, remedied or mitigated by the imposition of the recommended consent conditions.

2.5 My evidence is read in conjunction of that of the evidence from the following persons:

- Parmvir Singh Bains, one of the shareholders and operators of the Kiwifruit Investment Ltd, and the landowner for the proposed Kiwifruit orchard; and
- John Holwerda, being a director and co-owner of Sabre Horticulture, who provides expert evidence in respect of the artificial shelter.

### **3.0 THE APPLICATION SITE AND SURROUNDING ENVIRONMENT**

3.1 The application site is located at 582 Parallel Road, Cambridge and covers 35 hectares of land. The site is within one Computer Freehold Register, legally described as Lot 3 DPS 89413 [RT SA70D/525].

3.2 The site is zoned Rural in the District Plan. The site is also subject to three overlays, being:

- A Significant Natural Area (SNA) – 344, identified in the District Plan as “Mangawhero Stream riparian margin” and is unprotected; and
- Hamilton Airport – Conical Surface Overlay

3.3 The SNA is located on the northern and eastern boundary of the site and the Hamilton Airport Conical surface overlay covers one third of the western side of the site. These overlays relative to the subject site are depicted in Council's District Plan maps contained in the Application.

- 3.4 The entire site is underlain with ‘high class soils’<sup>1</sup> with the exception of the gully areas with the SNA areas as defined by the District Plan.
- 3.5 As noted in the s42A report with regard to the receiving environment: *“Surrounding sites are rural, or rural residential in nature particularly along Parallel Road. The site surrounds a rural residential property, 598 Parallel Road. Other sites adjoining and rural land use like dairy farms” (sic).*<sup>2</sup> I have observed that there are significant horticulture activities within the receiving environment, all within 3km radius of the application site. This includes an established kiwifruit orchard directly opposite the Applicant’s site. These orchards collectively, form part of the unique existing receiving environment and contribute to the existing surrounding rural character. A further analysis is provided in Section 9 below, with reference to Section 105 of the Act.
- 3.6 The s42A report also notes in reference to the property located at 598 Parallel Road; *“The entrance to this property is from Parallel Road. The outdoor living space is north-facing, the site also has a number of small paddocks for a small number of stock and other animals. The site has some mature trees and hedge screening from the subject site”*<sup>3</sup>.
- 3.7 I disagree with that statement, particularly where referring to *“some mature trees and hedge screening from the subject site”*<sup>4</sup> as I consider there to be substantial mature hedging, planted on all three internal boundaries with 598 Parallel Road where adjoining the site. The dense hedging along the eastern boundary of the site is currently measured at 3m high, with the varied mixture of vegetation on the northern boundary being roughly 2m high, and dense hedging on the western boundary measuring at 3.5m high. The existing boundary hedging on the eastern and western boundaries of 598 Parallel Road is a similar height to the top of windows on the submitters’ dwelling at 598 Parallel Road.

#### 4.0 THE PROPOSAL

- 4.1 The application, as lodged, sought a retrospective and prospective land use consent to establish artificial vertical and horizontal (overhead) shelter over a Kiwifruit orchard, which will cover approximately 23 hectares of the site. The vertical and horizontal shelter will be used to protect future and existing kiwifruit planting within the canopy area. The vertical shelter cloth will be black in colour while the horizontal shelter will be clear. Further specifications in relation to the artificial cloth are detailed in Mr Holwerda’s evidence.
- 4.2 The vertical cloth will be 2.1m high and will link to the horizontal (overhead) artificial shelter that will have a height of 6m on a 45-degree angle, supported by a Raker (the pole and cable structure). Overall, the artificial shelter will reach its maximum height at 4m from the vertical Raker. The vertical cloth will be located 6m from the road boundary of Parallel Road and will vary between 5.9m to 8.9m inside internal boundaries as depicted in the scheme plan

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<sup>1</sup> High class soil is defined in the Waipa District Plan as being soils of land use capability classes 1 and 2, 3e1 and 3e5

<sup>2</sup> Section 3.4 of the s42A report

<sup>3</sup> Section 3.5 of the s42A report

<sup>4</sup> Section 3.5 of the s42A report



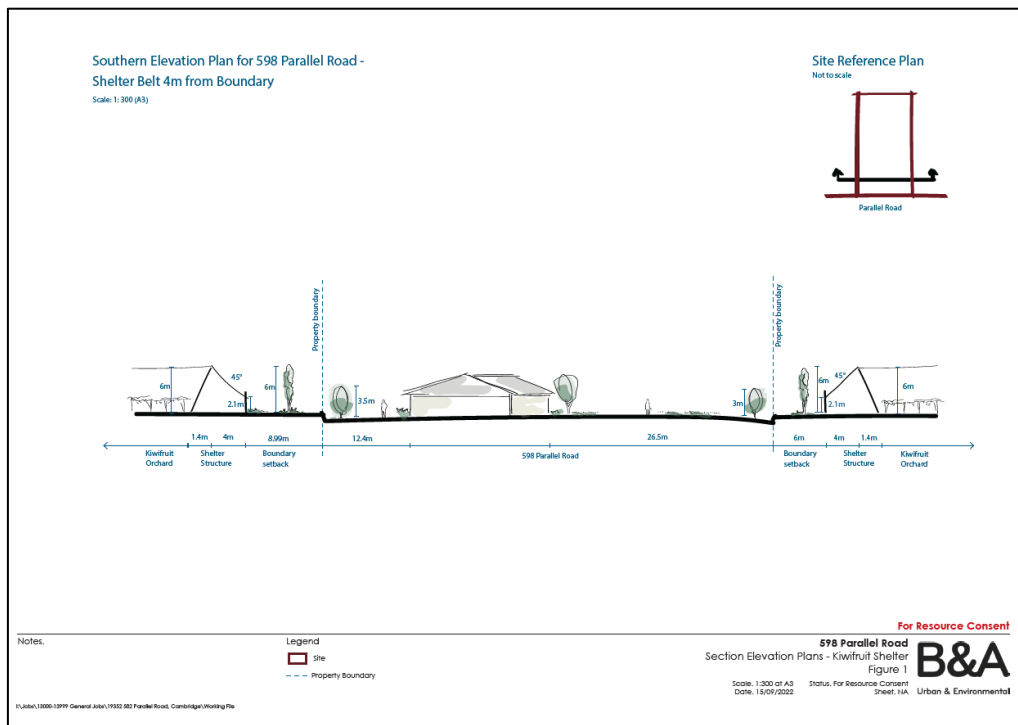
contained in the Application. Figures 1 to 3 below represent elevations depicting the measurements of the supporting Raker and proposed artificial vertical and horizontal shelter relevant to the northern, eastern and western internal boundaries of 598 Parallel Road.

- 4.3 It must be noted, that for the purposes of this land use consent application, consent is sought solely in relation to the artificial cloth structures, as the wooden posts/ Rakers supporting the Kiwifruit Orchard are a permitted horticulture activity. When the artificial cloth connects to the supporting Rakers, the overall structure then meets the definition of a 'Building' under the District Plan, where it will exceed 5m<sup>2</sup> in area and more than 1m in height.
- 4.4 The Kiwifruit development comprises three separate shade structures as detailed on the application plans. The property located at 598 Parallel Road, the pond and service area as well as the SNA areas on the eastern side of the site, all contribute to a broken up and spaced built form across the site.
- 4.5 Following the lodgement of this application, the Applicant has planted *Cryptomeria Japonica* "Egmont" shelterbelt around the periphery of the Kiwifruit orchard including around the property located at 598 Parallel Road. The Applicant has also planted 1.5m high *Casuarinas* in between each *Cryptomeria* plant at 4m from the northern boundary of the property located at 598 Parallel Road. That hedging is a permitted activity, subject to it being maintained at a height of no greater than 6m. The hedging would be permitted even if planted on or adjoining the internal boundaries.
- 4.6 The hedging in some locations will follow the external boundaries of the subject site and in other locations where adjoining 598 Parallel Road, the *Cryptomeria* is planted 4m inside the internal boundary, as opposed to being on the boundary itself. *Cryptomeria Japonica* "Egmont", being a hybrid variety, has a growth rate of up to 2m per year in New Zealand with good growing conditions<sup>5</sup>. In addition to the *Cryptomeria Japonica* "Egmont" planting around the property located at 598 Parallel Road, the Applicant has planted *Casuarinas* spaced in between each *Cryptomeria* plant in a row at 4m from the northern boundary with 598 Parallel Road. The planted height of the *Casuarinas* is 1.5 metres, and I understand these trees grow by 1m per year. The established height of the *Casuarinas* gives the mitigation planting on the northern boundary a head start and will achieve visual mitigation of the artificial shelter much faster. When the *Cryptomeria* trees reach a height of 3.5 to 4m, the *Casuarinas* will be removed from this hedging.
- 4.7 The *Cryptomeria* will be grown to a mature height of 3.5m along road boundaries (due to the presence of overhead powerlines) and to 6m in height adjoining 598 Parallel Road. An ongoing responsibility will be placed on the Applicant to maintain this hedging to the proposed heights via a proffered consent condition. I note again that the hedge is permitted in its planted location provided its height is maintained below 6.

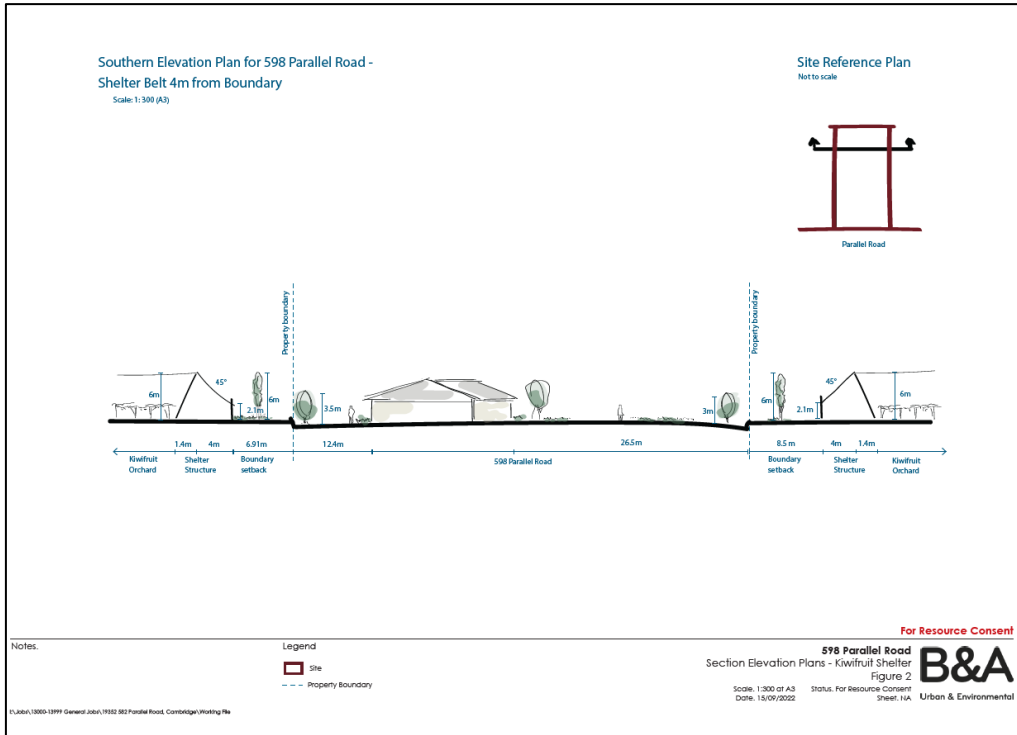
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<sup>5</sup> Paragraph 26 of P Singh's evidence

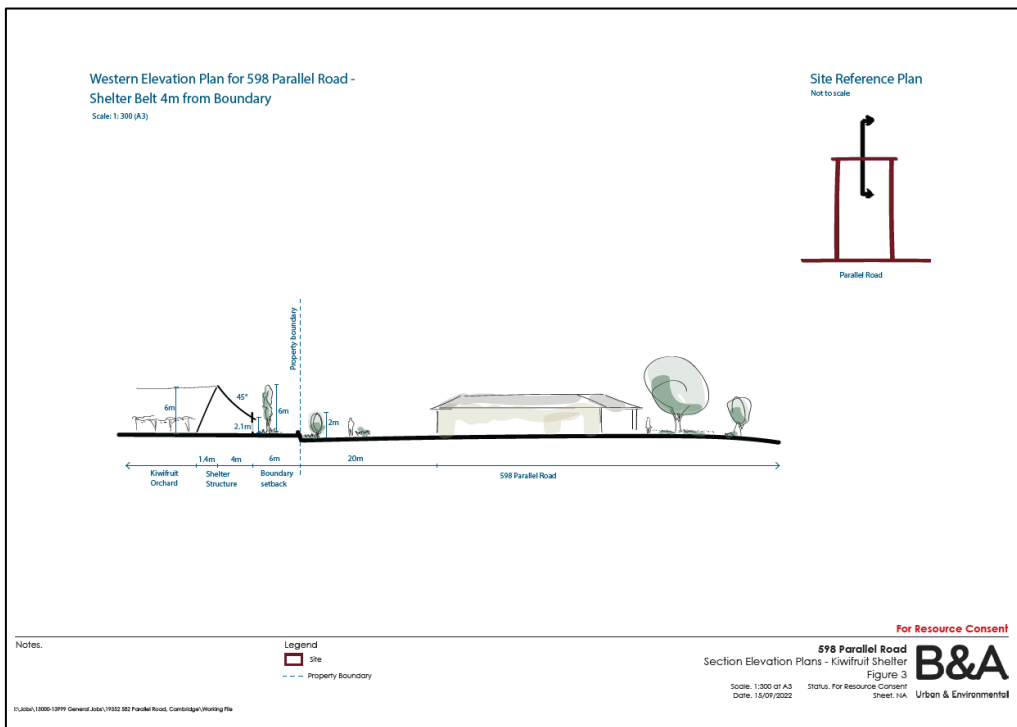
- 4.8 Figures 1 to 3 below also demonstrate the location of the Cryptomeria hedging relative to the proposed artificial shelter and the northern, eastern and western internal boundaries of 598 Parallel Road. A copy of these elevations is provided in **Appendix A** of this evidence.
- 4.9 Figures 4 to 6 below compare the daylight control rule against the Cryptomeria hedging. A copy of these elevations is provided in **Appendix A** of this evidence.



**Figure 1:** Southern elevation plan of the artificial shelter and Cryptomeria hedging surrounding 598 Parallel Road at the southern perspective of the 598 Parallel Road.



**Figure 2:** Southern elevation plan of the artificial shelter and Cryptomeria hedging surrounding 598 Parallel Road at the northern perspective of the 598 Parallel Road.



**Figure 3:** Western elevation plan of the artificial shelter and Cryptomeria hedging surrounding 598 Parallel Road at the northern perspective of the 598 Parallel Road.

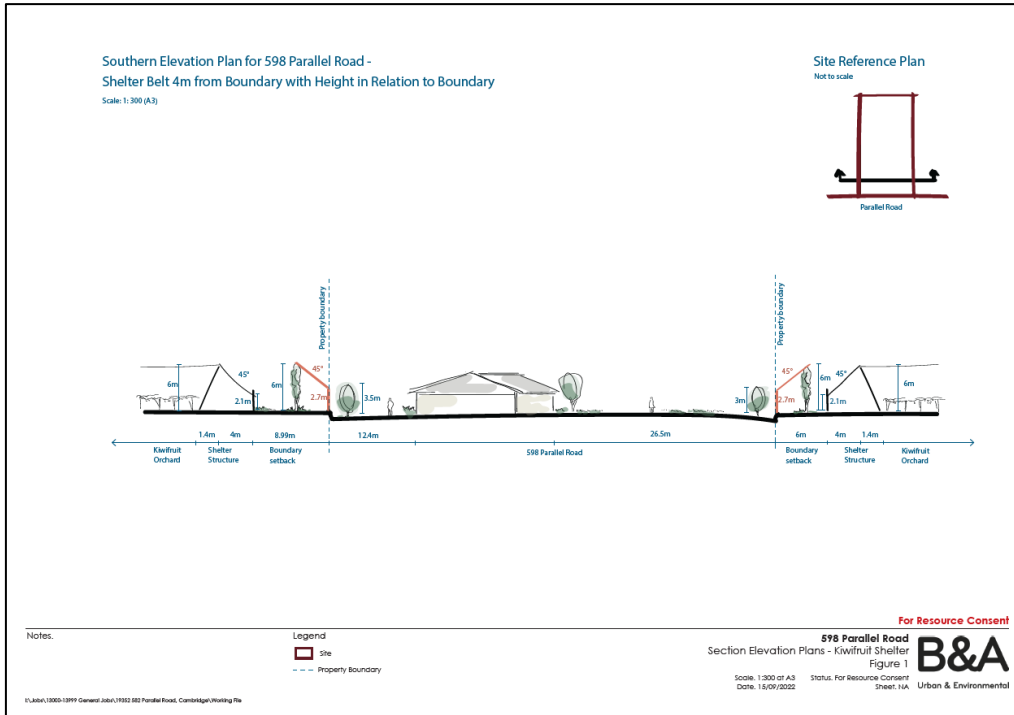


Figure 4: Southern elevation plan of the artificial shelter and Cryptomeria hedging surrounding 598 Parallel Road at the southern perspective of the 598 Parallel Road. This elevation plan compares the daylight control rule against the Cryptomeria hedging

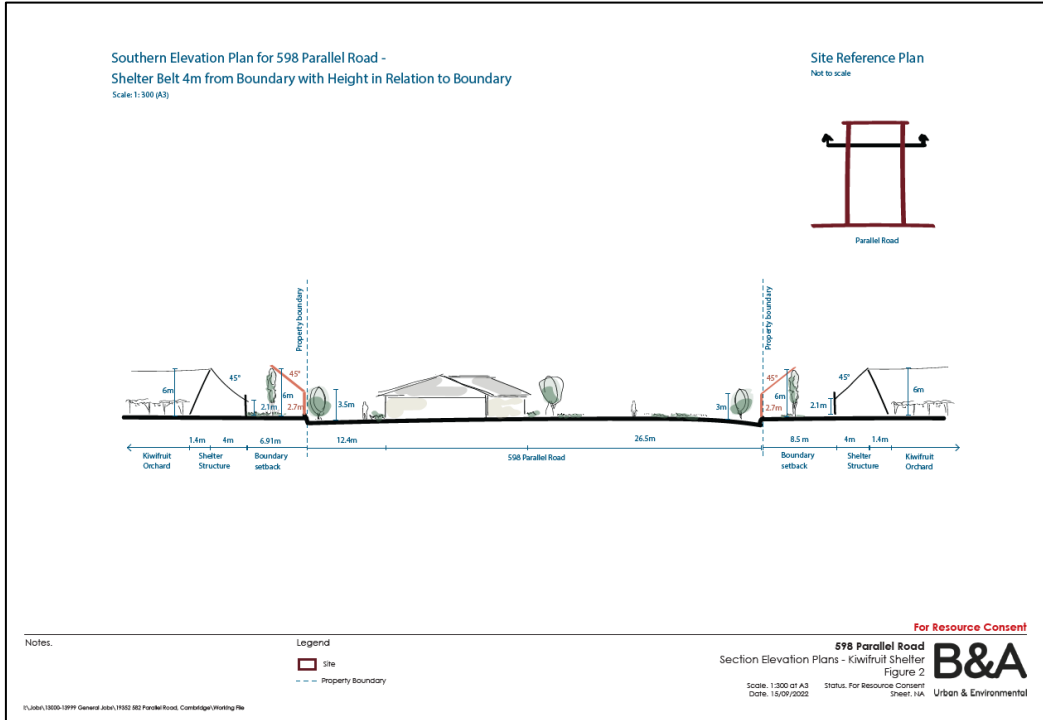
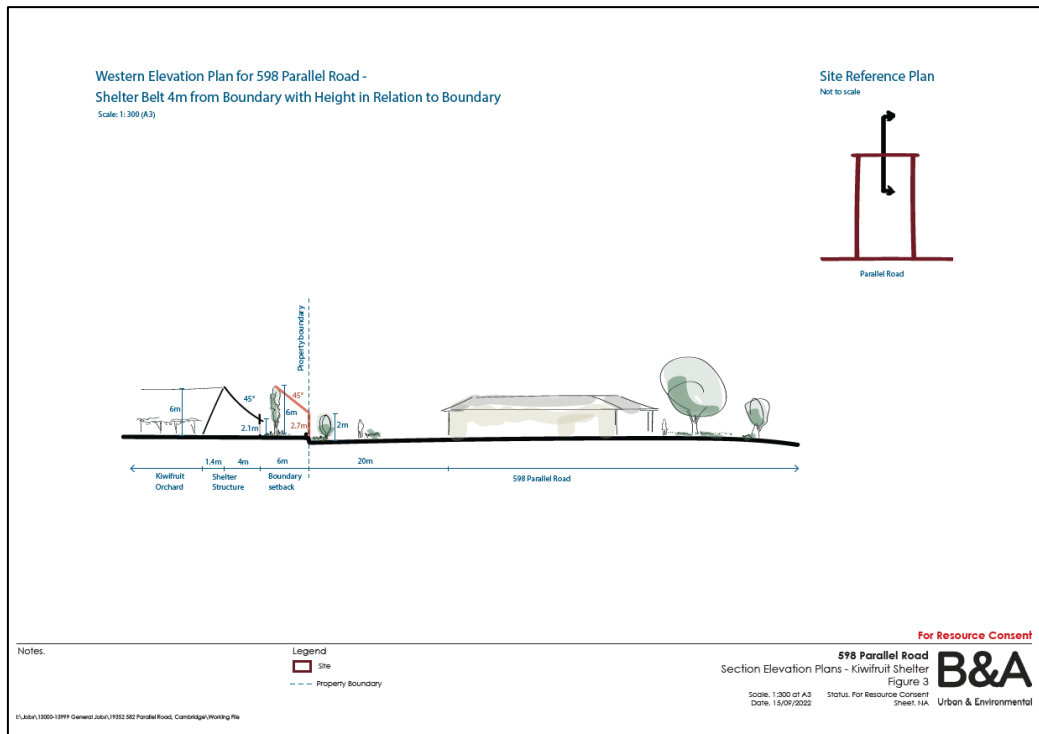


Figure 5: Southern elevation plan of the artificial shelter and Cryptomeria hedging surrounding 598 Parallel Road at the northern perspective of the 598 Parallel Road. This elevation plan compares the daylight control rule against the Cryptomeria hedging



**Figure 6:** Western elevation plan of the artificial shelter and Cryptomeria hedging surrounding 598 Parallel Road at the northern perspective of the 598 Parallel Road. This elevation plan compares the daylight control rule against the Cryptomeria hedging

## 5.0 REASON FOR THE CONSENT

- 5.1 Within the Rural Zone, Horticulture (farming) activities are permitted. The proposed artificial shelter is ancillary to a permitted activity.
- 5.2 Due to the cloth covering the Raker structures, the artificial vertical and horizontal cloth trigger the 'Building' definition of the Waipa District Plan, and subsequently trigger an assessment of the proposal's compliance with the bulk and location rules within the Rural Zone. Without attaching the intersecting horizontal cloth or attaching intersecting vertical cloth curtains, the cloth shelter would be permitted.
- 5.3 I have observed cloth shelter on the kiwifruit orchard opposite the Applicant's site. That orchard has both external and internal vertical rows of cloth for windbreak. The external white cloth shelter is located on the boundary and is 1.8m high, therefore it does not exceed the maximum height of a 'fence or wall' as per the 'Building' definition of the District Plan and is not determined a building. The internal vertical cloth rows are 6m high, and do trigger the 'Building' definition as they exceed 1.8m high. These shelters are required to be 15m setback from both road and internal boundaries within the Rural Zone. Assuming those shelters do

meet the setback requirements, they **will also be permitted as they will not exceed any area standard.**

5.4 A full analysis of the District Plan rules was completed within Appendix 3 of the application document, as well as an additional rule considered in the Section 92 response. The key points of which are reproduced in the following table.

Rule	Provision	Assessment
4.4.1.1(d)	Farming activities and associated underpass and bridging for stock movement	Horticultural activities are grouped under 'Farming activity' in the definitions of the District Plan,
4.4.1.1(i)	Accessory buildings to any permitted activity.	The artificial screens are considered to be an accessory to horticulture (being a permitted activity). Compliance with this criterion is achieved.
4.4.2.1	The minimum building setback from road boundaries for buildings over 100m <sup>2</sup> (other than dwellings) is 30m.	The proposed artificial screens will be positioned 6m (at its closest point) to Parallel Road where a setback of 30m is required. The proposal triggers a <b>Discretionary Activity</b> under this rule.
4.4.2.2	The minimum building setback from internal site boundaries for buildings greater than 250m <sup>2</sup> is 25m.	The proposed vertical shelter will be positioned 5.9m to 8.9m on internal boundaries where a setback of 25m is required. The proposal triggers a <b>Restricted Discretionary Activity</b> under this rule.
4.4.2.7	The minimum building setback from the boundary of a SNA is 10m.	The proposed artificial screens will be setback by 6m to the adjoining SNA in some locations where a minimum setback of 10m is required. The proposal triggers a <b>Restricted Discretionary Activity</b> .
4.4.2.10	The maximum amount of a site which can be covered building coverage is 3%.	The total site coverage including the artificial screens (23ha) and the newly constructed shed (250m <sup>2</sup> ) will result in a site coverage of 23.025ha, being 65.1743%. The proposal is therefore unable to comply with this rule and triggers a <b>Restricted – Discretionary Activity</b> with this rule.
4.4.2.58	Tree planting - Shelterbelts exceeding 6m in height shall not be planted closer than 30m from any dwelling on an adjoining site.	The proposed Cryptomeria shelterbelts that will be planted around the peripheries of the site which will vary in mature height from 3.5m to 6m. The shelterbelts will not exceed 6m and will be maintained accordingly. Shelterbelts

		are accessory to the principal farming activity and are otherwise permitted. Compliance with this rule is achieved.
26.4.2.1	No building shall be erected within 23m of the edge of any lake or waterbody (excluding a natural wetland) as measured at its maximum annual water level.	The proposed vertical shelter (located near the southern boundary of the site) and horizontal (overhead) shelter will encroach into the 23m setback from the modified watercourse located on the western side of the site. As the overhead shelter will span over the watercourse, there will be no setback to the proposed shelter, albeit the horizontal shelter being 6m above the watercourse (being the height of the shelter). The proposal is therefore unable to comply with this rule and triggers a <b>Restricted – Discretionary Activity</b> with this rule.

**Table 1:** Relevant rules of the Waipa District Plan

5.5 Based on this assessment the proposal is to be assessed as a **Discretionary Activity**. I note that the assessment in section 10 of the s42A report has also reached the same conclusion.

## 6.0 NOTIFICATION AND SUBMITTER CONCERNS

6.1 Waipa District Council limited notified the land use application to Nicholas and Vanessa Jennings, being the owners and occupiers of 598 Parallel Road, Cambridge. This decision was made on the basis that the proposal will have dominating adverse visual effects and amenity effects associated with the proximity of the activity to this property, to a minor capacity. I disagree with that decision in light of the permitted shelter hedging that is being planted as part of the application and in light of the existing vegetation along the Jennings boundaries.

6.2 Waipa District Council received a submission from Nicholas and Vanessa Jennings their concerns and my responses are summarised below:

- a. *There are no elevation plans provided in the assessment to assess height, appearance and bulk of the building.*

Elevation plans were provided in the Section 92 response to Waipa District Council on the 27<sup>th</sup> September 2022, and are attached as Appendix A of this evidence, with some minor grammatical amendments made to labelling.

- b. *The application did not recognise and assess rule 26.4.2.1 (23m setback from waterbodies).*

An assessment of Rule 26.4.2.1 – building setback to lakes and water bodies was provided in the Section 92 response to Waipa District Council on the 27<sup>th</sup> September 2022, and is addressed in Table 1 above.

- c. *The application did not mention approved or sought consents from Waikato Regional Council as a requirement of Schedule 4(2)(1)(e) of the Act.*

A list of the approved and sought consents from Waikato Regional Council was provided in the Section 92 response to Waipa District Council on the 27<sup>th</sup> September 2022.

- d. *The application specifies the proposal will not disrupt the biodiversity species composition, habitat structure and ecosystem function within the adjoining SNA. An ecology assessment has not been included in the Application to support this conclusion and the Application fails to consider actual and potential adverse effects on Significant Natural Areas.*

An independent ecology assessment, prepared by Titoki Landcare and titled ‘*Ecological Impact Assessment and Mitigation Options: Parallel Rd Kiwifruit farm*’ dated September 2022 was provided in the Section 92 response to Waipa District Council on the 27<sup>th</sup> September 2022.

- e. *The application does not address the NES-FW (2020) in relation to natural wetlands.*

An assessment of NES-FW (2020) in relation to the natural wetlands was provided in the Section 92 response to Waipa District Council on the 27<sup>th</sup> September 2022.

- f. *The application does not address the NPS-FW.*

An assessment of NPS-FW was provided in the Section 92 response to Waipa District Council on the 27<sup>th</sup> September 2022.

- g. *The application relies on the proposed cryptomeria shelterbelt to mitigate adverse effects of the kiwifruit shelter building and the application of the permitted baseline is not appropriate in this instance as the shelterbelt is likely to have adverse shading and amenity effects being 6 metres high. The application also has not considered other mitigation measures to address the adverse effects on the artificial shelters.*

Concerns relating to adverse shading and amenity effects associated with the Cryptomeria shelterbelt are addressed in the rural character and amenity effects assessment below. It is concluded that any effects associated with the proposed Cryptomeria hedging is within the permitted threshold and the elevation plans contained in **Appendix A** demonstrate that any shading or amenity effects created from the location of the Cryptomeria shelterbelt around the property located at 598 Parallel



Road are appropriate and acceptable in a comparison of the relevant daylight control rule in the Rural Zone of the Waipa District Plan. Furthermore, under Section 104(2) of the Act, a consent authority may disregard an adverse effect of the activity on the environment if a plan permits an activity with that effect.

- h. The adverse visual and amenity effects of the structures prior to the shelterbelts reaching maturity have not been adequately considered in the application and the application has not considered the potential adverse visual and amenity effects during this period.*

Concerns relating to the adverse visual and amenity effects of the structures prior to the shelterbelts reaching maturity is addressed in the rural character and amenity effects assessment below whereby it is acknowledged that there will be some short to medium term visual effects during this period. The Applicant offers additional mitigating measures to reduce the short-term impact of the artificial shelter. This is also addressed in the effects assessment below.

- i. The application did not consider the cumulative effects of existing and consented buildings on site, other kiwifruit buildings in the receiving environment and the effects of the structures on amenity of the travelling public and local residents.*

The location, height and form of the proposed artificial shelter for horticultural activities is not inconsistent with what is typically seen for larger scale productive horticultural activities. I have noted that there are widespread horticulture activities within the Rural Zone of the Waipa District, including a large number of significant horticultural activities within the receiving environment as previously assessed in Section 3.5 of this report. Thus, the presence of these type of horticultural activities with associated artificial shelter, tunnels, or glasshouses are interspersed within the existing receiving environment. The activities proposed do not present a change or introduce a new effect that is unexpected or different from what occurs in the Rural Zone and will not represent a cumulative effect.

- j. The site coverage calculations did not consider existing buildings on site.*

A revised assessment of the site coverage calculations was provided in the Section 92 response to Waipa District Council on the 27<sup>th</sup> September 2022, and addressed in Table 1 above.

- k. The proposal will result in significant adverse effects on them and the environment associated with the visual effects of the location of the artificial shelter being 9 metres off their northern, eastern and western boundaries, its built form and resulting site coverage within a receiving environment that features a low density and widely spaced built form. The proposal will subsequently impact the aesthetic values of the submitter's property.*

This matter is addressed in the rural character and amenity effects assessment below whereby it is concluded that the presence of horticulture activity of this scale and character is evident within the existing receiving environment, and the proposal will not present a change that is out of character in a rural working environment.

- l. *The proposal is contrary to the objectives and policies of the ODP (full list included in the letter in Appendix 5).*

Further consideration and evaluation against those objectives and policies identified by the submitters being contrary to the proposal is addressed in the below objective and policy assessment. I note that while there is no specific provision in the District Plan recognising artificial shelter as its own activity (rather than grouping it as a 'building') within the associated objective, policy and rule framework, this does not mean that activities of this nature are inappropriate and unanticipated the Rural Zone. Horticulture is permitted activity in the Rural Zone being a subset of 'farming activities' as defined in the District Plan. Horticulture is described in the zone statement as being one of the prominent contributors to rural land use in the District.<sup>6</sup>

- m. The submitters seek the application be declined.

## 7.0 COUNCIL'S 42A REPORT

- 7.1 COUNCIL'S 42a Report was released on the 28<sup>th</sup> September 2022 and recommended that the application should be refused: *"...the actual and potential effects on the environment from granting this consent, while noticeable, are acceptable on the wider environment. The actual and potential effects on the submitters property, are not acceptable and not able to be suitably avoided or mitigated in the short to medium term"*<sup>7</sup>.

In order to structure my evidence as succinctly as possible; I will focus on the key areas of difference between my assessment and that of Council's processing planner as follows:

- 1) Receiving environment;
- 2) Rural Character;
- 3) Positive Effects;
- 4) Objectives and Policies of the Waipa District Plan; and
- 5) Overall conclusions and recommendations

- 7.2 I agree with Council's processing planner regarding her assessment of Significant Natural Area and Biodiversity, Waterbodies and Temporary Construction effects, thus I have not focused on these aspects as part of my evidence.

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<sup>6</sup> Section 4.1.2 Waipa District Plan

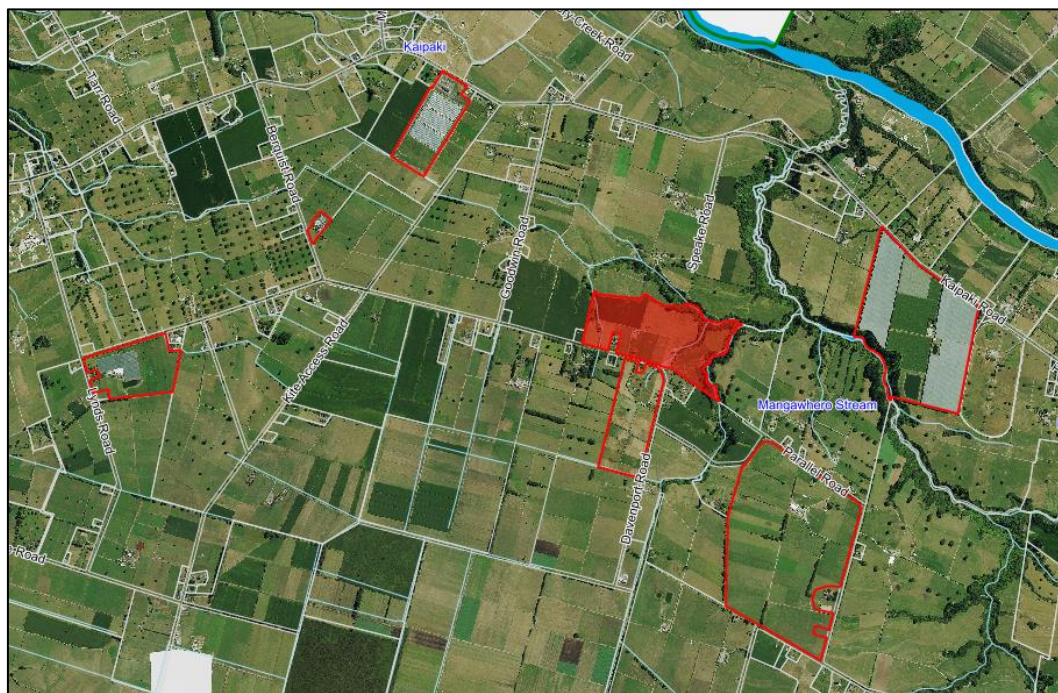
<sup>7</sup> Section 17.6 of the s42A report

## 8.0 RECEIVING ENVIRONMENT

- 8.1 In assessing the actual and potential effects on the environment, the 'receiving environment' is a mandatory consideration defined by case law. As the processing planner has acknowledged in her Section 42A report, an understanding of the environment is necessary to inform the assessment of the effects of a proposal. Section 95A(8) and section 104(1)(a) each require an assessment of the adverse effects or actual and potential effects on the environment to make the public notification decision and determining whether a consent should be granted or declined. What constitutes the environment has been subject to several court cases and case law has confirmed that the "environment" includes the environment as it may be modified by permitted activities and the implementation of resource consents which have been granted and which are likely to be implemented.
- 8.2 The processing planner has provided an assessment of the receiving environment in her report in Section 11.4 of the 42A report, however I do not consider this assessment to have adequately addressed the true nature of the receiving environment.
- 8.3 The site is located within a rural environment and includes a mixture of agricultural and horticultural activities as well as some rural lifestyle properties. The boundaries of these properties adjoining Parallel Road, Goodwin Road and Davenport Road within the receiving environment all include boundary vegetation of some shape or form, most of it being barberry hedging that is up to 2m tall in some locations.
- 8.4 I have also observed that within these properties near residential dwellings, boundaries, whether internal or external, are also lined with hedging vegetation that either defines these spaces or the boundaries they are located on.
- 8.5 The property located at 613 Parallel Road includes large mature trees as boundary shelterbelts that are 6m high for a length of at least 250m along Parallel Road opposite the Applicant's site.
- 8.6 The submitters' property located at 598 Parallel Road includes substantial mature hedging, planted on all three internal boundaries where adjoining the subject site. The dense hedging along the eastern boundary of the site is currently measured at 3m high, with the varied mixture of vegetation on the northern boundary being roughly 2m high, and dense hedging on the western boundary measuring at 3.5m high.
- 8.7 There is now 0.5m high Cryptomeria hedging on the boundary of the site adjoining Parallel Road as well as planted 4m from the northern, eastern and western boundaries at 598 Parallel Road. The hedging on the northern boundary also includes 1.5m high Casuarina saplings spaced in between each Cryptomeria plant.
- 8.8 I have noted that there are significant horticulture activities (permitted, approved and implemented resource consents) within the receiving environment, all within 3km radius of

the application site. These collectively, form part of the unique existing receiving environment and contribute to the existing surrounding rural character these include;

- 8.9 At 583 Parallel Road, just south of the site located on the opposite side of Parallel Road there is a Kiwifruit orchard, with (permitted) white 1.8m artificial vertical shelter located on the road boundary of the site and 6m high standalone internal vertical shelter for wind break within the Kiwifruit Orchard.
- 8.10 At 383 Parallel Road, approximately 850m southeast from the site is a larger Kiwifruit development, which has both vertical and horizontal (overhead) artificial shelter of similar
- 8.11 At 982 Kaipaki Road there is a property with both vertical and horizontal shelter for an established Kiwifruit orchard (consented and implemented).
- 8.12 At 630 Kaipaki Road there is approximately 6500m<sup>2</sup> covering of strawberry tunnels on a 16ha property (consented and implemented);
- 8.13 At 135 Lynd Road there is an approximately 3210m<sup>2</sup> glass house used for a mixture of horticulture purposes on a 17ha property (consented and implemented);
- 8.14 At 107 Berquist Road the property has approximately 2500m<sup>2</sup> glass houses on a 1.4ha property (consented and implemented).
- 8.15 Overall, these activities collectively form part of the existing receiving environment and contribute to the existing surrounding rural character. Figure 7 depicts the location of these properties relative to the subject site.



**Figure 7:** Receiving environment identifying larger scale (with associated buildings) consented horticultural activities with the subject site shaded in red.

## 9.0 Rural Character and Amenity

- 9.1 The rural character and amenity effects of the artificial shelter (both vertical and horizontal) are the key matters in contention in relation to this application due to the location from the road boundary, internal boundaries where adjoining other rural-residential properties and the overall scale of the combined shelter in terms of its site coverage.
- 9.2 I agree with Ms Lomas' s42A report<sup>8</sup> in considering the broad concept of rural character, which helps to form expectations of those travelling through, working or living in a rural environment. I further note, that in reference to Section 4.1.12 of the District Plan, that elements that define the District's rural character also include "Areas of vegetation (in a natural state or managed, indigenous and/or exotic), such as pasture used for grazing stock, crops, forest and scrub, riparian stream margins, lakes and wetlands" and that the Rural Zone chapter of the District Plan acknowledges that "The policies and rules in this Plan seek to find a balance between economically driven farming practice and amenity, landscape, biological, cultural and social values".
- 9.3 The rural character and amenity effects assessment in the s42A report where referring to the wider environment<sup>9</sup> concludes that the reduced road boundary setback and site coverage of the vertical and horizontal shelters is unlikely to significantly impact on the overall character and amenity of the rural environment. In reaching this conclusion it is specifically noted that Ms Lomas states "The 3.5m cryptomeria along the road boundary will take about 5 years (in the central north island, cryptomerias can grow 1m per year according to Farm Forestry New Zealand) to be an established height and thickness. The visual effects on road users and the wider environment during this period until maturity is considered a temporary effect, as within a few years they would be over 3m in height which would be well above most people's eye line"<sup>10</sup>. What is notable here is that the processing planner considers that a 5-year period to experience a visual effect artificial shelter to be appropriate and is considered to be a temporary effect in relation to the road boundary. I agree with Ms Lomas assessment in this respect, and add that the hybrid variety of the Cryptomeria hedging will see that the expected maturity date for the 3.5m hedging will be 2-3 years as opposed to 5 years as noted in her s42A report.
- 9.4 With regard to the internal boundary encroachment of the vertical and horizontal artificial shelters associated with the property located at 598 Parallel Road, the Applicant proposes mitigation planting that is set back from the boundary to provide the submitters with "breathing room"<sup>11</sup> to reduce the "sense of being boxed in"<sup>12</sup>. This planting location is not

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<sup>8</sup> Section 12.1.2 of the s42A report

<sup>9</sup> Section 12.1.9 of the s42A report

<sup>10</sup> Section 12.1.8 of the s42A report

<sup>11</sup> Section 12.1.17 of the s42A report

<sup>12</sup> Section 12.1.12 of the s42A report

industry practice<sup>13</sup>, for horticulture or rural cropping activities and would not be required for permitted shelter hedging.

- 9.5 The rural character and amenity effects assessment in the s42A report<sup>14</sup> concludes that the location of the artificial shelters respective to the property located at 598 Parallel Road will see that the submitters' property will experience dominating adverse visual effects and amenity effects, to a more than minor capacity and that the mitigation measures associated with the Cryptomeria shelterbelt are not considered to be a satisfactory mitigation measure in the short to medium term.
- 9.6 The submitter has raised concerns relating to loss of amenity associated with the planting of Cryptomeria around the boundaries of their property and considers that the application of the permitted baseline is not relevant in this regard. Additionally, in Ms Lomas s42A report, it is noted that in forming her opinion on the actual and potential effects of the proposal with regards to the rural character and amenity effects on the property located at 598 Parallel Road, the adverse effect of an activity on the environment that is permitted by the District Plan has been chosen to be regarded, which in this case relates to the proposed Cryptomeria hedging.
- 9.7 Ms Lomas notes that "the cryptomeria also contribute to the significant visual change, as they essentially close off the site to the wider environment, blocking views into the site. They can cause shading effects and block views of the open rural landscape, especially from the roadside or an adjoining property they can have quite a dominant visual effect... In the Rural Zone, it can be reasonably expected that artificial shelters and shelterbelts could be along the road boundary, or one/two shared internal boundaries".<sup>15</sup> However, as acknowledged in 8.3 above, the presence of managed and exotic vegetation is anticipated within a rural environment, therefore it cannot be reasonably assumed that views across an open rural landscape, out of a property or to a property can be expected within this Zone, particularly as there is no notable policy overlay to protect viewshafts or landscapes in this area which are identified in the District Plan. Therefore, in this respect, I do consider that the application of the permitted baseline to be relevant as it is evident that vegetation, whether it be ad-hoc or managed does exist in the existing receiving environment or future state of the existing environment without it serving a mitigation purpose. Permitted future vegetation, particularly associated with a permitted horticultural activity should be considered as likely in any effects assessment.
- 9.8 One of the key points of contention raised by both the submitter and the processing planner relate to the adverse shading effects associated with the Cryptomeria shelterbelt surrounding

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<sup>13</sup> Paragraph 20 of P Singh's evidence

<sup>14</sup> Section 12.1 of the s42A report

<sup>15</sup> Section 12.1.10 and 12.1.11 of the s42A report

the property located at 598 Parallel Road. I further note that in reaching the conclusion of Ms Lomas s42A report, she states that

- 9.9 “The cryptomeria shelterbelt will create significant shading, loss of light (and temperature) and an overall reduction in amenity for this property”<sup>16</sup>.
- 9.10 I disagree with this statement, as there is no evidence to suggest that there will be a reduction of temperature on the submitters’ property.
- 9.11 With regard to the shading and loss of light, if a building was constructed in the same location and at the same height as the Cryptomeria hedge, then it would comply with the relevant height recession plans depicted under Rule 4.4.2.12 in the Rural Zone chapter of the District Plan.
- 9.12 Figures 4 to 6 show that if the Cryptomeria hedging was considered a ‘building’ of equal dimensions with a maximum height of 6m and a setback 4m from the internal boundaries surrounding 598 Parallel Road, the building would comply with this rule.
- 9.13 The Cryptomeria hedging will not of itself introduce shading effects or daylight reduction effects that will be “significant”. The difference in this instance, is that the Cryptomeria hedging is not a building. It is not a blank motionless façade as it will move in the wind and grow. Nor would a building span the length of these boundaries at this location. Nonetheless the findings of this comparison are relevant to demonstrate that the potential for shading or loss of light effects is low in relation to the permitted baseline.
- 9.14 As established in the Application, the use of vertical and horizontal artificial shelter is necessary to growing sensitive Kiwifruit varieties, such as Zespri Rubyred and Zespri Sungold Kiwifruit. However, the traditional Zespri Green or Zespri Sweet Green varieties do not require such protective shelter coverings, and typical Cryptomeria hedging planted along boundaries would suffice. I therefore consider the processing planner’s assessment in the s42a report where relating Kiwifruit industry practice to be fanciful. Specifically, where she notes:
- 9.15 “Although the cryptomeria shelterbelt is permitted to be planted along a boundary for a permitted horticultural activity, if the artificial shelters were built to a compliant setback (25m) then the cryptomeria shelterbelts would also be set back at a reasonable distance from the boundary, say 20m. If the artificial shelters and associated cryptomeria shelterbelts were set back to a complying distance, this would maintain some ‘breathing room’ between the

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<sup>16</sup> Section 12.1.13 of the s42 report

residential site and the horticultural activity, reducing bulk form and the dominating visual impacts of the artificial shelters”.

- 9.16 As noted in Mr Singh’s evidence<sup>17</sup>, the site has been purchased with the intent of growing Kiwifruit, whether it be Rubyred, Sungold or a green variety. Thus, the Cryptomeria hedging is located near the external boundaries of the site to maximise the productive potential of the site. There is no likelihood of a break or “breathing room” from horticulture activities with a complying 25m setback to the vertical and horizontal artificial shelter as the space between the Jennings boundary and the artificial shelter would be utilised to grow a more resilient variety of green Kiwifruit<sup>18</sup> as a permitted horticultural activity.
- 9.17 Alternatively the Applicant could establish a 1.8m vertical cloth on the boundary or 6m vertical curtain of cloth shelter within the site without connecting it to the horizontal roof to a setback of 15m. Doing so would still require consent for the overall site coverage but would not trigger the setback rule. The above alternative land uses are examples only to demonstrate that there are options for the Applicant that would still allow full utilisation of the setback area for kiwifruit production. They are not, however the proposal being assessed as the Applicant seeks to establish Rubyred Kiwifruit which require more wind protection.
- 9.18 Also raised by the submitter are the cumulative effects and the site coverage associated with the existing and consented buildings on site, and other kiwifruit buildings in the receiving environment and the effects of the structures on amenity of the travelling public and local residents. As established earlier in Section 3.5 the location, height and form of the proposed artificial shelter for a horticultural activity is not inconsistent with what is typically seen for larger scale productive horticultural activities. I have noted that there are widespread horticulture activities within the Rural Zone of the Waipa District, including a large number of significant horticultural activities within the receiving environment, which has seen a rapid increase of this type of activity over the last 10 years. Thus, the presence of these type of horticultural activities with associated artificial shelter, tunnels, or glasshouses are interspersed within the existing receiving environment and the proposal will not modify the receiving environment that would introduce a new effect or activity that is not unexpected and different within the rural receiving environment to travelling public and local residents. For those reasons, I have disregarded any further comments on cumulative effects.
- 9.19 The key assessment thereafter is whether the mitigation proposed has gone far enough to be effective and successful in reducing effects to a level where they will be low (‘minor’) in a short term to medium term. In respect of the changes made to the mixed mitigation planting near the northern boundary to 598 Parallel Road, combined with the revised increased growth from the hybrid variety of Cryptomeria chosen (halving the time in which adequate mitigating height is achieved as calculated in the processing planners s42a report<sup>19</sup> as the Cryptomeria

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<sup>17</sup> Paragraph 22 of P Singh’s evidence

<sup>18</sup> Paragraph 8 of P Singh’s evidence

<sup>19</sup> Section 12.1.17 of s42a report



is expected to reach 6m in 3-4 years as opposed to 8 years) the time for the submitters to experience temporary visual effects associated with the visibility of the artificial shelter is significantly reduced. In my opinion this will result in only minor visual effects from that artificial shelter on a short-term and temporary basis. This consideration of a timeframe also aligns with the processing planner's view of what constitutes a 'temporary effect' as given in her wider environment effects conclusion, mentioned in 10.3 above.

- 9.20 In reference to the Kiwifruit orchard development located at 383 Parallel Road, the decision was granted on a non-notified basis to cover 69.54ha of 80ha property with artificial vertical and horizontal shelter. The visual effects of that development were not considered sufficient to warrant notification of any adjacent owner.
- 9.21 It is acknowledged that the encroached boundary setbacks, site coverage and its mitigation was deemed by Council to be acceptable for this property, in respect of all other boundary effects and neighbouring properties. The mitigation hedging will take time to grow but any temporary visual effect from the artificial screening is acceptable. That is a consistent decision with the outcome for 383 Parallel Road.
- 9.22 I cannot accept that a temporary view of artificial shelter across all other boundaries is acceptable but not across the boundary with 598 Parallel Road, particularly where there is already existing, mature vegetation that fully screens the site from view on the western and eastern boundaries. The s 42A report's two conclusions regarding the significance of temporary visual effects, in my opinion do not align.
- 9.23 Overall, the proposal represents a productive farming activity that maximises the potential of the high-quality soils that exist on the property. Whilst the proposal presents setback and site coverage non-compliances due to the 'building' classification of the artificial shelters, the proposal also brings with it suitable, effective and practical mitigation measures to integrate the proposed artificial shelter within the rural landscape. When evaluating the proposal as a whole, I consider that the proposal strikes a "balance between economically driven farming practice and amenity, landscape... and social values"<sup>20</sup>. Moreover, the local rural landscape is seeing a significant change towards more intensive horticultural activities and there is no more appropriate zone and location (without policy limitations) for this development to occur within the Waipa District. Accordingly, I consider that the adverse rural character and amenity effects are minor.

## **10.0 Positive Effects**

- 10.1 Acknowledging the positive effects attributed to an application for resource consent is an important aspect of a planner's Section 104 assessment. In this instance the 42a Report offers

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<sup>20</sup> Section 4.1.13 of the Waipa District Plan

a total of five lines in its positive effects section. In my view the s 42A report understates the range and number of positive effects.

10.2 The approval of the land use consent will result in significant benefits to all adjoining owners and occupiers, including the property located at 598 Parallel Road in regard to the benefits associated with the use of artificial shelter and its combination with the Cryptomeria shelterbelts for horticultural activities, as detailed in Mr Holwerda's evidence.

10.3 The key statements and conclusions of Mr Holwerda are that:

- The combination of both artificial vertical shelter cloth and tree shelterbelts provides 100% protection against spray drift/ droplets<sup>21</sup>;
- Without tree shelterbelts located on the exterior of the vertical cloth, the artificial vertical shelter cloth reduces spray drift/droplets down to 90%<sup>22</sup>;
- Double layer cloth combinations (as will be installed on this property) consistently achieved high downwind spray deposit reductions of between 75% and 95% when shelterbelt trees are not in place<sup>23</sup>; and
- There are substantial benefits associated with the use of both artificial vertical and horizontal shelter to promote Kiwifruit growth up to 25% as well as reducing wind speed and air turbulence to avoid leaf rub damage within the canopy area.<sup>24</sup>.

10.4 In addition to the above, the operation of the orchard will generate the full time equivalent of 25 jobs a year for the Waipa Community.

## 11.0 WAIPA DISTRICT PLAN – OBJECTIVES AND POLICIES ASSESSMENT

11.1 The processing planner has undertaken an extensive assessment of a number of objectives and policies from these sections of the District Plan in Section 13 of her s42A report. I have reviewed that assessment and disagree with the relevance and/or assessment of some of those objectives and policies. The s42A report concludes that the proposal is contrary to the objectives and policies of the District Plan, specifically those that relate to rural buildings, rural amenity and shelterbelts. The areas of agreement and disagreement and reasons for such are set out in my assessment below.

### Section 4 – Rural Zone

11.2 Section 4 of the District Plan contains the directive issues, objectives and policies for land use and development within the Rural Zone. The introductory part (Section 4.1.6) of this section of the plan states that the:

*“intention of this section is to set the framework to enable the continued use of the Rural Zone for a wide range of rural productive activities while continuing to*

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<sup>21</sup> 1.14 of Mr Holwerda's evidence

<sup>22</sup> 1.14 of Mr Holwerda's evidence

<sup>23</sup> 1.10 of Mr Holwerda's evidence

<sup>24</sup> 1.10 of Mr Holwerda's evidence and <https://www.zespri.com/en-NZ>

*emphasise the need to internalise adverse effects, and avoid cumulative effects of land use activities on the environment”,*

and that Section 4.1.13 states:

*“The policies and rules in this Plan seek to find a balance between economically driven farming practice and amenity, landscape, biological, cultural and social values”.*

- 11.3 The next part of Section 4 identifies the resource management issues. The most relevant of those to this consent is that in section 4.2.4 which identifies that “There is a need to protect the rural land resource, including high class soils, peat soils, and other rural resources...” and that Section 4.2.6 states “Rural activities can be impacted upon when incompatible and/or non-rural activities locate nearby causing conflict”. Further, as identified in Section 4.2.7 “Farming and other rural based activities, including intensive farming can have adverse effects on rural amenity through the size and location of buildings...”
- 11.4 Directly relevant to the wider objective of this section the above issue are a number of objectives and policies relating to rural activities. Specifically, policy 4.3.2.3 requires that farming activities and buildings are managed to ensure they are located appropriately and their adverse effects are avoided, remedied or mitigated. As noted by the processing planner the proposed artificial vertical and horizontal (overhead) shelter will be evident along all three (internal) boundaries of the submitter’s property. This is not disputed. It is my opinion however that the effects of the location of the artificial vertical and horizontal (overhead) shelter along these boundaries can be effectively mitigated.
- 11.5 The Applicant has proposed to use black vertical cloth for the side boundaries, which as stated in Holwerda’s evidence,<sup>25</sup> and according to feedback from adjoining residents, enables their “eyes to travel through” the cloth, rather than seeing a blank façade or wall at the outside of the orchard. Additionally, the 4m off-set to the Cryptomeria hedging (against industry practice) from these boundaries, together with the proposed hybrid variety of the Cryptomeria and use of a combination of Cryptomeria with Casuarina along the northern boundary of 598 Parallel Road, where the existing boundary vegetation along this boundary are lower than that on the eastern and western side, will see that significant efforts to effectively and practically mitigate the location of the artificial shelter. With respect to the processing planners statement relating to adverse effects associated with the mitigation treatment, the assessment provided in Section 8.8 of this evidence, together with the Elevation plans provided in **Appendix A** invalidates this assessment.
- 11.6 Therefore, in my opinion while the proposal results in a small adverse effect, on a short-term basis, the proposal does present adequate and practical mitigation measures to bridge the temporary adverse visual effect associated with the location of the artificial shelters during that period. Furthermore, the proposal is consistent with the overarching objective (4.1.13) which directs Council to find a balance between economically driven farming practice and amenity and social values. Character and amenity can be maintained to an acceptable and

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<sup>25</sup> 1.6 of Mr Holwedra’s evidence

expected level within the Rural Zone though mitigating planting and sympathetic cloth colour.

- 11.7 The processing planner has suggested that the objectives and policies relating to the use of shelterbelts (objective 4.3.3 and policy 4.3.3.4) is challenged by the proposal. That statement was made in relation to adverse shading effects on adjacent sites associated with the location and height of the shelterbelts. I do not consider this to be directly relevant to the determination of this application. In my experience, an assessment of those objectives and policies is undertaken when a land use consent is being obtained to establish shelterbelts that are not intended to comply with the permitted requirements associated with Rule 4.4.2.58 once those shelterbelts are fully mature. It is then an assessment of if the proposed shelterbelt does not comply, then the District Plan directs Council to consider the associated effects of that encroachment through this objective and policy. This aside, to address this objective and policy, the elevation plans provided in **Appendix A** of this evidence consider the effect of the location and height of the Cryptomeria shelterbelts.
- 11.8 Figures 5 and 6 compare the recently established shelterbelt located at 4m from the internal boundaries surrounding the property located at 598 Parallel Road against Rule 4.4.2.12 - daylight control for buildings within the Rural Zone. The daylight control begins on the boundary at ground level at a height of 2.7m the recession plane then follows an inward and upwards angle of 45°. The plans demonstrate that if the Cryptomeria hedging was considered a 'building' of equal dimensions in the same location, the building would comply with this rule. This therefore demonstrates that the Cryptomeria hedging does not introduce shading and reduction to daylight effects that are considered to be significant, and by virtue of this rule, would be acceptable.
- 11.9 The objectives and policies (4.3.8 and 4.3.8.2) relating to rural amenity and setbacks require buildings and activities to be setback from internal boundaries to avoid reverse sensitivity effects and maintain rural character and amenity. It is my opinion that the proposal is consistent with objective 4.3.8 and policy 4.3.8.2 as the setbacks chosen together with the resulting mitigation will maintain rural character and amenity as well as assisting in avoiding the potential for reverse sensitivity effects.

### **Conclusion**

- 11.10 As set out in the s 42A report, the policy direction provides for a divergence of policy considerations, being to promote the productive use of high-quality soils within the Rural Zone and the use of accessory structures to support land based primary production, balanced against their impact on rural character and amenity within the receiving environment. It is clear that the proposal aligns with the policy direction associated with rural resource and farming, and rural character. This point is not challenged.
- 11.11 The competing policy direction relates to the location of the proposed Cryptomeria shelterbelt and the artificial vertical and horizontal shelters, being determined by virtue of

the District Plan as being a 'building', and their impact on rural amenity. The avoidance of these effects has been the forefront of the mitigation design<sup>26</sup>, which goes beyond what could be established as a permitted activity.

11.12 While there will be a temporary or short-term period in which the artificial shelter will be visible from the wider environment and adjoining properties being between 3 to 6 years (depending on the height of the proposed Cryptomeria hedging), the visible layer of artificial shelter will be the vertical cloth, which is proposed to be black in colour and allows the eye to see through the cloth rather seeing a white wall of cloth. This colour has been chosen to reduce the visual impact of the shelter during this period. Once the Cryptomeria has reached its proposed mature height, the overall development will largely be contained and such visual effects will be internalised. These characteristics and design considerations will ensure that the proposed acritical shelters are integrated into the existing rural landscape as best as possible. Therefore, it is my opinion that while the proposal cannot be considered entirely consistent with all the individual objectives and policies relating to rural buildings, it is not contrary to the overall purpose and direction of the objectives relating rural resource, farming activities and rural character and amenity.

## **12.0 RELEVANT PROVISIONS OF NATIONAL ENVIRONMENTAL STANDARDS, REGIONAL POLICY STATEMENT**

### **12.1 National Environmental Standards**

12.2 The National Environmental Standard (NES) that are potentially relevant to the land use consent include:

- National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health; and
- National Environmental Standards for Freshwater.

12.3 I agree with the processing planner's assessment of these NESs and how they interact with the proposed land use consent application.

### **12.4 National Policy Statements**

12.5 The National Policy Statements (NPS) that are potentially relevant to the land use consent include:

- National Policy Statement for Freshwater Management; and
- National Policy Statement for Highly Productive Land

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<sup>26</sup> Combination of black vertical cloth, 4m setback to Cryptomeria hedging, and the hybrid variety of the Cryptomeria

- 12.6 Since the application was lodged with Council, the NPS-HPL was gazetted on the 19<sup>th</sup> September 2022 and will be in effect from the 17<sup>th</sup> October 2022. This means that Council will need to have regard to the relevant provisions of the NPS-HPL when considering resource consent applications that are on land identified as highly productive under the transitional definitions if they are making a decision on these applications on or after 17 October 2022. For the purposes of this evidence, this NPS is relevant as it comes into effect before a decision is made on this application.
- 12.7 The NPS-HPL will require New Zealand's most productive land to be identified and managed to prevent inappropriate subdivision, use and development. A transitional definition of highly productive land applies until councils complete the process of mapping highly productive land at a regional level. This means land that is zoned General Rural or Rural Production and classed as Land Use Capability (LUC) 1, 2 or 3 is considered as highly productive land for the purpose of the NPS-HPL and requires consideration under the NPS-HPL. Small, discrete areas of LUC 1, 2, or 3 land are excluded from assessment if they are separated from any large and geographically cohesive area of LUC 1, 2, or 3 land.
- 12.8 Council's records indicate that the entire site comprises 'high class soils'<sup>27</sup> with the exception of the gully areas with the SNA areas as defined by the District Plan, meeting the transitional definition of highly productive land within the NPS. The proposed artificial vertical and horizontal shelters used to support Kiwifruit production will be constructed on highly productive land. I consider the following definitions to be particularly relevant to this application:
- **land-based primary production** means production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the land; and
  - **supporting activities**, in relation to highly productive land, means those activities reasonably necessary to support land-based primary production on that land (such as on-site processing and packing, equipment storage, and animal housing).
- 12.9 This application is for accessory supporting structures to enable and support kiwifruit production from plants making optimum use of highly productive land.
- 12.10 I consider the following objective and policies to be relevant to this application:
- Objective 2.1: Highly productive land is protected for use in land-based primary production, both now and for future generations;
  - Policy 1: Highly productive land is recognised as a resource with finite characteristics and longterm values for land-based primary production;
  - Policy 2: The identification and management of highly productive land is undertaken in an integrated way that considers the interactions with freshwater management and urban development;

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<sup>27</sup> High class soil is defined in the Waipa District Plan as being soils of land use capability classes 1 and 2, 3e1 and 3e5

- Policy 4: The use of highly productive land for land-based primary production is prioritised and supported; and
- Policy 9: Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.

12.11 At a broad level, the NPS – HPL objective makes it clear that highly productive land should be protected for land-based primary production. However, the NPS also recognises that there can be other appropriate uses of highly productive land. Clause 3.9(2) provides a list of activities that are not landbased primary production but are not ‘inappropriate’ and can occur on highly productive land in some circumstances. Clause 3.9(2)(a) specifically provides that an exception is made for those activities that provide “... for supporting activities on the land”, which by definition as referenced above, can apply to the proposed artificial shelters, being “reasonably necessary to support land-based primary production on that land”.

12.12 The shelters do not impede the use of soil nutrients nor do they impede the energy conversion from natural sunlight or the use of rainwater for plant growth and production. For the above reasons, it is my opinion, the land use proposal is consistent with those relevant matters in the NPS - HPL.

#### **Waikato Regional Policy Statement: Te Tauāki Kaupapahere Te-Rohe O Waikato**

12.13 The Waikato Regional Policy Statement (RPS) is prepared under the RMA to provide an overview of the significant resource management issues of the Region, and contains objectives, policies and methods to achieve integrated management of the natural and physical resources. The objectives and policies of the RPS are given effect through regional and district plans. As the District Plan was confirmed after the RPS, it is my opinion that it has been prepared in consideration of the RPS directives. It is clear that the proposal aligns with the policy direction of the RPS and this is not challenged.

### **13.0 STATUTORY ASSESSMENT UNDER THE RMA**

13.1 As a Discretionary Activity, the relevant provisions of the Resource Management Act 1991 (RMA) for considering this application are sections 104, 104B, and 108. In summary, these provisions require consideration of Part 2 matters which support the overall purpose in Section 5, relevant objectives and policies of the District Plan and environmental effects of the activity.

13.2 Pursuant to Section 104 RMA, and subject to Part 2, which has already been taken into account by the District and Regional Plans and the RPS, I have had regard to the environmental effects of allowing this proposal. In that regard, it is my view that with the mitigation design<sup>28</sup> and with appropriate conditions, the potential adverse effects of the proposal on the receiving environment will be no more than minor. In saying that I recognise that this is not a non-

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<sup>28</sup> Combination of black vertical cloth, 4m setback to Cryptomeria hedging, and the hybrid variety of the Cryptomeria

complying activity and it is not a requirement that any adverse effects should be mitigated to a minor or less than minor level.

13.3 The proposal also has significant positive effects in terms of its valuable protection against spray droplets and spray drift and subsequent avoidance of reverse sensitivity effects associated with the proposed land-based primary production activities.

13.4 In my opinion, the application with the mitigation and consent conditions proposed (below) satisfies the Part 2 RMA, purpose and principles.

#### **14.0 CONSENT CHANGES**

14.1 I have been made aware when finalising this evidence that the Applicant will increase the setback of Distances marked 'B' and 'C' in **Appendix B** of this evidence. That setback is to increase to 8.0 metres to make room for manoeuvring orchard vehicles (to trim the shelterbelt) between the mixed Cryptomeria and Casuarina shelterbelt on the northern boundary with 598 and the artificial shelter. A revised plan depicting this measurement will be provided prior to the hearing, which will supersede the Plan attached in **Appendix B**. The setback changes are highlighted below at 15.4 regarding the new condition wording.

#### **15.0 CONSENT CONDITIONS**



15.1 The s 42A report includes a set of draft consent conditions for consideration. I support these conditions in principle, however I do not agree with the wording of Condition 4 proposed in Appendix 8 of the report.

15.2 We request changes as set out below.

15.3 Condition 4: Amend the condition and extrapolate it to distinguish the road boundary setbacks from internal setbacks. This is recommended to clarify the site plan and remove uncertainty, particularly with regard to the internal setbacks around 598 Parallel Road.

15.4 Condition 4:

The artificial shelters must have the following minimum setbacks, as depicted on the site plan, submitted with the application, titled "582 Parallel Road, Cambridge, Sabre Construction, Block 1-3 Draft Design" prepared by Summit Survey, and as specified below:

- 6 metres from the road boundary with Parallel Road; and
- 5.97 metres from the most south-western internal boundary with 622 Parallel Road;
- Distance marked 'A' – 8.99 metres;
- Distance marked 'B' – 8.0 metres;
- Distance marked 'C' – 8.00 metres;
- Distance marked 'D' – 8.50 metres; and
- Distance marked 'E' – 6.00 metres

## 16.0 Overall Conclusion

16.1 As the processing planner has set out in her report, the policy direction provides for a divergence of policy considerations, being the promotion of productive use of high-quality soils within the Rural Zone and accessory structures to support land based primary production, balanced against the effects of the artificial shelter structures and their impact on rural character and amenity within the receiving environment. In my opinion the proposal aligns with the policy direction associated with rural resource and farming, and rural character. This point is not challenged.

16.2 The competing policy direction is the avoidance of adverse shading effects from shelterbelts and to avoid, remedy or mitigate the location of the proposed artificial vertical and horizontal shelters, being determined by virtue of the District Plan as being a 'building', and their impact on rural amenity. The avoidance of these effects has been the forefront of the mitigation design<sup>29</sup>, which goes beyond what could be established as a permitted activity. The matter being determined in this application is whether the mitigation proposed has gone far enough

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<sup>29</sup> Combination of black vertical cloth, 4m setback to Cryptomeria hedging, and the hybrid variety of the Cryptomeria

to be effective and successful in reducing short term/ temporary effects, in the manner proposed, is appropriate from both an effects and policy-based perspective.

- 16.3 The proposal has been refined in light of concerns in the s 42A report regarding the significance of temporary visual effects. I do not agree with the conclusion in the report regarding those temporary effects but do agree that changes to the mitigation planting near the northern boundary to 598 Parallel Road to include taller Casuarinas in between each Cryptomeria will achieve mitigation faster along the Jennings boundary where there is less overall existing vegetative screening. Additionally, the visible layer of black artificial vertical cloth will enhance visual penetration through the orchard. In my view, the taller initial hedging to achieve faster growth and the cloth colour will result in minor visual effects on the Jennings property in both the short and long term of the orchard operation.
- 16.4 In reaching this conclusion, I have a different opinion from the processing planner in terms of the assessment of the receiving environment. I also note the presence of significant horticulture activities that are either permitted or consented within the receiving environment, all within a 3km radius of the application site. These collectively, form part of the existing receiving environment and contribute to the existing rural character.
- 16.5 Overall, I consider that the proposal represents a productive farming activity to maximise the potential of the high-quality soils that exist on the property. Whilst the proposal presents setback and site coverage non-compliances due to the 'building' classification of the artificial shelters, the proposal also brings with it suitable, effective and practical mitigation measures to integrate the proposed artificial shelter within the rural landscape. The proposal replicates the environment consented at 383 Parallel Road, except that the permitted hedging will separate the nearest dwelling on 3 boundaries.
- 16.6 When evaluating the proposal as a whole, I consider that the proposal strikes a "balance between economically driven farming practice and amenity, landscape... and social values"<sup>30</sup>. In this respect, I also note the positive effects associated with the establishment of the artificial shelter in its assistance in avoiding the potential for reverse sensitivity effects on adjoining rural residential activities and the jobs that are created for the Waipa community.
- 16.7 When considered overall, the proposal is consistent with the purpose and principles outlined in Part 2 of the Resource Management Act 1991.



Simone Williams  
**Senior Planner**  
**Barker and Associates Limited**

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<sup>30</sup> Section 4.1.13 of the Waipa District Plan

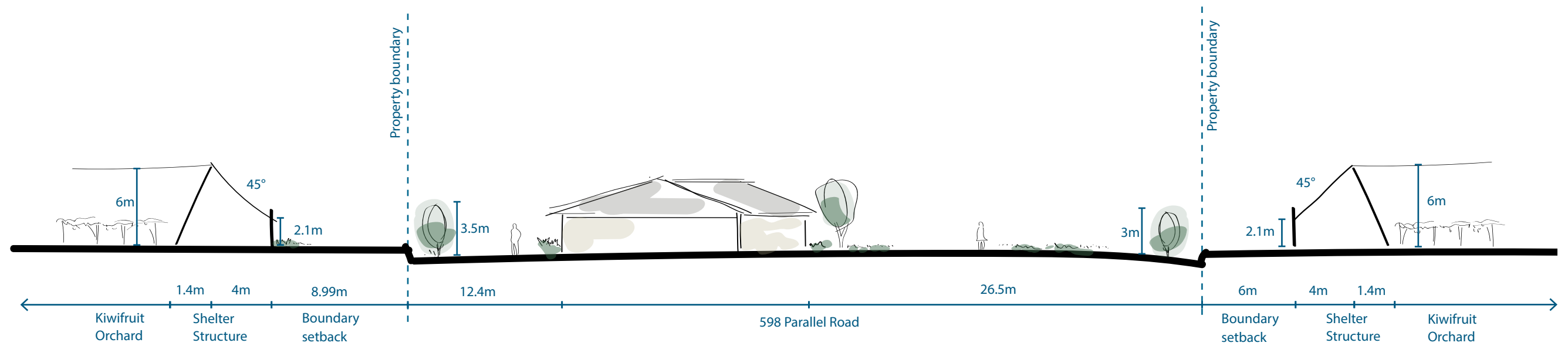
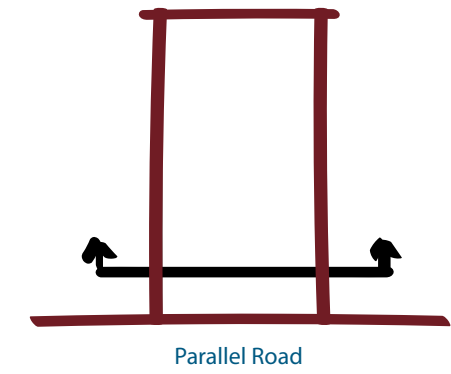
05 October 2022

# Southern Elevation Plan for 598 Parallel Road

Scale: 1: 300 (A3)

# Site Reference Plan

Not to scale



Notes.

### Legend

- Site
- Property Boundary

For Resource Consent

## 598 Parallel Road Section Elevation Plans - Kiwifruit Shelter Figure 1

Scale: 1:300 at A3  
Date: 15/09/2022

Status: For Resource Consent  
Sheet: NA

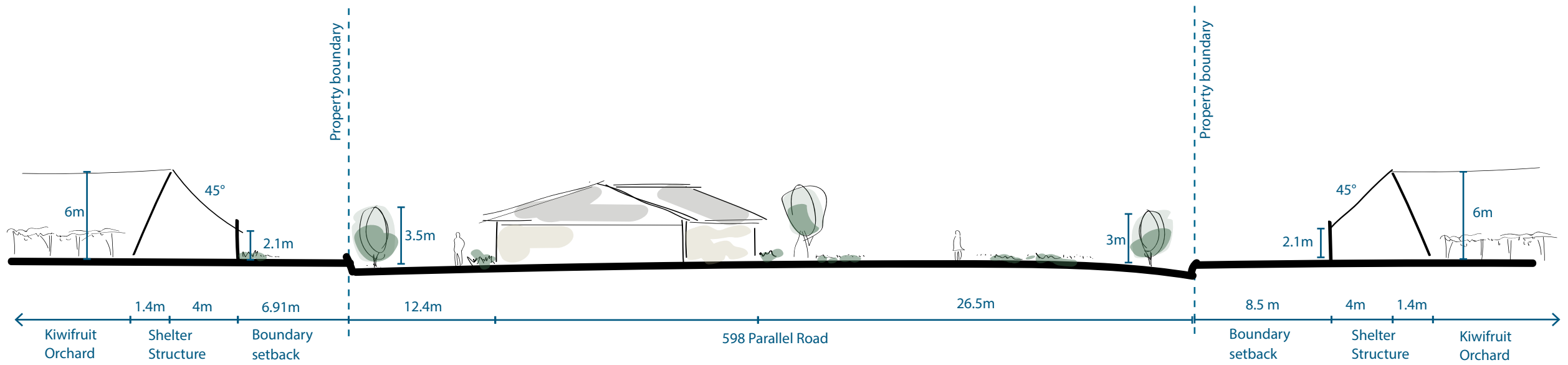
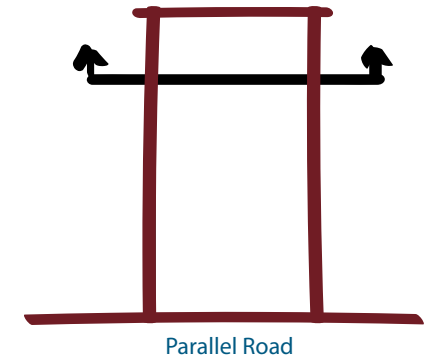


# Southern Elevation Plan for 598 Parallel Road

Scale: 1:300 (A3)

# Site Reference Plan

Not to scale



Notes.

### Legend

- Site
- Property Boundary

For Resource Consent

**598 Parallel Road**  
Section Elevation Plans - Kiwifruit Shelter  
Figure 2

Scale: 1:300 at A3  
Date: 15/09/2022

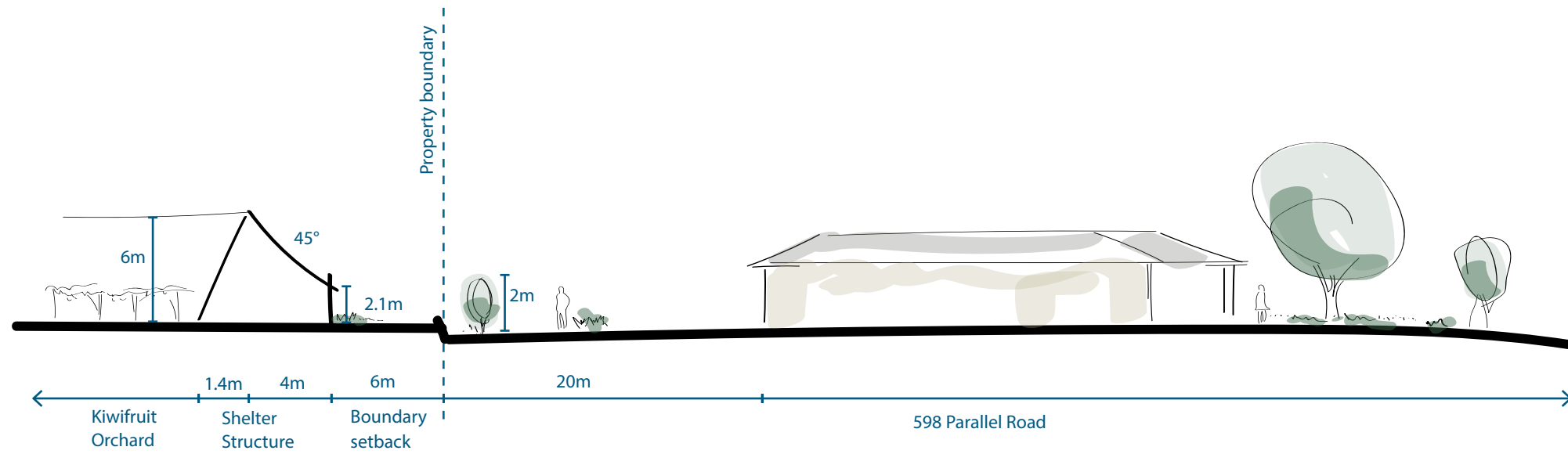
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# B&A

Urban & Environmental

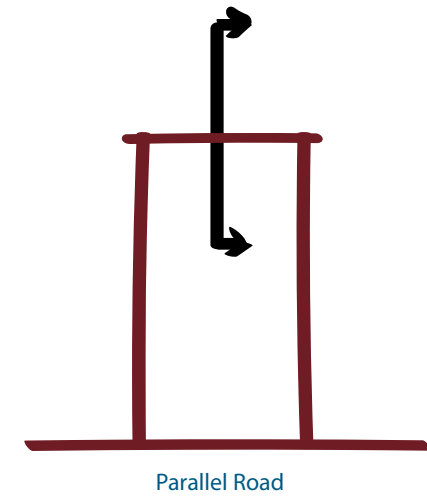
# Western Elevation Plan for 598 Parallel Road

Scale: 1:300 (A3)



# Site Reference Plan

Not to scale



Notes.

### Legend

- Site
- Property Boundary

For Resource Consent

**598 Parallel Road**  
Section Elevation Plans - Kiwifruit Shelter  
Figure 3

Scale: 1:300 at A3  
Date: 15/09/2022

Status: For Resource Consent  
Sheet: NA

**B&A**

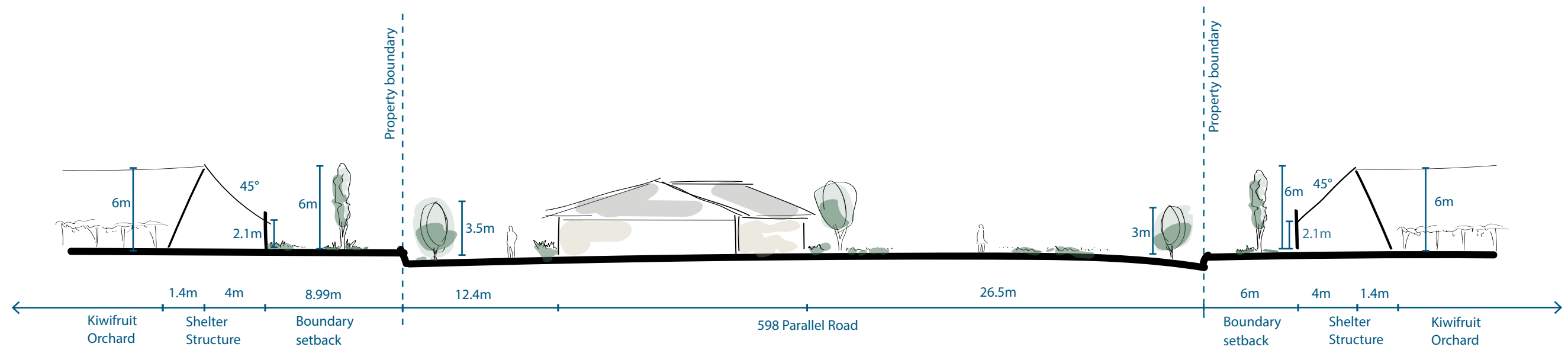
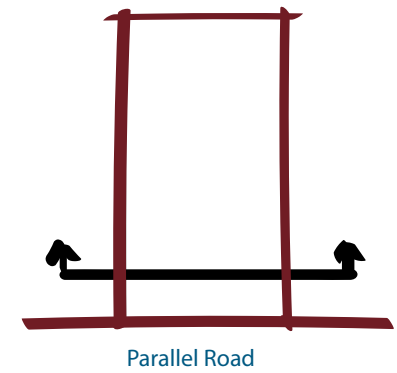
Urban & Environmental

# Southern Elevation Plan for 598 Parallel Road - Shelter Belt 4m from Boundary

Scale: 1:300 (A3)

## Site Reference Plan

Not to scale



Notes.

- Legend
- Site
  - Property Boundary

For Resource Consent

**598 Parallel Road**  
Section Elevation Plans - Kiwifruit Shelter  
Figure 1



Scale: 1:300 at A3  
Date: 15/09/2022

Status: For Resource Consent  
Sheet: NA

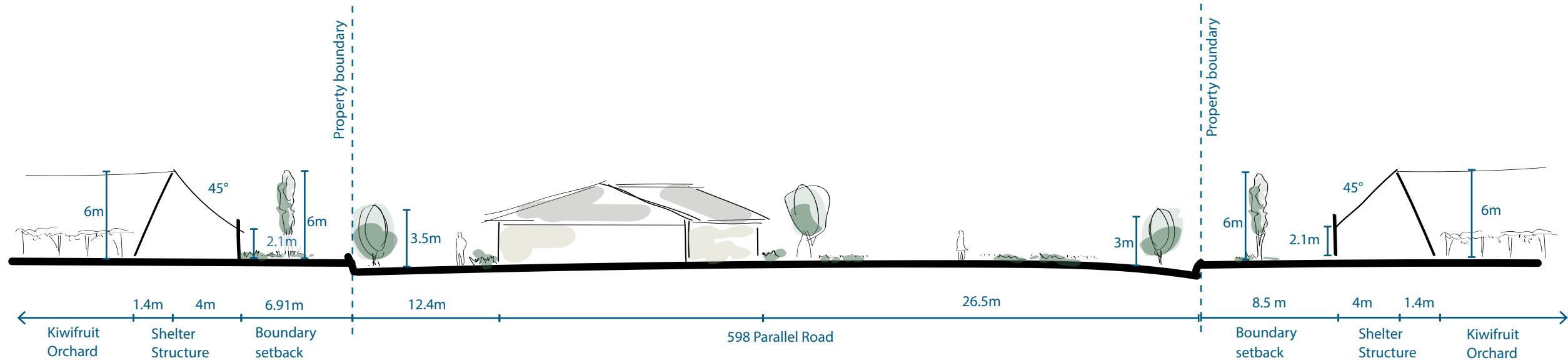
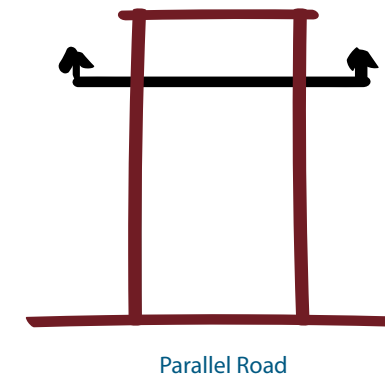
Urban & Environmental

# Southern Elevation Plan for 598 Parallel Road - Shelter Belt 4m from Boundary

Scale: 1: 300 (A3)

## Site Reference Plan

Not to scale



Notes.

Legend

- Site
- Property Boundary

For Resource Consent

598 Parallel Road  
Section Elevation Plans - Kiwifruit Shelter  
Figure 2

Scale: 1:300 at A3  
Date: 15/09/2022

Status: For Resource Consent  
Sheet: NA

**B&A**  
Urban & Environmental

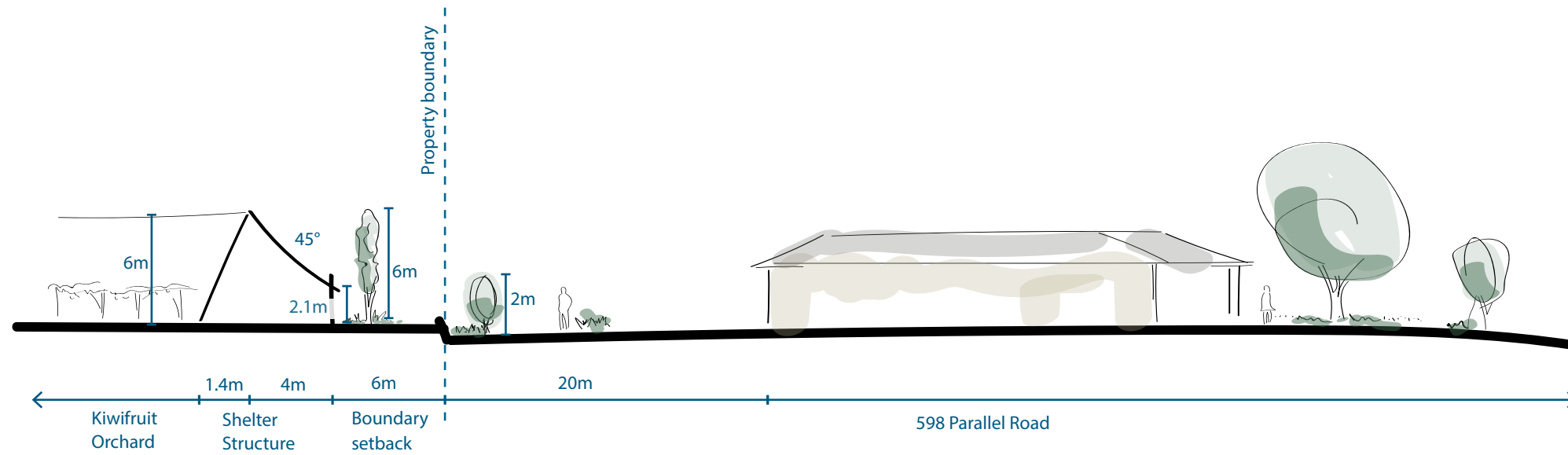
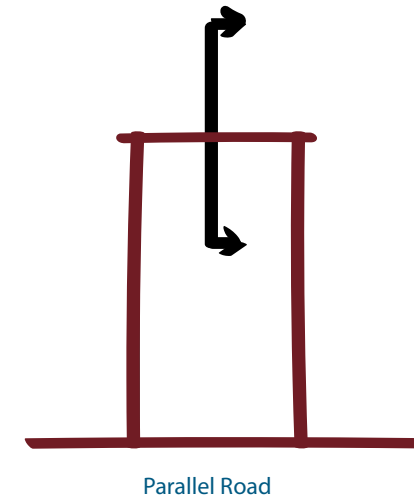


# Western Elevation Plan for 598 Parallel Road - Shelter Belt 4m from Boundary

Scale: 1:300 (A3)

## Site Reference Plan

Not to scale



Notes.

- Legend
- Site
  - Property Boundary

For Resource Consent

**598 Parallel Road**  
Section Elevation Plans - Kiwifruit Shelter  
Figure 3



Scale: 1:300 at A3  
Date: 15/09/2022

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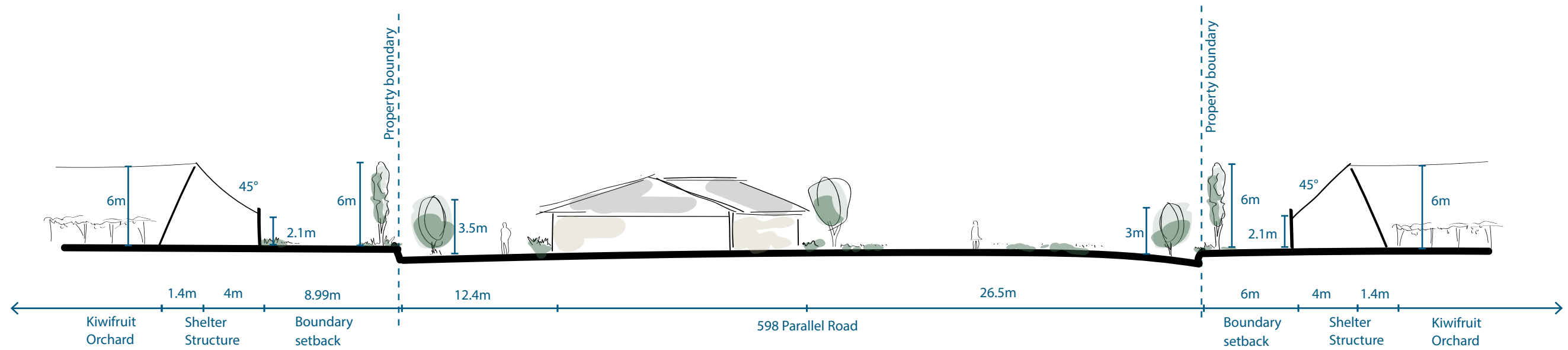
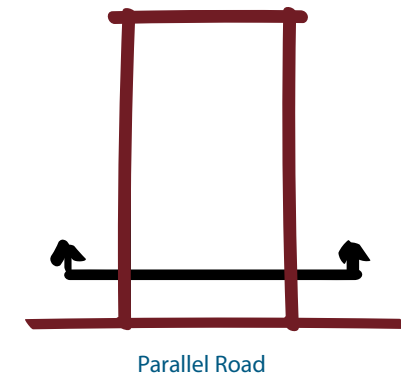
Urban & Environmental

# Southern Elevation Plan for 598 Parallel Road - Shelter Belt 1m from Boundary

Scale: 1:300 (A3)

## Site Reference Plan

Not to scale



Notes.

### Legend

- Site
- Property Boundary

For Resource Consent

### 598 Parallel Road Section Elevation Plans - Kiwifruit Shelter Figure 1

Scale: 1:300 at A3  
Date: 15/09/2022

Status: For Resource Consent  
Sheet: NA

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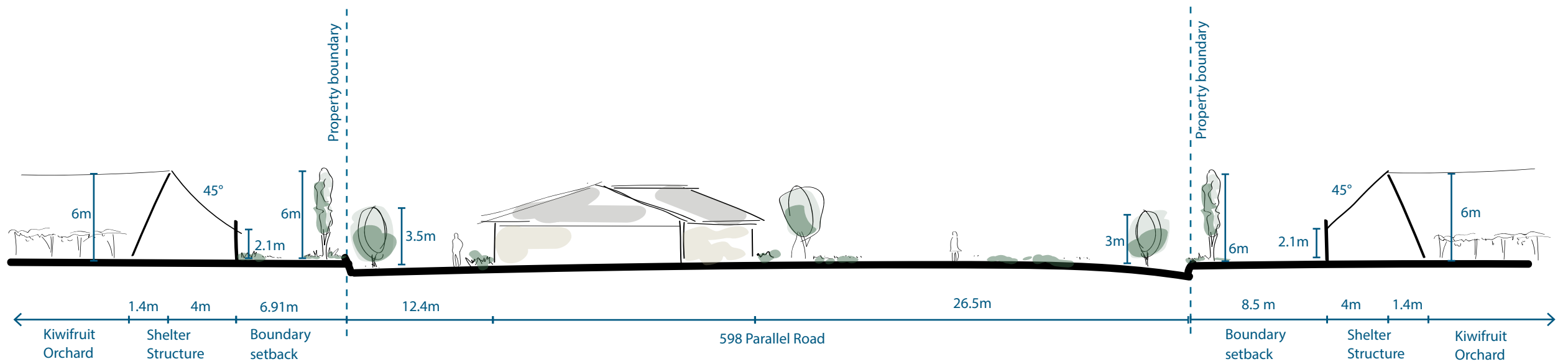
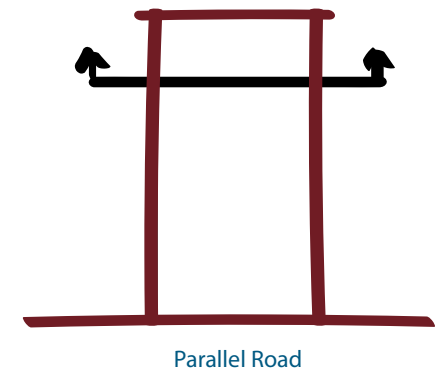
Urban & Environmental

# Southern Elevation Plan for 598 Parallel Road - Shelter Belt 1m from Boundary

Scale: 1:300 (A3)

## Site Reference Plan

Not to scale



Notes.

Legend

- Site
- Property Boundary

For Resource Consent

598 Parallel Road  
Section Elevation Plans - Kiwifruit Shelter  
Figure 2

Scale: 1:300 at A3  
Date: 15/09/2022

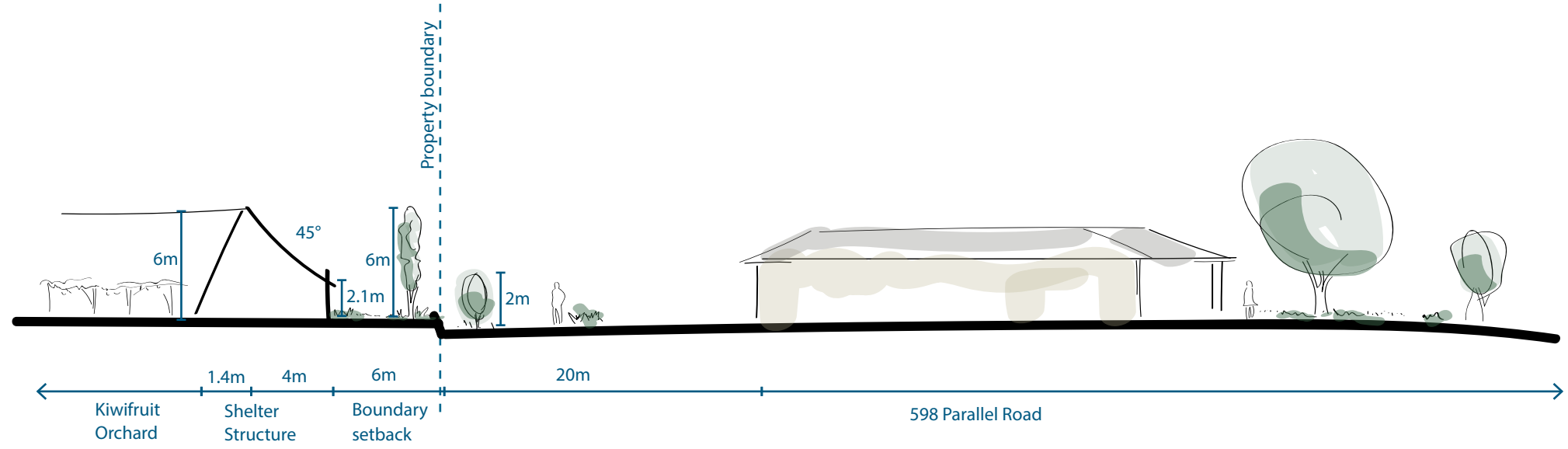
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**B&A**

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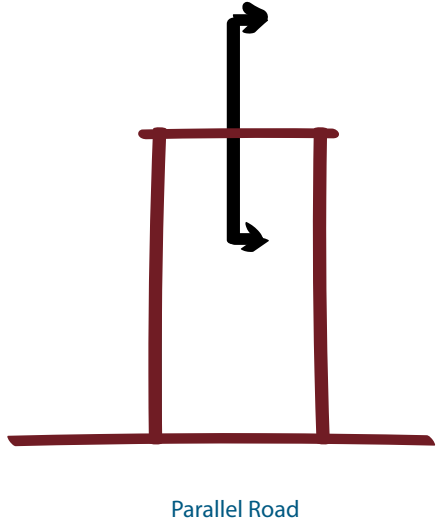
Western Elevation Plan for 598 Parallel Road - Shelter Belt 1m from Boundary

Scale: 1: 300 (A3)



Site Reference Plan

Not to scale



Notes.

- Legend
- Site
  - Property Boundary

For Resource Consent

598 Parallel Road  
Section Elevation Plans - Kiwifruit Shelter  
Figure 3

Scale: 1:300 at A3  
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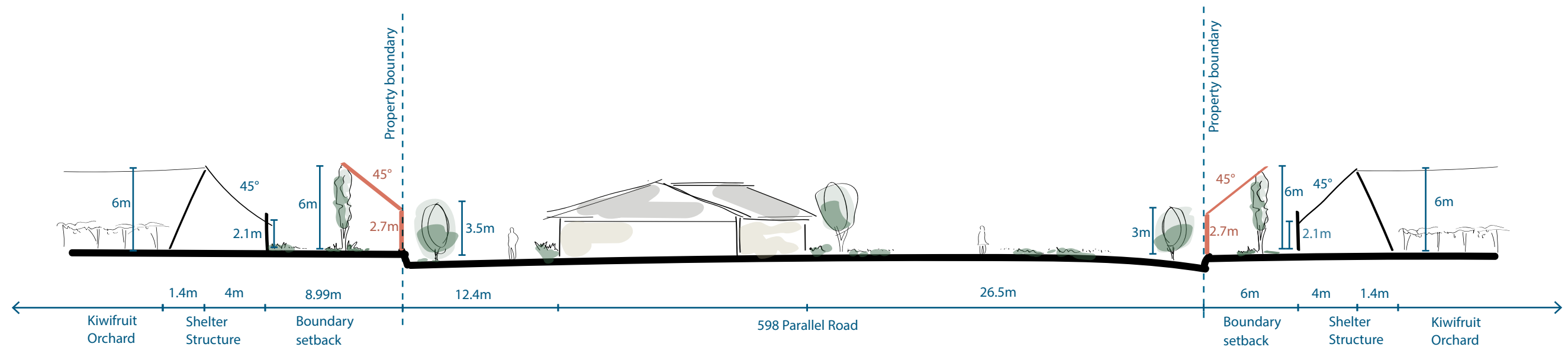
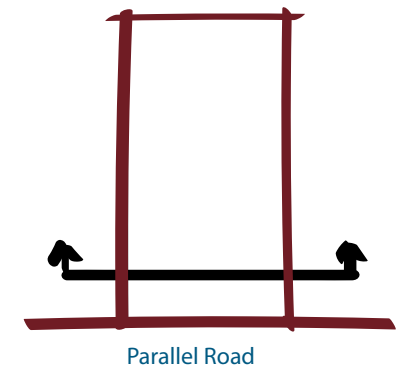


# Southern Elevation Plan for 598 Parallel Road - Shelter Belt 4m from Boundary with Height in Relation to Boundary

Scale: 1:300 (A3)

## Site Reference Plan

Not to scale



Notes.

- Legend
- Site
  - Property Boundary

For Resource Consent

**598 Parallel Road**  
Section Elevation Plans - Kiwifruit Shelter  
Figure 1



Scale: 1:300 at A3  
Date: 15/09/2022

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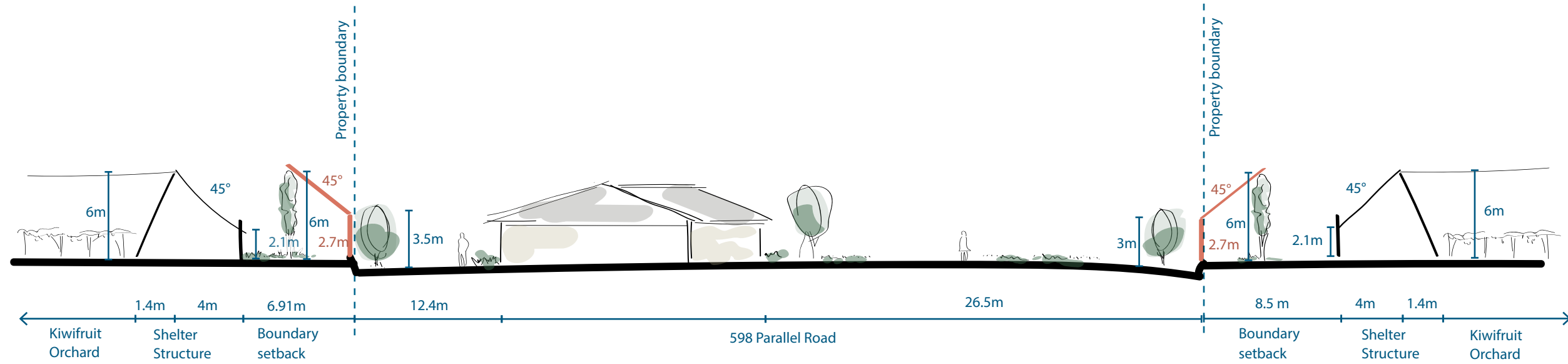
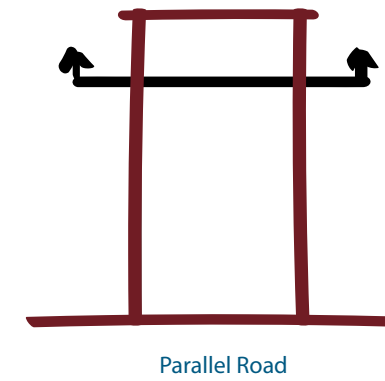
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# Southern Elevation Plan for 598 Parallel Road - Shelter Belt 4m from Boundary with Height in Relation to Boundary

Scale: 1: 300 (A3)

## Site Reference Plan

Not to scale



Notes.

Legend

- Site
- Property Boundary

**For Resource Consent**

**598 Parallel Road**  
Section Elevation Plans - Kiwifruit Shelter  
Figure 2

Scale: 1:300 at A3  
Date: 15/09/2022

Status: For Resource Consent  
Sheet: NA

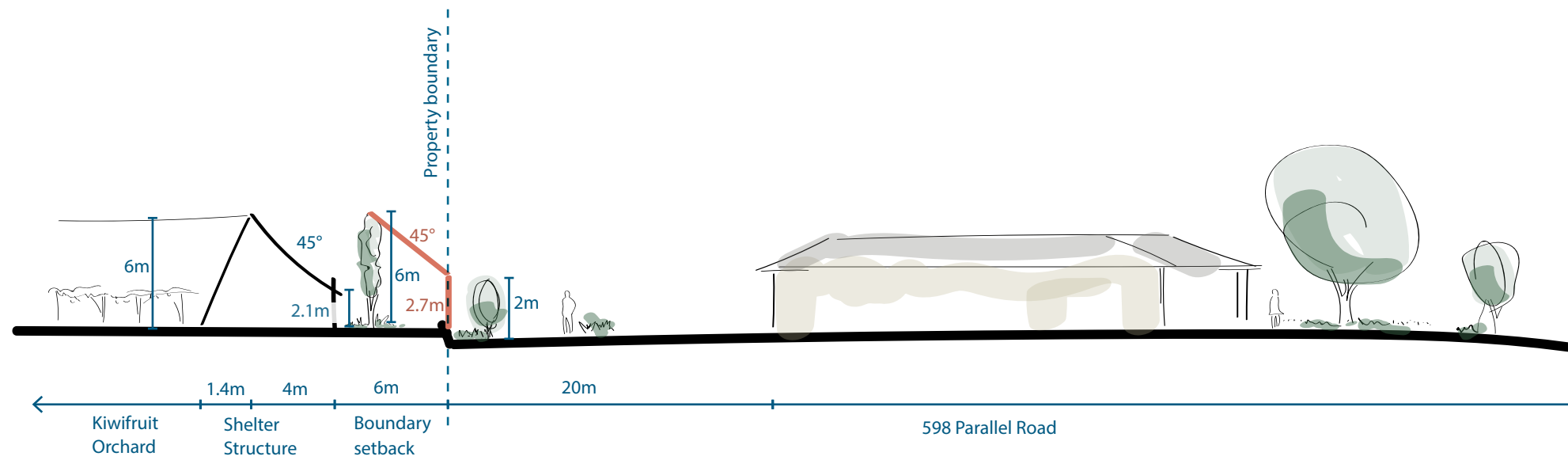
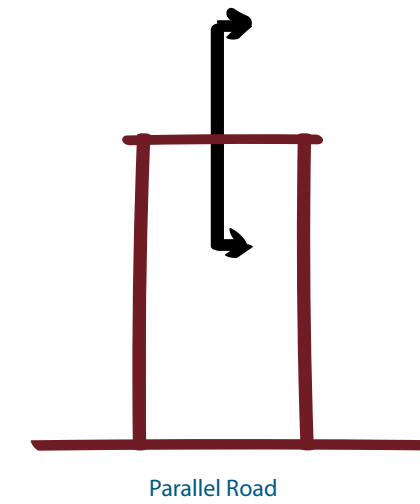
**B&A**  
Urban & Environmental

# Western Elevation Plan for 598 Parallel Road - Shelter Belt 4m from Boundary with Height in Relation to Boundary

Scale: 1: 300 (A3)

## Site Reference Plan

Not to scale



Notes.

- Legend
- Site
  - Property Boundary

For Resource Consent

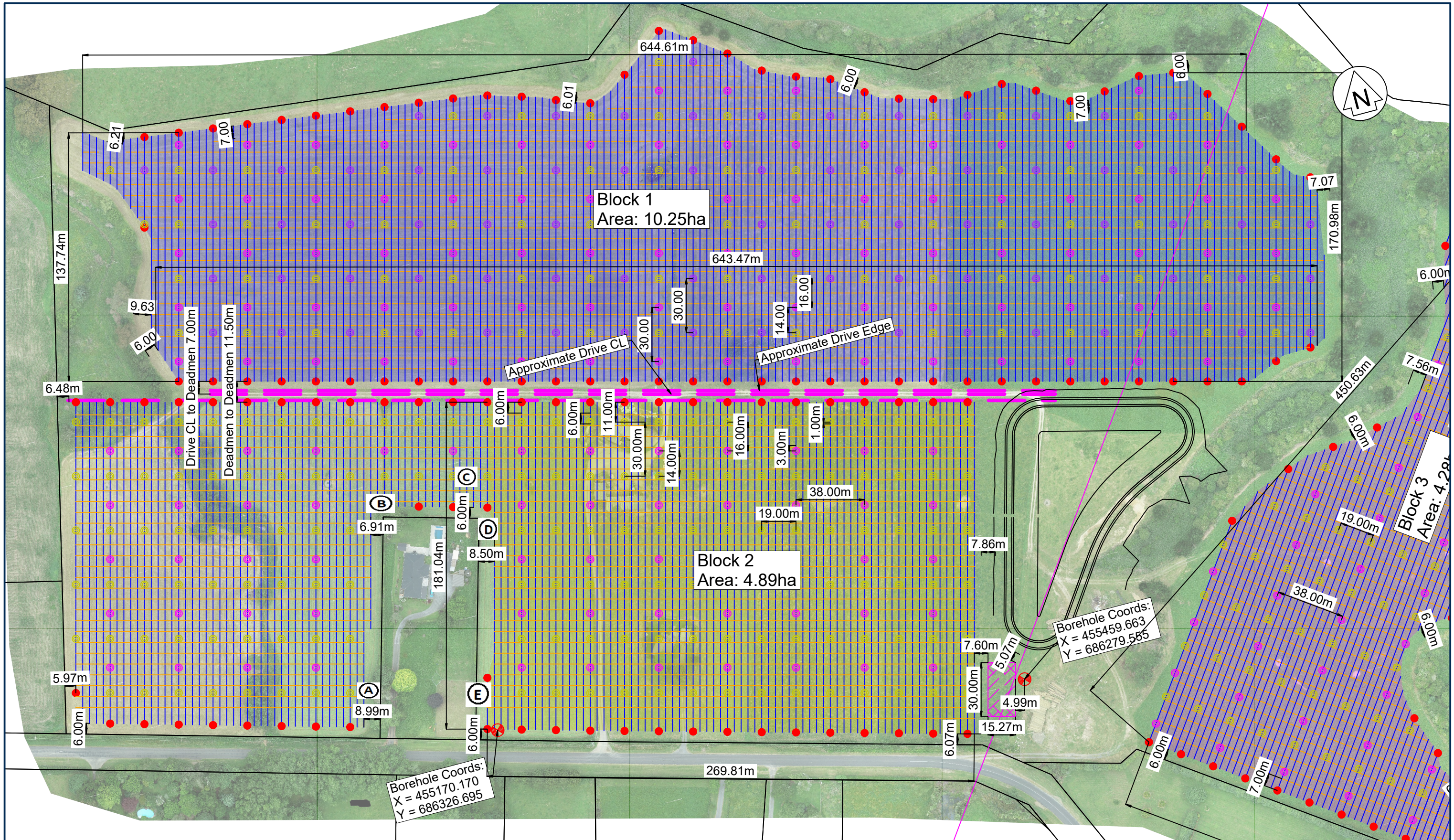
**598 Parallel Road**  
Section Elevation Plans - Kiwifruit Shelter  
Figure 3

Scale: 1:300 at A3  
Date: 15/09/2022

Status: For Resource Consent  
Sheet: NA







PLOT DATE: Plotted: 11/02/22 01:16



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DRAWN	CE	10.02.22
DESIGNED	CE	10.02.22
CHECKED	CE	10.02.22
APPROVED	DRAFT	DRAFT

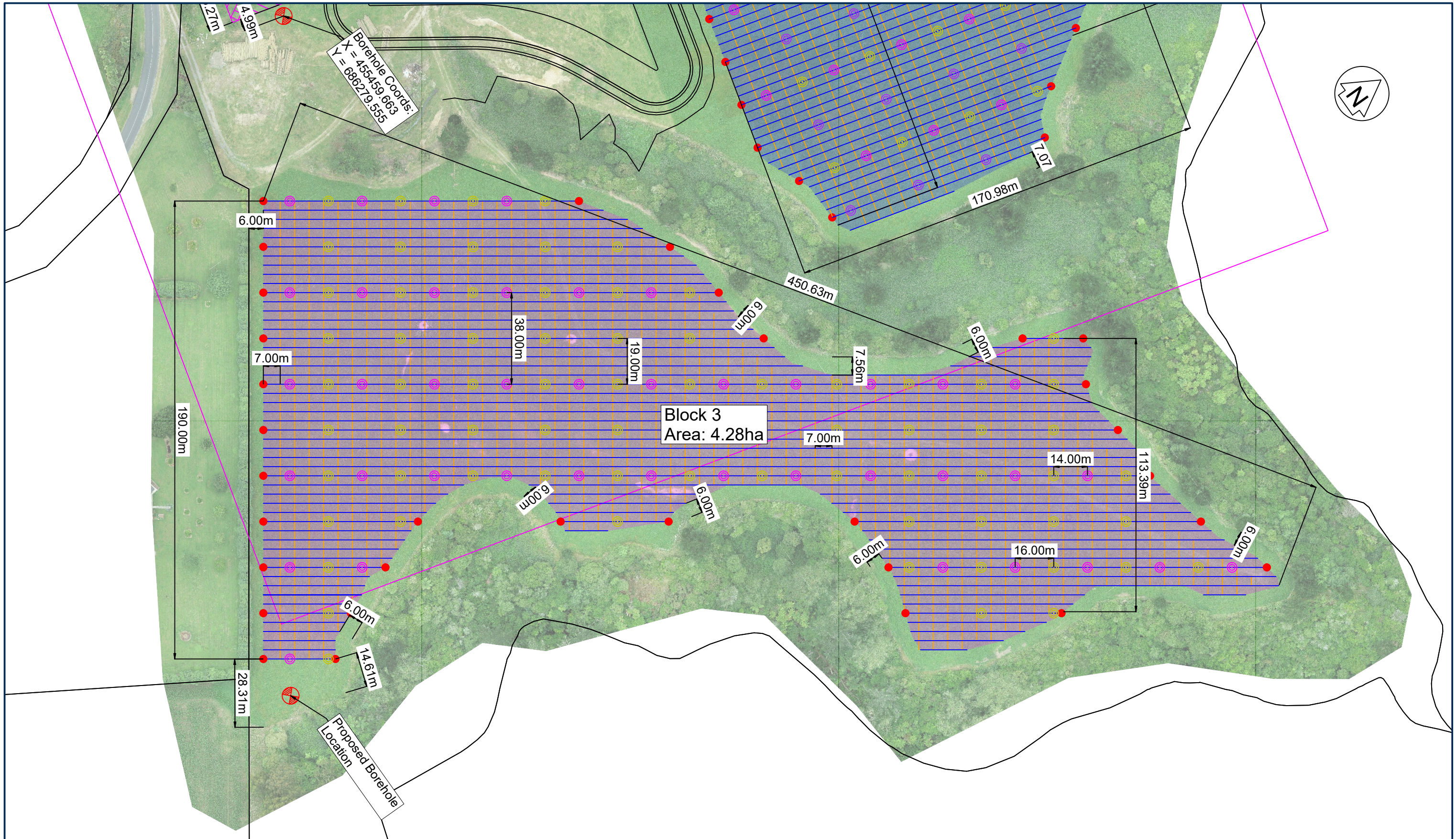
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CLIENT	Sabre Construction
TITLE	Block 1-3 Draft Design
BEARING AND COORDINATE DATUM	Mount Eden Circuit 2000
LEVELS ARE IN TERMS OF	Moturiki Vertical Datum 1953

SCALE	1:2000 (A3)
PROJECT NUMBER	0323
DRAWING NUMBER	0323-200-08
SHEET NUMBER	1 of 2
REVISION	0

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DRAWN	CE	10.02.22
DESIGNED	CE	10.02.22
CHECKED	CE	10.02.22
APPROVED	DRAFT	DRAFT

<b>PROJECT</b>	582 Parallel Road, Cambridge
<b>CLIENT</b>	Sabre Construction
<b>TITLE</b>	Block 1-3 Draft Design
<b>BEARING AND COORDINATE DATUM</b>	Mount Eden Circuit 2000
<b>LEVELS ARE IN TERMS OF</b>	Moturiki Vertical Datum 1953

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<b>DRAWING NUMBER</b>	0323-200-08
<b>SHEET NUMBER</b>	2 of 2
<b>REVISION</b>	0

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