

Before the Hearings Panel
For the Proposed Queenstown Lakes District Plan

Under the Resource Management Act 1991 (**RMA**)

In the matter of of a variation to Chapter 21 Rural Zone of the Proposed Queenstown Lakes District Plan, to introduce Priority Area Landscape Schedules 21.22 and 21.23

Statement of Evidence of Richard Michael Kemp

Relating To: Submission #186 – Relating to Landscape Schedules

11 September 2023

1. PROFESSIONAL DETAILS

- 1.1 My full name is Richard Michael Kemp.
- 1.2 I hold a Bachelor of Planning (Honours) from the University of Auckland and have ten years of experience working as a Planner, including four years working for the Queenstown Lakes District Council (including formerly, Lakes Environmental) as a Planner within the Resource Consent Team; and also a secondment to the QLDC Policy Team working on Stage 1 of the Proposed District Plan.
- 1.3 Since 2015 I have worked in the private sector as a Planning Consultant under the business name Pragmatic Planning; undertaking work for private clients mostly in the Queenstown Lakes District and Auckland. The scope of my experience in the private sector includes the preparation of resource consent applications, the processing of resource consent applications on behalf of Auckland Council (both under the RMA 1991 and HASHAA 2013), various policy-related work for the QLDC, and providing general planning advice to the private sector.

2. INTRODUCTION

- 2.1 This evidence is on the QLDC's proposed variation to the PDP to introduce Priority Area Landscape Schedules 21.22 and 21.23 (collectively, the PA schedules). If adopted by the Council, the PA schedules would be included in Chapter 21 – Rural Zone.
- 2.2 I prepared and submitted a submission (#186 - Appendix 1) on the PA schedules and on the Spatial Plan 2.0 – “Call for Sites” (Appendix 2). My evidence elaborates on the submission (#186) and responds to the Planning (S42A report) evidence of Ruth Evans for the Council and the Landscape evidence in Chief (EIC) prepared by Ms Bridget Gilbert. My evidence is primarily in regard to the Landscape schedule for the Western Whakatipu Basin ONL priority area, specifically in regard to proposed amendments to the schedule sought, but also on the wider methodology (study methods), application thereof and the capacity ratings.
- 2.3 I have adopted, referred to and relied on the evidence of the following expert witness:
 - i. Mr Stephen Russell Skelton, Landscape Architect (Appendix 3).
- 2.4 In preparing this evidence I have reviewed the following reports and statements:
 - a) Landscape Schedules Section 32 Report;

- b) The PDP¹, and in particular: Chapter 1 Introduction, Chapter 2 Definitions, Chapter 3 Strategic Directions, Chapter 4 Urban Development, Chapter 6 Landscapes, Chapter 21 Rural, Chapter 7 Lower Density Suburban Residential, and Chapter 30 Energy and Utilities, as updated by Environment Court decisions and consent orders; Relevant parts of the Partially Operative Otago Regional Policy Statement (**POORPS**) and the Proposed Otago Regional Policy Statement (**PORPS**);
- c) Relevant parts of the National Policy Statement on Urban Development 2020 (**NPS-UD**);
- d) Joint statement arising from expert conferencing for Topic 2 – Rural Landscapes; titled “Landscape methodology and subtopics 2, 3, 5, 6, 7, 8 and 11”, dated 29 January 2019;
- e) Joint statement arising from expert planner and landscape conferencing for Topic 2 – Rural Landscapes; which related to “Strategic policies and priority area expert conferencing”, dated 29 October 2020;
- f) Memorandum of Counsel on behalf of Queenstown Lakes District Council Addressing List of Proposed Priority Areas and Related Directions, Topic 2: Rural Landscapes 10 July 2020;
- g) The following Environment Court Consent order:
 - i. Topic 1 subtopic 4 (RSI), Topic 2 subtopic 11 (RSI & Landscapes) and Topic 17 (Energy and Utilities) Consent Order (April 2023).
- h) The following Environment Court Decisions:
 - ii. Interim decision Topic 2: Rural Landscapes, Decision 2.2 - Sub-topics 2 - 11 Decision No. [2019] NZEnvC 205;
 - iii. Interim decision Topic 2: Rural Landscapes, Decision 2.3 - Sub-topic 1 remaining appeals Decision No. [2019] NZEnvC 206;
 - iv. Interim decision Topic 2: Rural Landscapes – Priority Areas Decision 2.5 Decision No. [2020] NZEnvC 158;
 - v. Interim decision Topic 2: Rural Landscapes Chapters 3 and 6 Decision 2.7 Decision No. [2021] NZEnvC 60;

¹ <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan>

- vi. Interim decision Topic 2: Rural Landscapes Sub-topic 1: mapping and s293 directions Decision 2.8 Decision No. [2021] NZEnvC 61;
 - vii. Interim decision Topic 2: Rural Landscapes Provisions for Chapters 3 and 6 and s293 directions Decision 2.9 Decision No. [2021] NZEnvC 124;
 - viii. Interim decision Topic 2: Rural Landscapes, Chapters 3 and 6, Decision 2.12 Decision No. [2021] NZEnvC 155;
 - ix. Interim decision Topic 2: Rural Landscapes, Section 293 determination on the Clutha River/Mata Au ONF corridor, Decision 2.14 Decision No. [2021] NZEnvC 198;
- i) Te Tangi a te Manu Aotearoa New Zealand Landscape Assessment Guidelines;
 - j) The statement of Evidence in Chief (EIC) prepared by Ms Bridget Gilbert in relation to this proposed variation dated 11 August 2023 including appendices; and
 - k) The statement of EIC prepared by Mr Jeremy Gilbert in relation to this proposed variation dated 11 August 2023 including appendices;
 - l) The Council's s42a report by Ruth Evans, dated 11 August 2023, including appendices.
- 2.5 I am generally familiar with the Priority Areas (**PA**s), having undertaken work in the District since 2011. In June this year I also undertook site visits, specifically around the Western Whakatipu Basin ONL priority area and the lower slopes of the PA, adjacent to and north of the urban area of Fernhill.

3. CODE OF CONDUCT

- 3.1 I have read the Code for Conduct for Expert Witnesses in the Environment Court Practice Note 2023. This evidence has been prepared in accordance with that Code and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

4. BACKGROUND

- 4.1 Submission #186 was made on the PA schedules, and includes specific reference to Lot 1 DP 20613 as held in Record of Title 838157 in upper Fernhill. At the time

of the submission period in August 2022, the future ownership of the land was uncertain. I therefore made submission in my name.

- 4.2 Passion Development Limited is the current owner of Lot 1 DP 20613 as held in Record of Title 838157 (a 56.6-hectare site). Significant landscape capacity has been identified for urban development on the lower portion of their large site (140+ residential units within 46 lots at a 600m² net lot area²) as will be described. More detail on the site is included in Appendix 2.
- 4.3 Unfortunately, the owner was unaware of the Stage 1 District Plan review process where they could have submitted to re-zone the land to reflect the capacity for Urban expansion and to re-align the Urban Growth Boundary (**UGB**) and the Outstanding Natural Landscape (**ONL**) Line to reflect the landscape's ability to absorb Urban Development.
- 4.4 Despite the capacity, the whole site is therefore still classified as ONL and the ONL line currently does not reflect the landscape's ability to absorb Urban Development/expansion as it simply follows the UGB, and not any landscape features or vegetation patterns.
- 4.5 It is noted that during Stage 1 and Stage 3 of the District Plan review and subsequent appeal processes, the ONL line, zoning and UGB were adjusted in many places across the district to more accurately reflect the landscapes' capacity/ability to absorb development - and so in many cases the ONL line now follows landscape features and vegetation patterns instead of just simply following the UGB.
- 4.6 Mr Skelton has undertaken a detailed landscape assessment for the site and has identified significant capacity for Urban expansion that is not currently reflected in the proposed Western Whakatipu Basin ONL priority area schedule. This capacity is on the lower slopes of the PA, adjacent to and north of the urban area of Fernhill.
- 4.7 This evidence makes the case, including on scope matters, for the Decision Makers to either recognise the capacities within the schedule for the Whakatipu Basin ONL priority area as proposed by Mr Skelton (specifically, capacity for urban expansion, visitor accommodation and tourism related activities); or (preferred option) to rezone the relevant land to Lower Density Suburban Residential (**LDSR**) and adjust the UGB, ONL line, and newly mapped Priority area.

² At a plan enabled density of 1 residential unit per 300m² net site area

5. SATUTORY CONSIDERATIONS

- 5.1 The Resource Management Act 1991 (RMA) sets out the statutory framework for considering submissions on the variation. Ms Evans sets these out in her S42A report in section 5 and she mentions in paragraph 5.2 that Sections 74 and 75 of the RMA require (c) that the district plan is prepared in accordance with any national policy statement (**NPS**); (e) that the district plan must give effect to any national policy statement; (f) that the district plan must give effect to any regional policy statement.
- 5.2 I consider that the National Policy Statement on Urban Development 2020 (**NPS-UD**) is also a relevant NPS to consider for this plan change. The NPS-UD does not just apply to existing Urban Environments, but also to planning decisions that affect an urban environment. Section 1.3 of the NPS-UD states (emphasis added in yellow):

1.3 Application

- (1) This National Policy Statement applies to:
- (a) all local authorities that have all or part of an urban environment within their district or region (ie, tier 1, 2 and 3 local authorities); and
 - (b) **planning decisions by any local authority that affect an urban environment.**

- 5.3 This oversight is understandable, given the plan change is largely concerned with the Rural areas - however it directly gives effect to Chapter 3 (SO and SP) and is tasked to “give guidance/assessment matters” on capacities for subdivision, use and development, specifically Urban Expansion, which is covered further below.
- 5.4 Given the implication of this plan change for future urban areas (Urban Expansion) and this planning decision that is to be made on it, it is relevant to consider the following objective and policies of the NPS-UD (emphasis added in yellow):

Objective 2: **Planning decisions** improve housing affordability by **supporting competitive land and development markets.**

Objective 6: Local authority decisions on urban development that affect urban environments are:

- (a) integrated with infrastructure planning and funding decisions; and
- (b) strategic over the medium term and long term; and
- (c) responsive, particularly in relation to proposals that would supply significant development capacity.

Objective 7: Local authorities have robust and frequently updated information about their urban environments and use it to inform planning decisions.

Objective 8: New Zealand's urban environments:

- (a) support reductions in greenhouse gas emissions; and
- (b) are resilient to the current and future effects of climate change.

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

- (a) have or enable a variety of homes that:
 - (i) meet the needs, in terms of type, price, and location, of different households; and
 - (ii) enable Māori to express their cultural traditions and norms; and
- (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and
- (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and
- (e) support reductions in greenhouse gas emissions; and
- (f) are resilient to the likely current and future effects of climate change.

Policy 8: Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

- (a) unanticipated by RMA planning documents; or
- (b) out-of-sequence with planned land release.

5.5 Ms Evans also highlights that both the The Partially Operative Otago Regional Policy Statement 2019 (POORPS); and The Proposed Otago Regional Policy Statement 2021 (PORPS) are relevant. In this regard, it is relevant to highlight that section UFD-P8(2) of the PORPS seeks to avoid establishing rural lifestyle or rural residential development where it would foreclose or reduce efficient realisation of land with urban development potential where it is identified for that purpose.

5.6 This is relevant within the context of the capacity rating in Ms Gilbert's and Ms Evans' evidence given to rural living, which is in stark contrast with the firm line

drawn for Urban Expansion, giving it a no capacity rating (more on this below), despite the policy direction above.

6. NO CAPACITY RATING FOR URBAN EXPANSION

- 6.1 Both Ms Gilbert's and Ms Evans' evidence covers concerns raised by Submitters, who have cited a range of issues with the application of a no landscape capacity rating in the PA Schedules.
- 6.2 In acknowledging these concerns, Ms Gilbert, has subsequently undertaken more work and has introduced an alternative landscape classification capacity: "*limited to no landscape capacity*". She has also updated capacity ratings for activities accordingly. However, in contrast with this approach a capacity rating for Urban Development of 'no capacity' is maintained and Ms Gilbert sets out the following as the reason:

(a) Urban development attracts a rating of 'no landscape capacity' in all of the PA ONF/L Schedules as urban development will materially compromise the ONF/L so that it will fail to qualify as a RMA s6(b) landscape in terms of 'naturalness' (see [Long Bay](#)⁴⁶ and [West Wind](#)⁴⁷).

- 6.3 Ms Gilbert also mentions in the submission summary (landscape comments – reasons for not accepting submission points) document that no technical evidence is provided in support of these submission points. Mr Skelton has, however, now provided technical evidence and recommendations in these regards. Mr Skelton also considers that the use of the word 'no' is too determinative for any capacity rating in the face of an unknown future. I agree with and adopt Mr Skelton's reasoning and consider that the schedule needs to be updated as suggested by Mr Skelton.
- 6.4 The reasoning of Ms Gilbert above for using the 'no capacity rating' for Urban Expansion is that any Urban Development would materially compromise the ONL so that it will fail to qualify as an RMA S6(b) landscape in terms of naturalness in accordance with Long Bay³ and West Wind⁴.

³ [2008] NZEnvC 78: [135].

⁴ [2007] Decision W31/07: [157].

- 6.5 However Mr Skelton's assessment demonstrates that this is not the case in this situation. This assessment is supported by and demonstrated in his illustrations within the Spatial Plan submission attached to his evidence.
- 6.6 Also, as per the original submission (#186), following the guidance of the Court of Appeal in *Man O'War Station*⁵, decisions on ONL lines need to be made on landscape grounds, rather than by a reference to their planning implications. The planning consequences that flow from the fact the land is an ONL on District Plan maps are not relevant to determining whether or not it actually is an ONL. Conversely, the provisions or landscape schedules that relate to an ONL should not predetermine the planning consequences for the ONL. Rather, the schedules should be a guide that describes actual values and capacities against which assessments can be made.
- 6.7 It is considered that by stating in these schedules that there is no capacity within the ONL landscape, it is predetermining the planning outcome for the land and fundamentally limiting the use of the land irrespective of the underlying zoning. If the schedule does not reflect the capacity of the landscape in the specified locations, then the appropriate planning decision would be to change the underlying zoning, UGB, ONL line and PA mapping to reflect that.
- 6.8 Furthermore, by stating there is no capacity, the schedule seeks to avoid all development. This is not consistent with *King Salmon*, which found that it is "inappropriate" subdivision, use and development that is to be avoided, with inappropriateness assessed by reference to what is sought to be protected. It is not all adverse effects, nor all activities, that are to be avoided (emphasis added).
- 6.9 Relating to the argument that there is capacity for urban expansion as suggested by Mr Skelton, it should be highlighted that the West Wakatipu ONL was specifically considered in the *Skyline*⁶ case. The court accepted evidence [97] of Mr Denney that the existing upper terminal and gondola have already compromised the visual coherence and naturalness at a prominent location in the landscape.
- 6.10 The Court also agreed [98] with Mr Denney that the question of whether the site has reached a 'threshold' with respect to the site's ability to absorb further change is to some extent related to what viewers would tolerate. It stated:

⁵ *O'War Station Limited v Auckland Council* [2017] NZCA 24

⁶ *Skyline Enterprises Limited v Queenstown Lakes District Council* [2017] NZEnvC 124.

Related to that, we agree with Mr Denney that the site's *ability to absorb the redevelopment is helped by the fact that the redevelopment would occur in a relatively contained lower part of the clearing on the ridge and in close proximity to the already prominent existing Upper Terminal development....As such, we find on the evidence that the extent of mitigation now proposed in the QLDC conditions would be sufficient for ensuring the proposal does not represent 'a threshold with respect to the site's ability to absorb further change.*

- 6.11 While the case is specific to gondolas and relevant for gondolas/lift systems in the PA, it can also be applied in this context for urban expansion. It is submitted that given the existing irregular shape of the ONL and UGB that the proposed relief (primary or secondary) does not represent a threshold with respect to the site's ability to absorb further change. In fact, it is considered that having a more harmonious boundary would create a more defensible urban edge and a definite line up to which viewers would tolerate urban expansion.
- 6.12 Lastly, the Council's Experts consider the 'no capacity' rating to be appropriate and argue that it is appropriate given that the Schedules describe ratings that should be considered over the whole PA. I do not agree that exceptions will be made during consideration of a site-specific assessment to demonstrate capacities, when such an absolute/definitive rating scale is used.
- 6.13 In my experience this is not how plan changes and consent applications have been assessed. An absolute/definitive rating scale is often treated as a hard line not to cross, similar to strong 'avoid' policies or a prohibited activity status. Mr Skelton also explains that it is his experience that Plan Users, particular Council Staff, take a hard stance when strong language, such as the word 'no' is used. He considers that if the intention of the capacity ratings is relatively 'high level' and is not intended to prescribe potential outcomes on specific sites - then the capacity ratings should be changed to those suggested in his evidence; or at a minimum the word 'no' should be removed from the rating scale.
- 6.14 I am also of the opinion that having an absolute/definitive state or rating scale of 'no capacity' is not appropriate in the context of plan changes. It might be justified in some cases where there is actually no capacity to help guide assessments under the Rural Zone provisions, but it does not sit well within the District Wide chapters (Chapters 3-6, SP3.3.45-46) against which plan changes are assessed.
- 6.15 The Council Experts agree that the Landscape schedules should be used as a guide for assessing plan change applications and Ms Evans' considers in her evidence at para 9.69 that a future plan change may also seek to change the capacity rating for particular activities based on a site specific landscape assessment. I consider this to be too high of a bar against which a plan change should be assessed, and that it would be inefficient for a plan change to need to change the schedule against which it is assessed - when it would no longer apply

if the zone is to change to an urban zoning (potentially compromising the schedule for its use as a guide for site-specific resource consent assessments).

- 6.16 Overall, given the large scale of the site and for the reasons outlined above and below, it is considered necessary to either update the landscape capacity rating as proposed by Mr Skelton (specifically the capacity for urban expansion, visitor accommodation and tourism related activities); OR if the urban expansion rating can't be changed, the preferred option is to rezone the relevant land to Lower Density Suburban Residential (LDSR), move the UGB, ONL line, and newly mapped Priority Area.

7. METHODOLOGY

- 7.1 It should also be highlighted that, as far as I can tell, the correct location of the ONL line over the subject area of the PA has not been considered in previous stages of the District Plan review. The ONL line seems to have been drawn to simply follow the UGB (and by nature, cadastral boundaries). The location of the ONL should be informed by landscape evidence that has approached the assessments at the appropriate scale, including consideration of the relevant values.
- 7.2 In accordance with [2019] NZEnvC 160⁷ an assessment of the Landscape, and its relevant values, is a necessary prerequisite to a reliable opinion on whether the land at issue should be part of an ONL, or excluded from it. The values assessment undertaken as part of this plan change should therefore have actually been done prior to ONL boundary identification, and in more detail.
- 7.3 Nevertheless, this has now been completed by Mr Skelton who has indicated where the ONL line should be.

8. SCOPE

- 8.1 Should the panel be of the mind to rezone the land and/or move the UGB, ONL line and PA, the question of scope needs to be addressed in order to consider it.
- 8.2 The legal evidence will cover this in detail, but I submit that given that the plan change, in accordance with 3.3.38, specifically sought to assess and record the related landscape capacity for subdivision, use and development activities

⁷ <https://www.gldc.govt.nz/media/p3opbncu/2019-nzenvc-160-topic-2.pdf>

(including urban expansion), that there should be scope to make the necessary changes to recognise the identified capacity. For reference, the Council's experts consider urban expansion to mean:

- a) a change from a rural activity to urban development; or
- b) a change (including any proposed change) in zoning to an urban zone, including any change to the urban growth boundary or any other zone changes (or proposed changes) that would provide for urban development.

8.3 Should the schedule fail to recognise the identified capacity for Urban Expansion, then a re-zoning the land and/or moving the UGB, ONL line and PA should be considered.

9. RECOMMENDED CHANGES AND SECTION 32AA OF THE RMA

9.1 Recommended changes to the variation/plan change are set out within Attachment 'D' of Mr Skelton's evidence. These include changes to the following sections of the Western Whakatipu Basin ONL priority area schedule:

- a) Important land use patterns and features – 38; and
- b) Aesthetic qualities and values – 102 (b) (ix);and
- c) Summary of Landscape Values 104 (c);and
- d) Summary of Landscape Values 105 (d)and
- e) Landscape Capacity (ii) - Visitor accommodation and tourism related activities; and
- f) Landscape Capacity (iii) – Urban Expansion;

9.2 For Urban Expansion however, the preferred relief is to re-zone the relevant land to Lower Density Suburban Residential (LDSR) and move the UGB, ONL line, and newly mapped PA.

9.3 s32AA of the RMA requires a further evaluation of recommended changes.

9.4 The recommended changes to the notified proposal are considered to be more efficient and effective at achieving the relevant objectives of Chapter 3, and the purpose of the RMA, and will give effect to the NPS-UD and the POORPS / PORPS.

10. CONCLUSION

10.1 On the basis of the analysis set out in this evidence, I recommend that the changes set out in Attachment D and for Urban Expansion as set out in section 9.2 above, be accepted by the Hearings Panel.

- 10.2 The recommend changes will give better effect to the strategic objectives and policies of the PDP and are considered the most appropriate to achieve the purpose of the RMA and the direction set by the NPS-UD, the POORPS and the PORPS.

Dated this 11st day of September 2023

Richard Michael Kemp

Attachment 1 – Original submission (186)

Attachment 2 – Spatial Plan 2.0 – ‘Call for Sites’ Submission

Attachment 3 – Landscape Evidence of Mr Skelton

Attachment 1 – Original submission (186)

Queenstown Lakes District Council

Proposed District Plan – Submission

Clause 6 of First Schedule, Resource Management Act 1991
FORM 5

Correspondence to:
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1. Submitter details:

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Contact Person:	Richard Kemp

2. Scope of submission

- This is a submission to the Queenstown Lakes District Proposed District Plan (PDP) Landscape Schedules, notified 30 June 2022.
- The submitter could not gain an advantage in trade competition through the submission.
- The scope of this submission is detailed below and in Part 3 of the submission.
- The specific provisions that my submission relates to are:

(a) Schedule:	21.22.12 Western Whakatipu Basin ONL
(b) Any other provisions:	Any other provisions relevant to the purpose of this submission described in Part 3 below.

3. Submission

The Submitter **OPPOSES** the newly mapped Western Whakatipu Basin ONL Priority Area Landscape Schedule 21.22.12 and seeks further information, clarification and amendments as set out below:

A. The landscape attributes (physical, sensory and associative)

The landscape attributes include physical attributes such as: Vegetation patterns; Ecological (flora and fauna) and dynamic components; Settlements and occupation; Roads and circulation; Land use – cadastral pattern; Buildings; Likely future (permitted or consented) activities in the environment.

Para 26-38 - Under **important land use patterns and features**, the following was not included, and should be included:

- The unformed road that extends up the hill from Wynyard Crescent was not listed, as well as designation 237 and 22. Also, an unformed road along which the Ben Lomond track is formed.
- The Informal Recreation zoned land on the bottom of Ben Lomond, Cemetery Hill and Queenstown Hill was not listed. The permitted activities enabled by this zoning and associated effects that would have on the landscape values and capacity should be acknowledged.
- The irregular notified shape of the Priority area (**PA**) along the bottom slopes (Fernhill) of Ben Lomond and top of Queenstown Hill currently aligns with the Urban Growth Boundary (**UGB**) and existing land uses – a cadastral pattern instead of any landscape pattern or feature. This should be changed. Along with the need to either align the ONL and PA with landscape features or patterns or to acknowledge the capacity for urban expansion in-between the existing urban development.
- The Urban context with residential development on the lower slopes of Ben Lomond and Queenstown Hill (Fernhill, Queenstown and Arthurs Point) and its influence on the character of the area as a natural landscape should be acknowledged.

Para 101 -102 - Under **Aesthetic qualities and values**, the following was not included, and should be included:

- Point ix (**The general confinement of visible built development**) should also include the lower slopes of Ben Lomond (Fernhill) and Queenstown Hill where residential development has extended into the plantation forest and the PA. There is a need to amend the ONL and UGB line here so that it follows landscape features or patterns or to acknowledge the capacity for urban expansion in between the existing urban development.

B. The landscape values

Para 103 -105 - the Summary of the landscape values needs to be updated to reflect the above-mentioned matters.

C. The related landscape capacity

No rating scale is provided for the landscape capacities. From a review of the various Priority Areas, it appears to range as follows: No capacity; very limited capacity; limited capacity; some capacity. The extent of the capacity rating scale should be confirmed within the

Landscape Schedules. It should also be clear from the rating scale how these interrelate with the wording used in the provisions in Chapter 3. For example, Strategic Policy 3.3.31 states: “Avoid adverse effects on the landscape values of the District's Outstanding Natural Features and Outstanding Natural Landscapes from residential subdivision, use and development where there is little capacity to absorb change.” [emphasis added]

Additional amendments sought - shown with underlined text and deleted text ~~struck through~~:

- **Commercial recreational activities** – some landscape capacity for activities that integrate with or expand and/complement/enhance existing recreation features; are located to optimise the screening and/or camouflaging benefit of natural landscape elements; designed to be of a sympathetic scale, appearance, and character; integrate appreciable landscape restoration and enhancement; eradicate wilding vegetation and replant native vegetation; enhance public access; enhance visual amenity and landscape values; and protect the area’s ONL values.
- **Visitor accommodation and tourism related activities** – Limited ~~no~~ landscape capacity for visitor accommodation on the lower slopes of the PA. The area can be serviced by Queenstown. Limited capacity for tourism related activities that expand or integrate with and complement/enhance existing recreation features; are located to optimise the screening and/or camouflaging benefit of natural landscape elements; designed to be of a sympathetic scale, appearance, and character; integrate appreciable landscape restoration and enhancement; eradicate wilding vegetation and replant native vegetation; enhance visual amenity and landscape values; enhance public access; and are consistent with the area’s ONL values.
- **Urban expansions** – ~~no landscape capacity.~~ Limited landscape capacity on the lower slopes of the PA, adjacent to or in-between the existing urban development.

Or

Update the PA mapping and associated ONL line/UGB and zoning to exclude areas where there is capacity to absorb urban expansion. These include areas on the lower slopes of Ben Lomond in Fernhill and Queenstown Hill where the ONL line simply follows the UGB (Land use – cadastral pattern) instead of landscape features or patterns.

So in summary, either acknowledge the capacity in the schedule or move the mapped PA, ONL line, UGB and zoning to reflect the actual landscape capacity.

- **Gondolas, towers and cableway** – Limited landscape capacity

4. Further rational for capacity sought above.

Following the guidance of the Court of Appeal in **Man O'War Station Limited v Auckland Council [2017] NZCA 24**, the decisions on ONL lines need to be made on landscape grounds, rather than by a reference to their planning implications. The planning consequences that flow from the fact the land is an ONL are not relevant to determining whether or not it is an ONL. Conversely, the provisions or landscape schedules that relate to a ONL should not predetermine the planning consequences for the ONL.

By stating in these schedules that there is no capacity within the ONL landscape, the Council is predetermining the planning outcome for the land and fundamentally limiting the use of the land despite the underlying zoning. If the Council's schedule does not reflect the capacity of the landscape in the specified locations, then the appropriate planning decision would be to change the underlying zoning to reflect that.

Furthermore, by stating there is no capacity, the schedule seeks to avoid all development. This is not consistent with **King Salmon**, which found that it is "inappropriate" subdivision, use and development that is to be avoided, with inappropriateness assessed by reference to what is sought to be protected. It is not all adverse effects, nor all activities, that are to be avoided.

Lastly, it should be highlighted that the West Wakatipu ONL was specifically considered in **Skyline Enterprises Limited v Queenstown Lakes District Council [2017] NZEnvC 124**. The court accepted evidence [97] of Mr Denney's that the existing Upper Terminal and gondola have already compromised the visual coherence and naturalness at a prominent location in the landscape.

It also agreed [98] with Mr Denney that the question of whether the site has reached a 'threshold' with respect to the site's ability to absorb further change is to some extent related to what viewers would tolerate. It stated:

Related to that, we agree with Mr Denney that the site's ability to absorb the redevelopment is helped by the fact that the redevelopment would occur in a relatively contained lower part of the clearing on the ridge and in close proximity to the already prominent existing Upper Terminal development....As such, we find on the evidence that the extent of mitigation now proposed in the QLDC conditions would be sufficient for ensuring the proposal does not represent 'a threshold with respect to the site's ability to absorb further change.'

From this decision, it is clear that the landscape has capacity to absorb further commercial recreational, visitor accommodation, built form/urban expansion and gondola-type developments.

5. The Submitter seeks the following decision from the Queenstown Lakes District Council:

5.1 The Submitter seeks the relief set out in Part 3 of this submission.

5.2 The submitter seeks in the alternative additional or consequential relief necessary or appropriate to address the matters raised in this submission and/or the relief requested in this submission, including modifications to the landscape schedule or any such other combination of plan provisions, objectives, policies, rules, standards, and zoning provided that the intent of this submission, as set out in Part 3 of this submission, is enabled.

The Submitter **DOES** wish to be heard in support of this submission.

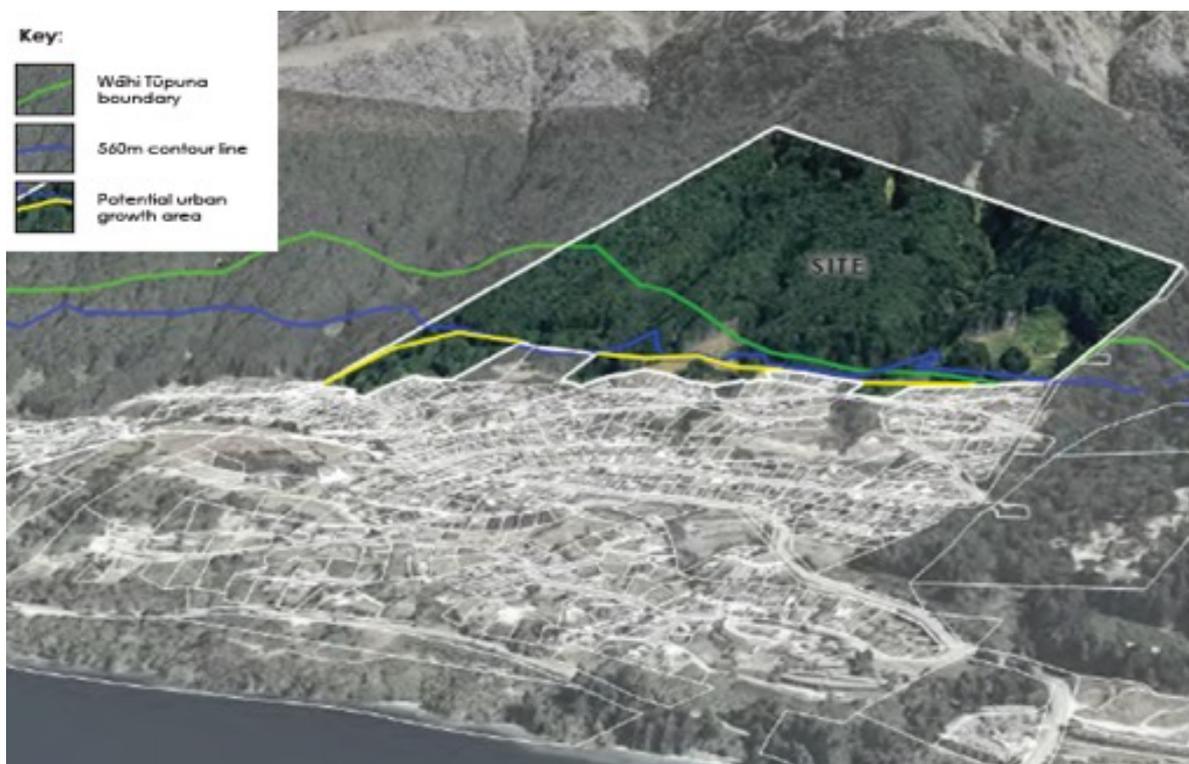
If others make a similar submission, the Submitter will consider presenting a joint case with them at a hearing.

Dated 26/08/2022

Attachment 2 – Spatial Plan 2.0 – ‘Call for Sites’ Submission



**Response To Call For Urban Growth Sites
for the
Queenstown Lakes Spatial Plan 2024
Gen 2.0**



For: Passion Development Limited

14 July 2023

1. Introduction

Passion Development Limited owns a number of subsidiary development companies who is developing and has developed housing across New Zealand, including in Queenstown. To name a few developments: [Joy Valley](#), [Orakei Gem](#) and [Jade Lake](#). The largest of which in Queenstown is Jade Lake (Resource consent: RM171560 & RM181942) that is currently under construction in Fernhill. Jade Lake will provide 80+ residential units (terrace housing and apartments) that range in size and type to meet the needs of different households [National Policy Statement on Urban Development (NPS-UD) – Policy 1].

Passion Development is also the owner of a 56.6-hectare site (Lot 1 DP 20613) directly adjacent to the urban area of Fernhill and their Jade Lake development currently under construction. We are pleased to provide this report and supporting material for considering part of the site as part of the QLDC ‘call for sites’ process.

It is submitted that the site and landscape have capacity to absorb approximately 100+ residential units within a location that is already serviced by Council roads and three waters infrastructure - and that is within an accessible location (5min walking/400m from bus stops). This aligns with the NPS-UD policy 5 and Objective 6a - c.

In addition to this Overview Report we have commissioned supporting landscape comment (Attachment 1) for the Panel’s consideration. We have also submitted (Submission #186 – Attachment 2) on the QLDC’s proposed variation to Chapter 21 Rural Zone regarding the landscape schedules to highlight that the Western Whakatipu Basin landscape priority area has capacity for infill urban development adjacent to or in-between the existing zoned and partially developed urban land.

We are in the process of commissioning further work to support the urban development of part of the site, and/or to pursue a resource consent for rural building platforms in the same locations. These reports can be provided to the QLDC when completed if needed and includes:

- Indicative master plan and development concept package;
- Infrastructure / Servicing report:
 - modelling of potable water
 - modelling of wastewater; and
 - road alignments to achieve Council standards; and
- Geotechnical and hazard assessment

In summary, it is considered that part of the land is suitable for urban development and will provide a meaningful contribution to housing supply in the Queenstown Lakes District.

In particular, the Panel can include the land with confidence as a future ‘Urban Growth’ site for Queenstown. Part of the site is an ideal location to be identified as ‘Future Urban’ in the Spatial Plan, as it addresses the three principles and five spatial outcomes of the current Spatial Plan 2021.

2. Overview – The Site

The land is legally described as Lot 1 Deposited Plan 20613 as held in Record of Title 838157 (Attachment 3) and is directly adjacent to the north of the existing urban area of Fernhill. The land measures 56.6-hectare and is mostly covered in Douglas Fir canopy with 3 intermittent streams traversing through the site down toward Fernhill/Lake Wakatipu.



Figure 1: Site location

The southern site boundary follows the irregular Urban Growth Boundary (UGB) with Low Density Suburban Residential (LDSR) zoned land along it. Some of the LDSR land is yet to be developed with large sites extending up in the middle of the subject site to the 560m contour line. The site has road access in five locations along this boundary. The eastern boundary adjoins a QLDC-owned unformed legal road that is partially gravelled up to a Council water reservoir that stores potable water for Fernhill. The northern and eastern boundary extends far up the slope of Ben Lomond and ends near where the Douglas fir forest ends. The elevated slopes above the site comprises the remainder of Mt Ben Lomond.

Further to the east of the site is Informal Recreation zoned land that includes the Wynyard Jump Park and various walking and cycling tracks that traverse up towards Bob's Peak (Skyline Gondola) in the Ben Lomond Reserve and up towards Ben Lomond Peak. There is also a track that goes down towards Queenstown via the One Mile roundabout.

The site features three large areas with road access below the 560m contour land in between the existing LDSR zoned land that is partially developed. These areas are considered suitable for residential development and provides amazing views towards Lake Wakatipu.

Please see the Concept Package attached to the landscape report (Attachment 1) for more graphics that outlines the site context.

3. Background

The site used to extend into the Urban Area of Fernhill to include the Jade Lake development site, but it was subsequently subdivided off during the initial stages of Jade Lake.

Unfortunately, the developer was unaware of the Stage 1 District Plan review process where they could have submitted to zone the land that is suitable for urban development to the LDSR

zone, and to re-align the Urban Growth Boundary (UGB) and the Outstanding Natural Landscape Line – both to reflect the landscape’s ability to absorb urban development.

It is considered that the whole site is therefore still classified as ONL and that the ONL line currently does not reflect the landscape’s ability to absorb urban development as it is simply following the UGB (based off cadastral boundaries) and not any landscape features or vegetation patterns.

It is noted that during Stage 1 and Stage 3 of the District Plan review process that the ONL line and UGB was adjusted in many places across the district to more accurately reflect the landscapes’ ability to absorb development and to follow landscape features and vegetation patterns instead of just simply following the UGB/cadastral boundaries.

A submission was previously made on the QLDC’s proposed variation to Chapter 21 Rural Zone regarding the landscape schedules to highlight that the Western Whakatipu Basin landscape priority area has capacity for infill urban development adjacent to or in-between the existing zoned and partially developed urban land.

It is also noted that the land is in a very accessible location and is in a location where the relative demand for housing is high (NPS-UD – Policy 5). The land also already has formed physical and legal access and can easily be serviced by existing infrastructure (NPS-UD – Objective 6 a - c). The landowner will therefore also be submitting on the QLDC’s Urban Intensification variation to include rezoning part of this land.

4. Suitability of land for urban development

Landscape assessment

A landscape assessment (Attachment 1) has been commissioned from Patch (a locally-based Landscape Architecture Consultancy) that considers the landscape and visual effects of the proposed change of zone and urbanisation of part of the site below the 560m contour line. The assessment concludes that parts of the site have the potential to absorb appropriately designed urban infill type development.

It sets out two potential areas and boundaries where there is landscape justification to locate future urban development. It explains that these two boundaries follow both the existing urban patterning of the landscape, as well as the 560m contour line.

The assessment includes a detailed consideration of the notified landscape schedule for the area and includes a series of analysis and design graphics which demonstrate the effect urban infill type development may have on the wider landscape. The assessment concludes that urban infill type development, confined to these existing development standards, would not act to adversely affect landscape or visual amenity values, would maintain the attributes and values of the much broader ONL and could, to a degree enhance the attributes and values.

Three Waters Servicing and Infrastructure

The subject site adjoins the existing urban area of Fernhill and has existing access to sealed roads and servicing in five locations along the southern boundary of the site.

While a detailed analysis of the existing three waters infrastructure has not yet been undertaken, it is not considered that capacity of the infrastructure and ability to service the site would be a barrier to development.

The site adjoins an existing urban area and it would be able to connect into the potable water, and stormwater infrastructure that already services the adjoining LDSR zoned land. The Developer has previously undertaken detailed assessments of this to service the large Jade Lake Development that was at the lower slopes of the subject site (before being subdivided off) and the analysis showed that there is adequate existing servicing capacity.

It is also noted that QLDC has recently endorsed the intensification of the whole Fernhill area and broader urban area which will more than double the potential capacity of the existing urban area and the reporting considered that there is enough capacity to service that capacity via existing infrastructure of future upgrades. There should therefore be no constraints to service the site.

There are no anticipated issues with providing electricity and telecommunications supplies given the location adjacent to an existing urban area.

Transport

The subject site has existing access to sealed roads in five locations along the southern boundary of the site (shown with blue dots below). Physical and legal access exists from Wynyard Crescent, Vanda Place, Lochy Road and two locations on Dart Place. This is shown on the concept plans in Attachment 1 and in Figure 2 below.

A detailed transport review has not yet been undertaken. However, the concept subdivision layout designs (Attachment 1) demonstrate that the development can be accessed from these locations and where roads need to be formed that there is sufficient space to construct roads that complies with Council standards.

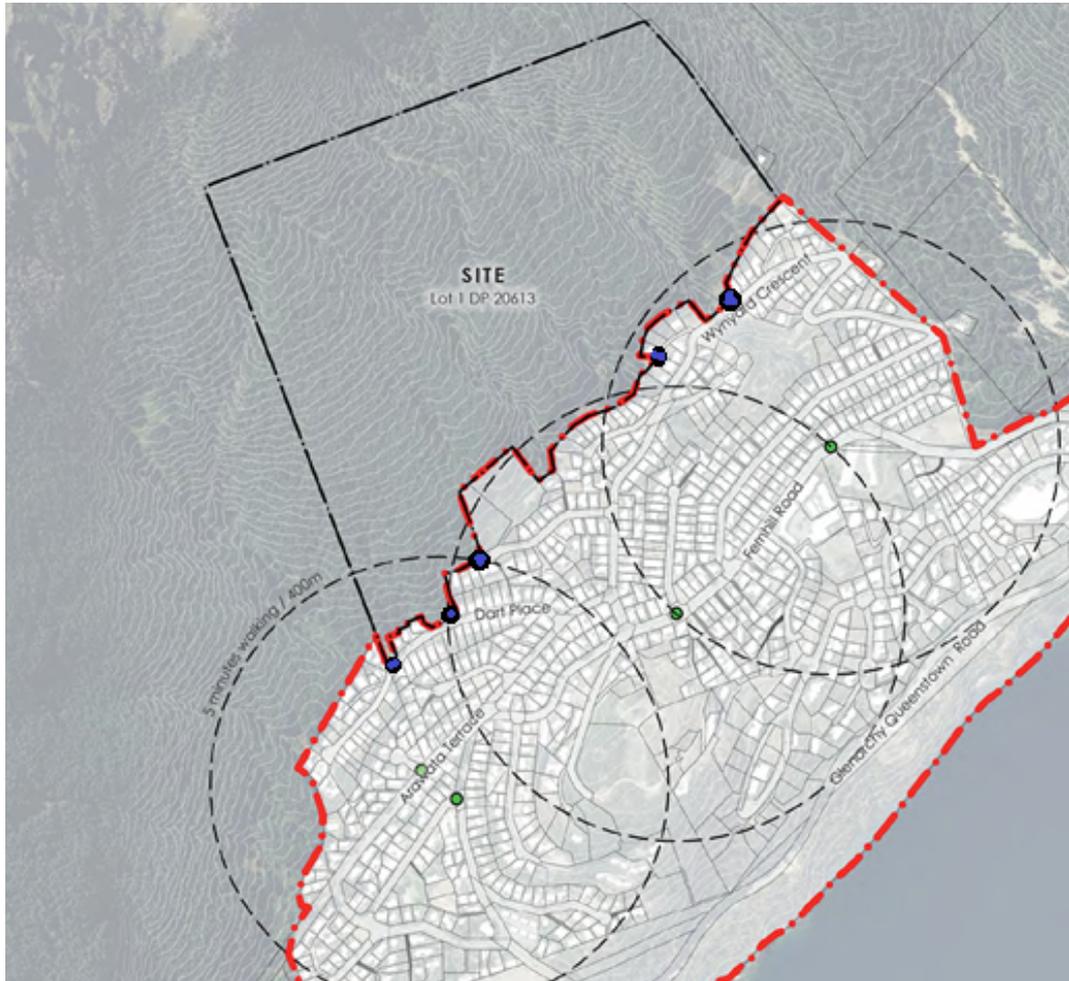


Figure 2: Access locations & Distance to public bus stops

Lastly, in reference to QLDC's mode shift plan and the NPS-UD it is noted that the areas of the subject site where urban development is proposed is within the crucial 5-minute walk of existing public transport routes, specifically the high-frequency number 1 route from Fernhill to Remarkables Park. This will help facilitate modal shift.

Hazards

A review of the Council's Hazard database shows that the areas of the site that is proposed for urban development (see Attachment 1 concept plans) is not subject to any significant natural hazards that raise concern.

The liquefaction risk is shown as *nil-to-low* and a very small part of the site includes an alluvial fan hazard. For context, as seen in Figure 3 below, the *nil-to-low* liquefaction risk category covers almost the entire urban Fernhill and Council's previous practice has been that no further assessment is required for this lowest risk category.

The alluvial fan hazard is concentrated to a gully on the site and comprises a very small percentage of the developable area. As part of the usual subdivision and development process, a detailed assessment of all natural hazards and any mitigation measures required would be undertaken prior to being resource consented by Council.

Overall, it is anticipated that the presence of known natural hazards on the site would not place an undue hindrance on the partial urban development of the site as shown on the concept plans.

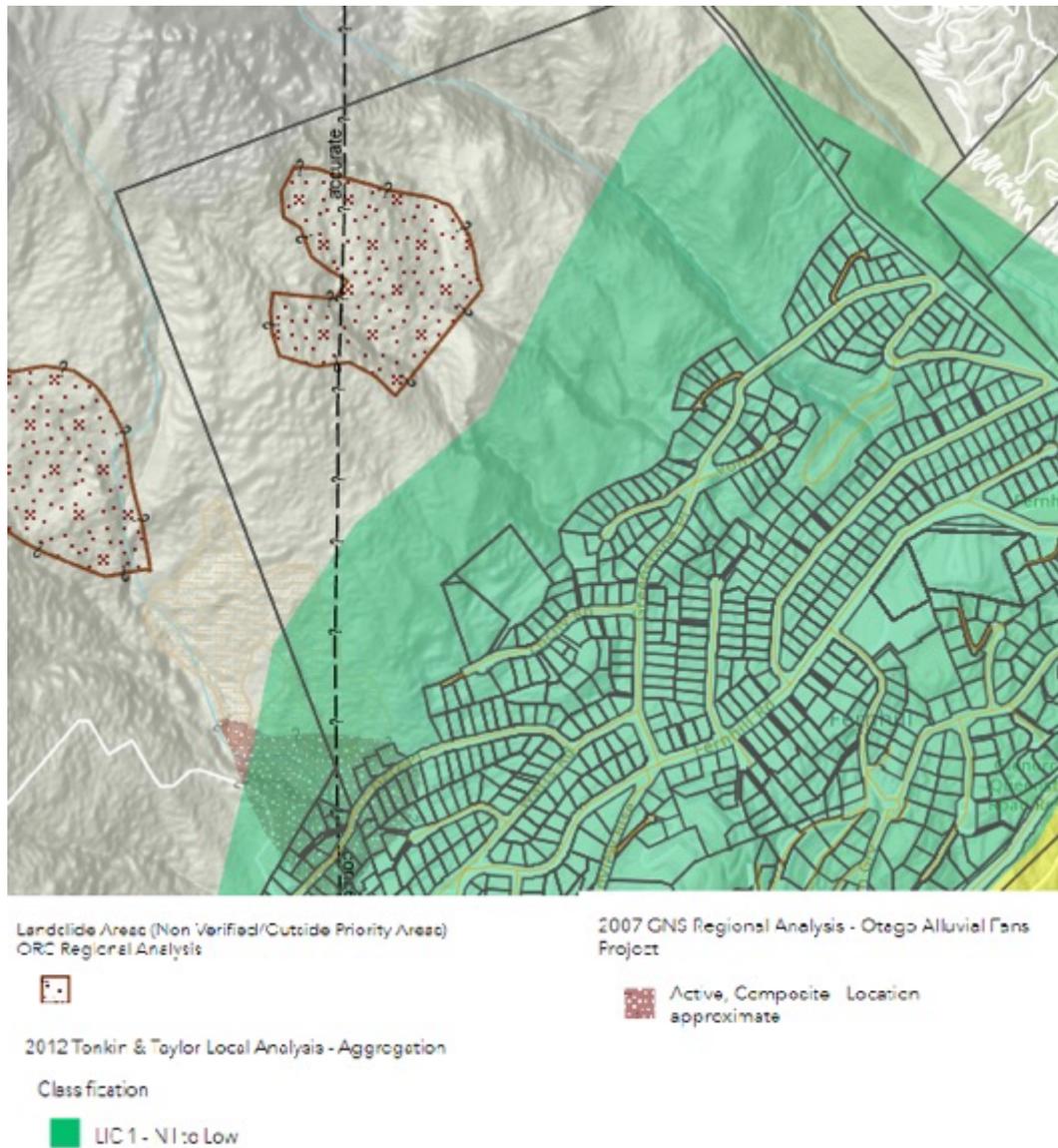


Figure 3: QLDC Hazard layer

Cultural values

The areas of the site that are identified as suitable for urban development are not contained within any Wāhi Tūpuna areas in the Proposed District Plan. There are also no specific annotations identifying the site in the Ngai Tahu Cultural Atlas. <https://www.kahurumanu.co.nz/atlas>

Ecological

There are no known important ecological features / vegetation types on the site. The site is currently almost completely covered in exotic Douglas fir forest. These vegetation types are a well-documented biodiversity problem.

The proposal would see the removal of this exotic forest cover in parts of the site, including those associated with any gully enhancement areas. Areas next to streams will be set aside for enhancement with native vegetation as is the case with the Jade Lake Development below the site.

This will help improve the ecology of the site, the health of the streams and the freshwater quality flowing to Lake Wakatipu.

5. Assessment against Spatial Plan 2021 – Principles

The Spatial Plan 2021 contains three principles and five spatial outcomes that guide the direction of the Spatial Plan to 'Grow Well / Whaiora' and address the challenges and opportunities facing the Queenstown Lakes District.

The proposal is assessed against these Principles and Outcomes below:

1. Principle – Wellbeing Hauoraw

Decisions about growth recognise social, economic, environmental and cultural considerations

The proposed locations for future urban development will take into account various social, economic, environmental, and cultural factors. In summary:

- Socially, the land provides an opportunity for people to meet their social needs by creating suitable homes for families in a desirable location.
- Economically, the land allows for additional housing in the Queenstown market, which is known for its high unaffordability.
- Environmentally, the impact of urban development in this area can be effectively managed by implementing appropriate infrastructure measures, removing non-native forest cover, and enhancing gully areas with indigenous vegetation.
- Culturally, the site is not recognized as a Wāhi Tūpuna area in the PDP and is not listed in the Ngai Tahu cultural atlas.

2. Principle – Resilience Aumangea

Ensuring communities and visitors are resilient to shocks of the future, including adapting to climate change

In line with this objective, we emphasize the importance of providing additional housing supply, particularly focusing on a range of housing typologies/sizes previously delivered by this developer.

Additionally, our focus extends to promoting active transport options, such as walking and cycling infrastructure, which contribute to the overall resilience of communities and enhance their ability to adapt to the challenges posed by climate change.

3. Principle – Sustainability Whakauku

Programmes and activities are delivered according to sustainable development principles and work towards zero emissions

Expanding the urban area of Fernhill onto this specific land presents a more sustainable approach compared to alternative greenfield locations suggested in the Spatial Plan. Unlike those distant areas that are situated far from Queenstown Town Centre and burdened by heavily congested transportation routes, this site offers a closer proximity.

Moreover, it is conveniently positioned within a 5-minute walking distance from a vital and frequently serviced public transport route (Number 1 route: Fernhill-Sunshine Bay).

Furthermore, as part of the proposal, there are plans to remove non-native forests and introduce enhanced vegetation along the streams.

6. Assessment against the Spatial Plan 2021 – Outcomes

1. Outcome – Consolidated growth and more housing choice

The site presents a logical and coherent expansion to the urban area of Fernhill. This strategic decision prioritizes the consolidation of the existing urban area in Queenstown, as opposed to considering remote greenfield locations like Ladies Mile or the southern corridor.

The selected site is particularly suitable for various housing typologies, aligning with the current zoning framework (LDSR Zone). The Council's Urban Intensification variation aims to further update this framework, facilitating the development of additional housing within the area.

By providing for urban development on the identified portion of the site, we not only contribute to the housing supply but also foster the consolidation of growth. It is worth noting that enabling a diverse range of housing sizes and typologies enhances the available housing choices within Queenstown, catering to the diverse needs of the community.

2. Outcome – Public transport, walking and cycling is the preferred option for daily travel

The site enables a 3.1km bike ride to Queenstown town centre in 10 minutes, and a 5-minute walk to existing public transport routes. The site also borders the Ben Lomond reserve which has walking and biking trails throughout.

3. Outcome – A sustainable tourism system

This outcome does not directly relate to the proposal, which is a residential development.

4. Outcome – Well-designed neighbourhoods that provide for everyday needs

The indicative concept plans (Attachment 1) shows that there is adequate space to design residential development that will link in with the surrounding Fernhill neighbourhood to provided for everyday needs. A future design of development will be subject to the District Plan rules, residential / subdivision design guides – and assessed by Council through the resource consent process.

5. Outcome – A diverse economy where everyone can thrive

The proposal will provide a range of housing options in an accessible location with high demand for housing. This will enable more people to live in a location that is within an existing urban area with easy access to facilities and services to meet their day to day needs so that everyone can thrive.

Overall, the identification of the land for urban expansion is consistent with the identified outcomes for the Spatial plan.

7. Assessment against Spatial Plan 2021 – Strategies

1. Strategies to achieve the Outcomes:

Strategies	Assessment
1. Increase density in appropriate locations	Fernhill is an appropriate location for low to medium density residential housing and can provide for housing typologies not well catered for the surrounding area, other than within the Jade Lake site currently under construction. The site is a few minutes' drive from the Queenstown Town Centre, or just a 3.1km (10 minute) bike ride.
2. Deliver responsive and cost-effective infrastructure	The site can be fully serviced by extensions to the existing QLDC and private infrastructure which is located directly adjacent to the site.
3. Improve housing diversity and choice	The proposal can provide a mix of typologies/densities, especially if the LDSR zone development standards are relaxed through the Urban Intensification Variation. The developer has a track record of developing a mix of housing typologies and aims to do the same on this site to improve housing diversity and choice.
4. Provide more affordable housing options	The developer aims to provide a mix of typologies/densities, including smaller household units which will be more affordable.
5. Ensure land use is concentrated, mixed and integrated with transport	The site is a logical urban extension to Fernhill and is located within a 5-minute walk of existing bus routes.
6. Coordinate a programme of travel demand initiatives	Not relevant to the subject site.
7. Prioritise investment in public transport and active mode networks	The recognition of the site as a Future Urban area serves to enhance public transportation by strategically increasing density in close proximity to the Fernhill-Sunshine Bay Number 1 bus route.
8. Improve coordination across the tourism system	Not relevant to the subject site.
9. Ensure infrastructure supports a great visitor experience	Not relevant to the subject site.
10. Promote a car free destination	Not relevant to the subject site.
11. Create well-connected neighbourhoods for healthy communities	The site is well connected to the existing Fernhill urban area, existing public transport and walking and cycling trails that connect it to central Queenstown.
12. Design to grow well	Future development will be subject to the QLDC residential and subdivision design guidelines that will ensure that the future urban areas will be a quality urban environment.
13. Enhance and protect the Blue-Green Network	The proposal will include the enhancement of the stream corridors with native planting and removal of exotic plants which will help enhance the Blue-Green Network.
14. Diversify the economy	Not relevant.
15. Make spaces for business success	Not relevant.
16. Establish efficient and resilient connections	The proposal will build on existing connections and improve their resilience through more patronage.

Overall, it is considered that the identification of the subject site for Urban infill development would align with the strategies in the Spatial Plan identified to achieve the outcomes.

It is worth noting that all the land specified in the existing Spatial Plan as 'Future Urban' is situated at Ladies Mile, Homestead Bay, or on the other side of the Kawarau River from Remarkables Park. These areas heavily rely on two road corridors and face limitations due to the existing bridge capacities, culminating at the SH6/6A intersection near the BP roundabout. Addressing these constraints would necessitate a substantial shift in transportation modes and enhancements in the provision of public transport and/or extensive physical transport interventions.

The subject site, however, presents a valuable opportunity to contribute to the housing supply in close proximity to the Queenstown CBD, without introducing additional commuter traffic during peak hours onto these two routes.

Given these factors, it is recommended to classify the land as 'Future Urban' in the next iteration of the Spatial Plan and the Future Development Strategy.

8. Summary

The inclusion of the northern portion of Fernhill land (part of the subject site) as a 'Future Urban Area' as stated in this submission, aligns with the principles and outcomes of the Spatial Plan 2021. This decision will reflect a strategic and cohesive approach to managing growth.

The landscape assessment confirms that the landscape has the capacity to accommodate this urban infill/expansion and is deemed suitable for residential development in the specified areas. Moreover, the site can significantly contribute to the residential housing supply in the Queenstown market. Notably, the site is conveniently positioned, with a mere 3.1km bike ride (approximately 10 minutes) to reach Queenstown town centre and a short 5-minute walk to existing public transport routes.

The site is suitable for either LDSR or MDR zoning and can enable the development of a range of housing typologies and will help enable a well-functioning urban environment as required by the NPS-UD.

Overall, the site is a logical urban extension to the Fernhill urban area that can be readily serviced with infrastructure and provide a meaningful supply to housing to the severely unaffordable Queenstown housing market.

We respectfully request the site be identified as a 'Future Urban' area in Gen 2 of the Spatial Plan. We would welcome the opportunity to speak to this submission at any hearing, and/or to supply further expert evidence as required.



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Attachments

- Attachment 1 – Landscape Comment
- Attachment 2 - Submission #186 - Landscape Schedules
- Attachment 3 – Record of Title

Attachment 1 – Landscape Comment



LANDSCAPE MEMO – Urban Development – Wynyard Crescent – Fernhill

13 July 2023

INTRODUCTION

1. This memo provides landscape and urban design comment regarding a submission to Queenstown Lakes District Council's Spatial Plan 2024 Gen. 2.0 – Call for urban growth sites. The subject site is 56.6 hectares in area and occupies much of the forested hill slopes to the north of and above the urban area known as Fernhill in Queenstown. The legal description of the site is Lot 1 DP 20613
2. Patch has prepared a series of analyses and design graphics which are attached and will be referred to throughout this memo. The analysis graphics set out:
 - A. the existing urban growth boundary (UGB),
 - B. the Wāhi Tūpuna line,
 - C. the existing zoning,
 - D. the Outstanding Natural Landscape (ONL) boundary and contours,
 - E. a plan setting out the existing development standards,
 - F-L indicative design layers which project future development of the potential urban area.

ASSESSMENT CONTEXT

3. The design layers listed above and contained within the attached supporting graphics are rooted in a high-level assessment of the proposal which is based on landscape and urban assessment imperatives and statutory context. Those include:
 - Part 21.21.1 of the Proposed District Plan derived from *Decision No. [2023] NZEnvC 58 – Appendix A – Part 4, 21 Rural for Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL), and*
 - The notified Schedule of Landscape Values: Outstanding Natural Landscapes Priority Areas 21.22.12 – Western Whakatipu Basin ONL.
4. The high-level assessment below is prepared in the frame of the New Zealand Institute of Landscape Architects (NZILA) *Te Tangi a Te Manu Aotearora New Zealand Landscape Assessment Guidelines*, July 2022.

PROPOSED DISTRICT PLAN – PART 21.21.1 – ONLS AND ONFS

5. This part of the PDP was derived from the Environment Court's decision in 2023 with significant reference to Chapter 3 and Chapter 6 of the PDP and the landscape schedules which are currently notified and subject to submissions, hearings and likely appeals. Part 21.21.1 of the PDP ensures regard is given to the landscape schedules and the values identified and to what extent any proposal will protect Tangata Whenua values. This part will be discussed in further detail below.

Summary – Part 21.21.2

6. Part 21.21.2 of the PDP seeks to consider visibility and whether any parts of a proposal will detract from public or private views of and within ONLs or ONFs, whether they're mitigation is provided and if that mitigation is in keeping with the protection of landscape values. Assessment of effects on ridges, hills and slopes, lighting, earthworks and landscaping are all considered. This part of the PDP gives regard to open space and open character and seeks to maintain open space and open character as viewed from public roads and public places and ensure development is not within a broadly visible expanse of open landscape as viewed from public roads or public places. This part of the PDP also seeks to consider development's effects on open space and open character on the surrounding landscape and to contain development within areas defined by natural elements. This part of the PDP also seeks to

ensure development does not contribute to adverse cumulative effects on landscape values identified in the landscape schedules by introducing significant adverse visual effects.

Assessment – Part 21.21.2

7. The indicative proposed urban design extension above Fernhill and Sunshine Bay would not occur on any prominent hills, slopes or ridges. Lighting and earthworks would be viewed in conjunction with the existing urban areas and would not extend beyond a natural line in the landscape. This proposed extension of urban areas would not be in a broadly visible expanse of open landscape and would not act to noticeably reduce any openness or open character of the much broader south facing slopes of Ben Lomond. Design would largely be defined by natural elements such as the gullies or the edge of existing urban areas. The proposal would not contribute to significant or adverse cumulative effects on landscape values which will be discussed further below under the landscape schedule assessment.

Summary – Part 21.21.3

8. Part 21.21.3 of the PDP seeks to ensure that future development is designed in response to the identified landscape values and built development is aggregated to utilize common access ways and to cluster areas of development where parts of the landscape least sensitive to change. It seeks to ensure boundaries will not give rise to artificial or unnatural lines in the landscape and that the design and development does not contribute to adverse cumulative effects on landscape values.

Assessment – Part 21.21.3

9. Indicative proposals as set out in **Attachments E – M** seeks to infill urban development within areas where that urban development immediately abuts an ONL. This infill type development will see a very small extension of the existing urban area into parts of the ONL which are already affected by that urban development. Any future development within this area would be aggregated and will utilize a common accessways. It would appear as a clustered urban development in a part of the landscape which is least sensitive to change. We have derived two potential, legible, logical and justified lines (refer to **Attachment E** – Potential Urban Growth Area and 560m contour line) which we consider would not give rise to artificial or unnatural lines in the landscape. It is considered that this infill type urban development would not contribute to adverse cumulative effects on landscape values which will be discussed further below under the landscape schedule assessment.

Summary – Part 21.21.4

10. This part of the PDP considers methodology and how that methodology is applied in the consideration of cumulative effects on landscape values. It also seeks to arrive at an outcome of an assessment of landscape capacity in accordance with SP 3.3.29 and SP 3.3.45. This part of the plan requires an assessor to consider existing, consented or permitted subdivision or development and how those address landscape capacity as well as the effects of proposal would have on landscape values and landscape capacity.

Assessment – Part 21.21.4

11. In terms of assessment methodology, most landscape architects are now adhering to the assessment guidelines which were prepared by the New Zealand Institute of Landscape Architects. A consistent assessment methodology is used throughout the profession. That assessment methodology applies measurable spatial and other indicators to inform conclusions and then accounts for effects and how they may influence visual and landscape values. With regard to existing consented and permitted subdivision and development in the Fernhill /Sunshine Bay Area, it is considered that the proposal will read and as infill in an insignificant part of the adjacent rural lands and that the infill will not exceed the landscapes capacity to absorb change.

LANDSCAPE SCHEDULES – 21.22.12 WESTERN WHAKATIPU BASIN ONL

12. We have undertaken a review of the text contained under the Western Whakatipu Basin ONL (WWB-ONL) and provide the following comment.

Important landforms and land types

13. The schedule lists several important landforms and land types, very few of which address any part of the site or its immediate adjacent landscape. The WWB-ONL is a large landscape and takes in much of the wider hills and mountains which enclose the Queenstown area. The proposal would not act to have any effect on the important landforms and land types listed in the schedule.

Important hydrological features

14. The landscape schedules refer to a series of unnamed streams on either side of One Mile Creek network, draining directly to Lake Wakatipu as well as numerous unnamed streams draining the southern and eastern sides of Bowen Peak. These hydrological features generally refer to the gullies which run through the site and then through the urban areas of Fernhill and Sunshine Bay. Any proposal for future development in the proposed area could result in significant enhancements of these hydrological features through the clearing of wilding conifers within their gully type landforms and the enhancement of those water features through naturalistic, indigenous planting (refer **Attachments G-J**).

Important ecological features and vegetation types

15. The site does not hold any noteworthy indigenous vegetation features and is only referred to under the subject matter '*other distinctive vegetation types*' in which the schedule describes the almost continuous patterning of plantation Douglas fir forest throughout the mid and lower flanks of Ben Lomond and the southern flanks of Bowen Peak. These vegetation types are not particularly aesthetic or memorable and are a biodiversity problem. The proposal would likely see the removal of this exotic forest cover in parts of the site, including those associated with any gully enhancement areas.

Important land use patterns and feature

16. The schedule nods to the proliferation of wilding conifers across the urban interface, as well as the gondola and other facilities associated with the gondola. Other important land use patterns and features which are discussed in the landscape schedule include this series of trail networks which are used for recreation. The landscape schedule notes an absence of rural and rural living buildings and highlights that urban residential and commercial development adjoining the southern edge of the area and its associated recreation features are important parts of the landscape. The proposed urban development areas would seek to enhance the land use patterns particularly those associated with recreation values (refer to indicative trail networks on **Attachments G and I**).

Important archaeological and heritage features and other locations

17. The site does not have any important archaeological or heritage features.

Mana whenua features and their locations

18. The schedule notes that the entire area is ancestral land to Kai Tahu and is significant. It notes much of the ONL is mapped as Wahi Tupuna. That mapping is shown in **Attachments B and E**. No part of any infill development would occur within the Wahi Tupuna mapped area.

Important shared and recognized attributes and values

19. This part of the landscape schedule refers to parts of the landscape which are significant in terms of cultural understanding. Those include many photographs of the landscape including those from the gondola and postcard views as well as the identity of Bowen Peak. It is worth noting that the Fernhill/Sunshine Bay area is not part of these more memorable images. It is considered that any proposed infill urban development would not result in adverse effects on shared and recognized attributes and values of the ONL.

Important recreation attributes and values

20. The schedule lists the multitude of recreational opportunities which are available within the landscape. An urban-type development within the proposed locations could be accompanied by enhancements to the existing trail network (**Attachments G and I**) and other recreational facilities which could be enjoyed by the public.

Legibility and expressiveness attributes and values

21. This deals particularly with natural landforms, land type and hydrological features as well as indigenous gully and wetland plantings. While the site does not contain any important land types, it does hold some significant gully landforms which could benefit from indigenous gully and wetland plantings and weed clearance which would reinforce the legibility and expressiveness of those features (**Attachments G-J**).

Particularly important views to and from the area

22. This part of the landscape schedule lists in detail significant views to and from the landscape. None of those important views are noted to contain the subject site, except where the schedule refers to engaging mid to long range views from Queenstown, Fernhill and Sunshine Bay where the largely forested slopes of Ben Lomond form the backdrop of Queenstown. The schedules go on to say that the bold contrast between urban development throughout the lower flanks of the hill and the elevated wooded slopes is memorable and of importance to

identity of Queenstown as a settlement tucked into the base of a mountain. The proposal will not act to change any of this visual amenity) and if developed the landscape would continue to form the importance of this identity of Queenstown as a settlement tucked into the base of a mountain (refer to **Attachments K-M**).

Naturalness attributes and values

23. Most of what is described under this heading in the landscape schedules is not relevant to the site. However, one paragraph describes the forestry plantings across the south flanks of Ben Lomond and parts of Bowen Peak. This part of the landscape schedule considers that those plantations contribute to a reduced perception of naturalness. It goes on to say that the visual appearance of these parts of the landscape during and after harvesting cycles forms a prominent negative visual element within the broader landscape setting and serves to temporarily further reduce perception of naturalness in this part of the landscape. It is our opinion that while the existing forested cover of the site is not native forest, it does contribute to naturalness as viewed through the lens of a visitor. While from an ecological perspective it would be beneficial to clear this area of its wilding conifers, in terms of this urban infill type development, no wide scale clearance of conifers would be considered.

Memorability attributes and values

24. Again, the landscape schedule discusses the juxtaposition of the mountains and landforms within the larger urban context. It goes on to discuss the close-up experience of the alpine setting which is adjacent to the urban areas and is highly accessible. It discusses the sense of Queenstown as a place tucked into a majestic mountain setting. The proposed urban development area would not act to change any of these memorability attributes and values.

Transient attributes and values

25. The proposed urban development area would not act to change any transient attributes and values as set out in the schedule.

Remoteness and wildness attributes and values

26. The proposed urban area would not act to change any remoteness and wildness attributes and values as set out in the schedule.

Aesthetic qualities and values

27. The schedule again describes the mountain landforms juxtaposed beside an urban context and describes the large scale and dramatic character of the mountain landforms and sculpted peaks which form the backdrop to Queenstown as well as the sculpted peaks. However, much of the aesthetic qualities and values which are listed in the landscape schedule are not particularly relevant to the site. As discussed above, any urban infill would not act to change or adversely affect the described juxtaposition of urban and wild lands and would result in no adverse effects on the ONL peaks or their dramatic character (refer to **Attachments K-M**).

Landscape capacity

28. These schedules make assumptions on the landscape capacity for certain types of activity noting that some commercial and recreational activities may be absorbed. However, the schedules have considered that no urban expansion should occur within the landscape priority area. This part of the schedule, and in fact the whole of the schedule, is subject to a future submission and hearing process. It is anticipated that the use of the word no will be struck from the schedules and that a more fluid term such as limited is likely to be in its place. It is considered that appropriate, urban infill type development of the site would be appropriate and would not exceed the landscape's capacity to absorb change.

CONCLUSION

29. Overall, it is considered that parts of the site have the potential to absorb appropriately designed urban infill type development. Our analysis has set out two potential areas and boundaries where there is landscape justification to locate future urban development. These two boundaries follow both the existing urban patterning of the landscape as well as the 560m contour line.

30. We have set out a series of analysis and design graphics which demonstrate the effect urban infill type development may have on the wider landscape. It is our assessment that urban infill type development, confined to these existing development standards, would not act to adversely affect landscape or visual amenity values, would maintain the attributes and values of the much broader ONL and could, to a degree enhance the attributes and values.

Prepared by:

Steve Skelton



Registered Landscape Architect

Director, Patch Ltd

Reviewed by:

Jessica Zuban



Landscape Architecture Associate





WYNYARD CRESCENT

FERNHILL

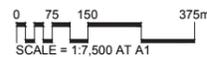
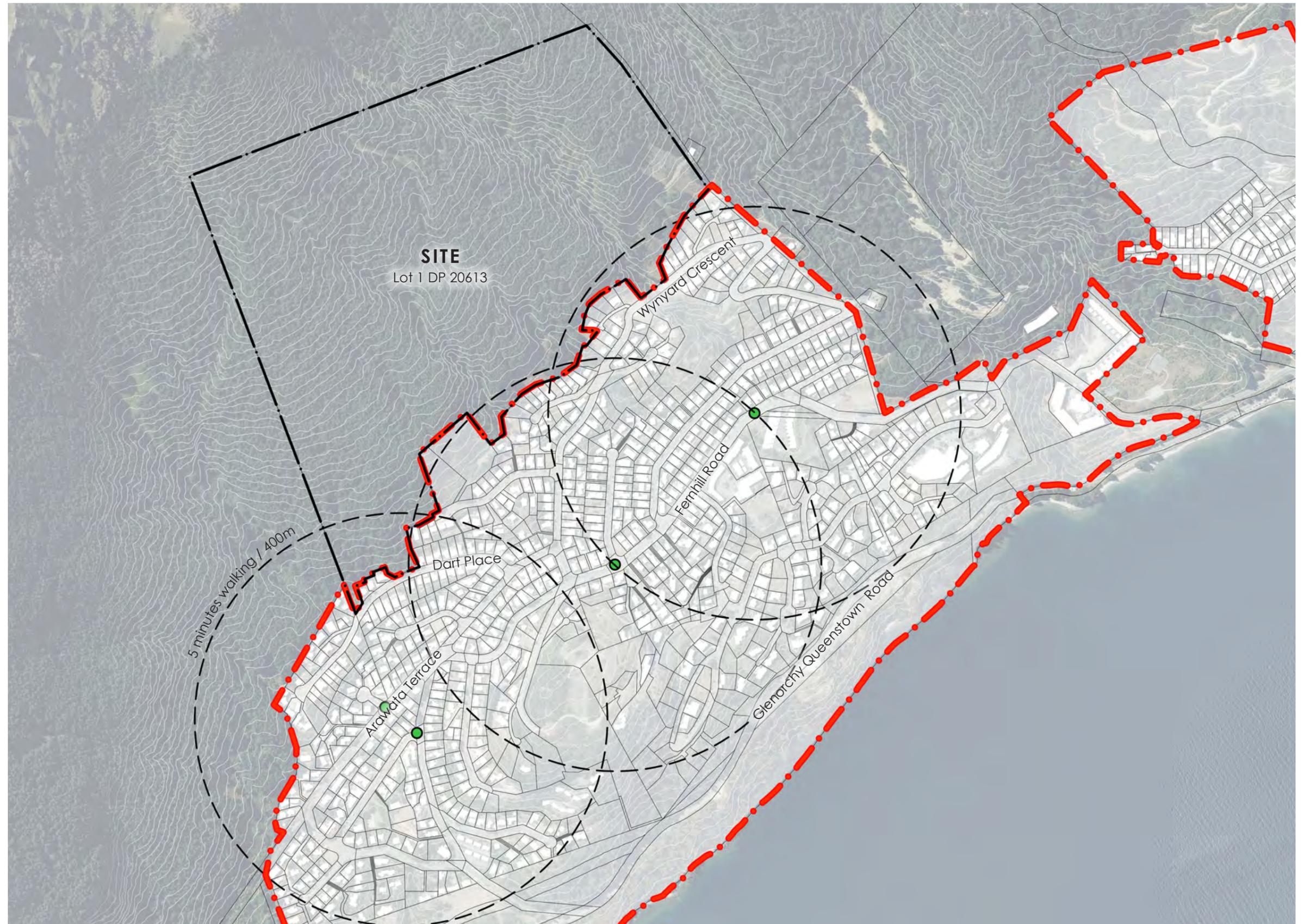
Concept Package

13 July 2023



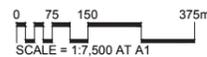
Key:

-  Urban Growth Boundary
-  Bus stop



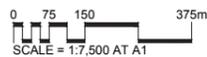
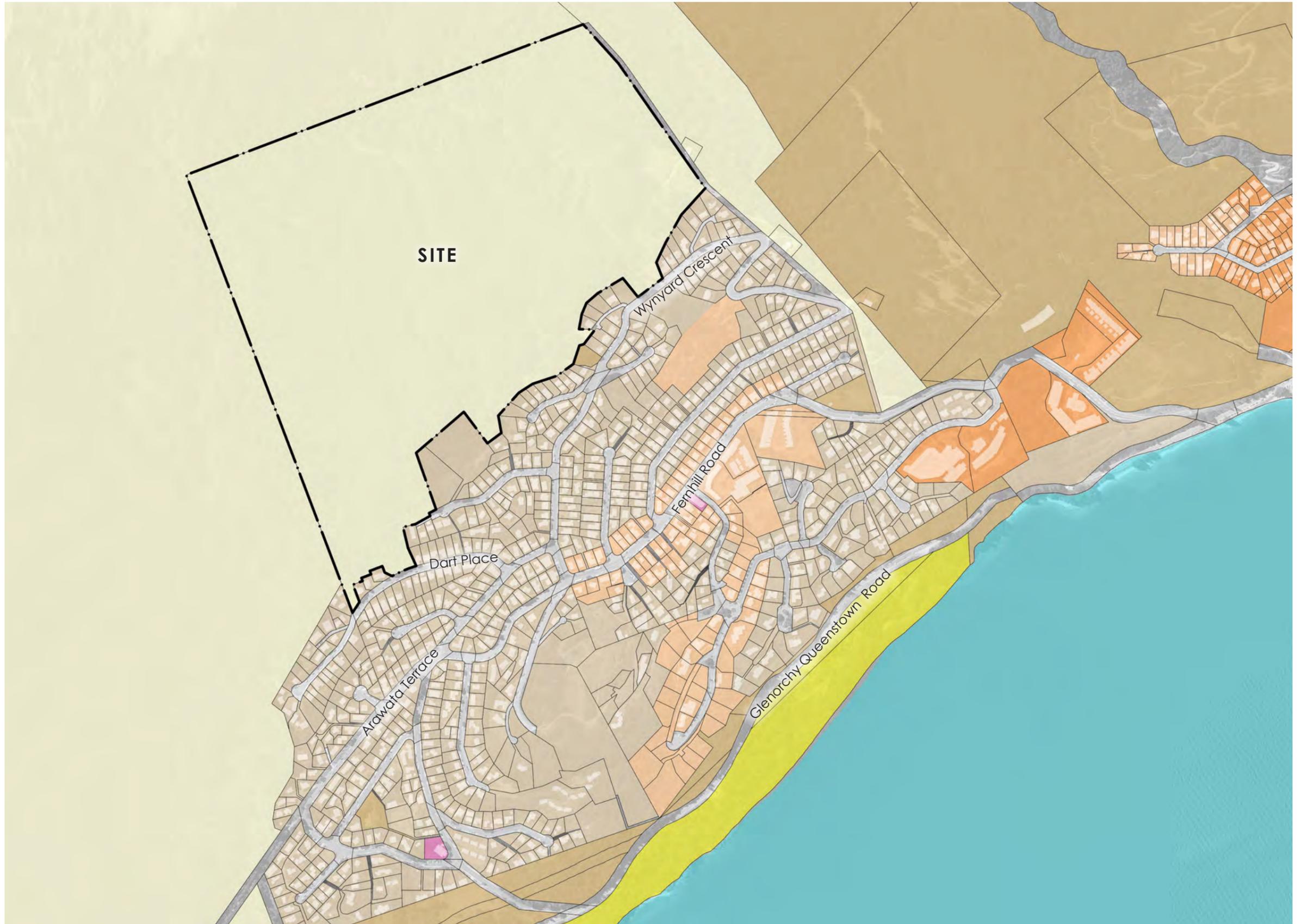
Key:

Wāhi Tūpuna boundary



Key:

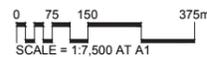
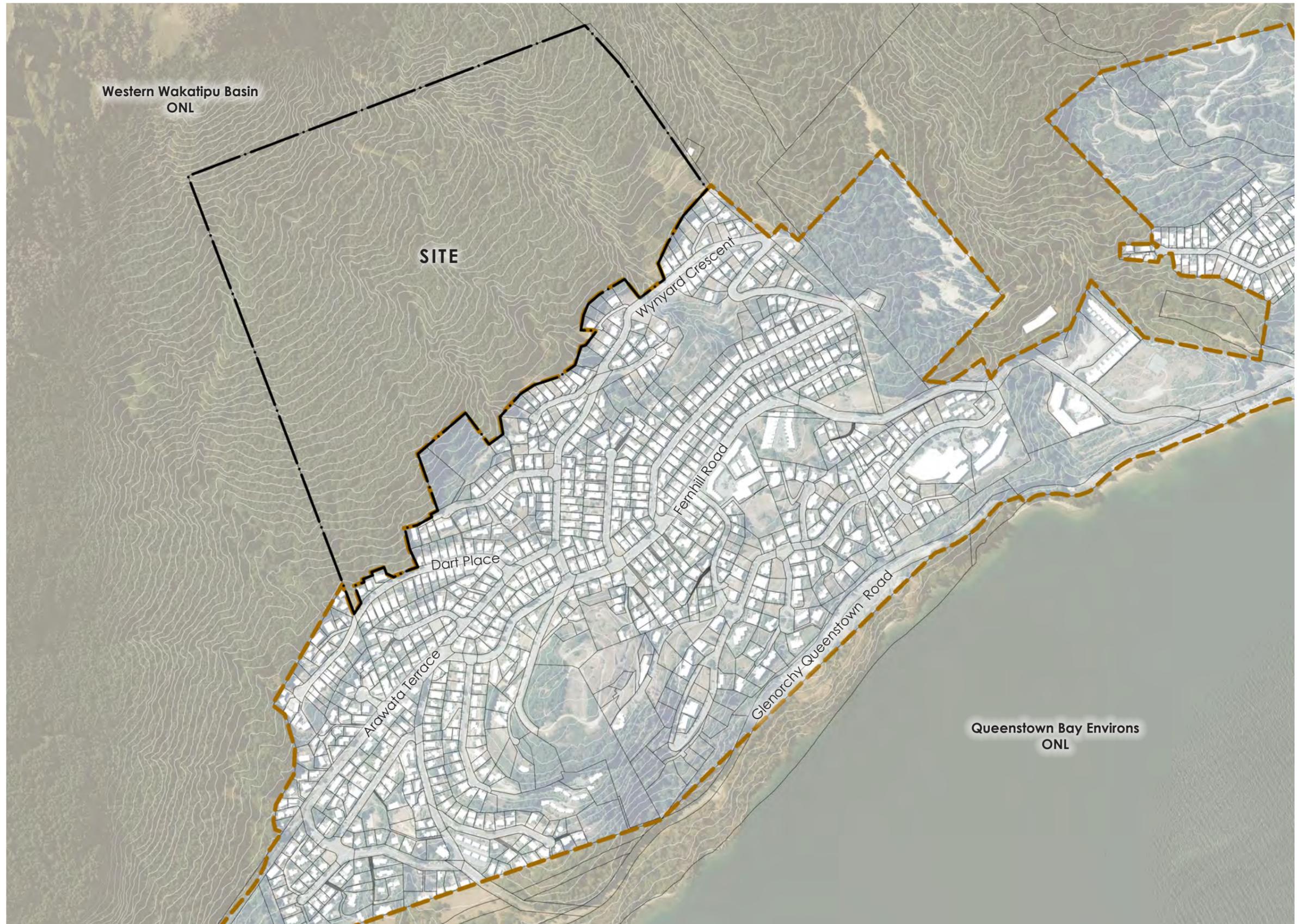
-  Rural
-  Lower Density Suburban
-  Medium Density
-  High Density
-  Local Shopping
-  Informal
-  Nature
-  Water (Rural)



Key:

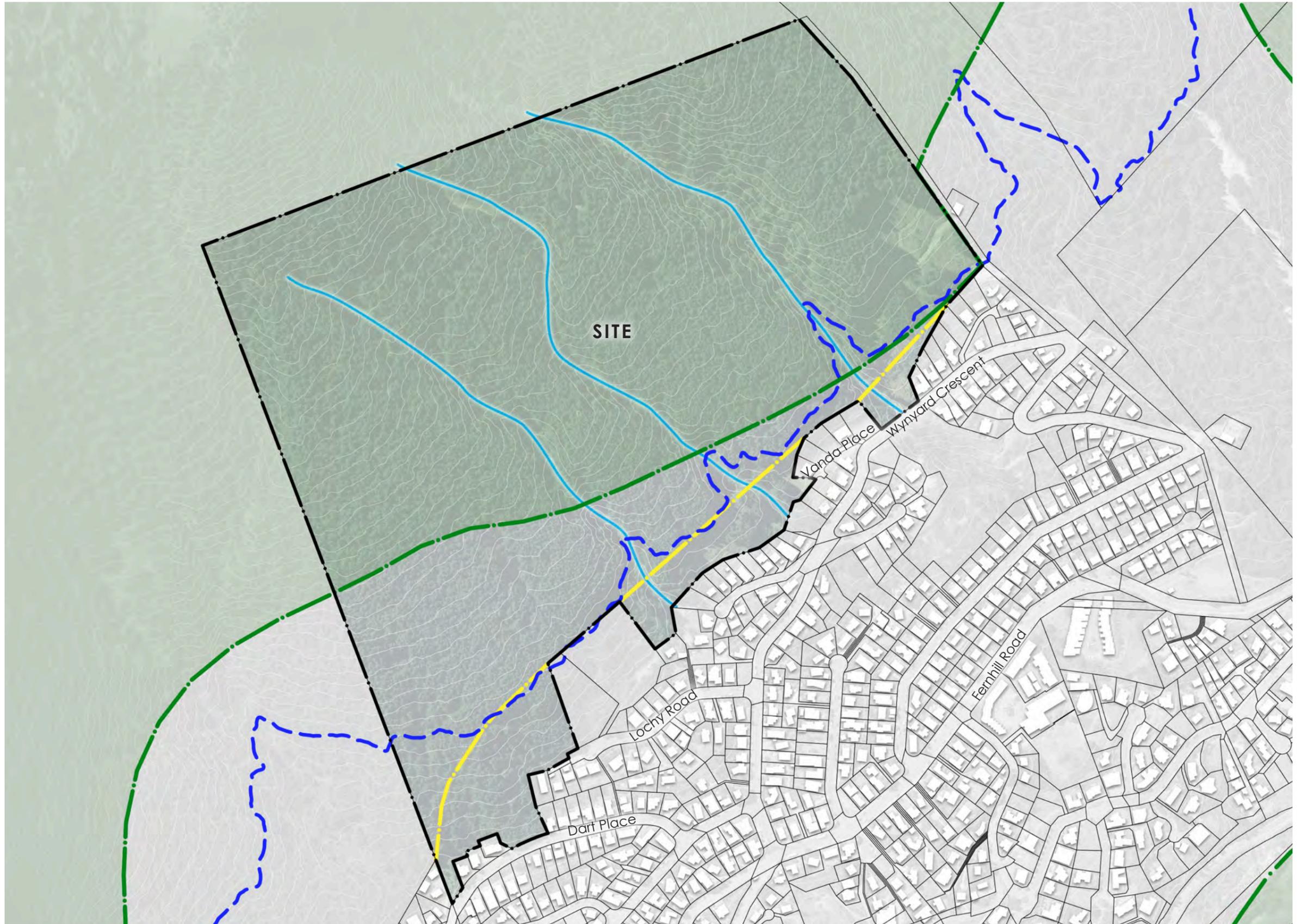


ONL boundary



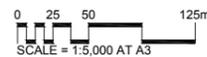
Key:

-  Wāhi Tūpuna boundary
-  560m contour line
-  Potential urban growth area



Site Areas:

Total site area (ONL):	56.68 ha
Outside Wāhi Tūpuna:	15.52 ha
Below 560m:	6.96 ha
Potential urban growth area:	4.66 ha



Key:

-  Wāhi Tūpuna boundary
-  560m contour line
-  Potential urban growth area

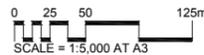
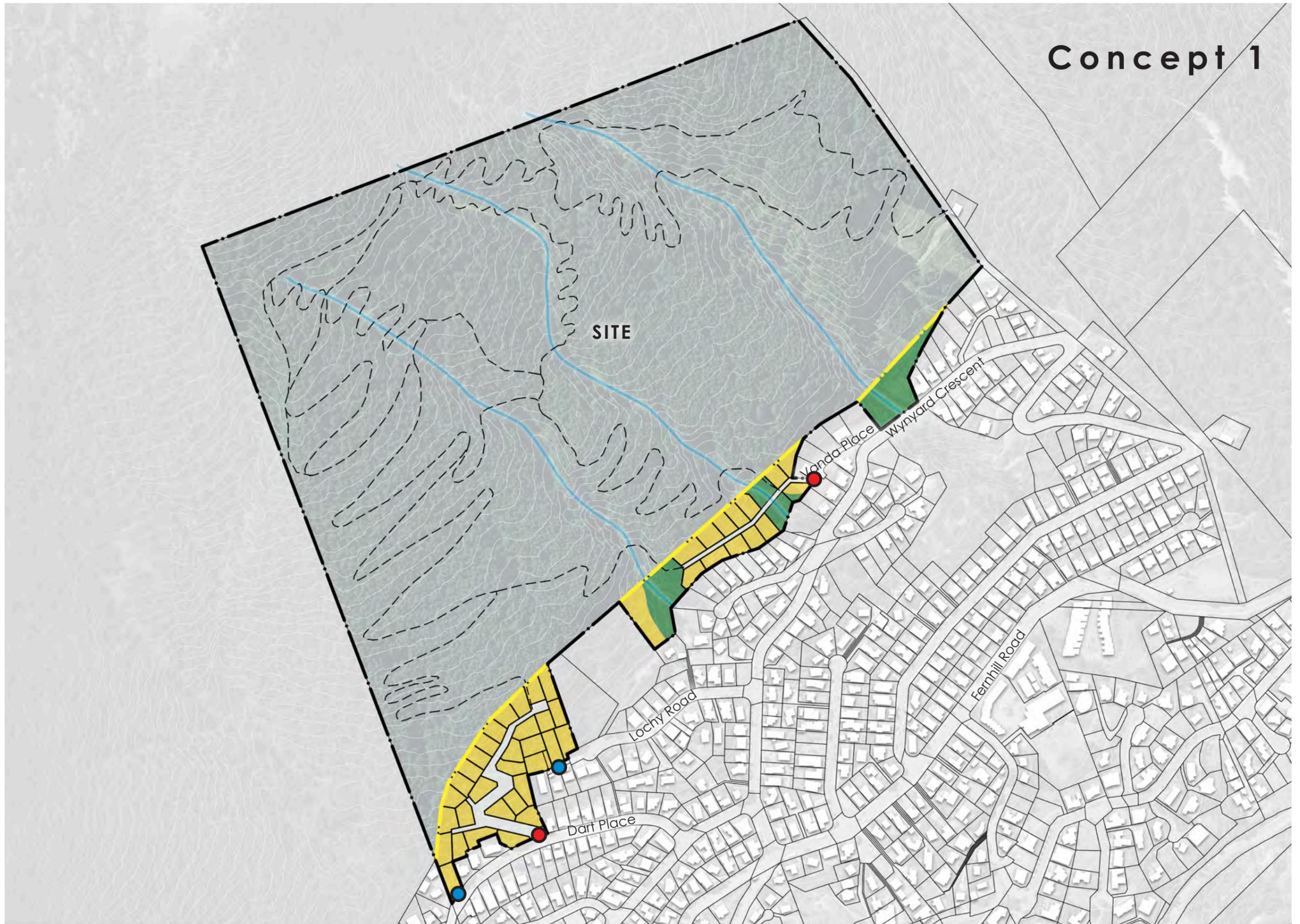


Site Areas:

Total site area (ONL):	56.68 ha
Outside Wāhi Tūpuna:	15.52 ha
Below 560m:	6.96 ha
Potential urban growth area:	4.66 ha

Key:

-  Infill lower density suburban boundary
-  Reserve to improve freshwater quality
-  Potential urban growth pattern 46 lots (≈ 600m²)
-  Road access to existing roads
-  Lot access on existing roads
-  Indicative trail network



Key:



Infill lower density suburban boundary



Reserve to improve freshwater quality

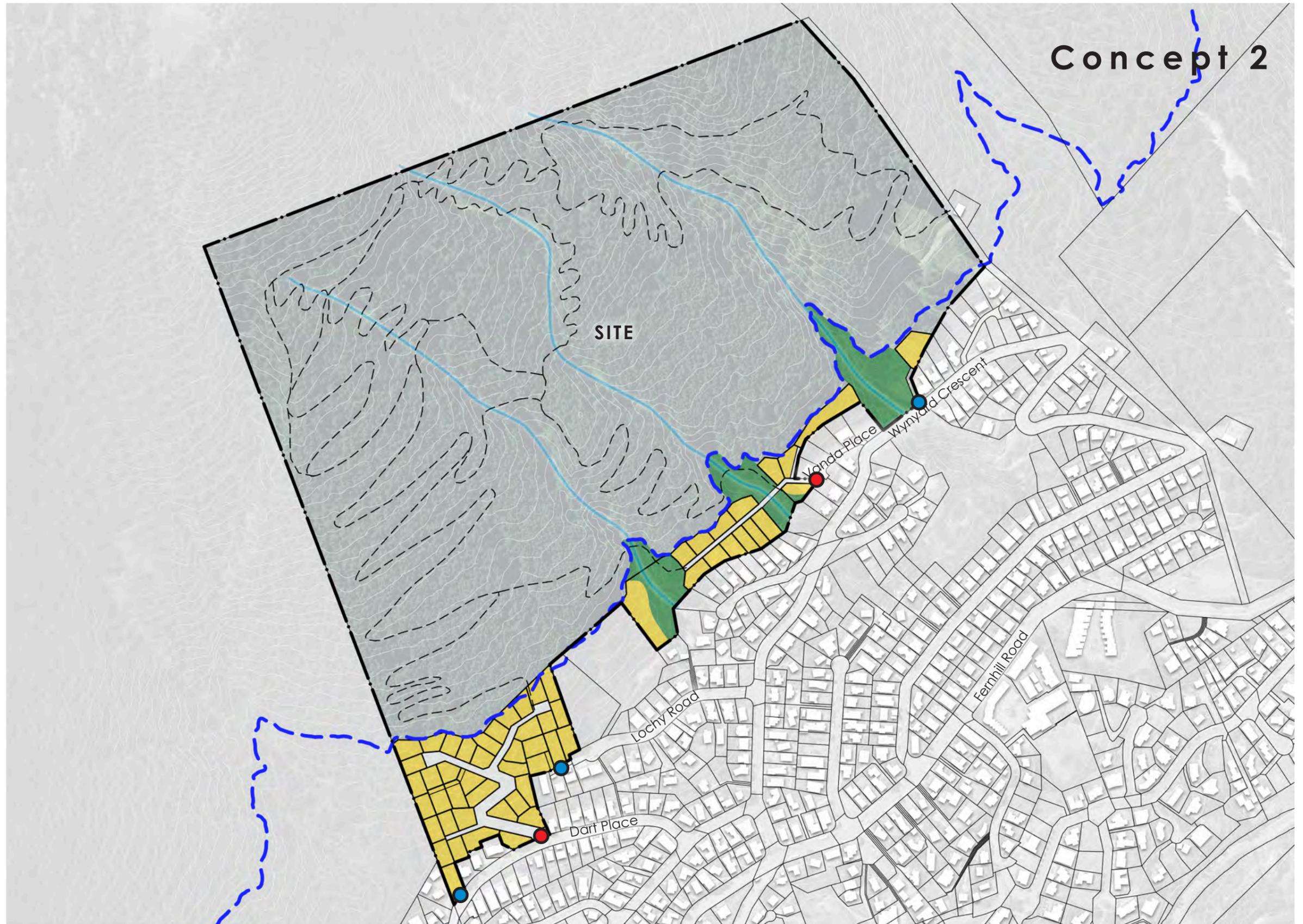


Reserve to improve freshwater quality 46 lots (≈ 600m²)



Key:

-  560m contour line
-  Reserve to improve freshwater quality
-  Reserve to improve freshwater quality 59 lots (~600m²)
-  Road access to existing roads
-  Lot access on existing roads
-  Indicative trail network



Key:



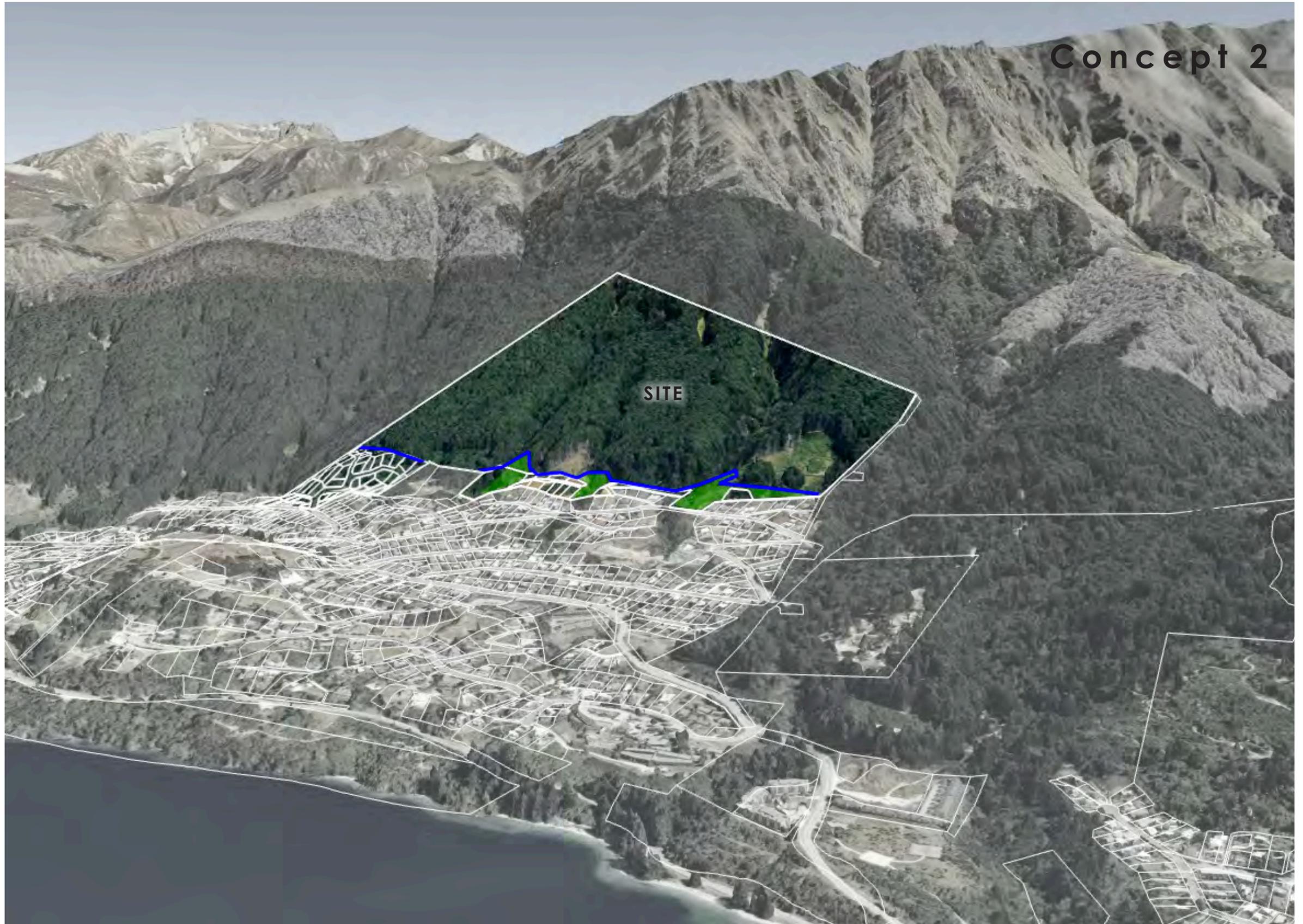
560m contour line



Reserve to improve freshwater quality



Reserve to improve freshwater quality 59 lots (≈ 600m²)



Concept 2



Concept 1



Concept 2




patch
—
landscape ■ architecture ■ urban
—

Attachment 2 - Submission #186 - Landscape Schedules

Queenstown Lakes District Council

Proposed District Plan – Submission

Clause 6 of First Schedule, Resource Management Act 1991
FORM 5

Correspondence to:
Attn: Planning Policy
Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN 9348

1. Submitter details:

Full Name of Submitter:	Richard Kemp Trading As Pragmatic Planning
Address for Service:	PO Box 2770, Wakatipu, Queenstown 9349
Email:	richard@pragmaticplanning.co.nz
Contact Person:	Richard Kemp

2. Scope of submission

- This is a submission to the Queenstown Lakes District Proposed District Plan (PDP) Landscape Schedules, notified 30 June 2022.
- The submitter could not gain an advantage in trade competition through the submission.
- The scope of this submission is detailed below and in Part 3 of the submission.
- The specific provisions that my submission relates to are:

(a) Schedule:	21.22.12 Western Whakatipu Basin ONL
(b) Any other provisions:	Any other provisions relevant to the purpose of this submission described in Part 3 below.

3. Submission

The Submitter **OPPOSES** the newly mapped Western Whakatipu Basin ONL Priority Area Landscape Schedule 21.22.12 and seeks further information, clarification and amendments as set out below:

A. The landscape attributes (physical, sensory and associative)

The landscape attributes include physical attributes such as: Vegetation patterns; Ecological (flora and fauna) and dynamic components; Settlements and occupation; Roads and circulation; Land use – cadastral pattern; Buildings; Likely future (permitted or consented) activities in the environment.

Para 26-38 - Under **important land use patterns and features**, the following was not included, and should be included:

- The unformed road that extends up the hill from Wynyard Crescent was not listed, as well as designation 237 and 22. Also, an unformed road along which the Ben Lomond track is formed.
- The Informal Recreation zoned land on the bottom of Ben Lomond, Cemetery Hill and Queenstown Hill was not listed. The permitted activities enabled by this zoning and associated effects that would have on the landscape values and capacity should be acknowledged.
- The irregular notified shape of the Priority area (**PA**) along the bottom slopes (Fernhill) of Ben Lomond and top of Queenstown Hill currently aligns with the Urban Growth Boundary (**UGB**) and existing land uses – a cadastral pattern instead of any landscape pattern or feature. This should be changed. Along with the need to either align the ONL and PA with landscape features or patterns or to acknowledge the capacity for urban expansion in-between the existing urban development.
- The Urban context with residential development on the lower slopes of Ben Lomond and Queenstown Hill (Fernhill, Queenstown and Arthurs Point) and its influence on the character of the area as a natural landscape should be acknowledged.

Para 101 -102 - Under **Aesthetic qualities and values**, the following was not included, and should be included:

- Point ix (**The general confinement of visible built development**) should also include the lower slopes of Ben Lomond (Fernhill) and Queenstown Hill where residential development has extended into the plantation forest and the PA. There is a need to amend the ONL and UGB line here so that it follows landscape features or patterns or to acknowledge the capacity for urban expansion in between the existing urban development.

B. The landscape values

Para 103 -105 - the Summary of the landscape values needs to be updated to reflect the above-mentioned matters.

C. The related landscape capacity

No rating scale is provided for the landscape capacities. From a review of the various Priority Areas, it appears to range as follows: No capacity; very limited capacity; limited capacity; some capacity. The extent of the capacity rating scale should be confirmed within the

Landscape Schedules. It should also be clear from the rating scale how these interrelate with the wording used in the provisions in Chapter 3. For example, Strategic Policy 3.3.31 states: “Avoid adverse effects on the landscape values of the District's Outstanding Natural Features and Outstanding Natural Landscapes from residential subdivision, use and development where there is little capacity to absorb change.” [emphasis added]

Additional amendments sought - shown with underlined text and deleted text ~~struck through~~:

- **Commercial recreational activities** – some landscape capacity for activities that integrate with or expand and/complement/enhance existing recreation features; are located to optimise the screening and/or camouflaging benefit of natural landscape elements; designed to be of a sympathetic scale, appearance, and character; integrate appreciable landscape restoration and enhancement; eradicate wilding vegetation and replant native vegetation; enhance public access; enhance visual amenity and landscape values; and protect the area’s ONL values.
- **Visitor accommodation and tourism related activities** – Limited ~~no~~ landscape capacity for visitor accommodation on the lower slopes of the PA. The area can be serviced by Queenstown. Limited capacity for tourism related activities that expand or integrate with and complement/enhance existing recreation features; are located to optimise the screening and/or camouflaging benefit of natural landscape elements; designed to be of a sympathetic scale, appearance, and character; integrate appreciable landscape restoration and enhancement; eradicate wilding vegetation and replant native vegetation; enhance visual amenity and landscape values; enhance public access; and are consistent with the area’s ONL values.
- **Urban expansions** – ~~no landscape capacity.~~ Limited landscape capacity on the lower slopes of the PA, adjacent to or in-between the existing urban development.

Or

Update the PA mapping and associated ONL line/UGB and zoning to exclude areas where there is capacity to absorb urban expansion. These include areas on the lower slopes of Ben Lomond in Fernhill and Queenstown Hill where the ONL line simply follows the UGB (Land use – cadastral pattern) instead of landscape features or patterns.

So in summary, either acknowledge the capacity in the schedule or move the mapped PA, ONL line, UGB and zoning to reflect the actual landscape capacity.

- **Gondolas, towers and cableway** – Limited landscape capacity

4. Further rational for capacity sought above.

Following the guidance of the Court of Appeal in **Man O'War Station Limited v Auckland Council [2017] NZCA 24**, the decisions on ONL lines need to be made on landscape grounds, rather than by a reference to their planning implications. The planning consequences that flow from the fact the land is an ONL are not relevant to determining whether or not it is an ONL. Conversely, the provisions or landscape schedules that relate to a ONL should not predetermine the planning consequences for the ONL.

By stating in these schedules that there is no capacity within the ONL landscape, the Council is predetermining the planning outcome for the land and fundamentally limiting the use of the land despite the underlying zoning. If the Council's schedule does not reflect the capacity of the landscape in the specified locations, then the appropriate planning decision would be to change the underlying zoning to reflect that.

Furthermore, by stating there is no capacity, the schedule seeks to avoid all development. This is not consistent with **King Salmon**, which found that it is "inappropriate" subdivision, use and development that is to be avoided, with inappropriateness assessed by reference to what is sought to be protected. It is not all adverse effects, nor all activities, that are to be avoided.

Lastly, it should be highlighted that the West Wakatipu ONL was specifically considered in **Skyline Enterprises Limited v Queenstown Lakes District Council [2017] NZEnvC 124**. The court accepted evidence [97] of Mr Denney's that the existing Upper Terminal and gondola have already compromised the visual coherence and naturalness at a prominent location in the landscape.

It also agreed [98] with Mr Denney that the question of whether the site has reached a 'threshold' with respect to the site's ability to absorb further change is to some extent related to what viewers would tolerate. It stated:

Related to that, we agree with Mr Denney that the site's ability to absorb the redevelopment is helped by the fact that the redevelopment would occur in a relatively contained lower part of the clearing on the ridge and in close proximity to the already prominent existing Upper Terminal development....As such, we find on the evidence that the extent of mitigation now proposed in the QLDC conditions would be sufficient for ensuring the proposal does not represent 'a threshold with respect to the site's ability to absorb further change.'

From this decision, it is clear that the landscape has capacity to absorb further commercial recreational, visitor accommodation, built form/urban expansion and gondola-type developments.

5. The Submitter seeks the following decision from the Queenstown Lakes District Council:

5.1 The Submitter seeks the relief set out in Part 3 of this submission.

5.2 The submitter seeks in the alternative additional or consequential relief necessary or appropriate to address the matters raised in this submission and/or the relief requested in this submission, including modifications to the landscape schedule or any such other combination of plan provisions, objectives, policies, rules, standards, and zoning provided that the intent of this submission, as set out in Part 3 of this submission, is enabled.

The Submitter **DOES** wish to be heard in support of this submission.

If others make a similar submission, the Submitter will consider presenting a joint case with them at a hearing.

Dated 26/08/2022

Attachment 3 – Record of Title



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R.W. Muir
Registrar-General
of Land

Identifier 838157
Land Registration District Otago
Date Issued 16 May 2018

Prior References
OT12A/1491

Estate Fee Simple
Area 56.6000 hectares more or less
Legal Description Lot 1 Deposited Plan 20613

Registered Owners
Passion Development Limited

Interests

Appurtenant hereto is a right of way, right to drain stormwater and foul sewage, right to convey water specified in Easement Certificate 753285.1 - 2.5.1990 at 9:45 am

The easements specified in Easement Certificate 753285.1 are subject to Section 309 (1) (a) Local Government Act 1974

Attachment 3 – Landscape Evidence of Mr Skelton