

**Before the Hearings Panel**

**In the Matter** of the Resource Management Act 1991

**And**

**In the Matter** Stream 13 – Queenstown Mapping and submissions lodged by Reddy Group Limited (now Coherent Hotels Limited) on the Queenstown Lakes Proposed Plan 2015 (699 and FS1172)

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**Statement of Primary Evidence of Nicholas Colyn Grala on behalf of  
Coherent Hotels Limited  
Dated 9 June 2017**

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## Introduction

1. My full name is Nicholas Colyn Grala. I am employed at Harrison Grierson as the Planning Manager of the Company's Auckland office. I hold a Bachelor of Planning from the University of Auckland and I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
2. I have over ten years' planning experience in district and regional planning. Details of my relevant and recent experience were contained in the statement I tabled on Chapter 8: Medium Density Residential that was heard in Stream 6.
3. I prepare this statement on behalf of Coherent Hotels Limited (Submitter) who, since submissions were made on the Queenstown Lakes Proposed Plan 2015 ('the Proposed Plan'), have acquired the properties that were formerly owned by Reddy Group Limited and were referenced in their primary submission (Council reference 699). Coherent Hotels Limited are now progressing the submissions through the remainder of the hearing process.
4. I am familiar with the Fernhill area to which the submissions relate. At the time of finalising this evidence I have not undertaken a specific visit of the site but I have been provided with site photographs from both Mr Jeremy Brabant and a colleague from Harrison Grierson who have both visited the site. I have otherwise relied on the Council's GIS mapping, the District Plan maps (both Operative and Proposed), Google Earth and a review of relevant evidence and Reports<sup>1</sup> to form a view of what zoning is appropriate.
5. I have read and agree to abide by the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Practice Note

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<sup>1</sup> Refer paragraph 8 below

2014. This evidence is within my area of expertise, except where I state that I rely upon the evidence of other expert witness as presented to this hearing. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

### **Scope of Evidence**

6. My statement of evidence will address the zoning put forward by the Submitter in its submission. It provides:
  - a. A description of the site;
  - b. A summary of the submission;
  - c. Reasons to accept the Medium Density Residential zoning sought in the submission and as recommended within the Section 42a Report.
  
7. My statement also confirms that the Submitter no longer wishes to pursue the elements of their submission relating to the Visitor Accommodation Sub Zone on the basis that these aspects of the Proposed Plan have been withdrawn and will instead form part of Stage 3 of the District Plan Review that will be notified later this year<sup>2</sup>.
  
8. In preparing my evidence I have read the following primary statements and Section 42a Reports prepared on behalf of Queenstown Lakes District Council:
  - a. Ms Rosalind Devlin (Group 1C Queenstown Urban – Central, West and Arthurs Point) dated 24 May 2017;
  - b. Ms Kimberley Banks (Strategic Overview and Common Themes) dated 25 May 2017;
  - c. Section 42a Report on Chapters 1 (Introduction) and 5 (Tangata Whenua) dated 19 February 2016;
  - d. Section 42a Report on Chapter 2 (Definitions) dated 15 February 2017;
  - e. Section 42a Report on Chapters 3 (Strategic Direction) and 4 (Urban

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<sup>2</sup> Refer Queenstown Lakes District Council – Planning and Strategy Committee – Report for Agenda Item 1 dated 21 April 2017, paragraphs 7, 9, 15 and 25.

Development) dated November 2015;

- f. Section 42a Report on Chapter 8 (Medium Density Residential) dated 14 September 2016.

### **The Site**

9. The submission related to six properties in Fernhill that I collectively refer to as 'the Site'.
10. The largest of the properties is situated at 139 Fernhill Road and accommodates the Aspen Hotel on the northern portion of the property while the southern portion is vacant and undeveloped. The remaining five properties are smaller residential properties which are either owned by the Submitter (being 10, 12 and 16 Richards Park Lane and 20 Aspen Grove<sup>3</sup>) or are contiguous with properties owned by the submitter (14 Richards Park Lane). I have enclosed photographs of the site as **Attachment 1**.
11. The Proposed Plan (as notified) applied the Medium Density Residential (MDR) zone to the northern developed portion of 139 Fernhill Road and 20 Aspen Grove and the Low Density Residential (LDR) zone to the undeveloped southern portion of 139 Fernhill Road and to 10, 12, 14 and 16 Richards Park Lane.
12. The Proposed Plan (as notified) also applied the Visitor Accommodation (VA) Sub-Zone to 139 Fernhill Road, presumably because it reflected the established use of this property in the Aspen Hotel. The Aspen Hotel was established<sup>4</sup> in the mid 1980's and has been operating from the property at 139 Fernhill Road ever since (with numerous legally established additions and alterations along the way). Today, the Aspen Hotel includes 73 rooms, conference facilities and an on-site restaurant and bar<sup>5</sup>.

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<sup>3</sup> 20 Aspen Grove is vacant and undeveloped while the other properties accommodate single residential dwellings.

<sup>4</sup> QLDC records show that building consent was granted for the hotel in 1986 (Reference 2910912600-3-1)

<sup>5</sup> <http://www.aspenhotelnz.com>

### **Submission Summary**

13. The submission sought for the MDR zone and VA sub-zone to be applied to the entirety of the Site. It sought for the MDR zone to be applied to the entirety of the Site because:
  - a. It was consistent with the objectives and policies of the MDR within the Proposed Plan.
  - b. It provided an opportunity for a large site in one ownership to be redeveloped on an integrated basis.
  - c. The site was within the Urban Growth Boundary of the Proposed Plan (as notified).
  - d. The rezoning formed an extension of the current MDR zone (as notified by the Proposed Plan) to the south along Aspen Grove and to the north along Fernhill Road. This made it clear that it would not result in a spot zoning.
  - e. The Site adjoins the local shops situated on the corner of Fernhill Road and Richards Park Lane that provided local convenience and amenity.
  - f. The Site is situated on a public transport route (Fernhill Road).
  - g. The Site was (and still is) not within any landscape protection overlays under the Proposed Plan.
  - h. The re-zoning was consistent with the strategic direction of the Proposed Plan because it consolidated growth within the UGL and would encourage higher densities close to local amenities and public transport routes.
  
14. The submission also supported the application of the VA sub zone to 139 Fernhill Road because it reflected the established use of the Site (being the Aspen Hotel which I have already described above). In addition, it sought for the VA sub zone to be extended to encompass the remaining properties that comprised the Site. The reasoning supporting this relief sought was that it would enable any redevelopment of the Site to be undertaken using one set of District Plan provisions and would provide the Submitter with flexibility to

respond to the market by either expanding the Aspen Hotel or establishing medium density residential housing on the remainder of the Site.

15. I support the reasoning put forward by the submission in terms of both the MDR zone and VA sub zone, noting that the aspects relating to the VA sub zone are no longer being pursued by the submitter as they have been withdrawn from the Proposed Plan and will instead form part of Stage 3 of the District Plan Review<sup>6</sup>. The submitter intends to pursue zoning provisions for the Site which enable Visitor Accommodation in the context of Stage 3.
16. The remaining sections of my statement will expand on these reasons with reference to the recommendations put forward by Ms Devlin in her s42a Report<sup>7</sup>.

#### **MDR zoning**

17. Ms Banks has outlined the statutory framework for rezoning within her statement<sup>8</sup>. I agree with this overview and adopt it for the purposes of my statement.
18. Ms Devlin has recommended that the submission to rezone all of the Site MDR be accepted summarising that *'rezoning the properties MDR is logical and would enable efficient land development close to a local shopping centre and public transport route'*<sup>9</sup>.
19. I agree with the recommendations and reasoning put forward by Ms Devlin in relation to the rezoning being consistent with the strategic direction for urban development included as Chapter 4 of the Proposed Plan, as well as the most recent iteration of the MDR zone that was included as Appendix 1 for the MDR Section 42a Report in Stream 6 of the hearings. Of particular relevance is the zone description for the MDR zone, which states that:

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<sup>6</sup> Refer paragraph 7.

<sup>7</sup> Refer statement of Ms Devlin, section 39 on pages 119-123

<sup>8</sup> Refer statement of Ms Banks, section 9

<sup>9</sup> Refer statement of Ms Devlin, overall recommendation on page 119.

*“...The zone is situated in locations in Queenstown, Frankton, Arrowtown and Wanaka that are within identified urban growth boundaries, and easily accessible to local shopping zones, town centres or schools by public transport, cycling or walking...”*

20. The application of the MDR zone over the entirety of the Site matches this description because it is:
  - a. within the urban growth boundary for Queenstown;
  - b. adjacent to a local shopping area (on the corner of Fernhill Road and Richards Park Lane);
  - c. on a public transport route; and
  - d. within a 10 minute cycle or 30 minute walk from the Queenstown Town Centre.<sup>10</sup>
  
21. The application of the MDR zone over the entirety of the Site it also supported in the reports and/or evidence of other Council witnesses addressing specialist considerations.<sup>11</sup>
  
22. In my view it is appropriate for the MDR zone to be applied to the entirety of the Site.

#### **VA Sub Zone**

23. Turning to the matter of the VA sub zone, the Proposed Plan (as notified) applied the VA sub zone to 139 Fernhill Road and the submission sought for this to be extended to also encompass the remaining properties that form the Site (being 10, 12, 14 and 16 Richards Park Lane). A copy of Map 34 – Fernhill and Sunshine Bay that was included in the notified version of the Proposed Plan is included as **Attachment 2**.
  
24. Subsequent to the lodgement of submissions, the Council resolved to withdraw provisions relating to visitor accommodation and the VA sub zone

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<sup>10</sup> Google maps

<sup>11</sup> for example infrastructure, traffic and ecology

within residential zones in October 2015. My understanding is that this was primarily due to the growing trend of Airbnb or peer to peer type accommodation rental and its potential to displace residential housing supply rather than any concern specifically relating to hotel development<sup>12</sup>.

25. In September 2016, the Council approved the commencement of Stage 2 of the District Plan Review that was to include visitor accommodation, although this has now been moved to Stage 3<sup>13</sup>. Stage 3 is expected to be notified in October / November of this year with a possible hearing date in the second quarter of 2018.
26. On this basis, the Submitter has decided not to pursue the aspects of their submission relating to VA sub zone because those provisions have been withdrawn from this stage of the process, the framework of those provisions are under review, and the Submitter will still have an opportunity to be involved with the visitor accommodation provisions through the submission and hearings process once they are notified.
27. The Council has also resolved that it will only notify a single set of decisions on the Proposed Plan once the visitor accommodation provisions are notified as part of Stage 3 of the District Plan Review<sup>14</sup>. I support this approach because without doing so there would effectively be a policy gap whereby no visitor accommodation provisions would apply. This would make any visitor accommodation a Non Complying activity within the MDR zone and impede the development of the new visitor accommodation (hotels) that are required in order to meet the projected demand within Queenstown<sup>15</sup>.
28. I am of the view that it is vital for this policy gap to be avoided in order for the District to be able to respond to the current and future growth pressures on visitor accommodation and to realise the social and economic benefits that

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<sup>12</sup> Refer Memorandum of Counsel for Queenstown Lakes District Council Regarding Approach to Stage 1 and Stage 2, dated 23 November 2016, paragraphs 41-47.

<sup>13</sup> Refer Queenstown Lakes District Council – Planning and Strategy Committee – Report for Agenda Item 1 dated 21 April 2017, paragraph 15.

<sup>14</sup> Refer Queenstown Lakes District Council – Planning and Strategy Committee – Report for Agenda Item 1 dated 21 April 2017, paragraph 25

<sup>15</sup> Refer Section 32 Evaluation Report: Urban Development, page 11, fifth paragraph



can arise from meeting this<sup>16</sup>.

29. The final matter that I want to address on the VA sub zone relates to the reasons that Ms Devlin provided in her recommendation to reject the relief sought in the submission<sup>17</sup>. For the record, I have provided a response to these reasons in the following sections.
30. I do not agree with the reasons put forward by Ms Devlin for not applying the VA sub zone to the site— which essentially suggest prioritising visitor accommodation over residential development on the site would not be consistent with the strategic direction set out by Chapter 3 of the Proposed Plan<sup>18</sup>.
31. The Proposed Plan did not include any provisions that gave effect to the VA sub zone which makes it difficult (if not impossible) to determine the approach that the Proposed Plan was intending to take for visitor accommodation within the district. It is not clear to me that visitor accommodation would have been prioritised over residential development.
32. In the absence of any notified provisions, I have instead reviewed the approach that the Operative District Plan took for the VA sub zone, which was to apply it to the low and high residential zones within the district (there was no MDR within the Operative Plan). It was then implemented by rule within the residential chapter that applied a Controlled activity status to visitor accommodation located within the sub zone<sup>19</sup>. This contrasted to a Permitted activity status for residential development<sup>20</sup> and, when applied to the site, meant that a more favourable activity status was provided for residential development compared to visitor accommodation.
33. Assuming a similar approach is to be taken by the Proposed Plan, then I do not agree that the application of a VA sub zone to the site would be

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<sup>16</sup> Refer Section 32 Evaluation Report: Strategic Direction, section 8, third paragraph

<sup>17</sup> Refer statement of Ms Devlin, paragraph 39.8

<sup>18</sup> Refer statement of Ms Devlin, paragraph 39.8

<sup>19</sup> Refer Rule 7.5.3.2(ii) of the Operative District Plan

<sup>20</sup> Refer Rule 7.5.3.2.1

‘prioritising’ visitor accommodation over residential development. In fact, the opposite is likely to be the case.

34. Chapter 3 of the Proposed Plan provides the strategic direction for the management, use and development of land within the district. It includes two objectives and supporting policies that would be relevant to the management of existing, and the development of new, visitor accommodation within the district. These are:

**Objective 3.2.1.1** - *Recognise, develop and sustain the Queenstown and Wanaka town centres as the hubs of New Zealand’s premier alpine resorts and the District’s economy.*

**Policy 3.2.1.1.1** - *Provide a planning framework for the Queenstown and Wanaka town centres that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths*

**Policy 3.2.1.1.3** - *Promote growth in the visitor industry and encourage investment in lifting the scope and quality of attractions, facilities and services within the Queenstown and Wanaka town centres.*

**Objective 3.2.1.4** – *Recognise and provide for the significant socioeconomic benefits of tourism activities across the District.*

**Policy 3.2.1.4.1** - *Enable the use and development of natural and physical resources for tourism activity where adverse effects are avoided, remedied or mitigated.*

35. These objectives and policies do not, in my view, provide any policy direction to avoid visitor accommodation outside of the Town Centre zone (i.e. the VA sub zone or MDR zone). At most, a possible method to implement Policy 3.2.1.1.3 would be to include a rule framework for visitor accommodation

within the Town Centre zone that is more favourable than the VA sub zone<sup>21</sup>. For example, visitor accommodation could be a Permitted activity within the Town Centre and a Controlled activity in the VA sub zone.

36. For these reasons, I do not agree that the VA sub zone would prioritise visitor accommodation over residential development nor would it be inconsistent with the strategic direction of the Proposed Plan as outlined in Chapter 3. In addition, if Council's particular concern from a sustainable management perspective is the impact of peer to peer accommodation rental within a residential zone on residential development and availability of housing, that is a concern which can be managed through appropriately targeted and worded plan provisions without also imposing unnecessary limitations upon hotel or resort type development.

### **Conclusion**

37. In my view it is appropriate for the MDR zone to be applied to the entirety of the Site because it possesses all the necessary attributes; best meets the purpose of the Resource Management Act 1991; gives effect to the strategic direction of the Proposed Plan and matches the description of the MDR zone.
38. The submitter no longer wishes to pursue the elements of their submission relating to the Visitor Accommodation Sub Zone on the basis that these aspects of the Proposed Plan have been withdrawn and will instead form part of the Stage 3 of the District Plan Review that will be notified later this year.
39. I support the Council's resolution to notify decisions on the Proposed Plan (Stage 1) after the visitor accommodation provisions have been notified so as to avoid any policy gap that would otherwise arise between Stages 1 and 3 of the District Plan Review.
40. I have also provided reasons on why I do not agree with the reasons that Ms

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<sup>21</sup> Noting this would only need to be considered and undertaken in Stage 2 of the District Plan Review

Devlin has provided for rejecting the VA sub zone aspects of the submission. I have provided these for the record only to avoid pre-empting Councils position on Stage 3 of the District Review.



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**Nicholas Colyn Grala**

Date: 9 June 2017

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## **Attachment 1 – Site Photographs**



Viewed from the undeveloped portion of 139 Fernhill Road towards the Aspen Hotel on the northern portion of 139 Fernhill Road.



View of the eastern extent of the undeveloped portion of 139 Fernhill Road.





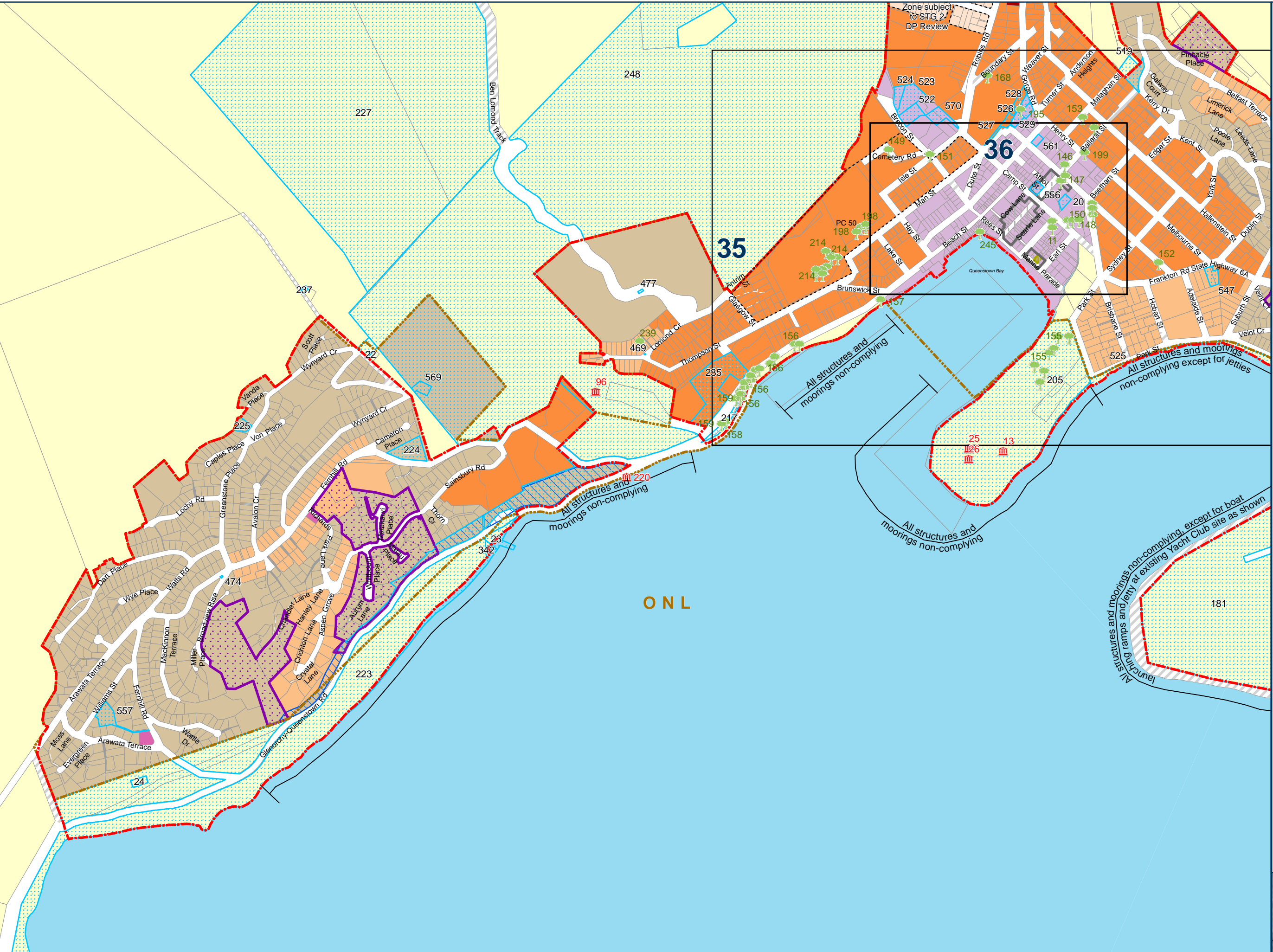
View of the southern portion of 139 Fernhill Road over the top of 20 Aspen Grove and out towards Lake Wakatipu.



View of the conference facilities and restaurant at the Aspen Hotel.

**Attachment 2 – Proposed Plan Map 34 (as notified)**





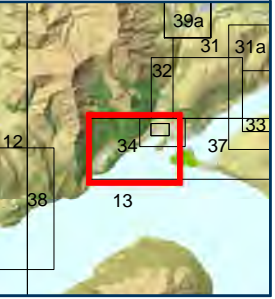
- Legend**
- Historic Heritage Features
  - Protected Tree
  - Parcel/Road Boundary
  - Landscape Classification (ONF, ONL, RLC)
  - Urban Growth Boundary
  - Unformed Roads
  - Historic Heritage Precinct
  - Designated Areas
  - Visitor Accommodation Sub-Zone
  - Building Restriction
  - Heritage Protection Order
  - Plan Change Boundary
  - High Density (Operative)
  - Medium Density Residential
  - Low Density Residential
  - High Density Residential
  - Town Centres
  - Local Shopping Centre
  - Rural
  - Water



**Proposed District Plan Map 34 - Fernhill and Sunshine Bay**



Date Published: 26/08/2015



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