

Before Queenstown Lakes District Council

In the matter of the Resource Management Act 1991

and **The Queenstown Lakes District Proposed District Plan –
Wakatipu Basin Hearing Stream 14**

**Memorandum of Legal Counsel on behalf of Underdown Trust (Nee: Griffin) and
Archibald**

Underdown Trust (Nee: Griffin) #2580

Archibald #2501

26 July 2018

Submitters' solicitor:

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**anderson
lloyd.**

May it please the Panel:

- 1 Further to my appearance at the hearing this morning (26.7.18) please find attached as an appendix to this Memorandum the replacement mark-up of Chapter 43 Millbrook. This shows the amendments to the provisions sought by Archibald and Underdown Trust and agreed with Millbrook Country Club (**MCC**) on the most up to date version of Chapter 43.
- 2 As noted during my appearance the only change compared to the version attached to my legal submissions dated 25.7.18 is in respect of Rule 43.5.7. Previously the reference to "19" had been deleted, it is now reinstated.
- 3 As noted in the previous version of Chapter 43 submitted, the Structure Plan (page 43-13) identifies new Residential Activity Area 19 for the Underdown Trust land and Residential Activity Area 20 for the Archibald land. MCC has requested that we note that the boundaries are subject to survey and the intention is that:
 - (a) the boundaries of Residential Activity Area 19 are to follow the cadastral boundaries for the Underdown Trust land (CT 594920 and 594921)
 - (b) the boundaries of Residential Activity Area 20 are to follow the cadastral boundaries for the Archibald land (CT 416330)
- 4 I note this Structure Plan is also included in Chapter 27 and will need to be updated in that Chapter if you are minded to recommend approval of the re-zoning.

Dated this 26th day of July 2018



Vanessa Robb
Counsel for the Underdown Trust and P Archibald

Appendix

43.1

Resort Zone Purpose

The purpose of the Millbrook Resort Zone is to provide for a visitor resort of high quality. The Zone provides for recreational activities (including golf), commercial, residential and visitor accommodation together with support facilities and services. The general amenity of the Zone is one of development enclaves located in the open rural countryside with well landscaped grounds. Well located and designed development is expected throughout the Zone. To achieve this, integrated planning in accordance with a Structure Plan is required.

The Millbrook Structure Plan includes several 'Activity Areas' which correspond with rules. The purpose of the various Activity Areas is summarised as follows:

- Village Activity Area (V) – to provide for residential and visitor accommodation activities and commercial activities associated with a resort
- Golf / Open Space Activity Area (G) – To provide for outdoor recreation activities and open space
- Residential Activity Area (R) – to provide for residential activities (different areas are individually numbered so as to correspond with rules)
- Recreational Facilities Activity Area (F) – to provide for recreational activities
- Landscape Protection Area (LP) – to manage sensitive landscape areas in a manner which prevents inappropriate development
- Landscape Protection (Malaghans) Activity Area - to maintain a mature tree lined edge to Malaghans Road
- Resort Services Area (S): To provide for service and maintenance activities which support the functioning of a resort
- Helicopter Landing and Takeoff Activity Area (H) – to enable the consideration of applications for helicopter landings and take offs from this location

43.1.3 The Structure Plan also includes the following overlays which apply in addition to the Activity Areas that cover the same areas. The purpose of these overlays is summarised as follows:

- Amenity Landscaping Overlay (L) – to identify those locations where measures will be undertaken to avoid adverse effects on landscape amenity.
- Height Restriction Overlay (HR) – used to specify height restrictions on Indicative Residential Sites 10 and 11.
- Earthworks Overlays (E1 and E2) - to identify where earthworks will be undertaken to mitigate effects on neighbouring properties, and prevent buildings in those areas.
- Gully Planting (GP) and Open Planting (OP) Overlays - to specify where landscape planting is required for ecological restoration purposes.
- Indicative Residential Sites - to identify locations of future buildings and specify height limits and recession plane controls.

43.2

Objectives and Policies

43.2.1 Objective – Visitor, residential and recreation activities developed in an integrated manner with particular regard for landscape, heritage, ecological, water and air quality values.

- Policies
- 43.2.1.1** Require development and activities to be located in accordance with a Structure Plan so as to promote orderly and integrated development and prevent the inappropriate development of sensitive parts of the site.
 - 43.2.1.2** Require the buildings and associated landscaping to have regard to landscape and heritage values.
 - 43.2.1.3** Protect valuable ecological remnants and promote the enhancement of ecological values where reasonably practical.
 - 43.2.1.4** Require the take-off and landing of aircraft to be controlled.
 - 43.2.1.5** Require an integrated landscape management plan for the South Dalglish part of the zone
 - 43.2.1.6** Reduce nutrient levels and other pollutants entering Mill Creek.

43.3

Other Provisions and Rules

43.3.1 District Wide

Attention is drawn to the following District Wide chapters. All provisions referred to are within Stage 1 of the Proposed District Plan, unless shown in italics.

1 Introduction	2 Definitions	3 Strategic Direction
4 Urban Development	5 Tangata Whenua	6 Landscapes
24 <i>Signs</i>	25 <i>Earthworks</i>	26 Historic Heritage
27 Subdivision	28 Natural Hazards	29 <i>Transport</i>
30 Energy and Utilities	31 <i>Hazardous Substances</i>	32 Protected Trees
33 Indigenous Vegetation	34 Wilding Exotic Trees	35 Temporary Activities and Relocated Buildings
36 Noise	37 Designations	Planning Maps

43.3.2 Explanatory Rules

43.3.2.1 Where an activity does not comply with a Standard listed in the Standards table, the activity status identified by the 'Non-Compliance Status' column shall apply. Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.

43.3.2.2 The following abbreviations are used within this Chapter.

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non Complying	PR	Prohibited

43.4 Rules - Activities

Activities – Millbrook		Activity Status
43.4.1	Any activity which complies with the standards for permitted activities and is not listed as a controlled, discretionary, non-complying or prohibited activity.	P
43.4.2	Residential Activity a. Resort Services Activity Area, except for residential activity ancillary to a permitted or approved activity b. Golf / Open Space Activity Area, except for residential activity ancillary to a permitted or approved activity c. Recreational Facilities Activity Areas, except for residential activity ancillary to a permitted or approved activity	D
43.4.3	Visitor Accommodation outside of the Village Activity Area	D
43.4.4	Golf Courses a. In the Landscape Protection Activity Area b. In the Landscape Protection (Malaghans) Activity Area	NC
43.4.5	Commercial and Community Activities , except for: a. Commercial recreation activities b. Offices and administration activities directly associated with the management and development of Millbrook or ancillary to other permitted or approved activities located within the Resort Services and Village Activity Areas; or c. Bars, restaurants, theatres, conference, cultural and community facilities in the Village Activity Area; or d. Retail activities which comply with rule 43.5.10 (Retail Sales)	D

	Activities – Millbrook	Activity Status
43.4.6	<p>Commercial Recreation Activities, except for:</p> <ul style="list-style-type: none"> a. Golf courses; or b. Within the Recreation Facilities Activity Area or Village Activity Area 	D
43.4.7	<p>Licensed Premises in the Village Activity Area</p> <p>Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale and supply of alcohol: to any person who is residing (permanently or temporarily) on the premises; or to any person who is present on the premises for the purpose of dining up until 12am.</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. The scale of the activity b. Car parking and traffic generation c. Effects on amenity (including that of adjoining residential zones and public reserves) d. The configuration of activities within the building and site (e.g. outdoor seating, entrances) e. Noise issues and hours of operation 	C
43.4.8	<p>Licensed Premises Outside Village Activity Area</p> <p>Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale and supply of alcohol:</p> <ul style="list-style-type: none"> a. To any person who is residing (permanently or temporarily) on the premises b. To any person who is present on the premises for the purpose of dining up until 12am 	NC
43.4.9	<p>Farm Buildings</p> <p>All Activity Areas except for the Landscape Protection (Malaghans) Activity Area.</p> <p>Control is reserved to effects on heritage and landscape values.</p>	C
43.4.10	<p>Buildings</p> <ul style="list-style-type: none"> a. Village Activity Area b. R1 to R13 <u>and R19</u> of the Residential Activity Area c. The Recreational Facilities Activity Area <p>Control is reserved to:</p> <ul style="list-style-type: none"> i. The appearance of the building ii. Effects on visual and landscape amenity of the area including coherence with the surrounding buildings 	C

Activities – Millbrook		Activity Status
43.4.11	<p>Buildings</p> <p>a. R14, R15, and R16 <u>and R20</u> of the Residential Activity Area Discretion is restricted to the following:</p> <ul style="list-style-type: none"> i. The appearance of the building ii. Associated landscaping controls iii. The effects on visual and landscape amenity values of the area including coherence with the surrounding buildings 	RD
43.4.12	<p>Buildings</p> <p>a. R17 and R18 of the Residential Activity Area Discretion is restricted to the following:</p> <ul style="list-style-type: none"> i. The appearance of the building ii. Effects on visual and landscape amenity of the area including coherence with the surrounding buildings and heritage values 	RD
43.4.13	<p>Buildings</p> <p>a. Golf Course and Open Space Activity Area, except for utilities, service and accessory buildings up to 40m² in gross floor area</p>	D
43.4.14	<p>Buildings in the Landscape Protection and Landscape Protection (Malaghans) Activity Area, except for:</p> <ul style="list-style-type: none"> a. One farm building relocated from within the zone and restored the Landscape Protection (Malaghans) Activity Area (refer Rule 43.4.9) b. Utility buildings up to 25m² in gross floor area 	NC
43.4.15	Buildings in the E1 and E2 Earth Moulding Overlay Areas	PR

	Activities – Millbrook	Activity Status
43.4.16	<p>Amenity Landscaping Works</p> <p>Landscaping works within the Gully Planting Overlay, the Open Planting Overlay the Amenity Landscaping Overlay, the Earth Mounding Overlay, the Landscape Protection (Malaghans) Activity Area and the Landscape Protection Activity Area.</p> <p>Discretion is restricted to the following:</p> <p>a. An integrated landscape management plan that incorporates:</p> <ul style="list-style-type: none"> i. Landscape designs and planting plans that indicate how the Gully Planting and Open Planting Overlays will be planted and maintained with at least 90 % of plants listed in Appendix 1 ii. Practical and reasonable measures within the Amenity Landscaping overlay to avoid or mitigate adverse effects on the amenity values enjoyed within properties beyond the Zone boundary, utilising the species lists for the Gully Planting and Open Planting Overlays in Appendix 1 iii. Removal of all Pinus, Pseudotsuga and Cystisus from the E1, E2, Open Planting, Gully Planting and Amenity Landscaping overlay areas iv. Earthworks to be undertaken in E1 for the purpose of visually screening all residential properties within the R14 and R15 Residential Activity Areas from approved Residential Building Platforms on Lot 1 DP 475822 and Lot 2 DP 475822 v. Earthworks to be undertaken in E2 for the purpose of mitigating views of golfing activities as viewed from approved Residential Building Platforms on Lot 1 DP 475822 and Lot 2 DP 475822 vi. Details on and commitments to prompt establishment, density of planting, replacement of dead and diseased plants, restrictions on removal of other vegetation, irrigation, fertiliser, composting, rabbit control and use of gender dimorphic stock sourced from local seeds where practical vii. The measures that shall be employed to maintain or enhance the quality of water within MillCreek viii. Landscape designs and planting plans for the Landscape Protection (Malaghans) Activity Area that ensures a predominantly screened effect when viewed from the road 	RD
43.4.17	<p>Helicopter Landing and Take Off</p> <p>a. Helicopter Landing and Take-off Activity Area</p> <p>Discretion is restricted to the following:</p> <ul style="list-style-type: none"> i. Safety ii. Effects on amenity values 	RD
43.4.18	<p>Airports, except for:</p> <ul style="list-style-type: none"> a. Helicopter landings and take-offs approved under rule 43.4.17 b. The use of land and water for any emergency landings, rescues and fire-fighting. 	NC
43.4.19	<p>Service Activities, except where:</p> <ul style="list-style-type: none"> a. Directly related to other approved or permitted activities within the Zone and located within the Resort Services Activity Area; or b. Located within the Golf / Open Space Activity Area and which have a gross floor area of no more than 40m² 	NC

Activities – Millbrook		Activity Status
43.4.20	Industrial Activities; except for: a. Activities directly related to other approved or permitted activities within the Zone b. Activities located within the Resort Services Activity Area	NC
43.4.21	Mining	NC
43.4.20	Panelbeating, spray painting, motor vehicle repair or dismantling except for activities directly related to other approved or permitted activities within the Zone and located within the Resort Services Activity Area.	NC
43.4.21	Forestry Activities	NC
43.4.22	Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking, fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956.	PR
43.4.23	Factory Farming	PR

43.5 Rules - Standards

Rules – Millbrook		Non-compliance status
43.5.1	Structure Plan Development shall be undertaken in general accordance with the Structure Plan.	D
43.5.2	Setbacks a. No building or structure shall be located closer than 6m to the Zone boundary b. No building shall be located closer than 10m from Malaghans Road or the Arrowtown Lake Hayes Road c. On Residential Activity Sites 14 and 19 buildings shall be located at least 7m from the Residential Activity Area boundary	RD

	Rules – Millbrook	Non-compliance status
43.5.3	<p>Building Colours and Materials in Residential Activity Areas R14, R15, R16 and R17</p> <p>a. Roof materials and colours will be limited to:</p> <ul style="list-style-type: none"> i. Dark grey corrugated iron ii. Dark grey tray profile iii. Slate iv. Copper (left to weather) v. Gutters and downpipes to match the roof colour <p>b. Claddings will be limited to:</p> <ul style="list-style-type: none"> i. Millbrook quarry stone ii. Painted or stained weatherboards iii. Steel sheeting iv. Textured concrete v. Painted plaster 	RD
43.5.4	<p>Residential Density</p> <p>The maximum number of residential units in the Millbrook Resort Zone shall be limited to 450 <u>458</u>.</p>	NC
43.5.5	<p>Residential Density</p> <p>a. In the following parts of the Residential Activity Area the total number of residential units shall not exceed:</p> <ul style="list-style-type: none"> i. R13 10 residential units ii. R14 6 residential units iii. R15 15 residential units iv. R16 6 residential units v. R17 7 residential units vi. R18 1 residential units vii. <u>R19 4 residential units</u> viii. <u>R20 4 residential units</u> <p>b. In addition there shall be no more than one residential unit per Indicative Residential Site</p>	NC
43.5.6	<p>Building Height - Residential Activity Areas R1 – R13, <u>R19 and R20</u></p> <p>The maximum height of buildings shall be:</p> <ul style="list-style-type: none"> a. Visitor accommodation, clubhouses, conference and theatre facilities restaurants, retail and residential buildings - 8m b. Filming towers - 12m c. All other buildings and structures - 4m 	NC

	Rules – Millbrook	Non-compliance status																		
<p>43.5.7</p>	<p>Building Height – Residential Activity Areas R14, R15, R16 and R17</p> <p>a. In the following parts of the Residential Activity Area the following maximum building heights shall apply:</p> <ul style="list-style-type: none"> i. R14 6.5m ii. R15 6.5m except within those parts subject to the Height Restriction Overlay where the height limit shall be 5.5m iii. R16 6.5m iv. R17 5.5m <p>b. No part of a building shall exceed the following heights above sea level (excluding chimneys which may exceed the height control by 2.0m with a maximum horizontal dimension of 1.5m):</p> <table border="1" data-bbox="517 555 1872 820"> <thead> <tr> <th>Indicative Residential Activity Site as shown on the Structure Plan</th> <th>Datum (masl) using the “Mt Nic 2000 & MSL” datum</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>481.8</td> </tr> <tr> <td>3</td> <td>478.8</td> </tr> <tr> <td>6-13</td> <td>475.8</td> </tr> <tr> <td>14</td> <td>476.8</td> </tr> <tr> <td>19</td> <td>472.8</td> </tr> </tbody> </table> <p>c. No part of a building on Indicative Residential Activity Areas 1 and 3 shall protrude through a recession plane running due south at an angle of 30 degrees commencing at the boundary of the indicative residential sites noted below and as measured from the following heights above sea level:</p> <table border="1" data-bbox="517 938 1872 1086"> <thead> <tr> <th>Indicative Residential Activity Area as shown on the Structure Plan</th> <th>Datum (masl) using the “Mt Nic 2000 & MSL” datum</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>478</td> </tr> <tr> <td>3</td> <td>475</td> </tr> </tbody> </table>	Indicative Residential Activity Site as shown on the Structure Plan	Datum (masl) using the “Mt Nic 2000 & MSL” datum	1	481.8	3	478.8	6-13	475.8	14	476.8	19	472.8	Indicative Residential Activity Area as shown on the Structure Plan	Datum (masl) using the “Mt Nic 2000 & MSL” datum	1	478	3	475	<p>NC</p>
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1	478																			
3	475																			
<p>43.5.8</p>	<p>Glare</p> <p>a. All fixed lighting shall be directed away from adjacent roads and properties</p> <p>b. Any building or fence constructed or clad in metal, or material with reflective surfaces shall be painted or otherwise coated with a non-reflective finish</p> <p>c. No activity shall result in a greater than 3.0 lux spill, horizontal and vertical, of light onto any property located outside of the Zone, measured at any point inside the boundary of the adjoining property</p> <p>External lighting shall be limited to down lighting only, not more than 1.5 metres above the finished floor level of the dwelling with the light source shielded from horizontal view.</p>	<p>NC</p>																		

	Rules – Millbrook	Non-compliance status
43.5.9	<p>Nature and Scale of Activities</p> <p>a. Except within the Village and Resort Services Activity Areas:</p> <ul style="list-style-type: none"> i. No goods, materials or equipment shall be stored outside a building, except for vehicles associated with the activity parked on the site overnight ii. All manufacturing, altering, repairing, dismantling or processing of any materials, goods or articles shall be carried out within a building 	NC
43.5.10	<p>Retail Sales</p> <p>No goods or services shall be displayed, sold or offered for sale from a site except:</p> <ul style="list-style-type: none"> a. goods grown, reared or produced on the site b. goods and services associated with, and ancillary to the recreation activities taking place (within buildings associated with such activities) within the Recreation Facilities Activity Area; or c. Within the Village Activity Area 	NC
43.5.11	<p>Maximum Total Site Coverage</p> <p>The maximum site coverage shall not exceed 5% of the total area of the Zone. For the purposes of this Rule, site coverage includes all buildings, accessory, utility and service buildings but excludes weirs, filming towers, bridges and roads and parking areas.</p>	NC
43.5.12	<p>Golf Course Development</p> <p>Development of residential units in the South Dagleish part of the zone or more than 27 holes of golf without prior certification by the Council of the implemented plans for the Gully Planting Overlay, Open Planting Overlay and Amenity Landscaping areas (refer Rule 43.4.16).</p>	NC
43.5.13	<p>Helicopter Landing Areas</p> <p>More than one permanent helicopter landing area within the Zone.</p>	NC

APPENDIX 1

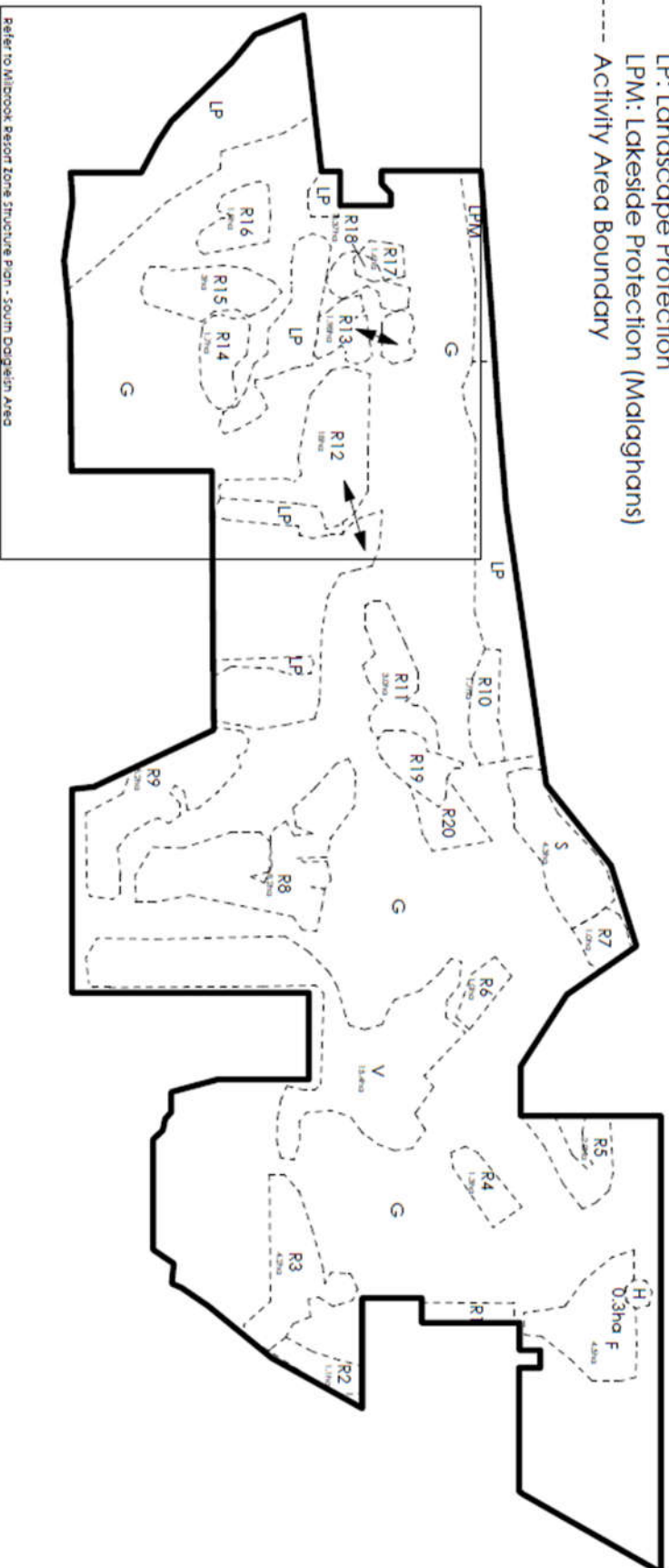
Overlay Area	Plant List
Gully Planting Overlay	Carex secta Hebe salicifolia Aristotelia serrata Coprosma lucida Coprosma propingua Fluscopora solandri var. cliffortioides Olearia lineata Cortaderia richardii Phormium tenax
Opening Planting Overlay	Coprosma propingua Leonohebe cupressoides Olearia odorata Melicyrus alpin us Sophora microphylla Olearia avicenniifolia

43.6

Non-Notification of Applications

- 43.6.1 Except as provided for by the Act, all applications for controlled activities and restricted discretionary activities will be considered without public notification or the need to obtain the written approval of or serve notice on affected persons.

- Structure Plan Legend
- R: Residential
 - V: Village
 - F: Recreational Facilities
 - S: Resort Services
 - G: Golf Course and Open Space
 - H: Helipad
 - LP: Landscape Protection
 - LPM: Lakeside Protection (Malaghnans)
 - Activity Area Boundary



Refer to Millbrook Resort Zone Structure Plan - South Design Area

