



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL
RESOURCE MANAGEMENT ACT 1991

Applicant:	Varina Proprietary Ltd
RM reference:	RM141047
Location:	200 Brownston Street, 37 and 41 McDougall Street and 177 Upton Street, Wanaka
Proposal:	<p>Operate a visitor accommodation activity form existing dwellings located at 200 Brownston Street, 37 and 41 McDougall Street and 177 Upton Street, Wanaka.</p> <p>Establish a function facility to provide for unspecified events, meetings, conferences and educational purposes at 37 McDougall Street, Wanaka.</p>
Zoning:	Low Density Residential
Activity Status:	Non Complying
Notification:	Public Notification
Commissioner:	Commissioners J Taylor (Chair) and A Henderson
Date Issued:	15 June 2016
Decision:	GRANTED IN PART with conditions

Decision following the hearing of an application for resource consent under the Resource Management Act 1991

Proposal

Varina Proprietary Limited has applied for resource consent to operate a visitor accommodation activity from existing dwellings at 200 Brownston Street, 41 McDougall Street and 177 Upton Street, Wanaka. Resource consent is also sought to establish a function facility to provide for unspecified events, meetings, conferences and educational purposes at 37 McDougall Street, Wanaka.

Resource consent is **GRANTED IN PART** with conditions as attached.

Application number:	RM141047
Site address:	200 Brownston Street, 37 and 41 McDougall Streets and 177 Upton Street, Wanaka
Applicant:	Varina Proprietary Limited
Hearing commenced:	9 March 2016
Hearing panel:	Jane Taylor and Andrew Henderson (Independent Commissioners)
Appearances:	<p><u>For the Applicant:</u> Mr Phil Page, Legal Counsel, Gallaway Cook Allan, Dunedin Ms Mandy Enoke, Marketing Manager for Peak Functions, Wanaka Mr Timothy Williams, Senior Planner Mr Andrew Carr, Chartered Professional Engineer Dr Jeremy Trevathan, Acoustic Engineer</p> <p><u>For the Council:</u> Ms Liz Hislop, Reporting Officer Dr Stephen Chiles, Acoustic Engineer Mr Mike Smith, Traffic Engineer Ms Rachel Beer, Team Leader, Planning Support</p>
Hearing adjourned:	9 March 2016
Commissioners' site visit	9 March 2016

Introduction

1. This decision is made on behalf of Queenstown Lakes District Council (“the Council”) by Independent Hearing Commissioners, Jane Taylor and Andrew Henderson, appointed and acting under delegated authority pursuant to sections 34 and 34A of the Resource Management Act 1991 (“the Act”).
2. This decision contains the findings on the application for resource consent and has been prepared in accordance with section 113 of the Act.

Summary of proposal

3. Varina Proprietary Limited (“the Applicant”) has applied for resource consent to:
 - (i) Operate a visitor accommodation activity from existing dwellings located at 200 Brownston Street, 41 McDougall Street and 177 Upton Street, Wanaka; and
 - (ii) Establish a function facility to provide for unspecified events, meetings, conferences and educational purposes at 37 McDougall Street, Wanaka (the “function centre”).
4. The legal descriptions of the properties subject to the application are Lot 1 Deposited Plan 302115 held in Computer Freehold Register 8363, Lot 2 Deposited Plan 302115 held in Computer Freehold Register 8364 and Lot 2 Deposited Plan 4933 held in Computer Freehold Register OT298/213, together with Lot 1 Deposited Plan 5609 and Sections 7 and 9, Block XX Town of Wanaka held in Computer Freehold Register 687270. Since the application was originally lodged, 37 McDougall Street has been amalgamated with 181 and 185 Upton Street.
5. A copy of the application and accompanying assessment of effects and supporting reports was appended to the Section 42A Report. A detailed description of the site, locality and history can be found in sections 1 to 3 of a report titled “Varina Proprietary AEE” prepared by Mr Dan Curley (“the AEE”). In addition to the consenting background described in section 2 of the AEE, it is noted that Resource Consent RM150535 was granted on 19 August 2015, which amended Condition 1 of Resource Consent RM120715 with respect to the internal configuration of the building by increasing the floor area, alterations to the external appearance and inclusion of a deck on the building’s north-east elevation at 37 McDougall Street. The variation to RM120715 (RM150535) was required to reflect that the building had not been built in accordance with the approved plans.
6. Since preparation of the AEE, the Applicant has modified the proposal with respect to the proposed function centre. These amendments are set out in detail in section 2 of the Section 42A Report.
7. The site has a relatively complex planning background. On 10 April 2013 consent was granted for the establishment of a building from which “visitor accommodation activities” involving staff and up to 48 guests of the visitor accommodation located at 181 and 185 Upton Street could be undertaken (RM120715).¹ Condition 6 of this resource consent restricted use of this facility to 48 visitors, all of whom were required to be accommodated at the adjacent visitor

¹ AEE at Section 2.0.

accommodation units. Condition 7 required visitors to use the car-parking provided at 181 and 185 Upton Street and to access the new facility via 181 and 185 Upton Street. The AEE records that since the facility's availability to the market, the Applicant has had many enquiries from groups consisting, in some cases, of more than 48 people who have wished to hire the facility but who do not necessarily require the accommodation available at 181 and 185 Upton Street. Mr Curley stated:

"While Condition 6 of RM120715 seemed workable at the time of the consent being issued, irrespective of the number of guests, the enforcement of where one sleeps overnight (or parks) has proven to be very difficult. In addition to this, with respect to the serving of alcohol, groups who have hired the facility have requested to purchase alcohol on an as required basis, rather than alcohol being purchased off site in bulk and served on a BYO basis."

8. The decision in RM120715 recorded that:

"Overall, the proposed activity is not likely to result in adverse effects on the environment. The location of the activity, its connection and use being limited to visitors staying at 181 and 185 Upton Street and approvals obtained will ensure any adverse effects are adequately avoided."

9. As a result of the demand for the function centre from non-house guests, the Applicant has now applied for resource consent to operate the existing function facility at 37 McDougall Street for up to 120 guests, whom it is proposed: *"will not be required to be accommodated (or park) at any specific visitor accommodation facilities in the surrounding neighbourhood. No on site parking spaces are proposed."* The amendments to the current proposal set out by Mr Tim Williams in his letter of 11 November 2016 detail the proposed number of functions and their duration, together with the maximum number of guests at each particular type of function.
10. The existing and receiving environments are described in section 6.1(ii) and 6.1(iii) of the AEE prepared by Mr Curley. The Reporting Planner concurred that section 6.1 of the Applicant's AEE appropriately described the existing and receiving environments.
11. In terms of the existing environment, Mr Curley considered that resource consent RM120715 was of particular importance to the application as it relates to the proposed function facility, which has now been established on the 37 McDougall Street site.
12. Mr Curley's report also contained a detailed assessment of the receiving environment. Mr Curley noted that 7 of the 10 residential lots within the low density residential block occupied by the Applicant's visitor accommodation activities (including the four sites subject to this application) are owned and operated by the Applicant. The wider environment consists of further visitor accommodation activities, including the Wanaka campground. Mr Curley also considered it relevant that the Anglican Church is located in close proximity to the subject site on the opposite side of McDougall Street. Three of the properties in the low density residential block are currently used for residential purposes, all of which adjoin the Applicant's boundaries.
13. Prior to the hearing, we visited the site accompanied by Ms Hislop, Mr Page and Ms Enoka. We are satisfied that we obtained a good understanding of the subject site and the receiving environment.

Planning and assessment framework

14. The subject site is zoned Low Density Residential under the Operative District Plan. The purpose of the Low Density Residential Zone is set out in Part 7 of the District Plan as follows:

“To provide for low density permanent living accommodation, maintaining a dominance of open space and low building coverage. The zone seeks to maintain and enhance the low density residential areas with ample open space, low rise development and minimal adverse effects experienced by residents.

...

Other activities are permitted in the zone provided they meet environment standards which keep the activities compatible with residential activity and amenity. A number of established activities, mainly visitor accommodation facilities, have been scheduled to ensure full protection of these activities acknowledging the contribution to the local economy.”

15. The objectives and policies relevant to this application are contained within Part 7 (*Residential Areas*) and Part 14 (*Transport*). The relevant assessment matters are found in sections 7.7 and 14.3 of the District Plan. The following assessment matters are particularly relevant to this application:
- (i) 7.7.2(xiv) – *Nature and scale of non-residential activities*;
 - (ii) 7.7.2(vii) – *Discretionary activity - visitor accommodation*; and
 - (iii) 14.3.2(iii) – *Parking and loading provision*.
16. A Proposed District Plan was publicly notified by Council on 26 August 2015. Under the Proposed District Plan, the site is proposed to remain within the Low Density Residential Zone, as shown on proposed Map 21. The Reporting Officer has advised that there are no rules in the Proposed District Plan that have immediate effect that are relevant to this application.
17. Section 5.1 of the Section 42A Report sets out the resource consents that the Council considers are required under the District Plan. These rely on the Council’s assessment of the proposed function centre as a commercial activity, which differs from the Applicant’s assessment based on the function centre comprising an activity that is *associated with* visitor accommodation (i.e. it is integral to the “visitor accommodation” activity currently occurring on the site).
18. The status of the proposed function centre was a matter of dispute between the Applicant and Council. In his opening submissions, Mr Page submitted that the function centre was an integral part of the visitor accommodation activity on the site (which includes 181 and 185 Upton Street). His argument was based on a number of premises:
- The function centre was established under RM120715, where consent was granted “*to construct the residential building and allow use of this building for non-residential activities associated with an existing visitor accommodation facility*”. RM120714 was granted under Rule 7.5.3.4 - *Visitor Accommodation*, within the Low Density Residential Zone.
 - The definition of visitor accommodation in the District Plan means:

“The use of land or buildings for short-term, fee paying, living accommodation where the length of stay for any visitor/guest is less than three months and

(i) ...

(ii) *may include some centralised services or facilities, such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are associated with the visitor accommodation activity ...”*

In Mr Page’s submission, the proposed activity is a facility that is plainly associated with the existing visitor accommodation activity on site.

- It is Varina’s observation that visitor accommodation providers across the district routinely make their premises available for hire to people who are not staying in-house. Accordingly, the extension of the facility to include non-residential guests does not preclude the function centre from falling within the definition of visitor accommodation.
- In Mr Page’s submission, the function centre is not “standalone” facility. Rather, what is sought is consent to *“host visitor accommodation functions, for up to 120 guests, within an existing approved facility, without any requirement that guests be accommodated overnight at facilities operated by the Applicant.”*

19. In Mr Page’s view, justification for the function centre being associated with visitor accommodation is further provided by the following facts:

- (a) The sites are contiguous and owned by the same people;
- (b) Marketing, bookings and management services are provided by the same people;
- (c) Access for guests must be obtained through the accommodation;
- (d) The purpose of the function centre remains as a drawcard to support the economic viability of the accommodation; and
- (e) The likelihood is that the majority of (especially evening) functions will have at least some guests staying in-house.

20. In Mr Page’s submission, it is not necessary that all guests must be house guests before a function centre qualifies as *“centralised services or facilities, such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are associated with the visitor accommodation activity”*. In his submission, this definition only requires an association with visitor accommodation.

21. The Council’s view was that as the function centre is intended to be run as a “standalone” function centre (in other words, does not require any guests to use the visitor accommodation), it is a commercial activity under the definition contained in the District Plan, which is set out as follows:

“Means the use of land and buildings for the display, offering, provision, sale or hire of goods, equipment or services, and includes shops, postal services, markets, showrooms, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, the sale of liquor and

associated parking areas. Excludes recreational, community and service activities, home occupations, visitor accommodation, registered holiday homes and registered homestays."

22. In considering the District Plan definitions, it is plain that if the proposed activity falls within the definition of visitor accommodation (as set out above), it cannot then be a commercial activity. We understand this proposition to be accepted by both the Applicant and the Council.
23. To an extent, whether the function centre is a commercial activity or an integral part of a visitor accommodation activity is moot, as both the Applicant and the Council subsequently agreed that the overall proposal should be assessed as a non-complying activity due to a breach of zone standard 7.5.6.3(vii)(a) with regard to noise. In his evidence in chief, Mr Williams adopted the assessment of the Council's Reporting Officer, Ms Hislop, with respect to the relevant District Plan provisions and resource consents required, as detailed in section 5.1 of the Section 42A Report. Mr Page, at paragraph 15 of his opening submissions, submitted that while Varina accepts that status (in part) because of one zone standard non-compliance with respect to noise, it does not accept that the proposal is for a commercial activity.
24. For the purposes of this decision, the Commission is required to make a finding of fact on the activity status of the proposed function centre, notwithstanding that it has been agreed by the parties that the overall proposal should be assessed as a non-complying activity. Accordingly, the Commission sought legal advice in relation to this matter following the adjournment of the hearing on 9 March 2016. A legal opinion dated 13 April 2016 was subsequently prepared by Meredith Connell and made available to the parties.
25. At paragraph 8 of their legal opinion, Meredith Connell stated:

"As we see the definitions, there would be impossible questions of scale and impact, if there were not such a connection established. To some extent, all visitor accommodation in Wanaka may be 'associated with' a conference facility of bar somewhere else, because inevitably, persons staying at that facility might use the conference and bar facilities. Those facilities might be several kilometres apart, or, as here, they may be on adjoining sites, but which are not linked by common ownership or legal land titles.

The separate definitions can be tested by considering what could be authorised in the absence of a condition requiring a linkage between the two activities. The function facility could operate as a standalone activity, with all patrons visiting from off site. In addition, the visitor accommodation could be fully booked, with none of those visitors attending the function facility.

In our view, the function facility can only be 'associated with' the visitor accommodation if there is some requirement to that effect, as exists at present."

26. We received a memorandum from the Applicant's legal counsel, Mr Page, in response to the legal advice obtained from Meredith Connell dated 13 April 2016. In that memorandum Mr Page submitted that whether the conference and bar facilities are "associated with" the accommodation is a finding of fact to be made upon the evidence. In his submission, there is no particular issue that turns upon the legal application of those words but, rather, how they are applied to the facts of the present application. In his submission, that matter is entirely one for the Commission to decide on the evidence before it. We agree with Mr Page's submission in this respect. Mr Page submitted the relevant facts include:

- (a) That the Applicant by way of proposed condition 1A promoted at the hearing (evidence of Mr Williams) offered to surrender RM120715 (together with variation RM150535) as a condition of any grant of consent to the present application. This is to ensure that the use of the function centre by house guests and the use by non-house guests is managed under the same resource consent. In his submission, the “association” could not be more clear;
 - (b) That at the accommodation peak periods for the year (defined as 20 December to 20 January of each calendar year, and all public holidays with the exception of Otago Anniversary) only house guests are able to use the function centre facilities (proposed condition 3); and
 - (c) Enhancing the financial viability of the visitor accommodation business is one of the reasons for the present application, through attracting business clients to the function centre in the accommodation shoulder season, as explained by Ms Enoka in her evidence at the hearing.
27. Importantly, irrespective of the activity status attributed, it is plain that the function centre must be assessed in terms of the effects that it is likely to generate. As Meredith Connell stated at paragraph 11:

“The visitor accommodation may be considered as providing only for the numbers that it can allow for, and the functions facility needs to be addressed in terms of the number of people that may be attracted to the facility, separate from the visitor accommodation, and the activities and movements of persons and vehicles that would follow.”

28. In carefully considering the facts before us, it is plain that although the function centre may enhance the use of the visitor accommodation during shoulder periods, for 11 out of 12 months of the year it could operate as a fully standalone facility (to the extent that has been applied for in this proposal). This is consistent with the Applicant’s own advertising and marketing of the function centre and consistent with Ms Enoka’s evidence in relation to the operation of the facility during the past two years (notwithstanding that the previous operations have been carried out in breach of RM120715). Although the original intention of the function centre may have been incidental to the visitor accommodation at 181 and 185 Upton Street, it now seems apparent, on the present facts, that the visitor accommodation activity surrounding the facility is “associated with” the function centre, rather than the other way around. This is consistent with Mr Page’s submission that the facility is a “drawcard” to support the economic viability of the visitor accommodation facilities. It is also relevant that the function centre is proposed to cater for 120 guests, whereas the total visitor accommodation on site (including the three visitor accommodation properties that form part of this consent) will accommodate only 98 guests.
29. In summary, having considered the legal advice, and having regard to the scale and impact of the proposed function centre (if it was to be operated on a standalone basis), we have formed the view that the function centre requires resource consent as a commercial activity. Due to its scale and impact, we do not accept that the function centre is “associated with the visitor accommodation activity”; rather, the visitor accommodation is either independent of or ancillary to the function centre. Taking a purposive approach to the definition of “visitor accommodation”, it seems very clear that for something to be *associated with* visitor accommodation (such as centralised services or facilities, food preparation, conference bar and bar facilities), visitor accommodation must be the primary activity. Although Mr Page has made a strong case, and it

may well be that the function centre (as proposed) remains a drawcard to support the economic viability of the visitor accommodation, the function centre plainly has a primary purpose in its own right. Accordingly, we are not satisfied that the conference and bar facilities are “associated with” the visitor accommodation on site as intended by the District Plan definition, particularly given the proposal that it be permitted to function as a standalone facility; that is, without any requirement that visitors be accommodated on site.

30. This conclusion is reinforced by the Applicant's website, which focuses on the hire of the function centre and only promotes the accommodation (Peak Functions Accommodation Village) as ancillary to the function centre.²
31. As noted above, the question of whether the function centre is a commercial activity or forms part of a visitor accommodation activity is moot to a degree, as both the Applicant and Council have agreed that the proposal overall must be assessed as a non-complying activity. Notwithstanding our conclusion, we record our determination that if we are wrong in relation to the commercial activity status of the function centre, our findings and ultimate decision would remain the same.
32. Accordingly, the proposed function centre requires resource consent as set out at 5.1 of the Section 42A Report, which includes four non-complying activity resource consents pursuant to Rule 7.5.3.5 for breaches of zone standards 7.5.6.3(iv), 7.5.6.3(v)(a), 7.5.6.3(v)(b) and 7.5.6.3(vii)(a). Overall, the activity must be assessed as a non-complying activity.
33. In accordance with section 104(1)(b)(i) to (vi) of the Act, we have determined that there are no relevant national environmental standards, other regulations or national policy statements directly applicable to the proposed development. The provisions of the Act relevant to the assessment of this application as a non-complying activity are sections 104, 104D, 108 and Part 2 of the Act.

Notification, submissions and affected party approvals

34. The application was publicly notified on 12 November 2015. As at the closing date for submissions, 10 December 2015, 57 submissions were received, of which 10 submissions were in support of the proposal, with 47 submissions lodged in opposition to the application. A summary of the notification process and the submissions received, including reasons given by submitters in support and submitters in opposition, is comprehensively set out in section 3 of the Section 42A Report.
35. Section 4 of the Section 42A Report describes the consultation undertaken by the Applicant and the written approvals received in response to the application. All of the written approvals received were from properties owned by or directly associated with the Applicant. Any effects on the parties that have given written approval have been disregarded in accordance with section 95D(e) of the Act.

² www.peakfunctions.co.nz

Application information

36. The following information has been received and considered by the Commission in reaching this decision:
- (a) The application as notified on 12 November 2015 (which includes the resource application (AEE) prepared by Mr Dan Curley, together with the amendments to the proposal set out in Mr Williams' letter of 11 November 2015);
 - (b) The supporting information attached to the application, which included a traffic assessment carried out by Carriageway Consulting dated 23 June 2014, 21 September 2014; an acoustic report dated 24 October 2014 prepared by Acoustic Engineering Services, together with all further correspondence supplied by the Applicant in relation to requests for further information from the Reporting Officer;
 - (c) A Section 42A Report dated 29 February 2016 prepared by Ms Liz Hislop, Reporting Officer, Queenstown Lakes District Council ("the Section 42A Report");
 - (d) The appendices to the Section 42A Report which included an engineering report dated 6 March 2015 prepared by Ms Lynn Overton, Resource Management Engineer; a road safety assessment report dated 19 October 2015 prepared by Mr Mike Smith, National Specialist – Road Safety, MWH New Zealand Limited; an acoustic assessment carried out by Dr Stephen Chiles, Acoustic Engineer, dated 6 February 2015; and
 - (e) Various correspondence between the Council and the Reporting Officer as included in the order paper for the hearing.
37. The Council's Reporting Officer recommended that resource consent be refused pursuant to section 104 of the Act for the following reasons:
- (i) The adverse effects of the activity will be more than minor for the following reasons:
 - (a) The lack of adequate on site car parking for patrons of the function centre will result in patrons parking on the street. Given the nature and scale of the proposal, this would adversely affect the safe operation of the adjoining streets beyond what would normally be anticipated as a result of residents and visitors utilising the public on-street parking; and
 - (b) The proposed function centre would cause adverse effects from noise emissions from night-time activity to an extent which that would result in annoyance and nuisance to neighbouring properties beyond an acceptable level in a residential area; and
 - (c) The granting of this consent would result in an adverse precedent effect;
 - (ii) The proposal is contrary to the relevant objectives and policies of the District Plan. As a result of the constraints of the site and its location in the heart of a low density residential area, it is considered that the effects of a non-residential activity of this nature and scale, and the impact this has in terms of parking and noise, makes it contrary to the relevant objectives and policies of the District Plan; and

- (iii) The proposal does not promote the overall purpose of the Act.

Summary of the evidence heard

38. The Reporting Officer's Section 42A Report was circulated prior to the hearing and was taken as read. As the lodgement of the application predated the amendments to the Act, there was no requirement that evidence be pre-circulated.

Evidence for the Applicant

39. **Mr Phil Page**, the Applicant's legal counsel, introduced the case for the Applicant. He stated that the application seeks permission to:
- (a) Use an existing "visitor accommodation facility" (the proposed function centre) at 37 McDougall Street without any requirement that guests be accommodated overnight at the facilities offered by the Applicant;
 - (b) Sell liquor to patrons on site at 37 McDougall Street (the proposed function centre); and
 - (c) Use four existing residential dwellings for visitor accommodation.
40. Mr Page submitted that the sale of liquor and the use of the four dwellings (all of which are currently managed as registered holiday homes) was "not controversial". Accordingly, his submissions focused on the "Peak Functions" centre.
41. Mr Page explained the background to granting of consent for the function centre under RM120715, together with the increase in scale of the visitor accommodation surrounding the function centre since consent was granted (now 88 beds).
42. Mr Page briefly discussed the activity status of the function centre, emphasising that the Applicant does not accept that what is proposed in this application is "*anything other than visitor accommodation as defined in the Plan*". In his submission, irrespective of whether consent is granted, the function centre would remain "associated with" the visitor accommodation established through RM120715. All that will change is that the number of patrons will match the design of the building and the accommodation now available, and the Applicant would "*have the ability to do what every other VA provider in the district does: which is to permit people who are not sleeping on on site to use the venue*".
43. Mr Page noted that Mr Williams' evidence would assess the application as a non-complying activity as the Applicant accepts that status (in part) because of one zone standard non-compliance with respect to noise.
44. Mr Page discussed whether a hybrid activity status would be relevant if the activity status of the application is accepted to be "visitor accommodation". He then turned his attention to car-parking cases, submitting that a review of cases that have turned on the availability of on-street car parking is relevant to our assessment. In summary, he submitted that unless there are specific objectives and policies against the use of on-street car parking, or actual evidence that the demand generated will exceed supply such that local residents will be directly affected

through an inability to park their own cars or access their own properties, there is no good reason to decline consent.

45. **Mr Timothy Williams** produced his brief of evidence which covered a description of the proposal, the amendments following notification, the status of the proposed activity, a description of the site, the receiving environment, the permitted baseline, affected party approvals and consultation, before turning to his assessment of effects on the environment.
46. Mr Williams assessed the actual and potential effects on the environment to include:
 - Parking, traffic generation and congestion;
 - Access/vehicle crossing;
 - Noise;
 - Residential character and amenity (excluding noise);
 - Sale of liquor; and
 - Visitor accommodation effects.
47. Mr Williams also discussed the positive effects of the proposal, which included meeting demand within the local community for provision of a small scale venue for club meetings, AGMs and the like.
48. Mr Williams concluded that any adverse effects of the proposal are minor. In his opinion, the proposed traffic management plan would address a “worst case” parking situation and is an appropriate method of addressing this effect given that a number of factors will influence the likelihood of this occurring. Mr Williams was of the view that the residential character and amenity of the area, including the ambient noise environment, is not characteristic of residential amenity in the heart of a residential area. He noted that the permitted baseline does not establish a noiseless, undisrupted environment and that the use of the deck during the day as proposed was not out of character with the use of a deck in a residential situation. Accordingly, he considered that any adverse noise, amenity and privacy effects were minor. He was confident that the function centre could be managed effectively to ensure that any adverse effects on neighbouring properties was appropriately mitigated.
49. Mr Williams then turned to the objectives and policies of the District Plan which he considered were found within Part 4 (*District Wide*), Part 7 (*Residential Areas*) and Part 14 (*Transport*). With respect to the Proposed District Plan, Mr Williams advised that the provisions relating to visitor accommodation had been withdrawn from stage one and that the Applicant has submitted on the Proposed District Plan seeking that the land subject to this application be rezoned for visitor accommodation purposes.
50. Mr Williams then undertook a comprehensive analysis of the relevant objectives and policies as set out at paragraphs 20.6 to 20.46 of his brief of evidence. He concluded that the proposal is not “diametrically opposed” and therefore not contrary to the relevant objectives and policies of the District Plan as a whole. We will discuss Mr Williams’ evidence in relation to the objectives and policies of the District Plan in more detail as relevant during our assessment.

51. In relation to Other Matters under section 104(1)(c) of the Act, Mr Williams considered the potential cumulative effects of the proposal with respect to the proposed Wanaka Community House Charitable Trust application (RM150434) to be a relevant “Other Matter”. He agreed with Ms Hislop (at section 8.1.2 of the Section 42A Report) that any effects of the Community House proposal cannot be taken into account unless resource consent has been granted. However, to assess this proposal in a “vacuum” would not necessarily result in a sound resource management outcome. Mr Williams noted that Mr Carr and Mr Trevathan have assessed the potential cumulative effects if both proposals were to co-exist (i.e. consent was granted to both proposals). In his opinion, these assessments have confirmed that any adverse cumulative effects can be adequately mitigated. His conclusion was based in part on his opinion that the particular nature of the environment is not “*typical of a residential area*” and, accordingly, the presence of the two activities is not out of context with the character and amenity of an environment where it is on the edge of a residential area, has a mixed use character, and adjoins an arterial road.
52. In relation to precedent, it was Mr Williams’ opinion that the site and proposal are unique and that as a result it would be very difficult to replicate the particular circumstances and history that relate to the subject site and the environment that surrounds it. He did not consider the absence of any on-site parking as a potential precedent effect as, in his opinion, it would be inconsistent to treat a breach of a Part 14 standard as being inherently contrary to policy, particularly considering that restricted discretionary status is attributed to such a breach. Accordingly, it was his view that the lack of any provision for parking is not intended to be a matter that challenges the integrity of the Plan. Mr Williams commented that:
- “It appears the Council Officers have approached the proposal with a lens that is inherently inappropriate to rely on on-street parking as an alternative to parking on site. In my opinion, the District Plan framework does not support such a starting point ... the District Plan’s structures requirements for parking such that in certain circumstances providing for parking on-street would be appropriate. For the reasons outlined in my evidence, this proposal is one such circumstance where it is appropriate, given that any adverse effects are no more than minor.*
53. Mr Williams then briefly considered Part 2 of the Act prior to concluding that the proposal is an efficient use of resources and will maintain and enhance amenity values and the quality of the environment in this location. In his opinion, the use of an existing venue for non-house guests is an efficient use of an existing resource.
54. **Dr Jeremy Trevathan** gave evidence in relation to the noise effects of the proposal. He detailed the background to his engagement, which included preparation of an Assessment of Environmental Noise Effects report dated 24 October 2015 and a noise management plan also dated 24 October 2015, in relation to the function venue. In response to a request for further information from Council dated 12 February 2015, Dr Trevathan also prepared an additional report dated 20 August 2015 addressing the matters identified.
55. In his brief of evidence tabled at the hearing, Dr Trevathan addressed the effect of changes to the proposal since his previous reports, referring to a further letter dated 22 February 2016 together with the key points raised by Council and submitters.
56. After describing the site, locality and proposed activity, Dr Trevathan turned to the acoustic criteria, which included the District Plan noise standards. As the site is zoned Low Density Residential, the noise standards which apply are set out at Part 7: *Residential Area Rules*, 7.5:

Low Density and High Density Residential Zone Rules, 7.5.6: Standard – Non-Residential Activities (other than visitor accommodation) in the Low Density and High Density Residential Zone. Dr Trevathan commented briefly on the World Health Organisation guidelines for community noise before describing the existing ambient noise environment.

57. Dr Trevathan then turned to the noise generated by the proposed function centre, identifying the most significant potential noise sources to be:
 - Breakout noise from the function venue;
 - Noise from patrons within the outdoor areas;
 - Noise from vehicles associated with the facility;
 - Noise from patrons leaving the site; and
 - External mechanical plant.
58. Dr Trevathan noted that key changes from the application as notified from an acoustics perspective included:
 - Changes to the number and type of events to be held at the facility;
 - Use of the northern deck; and
 - Use of the driveway adjacent to 33 McDougall Street.
59. With regard to the changes to the number and type of events planned to occur during the day-time period, Dr Trevathan was of the opinion that all of these events would comply with the District Plan 50 dB LAeq day time noise limit.
60. With respect to the proposed 15 night-time events that would continue after 8:00 pm and finish by 10:00 pm, with music at background levels, Dr Trevathan was satisfied that these events would comply with the District Plan night time noise limits of 40dB LAeq (15 min) and 70 dB LAFmax.
61. However, the proposed 15 night time events with music above background levels that would continue after 8:00 pm and finish by 12:00 midnight would breach the night time noise limit by 5 dB LAeq(15 min), provided that music levels do not exceed 90 dB LAeq, all doors and windows are closed and acoustic seals are fitted to all external doors and windows of the main function space. Dr Trevathan observed:
 - A change in noise level of 5db is generally considered to be moderate; and
 - It is a well-established acoustics principle that the acceptability of higher noise events is related to their frequency.
62. Accordingly, Dr Trevathan considered that, on average, the night-time noise effects of the current proposal will be less than those contained in the original proposal, as the frequency of

events has significantly reduced and the noise from the “higher noise” events has only moderately increased and remains relatively low.

63. In Dr Trevathan’s opinion, a 45 dB LAeq noise limit is considered to be acceptable for the events proposed to occur on a limited number of occasions per year for a limited duration. In his opinion, this noise would not be expected to cause sleep disturbance, even if neighbours have their windows open and in many cases will be lower than the existing noise experienced as a result of traffic flows. He considered that while any audible noise may cause annoyance, based on the World Health Organisation guidance relating to annoyance and in consideration of the existing ambient noise levels in the area, any annoyance effect would not be significant for a limited number of limited duration events at this noise level.
64. Dr Trevathan also addressed the cumulative noise effects that are likely to arise if the Wanaka Community House proposal is consented. Having considered a “worst case” breakout noise level from the Community House, he concluded that even if higher noise events were to coincide, the cumulative noise level would not exceed 50 dB LAeq at the 33 McDougall Street property.
65. Turning to a review of submissions, Dr Trevathan noted that the existing ambient noise levels in the area are already moderate even late on week day evenings. Accordingly, although the proposal will generate additional audible noise, only a small number of events would exceed the District Plan night-time noise limits and this noise would still comply with all guidance relating to sleep disturbance and reasonable protection from annoyance.
66. Dr Trevathan noted that Dr Chiles was in general agreement regarding the majority of issues related to the noise effects of the proposal; however, there were two areas in which their respective views were different:
 - (a) The noise effects associated with the proposed 15 functions per year with music above background levels:

Dr Trevathan (as set out above) is of the opinion that a noise level of 45 dB LAeq is acceptable and will not cause sleep disturbance. However, he acknowledged that Dr Chiles in a letter dated 25 February 2016 had stated, *“in general I would consider noise subject to those controls as reasonable, but account should also be taken of the stringent noise limits in the Residential Zone that generally maintain a high standard of amenity”*.
 - (b) Use of the northern deck:

Dr Trevathan acknowledged Dr Chiles’ view that, *“for a function it would be common for some people to talk with raised voices, which would be likely to exceed the noise limits”*. In his view, noise management as proposed is an adequate response with regard to the use of the northern deck and he was confident that compliance will be achieved for all representative monitoring periods.
67. We will refer to Dr Trevathan’s evidence in more detail during our assessment of noise further in this decision.
68. **Mr Andrew Carr** gave evidence with respect to the traffic effects of the proposal. In his written brief of evidence tabled at the hearing, Mr Carr stated that while the operation of a function

venue would result in a significant increase in the extent of on-street parking in the area, the extent of the increase was dependent on a number of factors, including the number of people attending the event, whether they walk, drive or taxi to the site, or are staying at the adjacent accommodation, and if driving, how many people share a car. Taking a pragmatic approach of accommodating the likely peak demand (rather than the absolute maximum), Mr Carr concluded that the additional on-street car-parking could be accommodated on the adjacent roading network without capacity or efficiency issues arising, subject to appropriate management through a traffic management plan. Accordingly, he was of the opinion that from a traffic and transportation perspective the proposed development is appropriate.

69. Mr Carr addressed in detail the transportation environment including the transportation network, traffic flows and road safety. He then discussed the proposal, noting that under the District Plan, 18 parking spaces are required for guests using the function centre. As the proposal is able to provide only one car-parking space, there is a shortfall under the District Plan of 17 car-parking spaces.
70. Mr Carr discussed traffic and parking generation in some detail, and set out his methodology for calculating the peak parking requirement. His analysis showed that the values ranged from 18 to 60 parking spaces according to the assumptions adopted. Adopting the methodology in NZTA Research Report 451 (trips and parking related to land use), he assessed the parking demand at the 85th percentile figure, which amounts to 48 parking spaces for an event with 120 people and 36 spaces for an event with 90 people. Accordingly, he concluded that prior to an event starting, the facility might attract 48 vehicles, with the same number departing after the event ends.
71. Mr Carr discussed the effect on the transportation networks as a result of the expected number of vehicles and also the impact on pedestrians. In Mr Carr's view, the accident history in the vicinity of the site does not indicate that there are any particular features or factors that would impact on the proposed development, or that the additional movements generated by the function venue would adversely affect the road safety in the area. Since a high level of service will continue to be provided for pedestrians, he considered that it is unlikely that any adverse road safety effects would arise for those walking in the area.
72. Mr Carr then turned his focus to District Plan matters and considered the cumulative effects were the Community House application to be consented. He described what he termed "a perfect storm" whereby:
 - (a) All activities at the Community House are in use at the same time (which would result in additional on-street parking demand for 20 spaces);
 - (b) A capacity event held at the application site (resulting in an on-street demand for 46 spaces);
 - (c) The Church is operating, with a demand for 50 parking spaces; and
 - (d) Some other sporting-type event being held such that 54 on-street parking spaces were in use.
73. Considering the potential frequency with which each activity might generate such parking, Mr Carr conservatively estimated that the likelihood of all four of these activities occurring

simultaneously is 0.01% per annum. For the remaining 99.99% of the time, the parking demand would be less. However, if all activities did coincide, there would be parking demand for 170 spaces, against the capacity of the on-street parking bays for 153 spaces. There would therefore be some overflow into on-street unmarked parking spaces. Mr Carr did not consider this to be significant, although he acknowledged that under certain circumstances these traffic effects may need managing.

74. Mr Carr then addressed the issues raised by submitters and the Council Officers. We will refer to Mr Carr's opinion of Mr Smith's evidence during our assessment.
75. In summary, Mr Carr (having considered the evidence of Mr Smith and the contents of the joint expert witness statement prepared with Dr Smith) concluded that:
 - (a) A traffic management plan should be prepared to manage the parking demand;
 - (b) The initial iteration of this should include (as a minimum) the temporary prohibition of parking along the northern side of Upton Street (to the south of McDougall Street, as far as the northern end of the Upton Street parking bay);
 - (c) It should also include the temporary prohibition of parking along both sides of Upton Street (between McDougall Street and Roche Street);
 - (d) The traffic management plan should be implemented when 30 or more attendees of the function venue are staying off site. This will require the venue managers to keep appropriate records to enable this to be determined; and
 - (e) The traffic management plan should be monitored for the first three times that it is deployed to ensure it is effective, with a view to changing the geographic scope and/or measures implemented as required. This monitoring should extend to adjacent roads (such as Roche Street, Warren Street, Brownston Street (West) and Tenby Street) to ensure that parking has not been displaced to those roads such that road efficiency is adversely affected.
76. Mr Carr considered it important to ensure that attendees to the function centre are advised that there is no on-site parking and also to identify in advance if there is likely to be an event happening concurrently at the Community House and/or Church, so that all events can be managed in a coordinated manner.
77. Mr Carr noted that although the contents of a joint witness conferring statement had been agreed with Mr Smith, they remained of differing views with regard to the acceptability of using the on-street parking in the manner proposed. Mr Carr then set out a number of proposed conditions of consent which he considered addressed any adverse effects associated with car-parking and traffic.
78. In summary, Mr Carr was of the view that subject to the implementation of appropriate parking management measures (through a traffic management plan), the effects of the proposal could be appropriately addressed.
79. We will refer to the contents of the second expert witness conferring statement between Mr Carr and Mr Smith in the Council response section.

80. **Ms Mandy Enoka**, the Marketing Manager for Peak Functions, gave a detailed submission in which she described the function centre in detail, the background to the application and why the Applicant considered it necessary to accommodate non-house guest functions. She commented that Peak Functions has been built to give a reason for visitors to come to Wanaka, especially during the shoulder and off-peak months. The purpose of accommodating non-house guest functions was to utilise the facilities across the shoulder seasons and to put the facilities on a more stable economic footing. She noted that there is high demand within the local community for a small scale venue for daytime functions such as business meetings, work retreats, special interests club meetings, information seminars, AGMs, Board meetings, product information days, staff training and strategic planning meetings from a large variety of sectors. In Ms Enoka's view, Wanaka is comparatively well served for larger venues but is poorly served for smaller scale events within the township (less than 90 persons seated).
81. Ms Enoka explained why the provision of liquor by Peak Functions was an important aspect of the application. In her view, the current licencing arrangements (in which clients are invited to purchase their own alcohol from an off-licence and supply it to catering staff for service at the event) are suboptimal. The sale of beverages from an a-la-carte menu at the venue would be beneficial in that people will generally order less on a pay-as-you-go basis and management is better able to exercise control over patrons' drinking behaviour.
82. Ms Enoka discussed the management of events in practical terms, together with the process with respect to accommodation management. She then described the catering and function operations, including the methods of delivery of supplies required for events.
83. Ms Enoka then described the actual operating experience of the function centre to date, noting that there had been an ongoing debate between Varina and the Council as to whether some of the events were authorised by the existing resource consent. In her opinion, the (successful) past experience of operating events at Peak Functions was an appropriate basis for the assessment of "what we are now proposing". In Ms Enoka's view, the parking problems reported by the Council are "wildly out of step" with actual experience.

For the Submitters

84. **Mrs Helen Blair** explained the reasons for her opposition to the proposed activity. In her opinion, there is no place for a function centre in a low density residential area. She was concerned that the Applicant was engaged in "accession by stealth" and that Council needed to be accountable for the granting of incremental resource consents which appeared to have culminated in the current proposal. In her view, the current situation, which allows use of the function centre by guests residing in the adjoining accommodation (up to a maximum of 48 persons) is acceptable, however any increase would create noise, parking issues and potentially vandalism. In her view, the scale of the activity was well in excess of what the District Plan contemplates for commercial activities in the Low Density Residential Zone.
85. **Mrs Loris King** stated her vigorous opposition to the applications. In her opinion, any residential area, whether it is low density or medium density, is not the place for any function centre or commercial operation. Mrs King considered that there would be significant adverse effects in terms of traffic (particularly in McDougall Street), the sale of liquor, parking and noise. In her opinion, a function centre designed to cater for 120 people, that was approved to sell and serve liquor and where no parking is proposed to be provided, is "preposterous" and the

application should be declined *“before any further damage is done and an inappropriate use of this residential area approved”*.

86. **Mrs Pam Simpson** explained that her opposition to the application was due to its location in a residential area of Wanaka. She was critical of the Applicant with regard to the management of visitor accommodation activities at its current properties. Ms Simpson was particularly concerned in relation to the noise aspects of the proposal and the ability of the Applicant to control the noise that 120 guests would make. As a resident of Roche Street, she is particularly opposed to any liquor licences being granted in the residential area. In her opinion, the Applicant should have located the function centre in a more appropriate commercial zone rather than attempt to take advantage of an existing situation.
87. **Mrs Barbara Hyde** tabled a written submission at the hearing, which was read by Mr John Mills. Mrs Hyde set out her reasons for opposing the proposed development which she considered *“has not come about by magic or by accident. It has been part of a strategic, staged and focused programme of acquisition of properties by a property developer with the sole purpose of being able to establish a base for this, the proposed function centre”*. In Mrs Hyde's view, the Applicant's existing accommodation activity has already had a negative impact on the sense of community and well-being sought by the residential neighbours. She stated *“the sheer volume of properties Varina have amassed in this residential area has seen them assert themselves, effectively achieving commercialisation of the area by stealth”*. In her opinion, the current application represented a *“full frontal attack”* on the District Plan and with enough ammunition (their existing commercial operation) to *“simply steam roll through the RMA process”*. In her opinion, the Applicant has ignored the intent of the Operative District Plan and shown little respect for local residents.
88. Mrs Hyde considered the scale and nature of the proposed development will *“fundamentally change the nature of our residential area”*. She was of the view that just because they have been able to develop their enterprise in the manner they have to date (by pushing the boundaries of the current consent) cannot mean that they should be permitted to ignore the planning requirements that are in place. Mrs Hyde then set out her specific concerns in relation to the adverse effect on residential amenity of the neighbourhood through creation of noise, traffic and alcohol consumption, together with further commercialisation of the area by reducing the residential character. The lack of parking and adverse traffic effects were discussed in detail, together with noise, the sale of alcohol and the cumulative effect should the proposed community house (RM150434) proceed. In her view, the “perfect storm” scenario (referred to by Mr Carr in his evidence at the hearing) must be considered when assessing this application. In summary, Ms Hyde considered that the proposed development is completely inappropriate for this Low Density Residential Zone and would greatly compromise the well-being of residents due to the effects of noise, hours of operation, pressure on parking and increased traffic congestion. She was of the view that the proposal would fail to protect and enhance the cohesion of residential activity and the sense of community and well-being required by residential neighbours, which should be protected by the District Plan.
89. **Mr John Mills** gave a detailed submission on behalf of the **Mills Family Trust**, the owners of the property at 33 McDougall Street, Wanaka (shown on the maps of the area as 194 Brownston Street and 31 McDougall Street).
90. The Mills Family Trust is opposed to the application which it considers is inappropriate for this low density residential environment. Mr Mills stated that *“the proposal has been incremental*

and effectively is commercialisation by stealth". He explained the background of the history to the purchase of his own property (which is one of the closest neighbours) and the recent site history of the subject site. In his opinion, the approval of RM120715 along with retrospective RM150535 had caused neighbours to have a loss of faith in the resource consent process. His particular concern was that the residential building approved in RM120715 which was meant to be a two-bedroom facility with a moderate size kitchen, a large lounge, a west-facing balcony, a drive up to the side of the building and turning bays, was instead a commercial building with substantial differences in relation to the overall floor area, changes to the internal configuration (number of bedrooms, location of toilets, size of kitchen) and the appearance of a north-facing deck that overlooks the Mills property.

91. Mr Mills outlined the Trust's opposition to the application on the basis of inadequacies in the proposed noise management plan, concerns in relation to the north-facing balcony and impacts on the Mills property privacy and noise, parking and traffic congestion and generation, and the sale of alcohol.
92. In response to questions from the panel, Mr Mills stated that to date the occupants of his property had not experienced any particular issues with noise, although he noted that until recently the property has been a holiday home with only limited occupancy.
93. **Mr Chris Steven**, a lawyer of Wanaka, presented legal submissions on behalf of 20 submitters in opposition to the application (as listed in his written submission tabled at the hearing). Mr Steven discussed the nature of the application the Applicant's approach to the application, including the background to RM120715. In his submission, there is an open question for the Commission as to whether, in assessing the permitted baseline, the earlier consent has been implemented. In his view, the Applicant has engaged in obtaining a succession of intensive resource consents using an unimplemented consent as a "foot in the door".
94. At section 4 of his written submissions, Mr Steven noted the 27 conditions that the Applicant has advanced to *"make this project work"*. In his submission, the question must surely be *"whether, given the need for such micromanagement of human behaviour and activities, this proposal is suitable for this particular site"*. In his submission, given the progression to this application and the acknowledgement that the initial consent RM120715 is unworkable, whether the present application has any credibility at all is questionable.

Council response

95. **Ms Liz Hislop** affirmed that there was nothing in the evidence that had been presented which would cause her to change her recommendation from one of refusing consent to the application.
96. **Dr Stephen Chiles** stated that he had no disagreement with the measuring and modelling undertaken by Dr Trevathan; however, there was some disagreement, particularly in relation to the suitability of the proposed activity in this Low Density Residential zone (in response to the noise levels that are expected to be generated). He noted that he had deliberately not made a planning judgment in this respect. Dr Chiles considered that the conditions in the 2012 consent were not sufficiently robust and that any noise management plan that accompanied the current proposal would have to be very particular. He commented that it was often necessary to have "micromanagement" in relation to the monitoring of compliance with noise.

97. Dr Chiles' main concern related to the activities of patrons of the function centre after 8:00pm and prior to 8:00am. In his opinion, robust measures would need to be put in place to control the behaviour of patrons, including the management of smokers. Further, Dr Chiles considered that the use of the northwest balcony may need to be forbidden and that there would need to be appropriate limits placed on the other outdoor areas.
98. **Mr Mike Smith** stated that, in his opinion, the proposed mitigation would not have any significant impact on the adjacent road network. He had particular concerns in relation to the impact of parking on Upton Street, which he considered could be significant and detrimental. He stated that the need for a traffic management plan is directly related to the inappropriate scale of the proposed activity. In his view, while communities are generally more forgiving in relation to isolated events or community events (such as a funeral), they are much less forgiving in relation to the activities of a commercial operator. In his opinion, the potential effects on Upton Street would be very difficult to manage through a traffic management plan.
99. Mr Smith then referred to the second expert witness conferencing statement and the areas of disagreement. In his opinion, the lack of provision of on-site car-parking would lead to significant adverse effects in relation to the effect of parking use on road safety and network functionality. Mr Smith remained of the view that the effects of parking will be influenced by the parking demands in the locality arising from other events (such as at the Church, or Community House if consent is obtained) and that depending on these, the adverse effects could be significant.
100. In summary, Mr Smith concluded that the proposed function centre will require virtually all parking for attendees and staff to be provided off-site (and on-street). It was his position that this will have a negative impact on the safe use and network functionality of the adjoining streets. His specific concerns related to parking and un-parking, the safe movement of vehicles under high curb-side parking use, and impacts on residential access. He did not consider that it was possible to implement any measures (including the traffic management plan proposed by Mr Carr) that would suitably mitigate these effects.

Applicant's right of reply

101. Mr Page gave an oral reply on behalf of the Applicant immediately following the Council Officer's response. Mr Page commended Mr Mills for the candour in the way in which he gave his evidence in relation to what is "*currently happening*" in relation to the use of the function facility.
102. Mr Page commented on Mr Mills' evidence, pointing out that to date Mr Mills had not suffered any adverse effects from the activities of the function centre next door. In Mr Page's submission, it was natural for submitters to be anxious that the number and scale of events sought will be different from their day-to-day experiences to date, and "*therefore they suspect their environment is going to get worse*". In his submission, Ms Enoka's evidence had established that an average event for a function centre involves 30 people; accordingly, it was not surprising that nobody has noticed the traffic, noise or privacy issues arising out of that scale of event. He reiterated that this is the average "*day-to-day thing*" that the Applicant is anticipating will continue. He did not expect the daily experience of neighbours would change from that which currently exists.

103. Mr Page then commented on the submissions of Mrs Simpson and Mrs Blair, whom he considered were trade competitors. In his view, their evidence did not establish any adverse effect on them personally.
104. In response to Mr Steven's submissions, Mr Page noted that the email attached to Mr Steven's submissions, which records a complaint, was not a day on which the function centre was operating. Accordingly, it could be concluded that the experience of this resident had "nothing to do with the function centre". He took issue with Mr Steven's submission that RM120715 was "unimplemented" given that the building has been constructed, notwithstanding that there has been a compliance issue.
105. In regard to Dr Chiles' concerns about use of the upstairs balcony, Mr Page submitted that the upstairs balcony could be used perfectly lawfully and it would comply with the noise condition. Mr Page then offered that the northern balcony would only be available when there is a function booked on site, as staff would be available to actively manage any activities on the deck. It would not be made available under Condition 4A of the proposed conditions, which is restricted to the use by guests of the accommodation facilities.
106. In relation to the traffic evidence of Council, Mr Page noted that a breach of the traffic standard requiring 18 carparks on site is a restricted discretionary activity. He submitted that it is the effects of the failure to comply with that standard which require assessment and, if necessary, the impositions of conditions to control those effects. In Mr Page's submission, the Applicant is being very conservative in painting the picture of the absolute worst case "*Armageddon one in ten year scenario*". In his view, that is not the test but, rather, what are the effects of the 17 park shortfall, and does the placement of those 17 parks in the road network create an environment that is unacceptable. Mr Page submitted that this is not the analysis that Mr Smith has carried out and this is why Mr Smith and Mr Carr have arrived at different views. Even in an Armageddon scenario, Mr Carr's evidence is that there is capacity in the road network, notwithstanding that the risk of this scenario happening on any one day is 0.01%. In Mr Page's submission, that is not the basis on which to conduct traffic management planning (i.e. around strict peak demands), nor is that the way the District Plan should be interpreted.
107. Mr Page advised that the proposal in the draft traffic management plan to cone off Upton Street is not one favoured by the Applicant. This condition was inserted to address Mr Smith's concerns about the engineering standard of Upton Street, and the ability of residents to get trailers in and out of their driveways if there is gridlock parking on both sides. Mr Page submitted that if the Commission wishes to adopt the traffic management planning approach, this needs to be a broad principled approach (as advocated by Mr Carr) rather than the very prescriptive approach recommended by Mr Smith.
108. Mr Page then touched on the activity status of the proposal and reiterated his opening submission that all that is required for the function centre to be part of the visitor accommodation activity is "*an association with visitor accommodation*". He noted that the District Plan definition is completely silent on the commercial terms on which any associated facilities are made available to the public.
109. In response to a question from the Commission in relation to the need for an on-site manager due to the size of the accommodation and the function centre, Mr Page responded that the Applicant would be comfortable with a condition requiring staff to be on site when there are functions. In his submission, these apartments are expensive to rent and "*not ones where you*

would expect difficulty to arise". It was his view that it was not necessary to "fix a problem that doesn't exist".

110. In closing, Mr Page noted that:

- "... There has not been one complaint brought up in the hearing about behaviour of guests;
- The Applicant was not contemplating full on site management;
- Full-time staff would be present during a function; and
- The Applicant was happy for the smoking area for the breakout from the function area to be specified."

Advice commissioned on adjournment of the hearing

111. Following the adjournment of the hearing, the Commission requested independent legal advice from Meredith Connell in relation to the activity status of the Functions Centre (as set out above). A copy of the advice dated 13 April 2016 was subsequently made available to the parties.
112. We received a Memorandum of Counsel for the Applicant in response to the legal advice from Meredith Connell to the Commissioners on 21 April 2016. Mr Page submitted that whether the conference and bar facilities are "associated with" accommodation is a finding of fact to be made upon the evidence. He noted that paragraph 8 of Meredith Connell's advice appears to suggest that the words "associated with" would be satisfied if the conference and bar facilities were on the same site as visitor accommodation or on adjoining sites linked by common ownership. If this was a critical factor in the Commission's decision, the Applicant would be content to offer that 37 McDougall Street, 200 Brownston Street, 41 McDougall Street and 177 Upton Street be amalgamated. However, it was Mr Page's submission that this should not be necessary as the existing visitor accommodation cannot be disposed of separately from the function centre without a subdivision consent, which should be sufficient protection.
113. Mr Page also drew our attention to features of the proposal that it would appear "have escaped Meredith Connell's attention" which included:
- (a) That proposed 1A of the conditions promoted at the hearing offered to surrender RM120715 and RM150535 as a condition of the grant of the present application to ensure that the use of the function centre by house guests and the use by non-house guests is managed under the same resource consent. In his submission, the "association" could not be more clear;
 - (b) That at the accommodation peak periods for the year, only house guests are able to use the function centre facilities (Conditions 3 and 3A); and
 - (c) That Ms Enoka had explained that enhancing the financial viability of the visitor accommodation business is one of the reasons for the present application being advanced, by attracting business clients to the function centre in the accommodation shoulder season.

114. In conclusion, Mr Page submitted that if the proposal and draft conditions are examined carefully, there is ample factual basis to satisfy the words “associated with” in the definition of visitor accommodation.

The principal issues in contention

115. A wide range of matters were traversed in the application, submissions, the Section 42A Report and supporting material, and during the hearing.
116. After analysis of the application and supporting evidence (including the amendments tabled prior to and during the hearing), a full review of the Section 42A Report, consideration of the submissions and our site visit, we have determined that the proposed activity raises a number of issues that require consideration.
117. In determining the principal issues in contention, we note that the application falls into two distinct but related parts:
- (i) Consent for the proposed visitor accommodation activities at 200 Brownston Street, 41 McDougall Street and 177 Upton Street; and
 - (ii) Consent for the proposed function centre (effectively a replacement of RM120715 and RM150535 insofar as the conditions relating to operation are concerned).
118. With respect to the visitor accommodation activities, it was common ground between the Council and the Applicant that provided conditions were imposed to appropriately remedy or mitigate any effects, which would include the submission of a comprehensive noise management plan, any adverse effects of the proposed visitor accommodation would be no more than minor. The proposed visitor accommodation activities were also considered to be consistent with the objectives and policies of the District Plan. Accordingly, we are satisfied that there are no issues in contention arising from the proposed visitor accommodation (as distinct from the function centre).
119. Accordingly, the key principal issues in contention arise from the proposed function centre as follows:
- (i) The activity status of the proposed function centre (as set out above);
 - (ii) The extent to which the proposed development will have adverse noise effects, particularly those experienced by residents in close proximity to the subject site;
 - (iii) The extent to which the proposed development will have adverse effects on off site parking, traffic generation and congestion, and the safety of the road network;
 - (iv) The loss of residential character and amenity as a result of the nature and scale of the proposed non-residential activity;
 - (v) The effect of the proposed sale of liquor from the site; and
 - (vi) The extent to which the proposal is consistent with the objectives and policies of the District Plan.

Main findings on the principal issues in contention

120. Our main findings on the principal issues in contention, and the reasons for our findings are set out as follows.

Noise

121. Given the evolving nature of this application with respect to the proposed operation of the function centre, we set out the current position as advanced at the hearing by Dr Trevathan:
- (i) The function venue currently has consent to cater for up to 48 patrons on the proviso that all patrons are accommodated in the adjacent visitor accommodation facilities. This application would increase the maximum occupancy to 120 patrons during daytime hours and 90 patrons during night-time hours, with no requirement that any of these patrons be accommodated in the adjacent visitor accommodation facilities.
 - (ii) The following level of activity has been applied for:
 - (a) Day-time (up to 8:00pm): 52 functions per year plus a 1 hour clean-up, any music at background levels, maximum of 120 guests with maximum 5 staff; and
 - (b) Night-time (8:00pm to 8:00am):
 - Evening: 15 functions per year after 8:00pm to be finished by 10:00pm, any music at background levels;
 - Late Night: 15 functions per year after 8:00pm to be finished by midnight, with music, restricted to a maximum of one such function in any seven day period;
 - 1 hour clean-up for each category of night-time events.
122. In relation to the day-time noise levels, it was common ground between Dr Trevathan and Dr Chiles that the noise limits contained in the District Plan could be complied with, subject to a suitable noise management plan and active management of patrons on site. This applies in particular to the use of the northern deck during the day-time, where Dr Chiles advised that during a function it would be common for some people to talk with raised voices, which would likely exceed the noise limits without strict management. Accordingly, if the deck were to be available during functions there would need to be active supervision and management of this space, including a limit on the number of people that can use the deck at any one time.
123. Dr Trevathan subsequently carried out further measurements and modelling in relation to the northern deck and concluded that the noise emissions from the northern balcony could comply with District Plan day-time noise limits with *“in the order of 20 patrons on the balcony talking in a subdued manner”*. The Applicant has advised that the decks are likely to act as overflow or as a temporary “al fresco” option for day-time events and will be largely used during break times. There will be no seating available on the deck and due to the nature of the day-time functions, generally the guests are expected to be relatively subdued.

124. We are therefore satisfied that the District Plan noise levels will be able to be complied with during day-time functions between the hours of 8:00am and 8:00pm, provided that the use of the northern deck is restricted to 20 patrons and that adequate controls are included in the noise management plan for the facility, including active supervision of all patrons either outdoors or on decks. However, on this basis the deck must not be made available to house guests (in the absence of a supervised function) unless it is being actively managed by staff.
125. In relation to the night-time noise levels, Dr Trevathan established that the typical ambient noise levels during the evening and night-time periods already exceeds the District Plan night-time level up to (approximately) 11:00pm. He noted that the District Plan rules exclude noise from residential activities in noise calculations, as the noise limits do not apply to residential activities. On this basis, he expected that compliance with the District Plan noise standards would ensure that noise emissions from the proposed activity will have a less than minor effect. For events which occur on a limited number of occasions per year and are limited in duration (the proposed Late Night events), Dr Trevathan considered a *“slightly higher noise limit of 45dbLAeq to be acceptable”*. In his opinion, this noise would not be expected to cause sleep disturbance, even if neighbours had their windows open, and in many cases would be lower than the existing noise received from traffic. While he acknowledged that any audible noise may cause annoyance, when considered against the existing ambient noise levels in the area he concluded that any annoyance effect will not be significant for a small number of limited duration events, up to a maximum of 45 dbLAeq.
126. Although Dr Trevathan concluded that noise from vehicles associated with the facility, noise from vehicles on public roads and noise from patrons leaving the site would not result in adverse noise effects that were more than minor (based on a night-time level of 45 dB LAeq (15 minutes)), he considered that a noise management plan represented the best practicable option for controlling noise from patrons external to the premises. In his opinion, the noise management plan should include measures such as:
- Staff should discourage congregations of patrons on the driveway and in public areas directly adjacent to the premises;
 - Patrons should be requested to keep noise to a minimum as they leave the venue by means of appropriately worded notices adjacent to the exit and verbal reminders; and
 - A specific taxi company should be endorsed by the premises to ensure that any vehicle noise is kept to a minimum.
127. Dr Chiles, in his peer review dated 6 February 2015, noted that sound levels in compliance with the District Plan noise limits will generally result in reasonable noise levels that are compatible with the residential area and would not result in sleep disturbance. In his view, however, the proposed activity is likely to exceed the noise limits at 204 Brownston Street and 33 McDougall Street (the Mills’ property) during night-time hours, which may result in annoyance and sleep disturbance at these neighbouring properties. He also noted that there would be potential effects on the wider area from pedestrian traffic as people return to their vehicles.
128. If consent were to be granted, Dr Chiles recommended the imposition of a number of conditions which included:

- All activities must comply with the District Plan noise limits (Rule 7.5.6.3(vii)(a)) – the function venue must be managed in accordance with a noise management plan, which must be certified by the Council prior to activities commencing;
 - All doors and windows of the function venue must be closed between 8:00pm and 8:00am;
 - The outdoor areas of the function venue must not be used between 8:00pm and 8:00am other than a designated smoking area. Drinks must not be permitted in the smoking area;
 - Loud speakers must not be located outdoors or positioned to serve outdoor areas;
 - Music and amplified sound must not exceed 70 dB LAeq (30 seconds) at any point inside the function venue;
 - Goods and service deliveries and collections must only be made between 8:00am and 6:00pm; and
 - Acoustic fences must be constructed and maintained (as per the application) prior to activities commencing.
129. In an email dated 23 February 2016 to the Reporting Officer, Dr Chiles stated that he concurred with Dr Trevathan's assessment that sound levels will be below thresholds for sleep disturbance, even with windows open for ventilation. However, he considered sound of this nature is still likely to cause annoyance. In a further email dated 25 February 2016, Dr Chiles stated, *"in general I would consider noise subject to those controls as reasonable but account should also be taken of the stringent noise limits in the Residential Zone that generally maintain a high standard of amenity"*.
130. Dr Trevathan, in addressing Dr Chiles' concerns in relation to the period from 8:00pm to 12:00pm, where Late Night events may generate up to 45 dB LAeq (with the District Plan limit being 40 dB LAeq), noted:
- This is a period which may reasonably be considered to fall within the evening where outdoor living and annoyance may be of relevance;
 - He accepted that any audible noise may lead to annoyance but noted that audibility is not typically used as an objective criterion for assessing noise effects; and
 - In his assessment, he has applied a +5 dB penalty to the predicted noise levels to account for sound which has a distinctive character and which may affect its subjective acceptability. Based on this calculation, the expected maximum noise level during the 15 night-time events is 45 dB LAeq (15 minutes), which includes this penalty.
131. Dr Trevathan observed that this noise level complies with relevant common guidance regarding the reasonable protection of amenity and prevention of annoyance during evening periods by some margin, including the NZSS6802:2008 recommendation of 50 dB LAeq (15 min) and the World Health Organisation guideline of 50 dB LAeq (16 hours). Lastly, Dr Trevathan observed that during the evening period, noise levels associated with traffic on McDougall Street already exceed 50 dB LAeq (even on a Monday evening) in locations on neighbouring sites which could

reasonably be expected to be used for outdoor living and may be exposed to noise from the function venue of 40 to 45 dB LAeq. He commented that “a high standard of amenity” is therefore not currently present in these locations.

132. At the hearing, Dr Chiles confirmed that he had reached similar conclusions to Dr Trevathan but in a different way. In his opinion, vehicles leaving the function centre from the neighbouring roads would still clearly be heard, notwithstanding the ambient noise levels.
133. Dr Chiles confirmed that his key concern related to the noise of people outside the function venue after 8:00pm. In his opinion, the noise management plan would have to impose very stringent controls and management to ensure that compliance with District Plan noise limits was achieved. While he was generally comfortable with what he termed small scale events, in his opinion large events, particularly those occurring after 8:00pm, are likely to cause noise issues. He reiterated that overall, the application had to be considered in the context of a low density residential area, where a high value of amenity, particularly in relation to external noise, is expected.
134. Of the 47 submissions received in opposition to the proposal, 41 expressed concern in relation to noise. Specific concerns included:
 - Concerns that noise will affect the residential amenity and the quiet living of the neighbours;
 - Concern regarding the breach of the maximum noise limits contained in the District Plan;
 - Concern in relation to an increase in noise levels as a result of vehicles and people leaving the premises; and
 - Concerns regarding the cumulative effects of noise with the proposed Community House.
135. Most of the submitters’ concerns in relation to noise generated by the activity and from vehicles and people leaving the premises have been traversed in the expert evidence.
136. Mr Williams considered, based on Dr Trevathan’s advice, and taking into account the permitted baseline, that any potential adverse noise effects would be no more than minor. In this respect, he accepted the evidence of Dr Trevathan that predicted noise levels are consistent with national and international guidance for the protection of residential amenity and sleep disturbance when considered against the ambient noise environment, which already exceeds the District Plan levels.
137. Ms Hislop concluded that, as a result of the proposed night-time events with greater than “background noise” (the Late Night events) and the use of the northern deck during functions, the noise from the function centre would cause adverse nuisance effects that would affect residential amenity to an extent that is more than minor, and which was therefore unacceptable. Ms Hislop relied on Dr Chiles’ evidence in this respect. She did, however, find that noise from day-time events and night-time events with only background music (the Evening events) could be mitigated to an appropriate level through a noise management plan such that any effects would be acceptable.

138. Both of the planning experts concurred that cumulative noise effects are not expected to be significant, based primarily on the interspersion of McDougall Street between the subject site and the proposed Community House site, which provides some setback between activities and is currently a source of uncontrolled traffic noise.
139. Having carefully considered all of the evidence, we have concluded that the proposed day-time activities, which comprise 52 functions per year plus a one hour clean-up, music at background levels and a maximum of 120 guests with maximum five staff, would not result in noise effects that are more than minor provided that an appropriate noise management plan is enforced through active management.
140. In relation to the proposed night-time functions, we find the proposed 15 functions per year between the hours of 8:00pm and 10:00pm (the Evening events) to be acceptable, provided that the conditions of the proposed noise management plan are strictly enforced. This would include a prohibition on the use of any of the decks and outdoor areas after 8:00pm, with the exception of a designated area for smokers (which is not to be located on any of the boundaries with either 33 McDougall Street or 204 Brownston Street).
141. However, we are of the view that the proposed 15 functions per year after 8:00pm and to be finished by midnight, with music above background levels (the Late Night events) would result in adverse effects on the neighbouring residences that are more than minor.
142. In reaching this conclusion, we have been cognisant of the evidence of Dr Chiles that even if sound levels are below the thresholds for sleep disturbance, sound of this nature is likely to cause annoyance. In our opinion, exceedance of the District Plan noise levels (from 40 to 45 dB LAeq, which is a moderate increase) from a commercial activity is not substantiated in a low density residential environment. Although we accept that the ambient noise levels may exceed the District Plan noise levels up to approximately 11:00pm (based on Dr Trevathan's assessments), this does not justify a departure from the District Plan noise limits for an activity the nature and scale of which is not contemplated in this zone. In this respect, we do not accept Dr Trevathan's opinion that a restriction on events after 11:00pm on 15 occasions per year may be considerably superior to the situation which could arise should the site be used for residential purposes: inherently there is a fundamental degree of difference between a function involving up to 90 persons and a more usual scale of residential activity. Mr Mills' evidence confirmed that generally there is a reasonable level of amenity in the area currently and we concur with his submission that all outside areas should be closed off to guests between the hours of 8:00pm and 8:00am, and that all sound systems (including amplified music and PA systems) be limited to ensure that the District Plan noise levels are complied with.
143. Overall, we have concluded that the noise effects of the application, as amended, will be more than minor based on the proposal for Late Night functions that will exceed the District Plan noise limits.

The effects of parking, traffic generation and congestion

144. The potential adverse effects on on-street car parking and the associated nuisance that would result, together with road safety and traffic congestion, was a major concern of many of the submitters in opposition to the proposal. As detailed above, the Applicant has provided comprehensive traffic evidence from Mr Andrew Carr, which has been reviewed by Mr Mike Smith for Council.

145. At the crux of this issue is the lack of availability of any car-parking on site for guests of the function centre (excluding those guests that are staying in the neighbouring visitor accommodation).
146. The Reporting Officer has noted that the District Plan requires one carpark per 25 square metres of gross floor area ("GFA") for commercial activities and for meeting places and entertainment facilities one carpark per 10 square metres public floor area ("PFA") or 10 seats, whichever is the greater. The GFA of the existing function centre is 239 square metres, which requires 10 car parks, and the PFA is 175 square metres, requiring 18 car parks. Accordingly, 18 car parks are required by the District Plan to support the proposal. The Applicant is proposing to provide only one car park, leaving a deficit of 17 car parks. This was common ground between the Applicant and the Reporting Officer.
147. As previously set out, Mr Carr has assessed the maximum parking demand as 48 vehicles. We accept that Mr Carr's analysis is reasonable in the circumstances and do not understand this to be particularly disputed by Mr Smith.³
148. The experts have also agreed that the availability of off site parking in the area approximates that set out in Mr Carr's letter of 19 January 2016 ("the study area"), which shows:
- (a) 99 spaces within the on-street laybys (on McDougall Street and Upton Street) south of McDougall Street; plus
 - (b) 54 angled spaces on Brownstown Street (between McDougall Street and Roche Street); plus
 - (c) 21 on-street spaces on Upton Street (between McDougall Street and Roche Street)⁴.
149. The experts have also agreed that the worst case scenario in respect of cumulative parking effect is when:
- (a) All activities at the proposed Community House are in use at the same time;
 - (b) A capacity event is held at the application site;
 - (c) The Church is operating; and
 - (d) There is some third party event (such as the AMP Show, Contact Ironman or the Ruby) being held, such that additional on-street parking spaces were in use.
150. Leaving out the Community House from this calculation (as this proposal has not yet been consented), the maximum parking demand in the area under the situation where activities (b) to (d) generate parking demand would be for 150 spaces (46 + 50 + 54)⁵. Accordingly, theoretically there would be sufficient parking spaces on the adjacent roads to accommodate a "perfect storm" of potential events, excluding any potential consent for the proposed Community House. However, although Mr Smith was comfortable with the above calculations, he remained concerned in relation to the effect of parking use on road safety and network functionality. In his

³ Paragraph 2.3 of the Second Expert Witness Conferencing Statement Traffic Engineering.

⁴ Ibid, paragraph 3.1.

⁵ Ibid, paragraph 2.6.

opinion, if these issues are taken into account, fewer vehicles could be parked within the study area (as set out above), with the result that parked vehicles would be displaced further afield. He stated:

"It is my opinion that the lack of provision of parking off-road would have a serious effect on the safe operation of the adjacent streets due to the effect of road narrowing when fully parked. This will have serious impacts on the safety of the adjacent residential properties."

151. In response to questions from the Hearing Panel, Mr Smith was particularly concerned in relation to the effects on Upton Street North, due to the narrow width of the carriageway and its proximity to the entrance to the function centre.

152. This view was not shared by Mr Carr, who stated:

"There does not appear to be any prevailing safety issues on the adjacent network, and there is sufficient capacity on the roads close to the site to meet expected parking demand even allowing for the maximum parking demands of the development and the nearby Church to coincide. While some parking may occur on Upton Street, in our view this will be limited and the presence of driveways and indented parking bays (in some locations) provides further mitigation against any adverse effects arising in respect of the efficiency of the road."

153. The experts have suggested a traffic management plan (as set out in the first joint expert witness statement). Mr Carr and Mr Smith both agree that the trigger for implementation of the traffic management plan should be based on the number of people attending the function centre that are not being accommodated at the visitor accommodation. The agreed recommended trigger point was when 30 or more external guests were attending an event at the function centre. Allowing for 2.5 people per car and for some people to walk, this equates to around 10 additional vehicles parking on-street. The experts agreed that this was a suitable threshold at which the amount of additional on-street parking would not be noticeable or cause any adverse effects on the road network.⁶
154. Mr Carr was of the opinion that Mr Smith's concerns with regard to parking along Upton Street, and traffic movements at the McDougall Street/Upton Street intersection could be resolved by the introduction of a traffic management plan when more than 30 external attendees are expected to attend functions. He was of the view that there is merit in ensuring that the on-street parking demand is actively managed and that there is a trained staff member on-site available to implement the traffic management plan. Mr Carr set out his proposed conditions of consent at paragraph 9.1 of his brief of evidence in relation to the preparation and operation of a proposed traffic management plan. Mr Carr also noted that *"it will be important to identify in advance if there is likely to be events happening concurrently at the Community House and the proposed function venue, so they can be managed in a co-ordinated manner"*.
155. Mr Carr acknowledged that he and Mr Smith were not in agreement with regard to the acceptability of using the on-street parking in the manner proposed, notwithstanding the introduction of a traffic management plan. Mr Smith was of the view that the requirement for off-street parking would have a negative impact on the safe use and network functionality of the joining roads in the event that more than 30 external persons attend functions at the function centre. His specific concerns related to parking and "un-parking", safe movement of vehicles under high kerbside parking use and the impact on residential access. He remained of the

⁶ Paragraph 8.4 of the first Joint Witness Statement.

opinion that it is not possible to implement any measures that would suitably mitigate the effects to an extent that these are minor.

156. With respect to the assessment criteria that are relevant to traffic and parking in particular, it was common ground that the Applicant has failed to provide 17 of the 18 spaces that are required by the District Plan. The assessment criterion at (iii)(b) requires us to consider whether there is an adequate alternative supply of parking [or loading spaces] in the vicinity and goes on to state that *"in general on-street parking is not considered an alternative"*. We note that although the District Plan treats the lack of parking as a restricted discretionary activity, contemplating to some degree that the lack of on-site parking is not fatal to an application, each proposal must be thoroughly assessed to determine the level of effect of the shortfall on the wider road network.
157. We have concluded that the proposal does not satisfy assessment matters (c) to (e) and is contrary to (f) as, in our view, the lack of parking will have an adverse effect on the character and amenity of the surrounding area, particularly pedestrian amenity and safety as a result of not providing the required parking spaces. This was the clear evidence of the residents who submitted in opposition.
158. With respect to assessment matter (g), Mr Smith's evidence was that the safety and efficiency of the surrounding roading network would be adversely affected by parking and manoeuvring vehicles on the roads. In addition, there is likely to be a cumulative effect of the lack of on site parking in conjunction with other activities in the vicinity through not providing the required number of parking or loading spaces should the number of external patrons attending an event at the function centre exceed 30.
159. Having considered the evidence before us, we have concluded that the effects arising from parking, traffic congestion and the safety of the road network are more than minor and are unable to be adequately mitigated where more than 30 external persons attend an event at the function centre. We accept Mr Smith's evidence that once numbers of external patrons attending the function centre go beyond 30 (which would mean at least 10 cars to be accommodated within parking on the adjacent roads), it is not possible to implement any satisfactory measures to suitably mitigate the effects on the road network or the residential environment. Whilst Mr Carr has given considerable thought to a traffic management plan to address these issues (which he acknowledges would be required), based on the evidence given at the hearing we have no confidence that the proposed traffic management plan is either workable or would be effective in managing the adverse traffic and parking effects.⁷ Accordingly, we are not satisfied that it is possible to implement a traffic management plan that would successfully remedy or mitigate the adverse effects on the safety and efficiency of the road network, given the complexities of the proposed plan, and also of the receiving environment and the other already existing and consented activities that currently take place (excluding the proposed Community House).
160. We are also conscious that the Applicant could conceivably provide off-street parking for the function centre on one of the blocks of land owned and currently housing visitor accommodation (which would have to be re-positioned or removed). Although this does not form part of the present proposal, it remains a viable alternative from a resource management perspective should the Applicant wish to increase the capacity of the function centre to cater for external patrons.

⁷ Mr Steven's submissions at paragraphs 4.14 to 4.1.8 are relevant in this respect.

161. Accordingly, we have concluded that irrespective of whether or not the Community Centre is granted consent, the effects of the amended proposal on parking in particular, and the resultant impact on the road network and neighbouring low density residential environment, are more than minor. However, we accept that up to 30 external patrons could be accommodated at the function centre without creating significant adverse effects with respect to parking, the safety and efficiency of the traffic network or on the amenity of the residential neighbourhood.

The effects on residential amenity

162. Many submitters raised concerns about the loss of residential character and amenity given the nature and scale of the proposed function centre. The adverse effects on residential amenity were mainly identified to be noise and the lack of on-site parking (which would result in use of the residential streets for parking), together with the increase in traffic and potential effects on road and pedestrian safety.
163. Ms Hislop considered that the activity would provide a local function by meeting the needs of residents principally within the surrounding residential environment, as noted in some of the submissions in favour of the proposal.
164. Ms Hislop's particular concern was in relation to the loss of privacy through the operation of the function centre, particularly in relation to the use of the northern deck, to the properties at 204 Brownston and 33 McDougall Streets. It was her view that the deck should not be available during approved functions and activities, which was a condition of RM150535.
165. In summary, Ms Hislop was of the opinion that in terms of residential character and amenity (putting to one side the effects of parking and noise on residential activity, which has been covered above), the effects would be no more than minor provided that the northern deck was not used during functions, and could be managed through appropriate conditions.

Sale of liquor

166. Although many submitters raised concerns about the sale of liquor from the site, the need to obtain a liquor licence at all events where alcohol is served, and the supervision of guests by a trained duty manager, would in our view be an improvement on the current situation, as set out in Ms Enoka's evidence. Accordingly, provided that all relevant liquor licencing legislation is adhered to, which should result in the responsible management of guests and guests' behaviour, we accept Ms Hislop's evidence that the sale of liquor to guests of the function centre will be compatible with the amenity values of the surrounding environment.

Objectives and policies of the District Plan

167. Ms Hislop and Mr Williams have each carried out a very comprehensive analysis of the relevant objectives and policies of the District Plan.
168. We concur with Ms Hislop that the relevant chapters of the District Plan are:
- (i) Part 4 (*District Wide*);
 - (ii) Part 7 (*Residential Areas*); and
 - (iii) Part 14 (*Transport*).

169. Ms Hislop also identified that the provisions of the Proposed District Plan - Chapter 3 (*Strategic Directions*), Chapter 7 (*Low Density Residential*) and Chapter 36 (*Noise*) must be assessed, as the Council notified the Proposed District Plan on 26 August 2015, with submissions closing on 23 October 2015. However, she noted that as part of the District Plan Review, a number of submissions have been received with respect to the relevant chapters of the Proposed District Plan which relate to the objectives, policies and rules, and as such these provisions of the Proposed Plan are not considered operative. She also commented that a number of provisions in the Proposed District Plan relating to visitor accommodation in urban/residential areas have been withdrawn by the Council, as Stage 2 of the District Plan review will include a review of visitor accommodation. Accordingly, although we have had regard to the relevant objectives and provisions of the Proposed District Plan, these have been given minimal weight in our assessment.
170. Ms Hislop determined that the proposed function centre was contrary to Part 7 – Residential Areas Objective 3 – *Residential Amenity* and Objective 4 – *Non-Residential Activities*. Objective 3 promotes pleasant living environments within which adverse effects are minimised, while still providing the opportunity for community needs. In Ms Hislop's assessment, the proposal is inconsistent with the policies designed to protect and enhance the cohesion of residential activity and the sense of community and well-being obtained from residential neighbours.
171. Policy 3.5 states:
- “To ensure hours of operation of non-residential activity do not compromise residential amenity values, social well-being, residential cohesion and privacy.”
- In Ms Hislop's opinion, the hours of operation for the daytime functions would not compromise residential amenity values, social well-being, residential cohesion and privacy, although this would not be the case for Late Night functions between 8:00pm and 12:00pm. With respect to Policy 3.8, which is concerned to ensure that noise emissions associated with non-residential activities are within limits adequate to maintain amenity values, Ms Hislop was of the view that the proposed noise emissions with respect to the Late Night events would cause nuisance effects to neighbouring properties and would adversely affect amenity values. Accordingly, she considered that the activity is contrary to Policy 3.8.
172. Policy 3.9 encourages on site parking in association with development and encourages shared off site parking in close proximity to development in residential areas, to ensure the amenity of neighbours and the functioning of streets is maintained. Ms Hislop noted that whilst on site parking is encouraged, none is provided for guests, nor has any shared off site parking in close proximity to the function centre been proposed. Rather, the application relies solely on roadside parking in the vicinity, which would have an adverse effect on the amenity of neighbours and the functioning of the streets at the predicted maximum of 48 vehicles per event. Accordingly, Ms Hislop concluded that the lack of on site parking would adversely affect the functioning of the surrounding streets (based on Mr Smith's evidence) and, as such, the proposal is contrary to Policy 3.9.
173. With respect to Objective 4 (*Non-Residential Activities*), Ms Hislop considered that the proposed function centre would be contrary to Policy 4.1, as residential amenity would be undermined within the residential area given the nature and scale of the activity and the lack of car-parking on site for guests.

174. With respect to Part 14 (*Transport*), Ms Hislop found that the proposal would be contrary to Objective 2, Policy 2.2, based on Mr Smith's evidence. Policy 2.2 is concerned with ensuring the intensity and nature of activities along particular roads is compatible with road capacity and function, to ensure both vehicle and pedestrian safety. Ms Hislop also found that the proposal contravened Objective 3, Policy 3.5, which is the maintenance and enhancement of the visual appearance and safety of arterial roads, which are gateways to the main urban centres. She also considered the proposal to be contrary to Objective 5, Policy 5.1, which sets minimum parking requirements for each activity based on parking demand for each land use while not necessarily accommodating peak parking requirements. Ms Hislop noted that the minimum car-parking is considered to be 18 carparks under the District Plan, with the function centre requiring peak parking of 48 carparks. In her opinion, the provision of no on site car-parking is contrary to Policy 5.1.
175. Overall, Ms Hislop considered that the proposal is contrary to the relevant objectives and policies of the Operative District Plan insofar as they relate to the effects of noise emissions from the operation of the function centre on neighbouring properties and the effects associated with the lack of on site car-parking for external guests. In her opinion, these adverse effects highlight that the use of the site as a function centre to the general public is inappropriate. She concluded by stating:
- "Fundamentally, given the constraints of the site and its location in the heart of a Low Density Residential Area, I consider that the effects of a non-residential activity of this nature and scale in terms of parking and noise are contrary to the District Plan."*
176. Mr Williams agreed with Ms Hislop's identification of the relevant objectives and policies of both the Operative District Plan and the Proposed District Plan. He also concurred that very little or no weight should be given to the Proposed District Plan although he noted that, in his opinion, the objectives and policies of the Proposed Plan are not materially different to those of the Operative District Plan and that, accordingly, his conclusions regarding the relevant provisions of the Operative District Plan would also apply to the relevant proposed District Plan objectives and policies.
177. With regard to Part 7 (*Residential Areas*) and in particular Objective 3 and its associated policies, Mr Williams noted that the subject site has a history of non-residential activity and *"has a context that includes other non-residential activities within the street environment characteristic of this activity"*. Accordingly, he concluded that although the proposal could not be considered to enhance residential cohesion (as promoted by Policy 3.1), the proposal will protect the level of residential cohesion that already exists. He noted that the existing environment is not characterised by a dominance of low density development.
178. In his opinion, the proposed activity has provided a number of measures to limit the hours of operation of the venue. Taking into account the existing ambient noise of the environment and the limited frequency of use of the venue during night-time hours, he considered the proposal to be within limits adequate to maintain amenity values.
179. Mr Williams acknowledged that on site parking is encouraged by Policy 3.9; however, he noted that the policy does also envisage situations where on site parking is not required, as the policy is not directive in its requirements. In other words, simply because parking for the facility will not be off site does not mean it is contrary to this policy. He noted that the overarching goal is to ensure the amenity of neighbours and functioning of streets. In his opinion, the particular street

environment of the area surrounding the subject site specifically provides a shared parking resource by way of the indented parking bays. Accordingly, Mr Williams concluded that the proposal is supported by Policy 3.9, as the overarching goal is met. He noted that, in his opinion, it was unreasonable to assess the proposal entirely on a worst case peak parking demand scenario.

180. With respect to Objective 4 (*Non-Residential Activities*), Policy 4.1, Mr Williams noted that the objective is enabling. In his opinion, the proposal provides for a community need and his assessment has found that the proposal is compatible with the residential amenity of the area. Accordingly, he concluded that the proposed function centre is consistent with Objective 4 and its associated policies.
181. In relation to Part 14 (*Transport*), Mr Williams concluded, based on Mr Carr's expert evidence, that the proposed function centre is not considered contrary to the relevant objectives and policies as:
 - Mr Carr has confirmed the proposal is compatible with the capacity and function of the surrounding streets;
 - Parking on the street can occur with limited congestion and loss of safety and efficiency of the adjacent streets, noted that the indented parking bays present within the adjoining streets are not highly utilised at present;
 - The indented parking bays is reflective of their intended function to provide for on-street parking;
 - The District Plan does not require peak parking demand or a worst case scenario to be provided in terms of parking on site;
 - The intensity and nature of the proposed activity is compatible with the road's capacity and function; and
 - The access and safety aspects of the proposal are acceptable.
182. In relation to Objective 5 (*Parking and Loading*), Mr Williams considered that this objective and its associated policies are particularly relevant to this proposal and the consideration of parking on the street. He noted that Policy 5.1 directs that parking requirements need not necessarily be set to accommodate peak requirements. In his view, Policy 5.1 makes no mention of the requirement for parking to be provided on site (as it does for loading in Policy 5.2). In his view, this supports his conclusion that the District Plan contemplates a wide range of scenarios in providing for parking, from all parking provided on site to none. Accordingly, simply because no parking is provided on site does not mean the proposal is contrary to this policy. Mr Williams also considered that, based on Mr Carr's evidence, both the minimum requirement of 18 car parks and the potential peak can be accommodated off site, therefore adequate parking for the activity based on parking demand has been provided for.
183. Having considered the planning evidence, we concur with Ms Hislop that the proposed function centre is contrary to Part 7, Objective 3, which is concerned with residential amenity, due to the adverse effects with respect to hours of operation, noise and car-parking on the residential amenity of the low density residential area. This conclusion is primarily based on the proposal

to accommodate up to 90 external guests between 8:00pm and midnight (the Late Night events), together with the potential requirement for up to 48 car-parking spaces on the surrounding residential streets. Accordingly, at this scale, the proposal will heavily impact on residential activity during night-time hours and is clearly inconsistent with the need to maintain pleasant living environments or enabling activities that do not undermine residential amenity within residential areas. We have also concluded that the proposal is contrary to a number of objectives and policies in relation to Part 14 (*Transport*) based on Ms Hislop's evidence. Again, this is a consequence of the scale of the proposed activity in relation to the attendance of external guests at the function centre and the proposed Late Night events.

Section 104D of the Act

184. We now consider the extent to which the proposal meets the test for a non-complying activity, as set out in Section 104D of the Act.
185. As set out above, we have concluded that the adverse effects of the proposed function centre (as is currently proposed) on noise, in particular noise emissions from the proposed Late Night functions, which will result in annoyance and nuisance to neighbouring properties beyond an acceptable level in a residential area, and the lack of on-site car parking for external guests of the function centre, which will affect the safe operation of the adjoining streets beyond what would normally be anticipated as a result of residents and visitors utilising the public on-street parking, will be more than minor. We have concluded that these adverse effects will affect the residential character and amenity of this Low Density Residential Zone in a more than minor way and, accordingly, are unacceptable.
186. Accordingly, the proposed development fails the first gateway under section 104D(1)(a).
187. The extent to which the development is contrary to the objectives and policies of the District Plan was a matter of some debate between Ms Hislop and Mr Williams, both of whom carried out a very comprehensive analysis of the relevant objectives and policies. We are mindful that the finding that a proposed development is contrary as a whole to the objectives and policies of the District Plan is a very high threshold, as has been articulated by the Environment Court in a number of cases.
188. Having considered the evidence very carefully, it is apparent that Ms Hislop's conclusion was reached in the main because of her assessment of the adverse effects of noise and off-site car parking (and the associated effects on the safety and efficiency of the road network) on residential character and amenity. In other words, her conclusion was based on the nature and scale of the activity, as opposed to more fundamental issues of incompatibility (which might, for example, be raised for an industrial activity). Accordingly, while the proposal is contrary to or inconsistent with (based on Ms Hislop's evidence) a number of important objectives and policies in Part 7 of the District Plan, primarily as a result of its nature and scale, we do not consider it to be contrary overall to the objectives and policies of either the Operative District Plan or the Proposed District Plan. Accordingly, we have found that the proposal passes the second limb of the gateway test in section 104D(1)(b). We are therefore required to evaluate the proposal under section 104(1) and Part 2 of the Act.

Section 104(1) and Part 2 of the Act

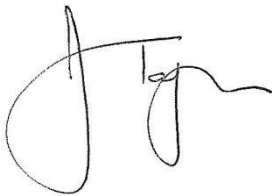
189. As the proposal has passed the gateway test in Section 104D, we now turn to the merits of the proposed development. Section 104(1) sets out the matters that must be addressed in making a decision as to whether to grant or refuse consent.
190. As set out above, we have concluded that the proposal will have significant adverse effects on the neighbouring residential area with respect to noise from the proposed Late Night activities, and on the safety and efficiency of the road network as a result of the shortfall in car parking where the number of external patrons attending a function exceeds 30 people. We have also found that the use of the northern deck during daytime functions would have a significant adverse effect on the privacy and amenity of the neighbouring property at 33 McDougall Street unless this is appropriately managed.
191. As the proposed function centre has been established in a Low Density Residential Zone, we do not consider it acceptable that consent should be granted to a proposal that would result in a significant loss of residential amenity to neighbouring properties, notwithstanding the nature of the existing environment. We are conscious that the receiving environment has been extensively modified through the introduction of visitor accommodation facilities by the Applicant over the past decade; however, this remains a Low Density Residential zone, particularly with respect to the neighbouring residential streets that might be impacted by this activity and which include Upton, Brownston and Roche Streets.
192. While we have found that the proposal is not contrary as a whole to the relevant objectives and policies of the District Plan, it is contrary to or inconsistent with (at best) a number of important objectives in relation to the maintenance of residential amenity and cohesion, and in relation to car parking and the associated effects on the traffic network. Accordingly, we have determined that in the form proposed, the function centre activity is inappropriate in this location.
193. However, if the hours of operation were modified to exclude Late Night events (those that exceed the District Plan noise limits), and the number of external patrons was reduced significantly from that proposed to a maximum of 30 external guests per function which, based on the evidence of Ms Enoka as to the usual function size would allow a significant number of the events contemplated to be accommodated at the function centre, the proposal would be acceptable. We do not consider this to be an unreasonable compromise in all of the circumstances, particularly as it is more likely, based on the evidence before us of the Applicant's intention, that guests will use the accommodation facilities on site for larger functions such as conferences and weddings.
194. As a result, we have made a number of modifications to the proposed conditions of consent as follows, including:
 - (a) Proposed condition 4(iii) [now 4A] has been deleted;
 - (b) A new condition has been inserted to stipulate that the number of patrons attending functions at the function centre who are not staying in the adjacent visitor accommodation may not exceed a maximum of 30 persons (Condition 4A);
 - (c) A new condition has been imposed in relation to the use of the Northern deck (Condition 4C);

- (d) Condition 4D provides for the sale of liquor as proposed in the application;
 - (e) Condition 5A has been amended to ensure that specific records are kept of patrons attending functions that are not staying in the adjacent visitor accommodation (external guests);
 - (f) Conditions 6, 6A, 6B and 7 have been deleted, as there is no longer a requirement for a traffic management plan, as the number of patrons that are not staying (and parking) at the associated visitor accommodation have been limited to 30 persons;
 - (g) Condition 11 has been modified to remove the reference to events in accordance with condition 4(iii), which has been deleted; and
 - (h) Similarly, condition 13 has been amended to remove the reference to the exception (15 occasions in accordance with condition 4(iii)).
195. In reaching our decision, we are mindful that the proposal does address a number of deficiencies in the original consent and its subsequent variation, which will have a positive impact on the character and amenity of the residential area. Accordingly, it is sensible in our view to reach a compromise that will allow the function centre to operate efficiently while protecting the reasonable amenity of the neighbouring residents. Should the number of external guests prove to cause significant adverse effects on either residential activity or car-parking in the area, it may be necessary to scale back this number through the operation of the review conditions.
196. In relation to Other Matters under section 104(1)(c), we accept that the Wanaka Community House Charitable Trust application (RM150434) is a relevant matter in our overall determination, for the reasons advanced by Mr Williams. In this respect, we are satisfied on the evidence before us that with the removal of the Late Night functions and a limit on the number of external guests to a maximum of 30, any cumulative effects with respect to the operation of the proposed Community House, if it was to be granted, will be less than minor. Accordingly, it is not necessary to determine any issue in relation to the relative priority of these applications.
197. We concur with Mr Williams that this application is unique and that the particular circumstances are highly unlikely to be replicated. As a result, we are confident that consent to this application, on the terms that we have decided, will not create a precedent or impact on the integrity of the District Plan.
198. With respect to Part 2 of the Act, we are satisfied that the proposal (as modified) will promote the sustainable management of natural and physical resources. In forming this conclusion, we are mindful that the function centre has been established through a consenting process, albeit that the restrictions contained in the previous consents have been problematic. Having considered all of the evidence before us, we have concluded that the proposal will promote the purpose of the Act, provided that the scale is reduced with respect to the number of external guests that are permitted to attend functions at the function centre, and the refusal of the proposed Late Night functions. Accordingly, given our changes to the proposed conditions above, we are satisfied that the proposal has been appropriately avoided, remedied or mitigated and that it promotes the purpose of the Act.

199. When making decision on a resource consent application, an overall broad judgment based on a weighting of factors contained within Part 2 is required to be undertaken, recognising the hierarchy of considerations within Part 2. Any decision-making process should focus on the avoidance, remediation or mitigation of adverse effects in order to promote sustainable management. Having considered the matters in Part 2, we have concluded that the proposed development achieves the purpose of the Act.

Decision

200. In exercising our delegation under Sections 34 and 34A of the Act, and having regard to the matters discussed above under Sections 104, 104D and Part 2 of the Act, we have determined that consent to the non complying application for development located at 200 Brownston Street, 37 and 41 McDougall Streets and 171 Upton Street, Wanaka, be **granted in part** for the reasons given above and subject to the conditions set out below.

A handwritten signature in black ink, appearing to be 'D J Taylor', with a large loop on the left and a horizontal line extending to the right.

D J Taylor

For the Commission

15 June 2016

RM141047 Varina Proprietary Limited

Conditions of Consent

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - 'Varina Pty Limited, 200 Brownston Street, Wanaka, Plan of Onsite Car Parking;
 - 'Varina Pty Limited, 41 McDougall Street and 177 Upton Street, Plan of Onsite Car Parking;
 - Site Plan for 177 Upton Street;
 - Site Plan for 41 McDougall Street;
 - Site Plan 200 Brownston Street;
 - McDougall Residence, 37 McDougall Street, Wanaka, Elevations (as approved under RM150535);
 - McDougall Residence, 37 McDougall Street, Wanaka, Floor Plans (as approved under RM150535);
 - McDougall Residence, 37 McDougall Street, Wanaka, Site Location (as approved under RM150535);
 - 37 McDougall Street, onsite parking plan

stamped as approved on 15 June 2016

and the application as submitted, with the exception of the amendments required by the following conditions of consent.

Commencement of Consent

- 1A This consent shall not be exercised and no work or activity associated with it may be commenced or continued until:
 - (a) The Council has received formal notice and payment to confirm the surrendering of RM120715 and RM150535; and
 - (b) This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
2. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991 and shall pay to Council an initial fee of \$100. This initial fee has been set under section 36(1) of the Act.

Function Centre

3. Functions may not occur during the period beginning 20th December and ending 20th January inclusive in each year, nor on any public holiday with the exception of Otago Anniversary.
- 4A. The maximum number of functions and guests shall be as follows:
 - (i) 52 Day-time functions (commencing after 08:00 and finishing no later than 20:00hrs, plus one hour clean up) with a maximum of (120) guests, of which (90) must be staying in-house at the consent holder's visitor accommodation (37 McDougall Street, 41 McDougall Street, 200 Brownston Street, 177 Upton Street and 181 -185 Upton Street), with any music at background levels; and
 - (ii) 15 Night-time events (commencing after 08:00hrs and finishing no later than 22:00hrs plus one hour clean up) with a maximum of (90) guests of which (60) must be staying in-house at the consent holder's visitor accommodation (37 McDougall Street, 41 McDougall Street, 200 Brownston Street, 177 Upton Street and 181 -185 Upton Street), with any music at background levels.

For clarity, the maximum number of guests outlined in condition 4(i) and (ii) includes both in-house guests and guests that are not staying in-house (external guests). The maximum number external guests shall not exceed 30 guests under both conditions 4(i) and 4(ii).

4B Conditions 3 and 4 do not apply to use of the function centre by in-house guests using that facility in accordance with the consent holder's visitor accommodation (37 McDougall Street, 41 McDougall Street, 200 Brownston Street, 177 Upton Street and 181 -185 Upton Street). The use of the function centre by in-house guests shall not be permitted between 22:00hrs and 06:00hrs. Any music must be at background levels.

4C Under Condition 4A the use of the deck at first floor level on the north east elevation of the building (the Northern deck) for functions is limited to 20 guests between the hours of 08:00 and 20:00. Guests must be fully supervised in accordance with the Noise Management Plan required by Condition 6.

When the facility is being used as permitted by Condition 4B, the Northern deck must not be used by guests at any time.

4D The consent holder shall ensure that the sale and supply of alcohol at shall be limited to the following hours:

08:00hrs to 21:30hrs

In addition to this consent, the sale and supply of alcohol licence will dictate the hours of operation the bar will be open. Should there be any inconsistency, the hours set in the licence will prevail.

5. Prior to the function centre activity commencing the consent holder is to provide the Council with the name, address and full contact details of the property manager including how that manager may be contacted at any time when the function centre is in use. If the manager is to change, the changed details are to be provided to the Council prior to the change occurring.

5A The property manager shall maintain a booking register recording the type of function (day or night time function/event as identified in condition 4(i) and (ii), dates of each function, time function finishes at, the number of patrons that attend each function and whether those patrons are staying in the adjacent visitor accommodation or are external guests. The booking register shall be made available to the Council on request.

Noise Management

6. Prior to the function centre activity commencing the consent holder shall submit a Noise Management Plan (NMP) for certification by the Council. The Noise Management Plan shall include methods, measures and techniques in order to achieve the objectives of:

- (a) A description of the noise generating activities associated with the site (traffic, patrons and entertainment);
- (b) Details of noise controls and best practice options for minimising each source, which must include details on the following:
 - (i) Methods for communicating noise management requirements to guests;
 - (ii) Full details of the proposed supervision of functions by the Facilities Manager;

- (iii) All outside areas are to be closed off to guests between the hours 20:00hrs to 08:00hrs other than the designated smoking area (as specified in (vii) below). Drinks are not permitted in the smoking area;
 - (iv) The deck at first floor level on the north east elevation of the building (the Northern deck) shall only be used between 08:00hrs and 20:00hrs during supervised functions for a maximum of 20 guests without tables or chairs, and loudspeakers must not be located on the deck;
 - (v) Methods for ensuring guest use of all outdoor areas occurs in a manner that minimises noise emissions and monitors guest behaviour;
 - (vi) Identification of staff, the role of whom is to actively manage and implement the NMP; and
 - (vii) Identification of the outdoor area for the exclusive use of smokers to be at the side of the building by 181 Upton Street and is to be accessed only from a door on that side of the building; and
- (c) A complaints procedure that specifies actions to be taken following receipt of a complaint, including records to be kept and response to any complaints including remedial action taken.
7. The operation and management of the site shall take place in accordance with the Noise Management Plan approved as part of Condition 6 above.
 8. Prior to hosting an event the consent holder shall install acoustic seals on all external doors to achieve additional noise reduction as depicted in Figure 1.2 of the Acoustic Engineering Services (AES) dated 22 February 2016, attached as Appendix A.
 9. All guests are required to use the permanently installed sound system within the venue for any music. The level of the sound system shall be calibrated by a suitably qualified and experienced acoustic consultant such that the levels inside the building will not exceed 70dB L_{Aeq} .
- In all cases the sound system shall be managed such that these levels are not exceeded.
10. Prior to use of the function centre the current fencing adjoining 33 McDougall Street, 200 Brownston Street and 181 Upton Street shall be upgraded to provide at least 8 kg/m² and with no gaps, must be constructed.
 11. The consent holder shall ensure that activities be conducted so that the following noise limits are not exceeded neither at, nor within, the boundary of any residential site in the residential zone (except in respect to the properties at 181 Upton Street, 200 Brownston Street, 41 McDougall Street and 177 Upton Street):

Daytime (08:00 to 20:00) 50 dB $L_{Aeq(15min)}$

Night-time (20:00 to 08:00) 40 dB $L_{Aeq(15min)}$

Night-time (20:00 to 08:00) 70 dB L_{AFmax}

Other Conditions

12. Goods and service deliveries and collections must only be made between 08:00hrs and 18:00hrs.
13. The consent holder shall ensure that all guests to the function centre shall enter and exit the site through 181 and 185 Upton Street to minimise effects on residential amenity in the area.
14. Prior to use of the function centre the on-site disabled car park and loading bay/staff parking shall be completed to Council standards in accordance with the Carriageway Consulting Letter dated 24 January 2016, attached as Appendix B.

15. Prior to the use of the function centre no-stopping/parking restrictions at the McDougall Street/Upton Street intersection and McDougall Street/Brownston Street intersection to ensure sight distances are not restricted by parked vehicles approved by Council must be installed at the Applicants cost. This condition does not apply to activities undertaken in Condition 4B.
16. Prior to the operation of the function centre, the consent holder shall complete the following:
 - a) The southernmost vehicle crossing to the site shall be sealed in accordance with Council's standards.
 - b) The construction of all vehicle manoeuvring and car parking areas to Council's standard-
 - c) The indented car park fronting the site shall be extended to the southeast to provide sufficient area to provide parking for one vehicle in accordance with Table 1 Appendix 7 of the District plan to Council's standards.
 - d) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

Visitor Accommodation (200 Brownston Street, 41 McDougall Street and 177 Upton Street)

17. Prior to the visitor accommodation activity commencing the consent holder shall provide the Council with the name, address and full contact details of the property manager including how that manager may be contacted 24 hours per day. If the manager is to change, the changed details are to be provided to the Council prior to the change occurring.
18. The maximum number of occupants of the visitor accommodation shall be:
 - 6 adults at the 3 bedroom house and 4 adults at the 2 bedroom house at 200 Brownston Street;
 - 6 adults at 41 McDougall Street; and
 - 11 adults at 177 Upton Street
19. The property manager shall maintain a record of all tenancies at each of the properties in the form of a register containing the name and contact details of the main occupant, number of occupants and the days/nights of occupancy. The register shall be available for inspection by the Council at all times.
20. The visitor accommodation activities must be conducted in accordance with an updated Noise Management Plan (NMP) which must be certified by QLDC prior to activities commencing and include methods for communicating noise management requirements to residents.
21. The consent holder shall ensure that activities be conducted so that the following noise limits are not exceeded neither at, nor within, the boundary of any residential site in the residential zone:

Daytime (08:00 to 20:00) 50 dB $L_{Aeq(15min)}$

Night-time (20:00 to 08:00) 40 dB $L_{Aeq(15min)}$

Night-time (20:00 to 08:00) 70 dB L_{AFmax}
22. All vehicle parking, including those belonging to people visiting tenants, shall be parked on the site(s).
23. No use of the visitor accommodation outdoor entertainment areas/outdoor living areas shall occur between 22:00 and 08:00 hrs (10:00 pm and 8:00 am).

General

24. Within ten working days of each anniversary of the date of this decision the Council may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
 - (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
 - (b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
 - (c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.
 - (d) Monitoring of the exercise of the consent has revealed that there is likely to be an adverse effect on the environment. With respect to the following conditions:
 - (i) Condition 4 in relation to the number of events, the numbers of people on site and the hours of operation of these events to be undertaken in any calendar year; and
 - (ii) Conditions 6-11 and 20, 21 and 23 with respect to noise.
25. As part of the review clause stated in condition 24 of this consent, the Council may have the noise management plans audited at the consent holder's expense.

Advice Note

1. *If the kitchen is to be used to prepare food for sale to guests it must comply with the requirements of the Food Hygiene Regulations or alternatively apply for an exemption from the Food Hygiene Regulations and implement a Food Control Plan or Food Safety Programme under the Food Act.*

APPENDIX A

Acoustic Engineering Services (AES) dated 22 February 2016

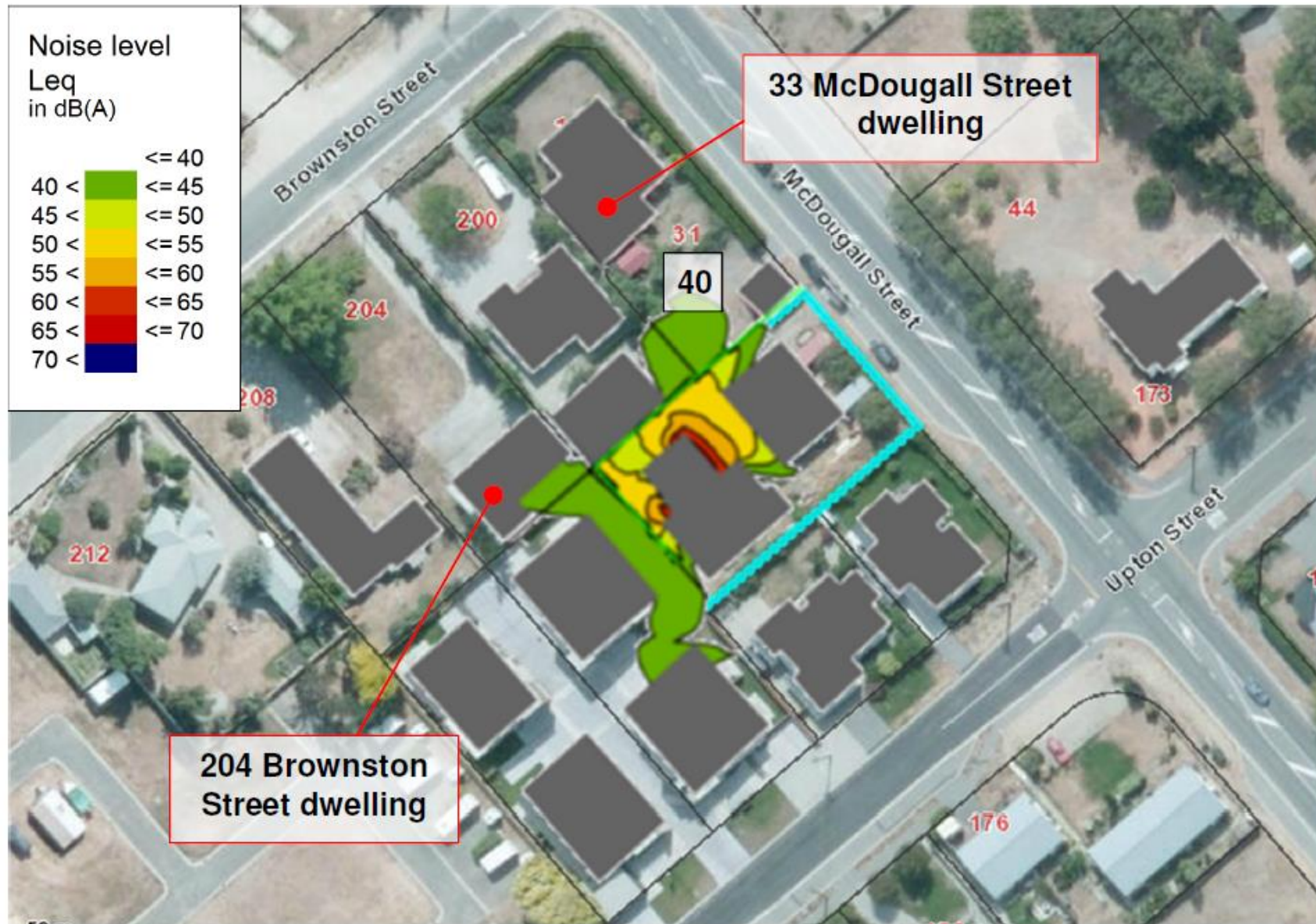


Figure 1.2 – Break-out noise emissions with upgraded building façade, during the 15 higher noise events now proposed

APPENDIX B

Carriageway Consulting Letter dated 24 January 2016

CCL Ref: 14048-240116-williams

24 January 2016

Tim Williams
Southern Planning Group
PO Box 1081
Queenstown



A. PO Box 29623, Christchurch, 8540
P. 03 377 7010
E. office@carriageway.co.nz

By e-mail only: tim@southernplanning.co.nz

Dear Tim

Proposed Function Venue, 37 McDougall Street, Wanaka: On-Site Parking Assessment

Further to our recent discussions, we have carried out a review of the on-site provision of parking/loading at the proposed venue. Our comments are set out below.

Background

The proposed function venue is located at 37 McDougall Street, Wanaka, approximately 670m southwest of the town centre. McDougall Street is an Arterial Road under the Queenstown Lakes District Plan, indicating a primary role in accommodating through traffic, although due to the historic pattern of development in Wanaka it also provides direct access to a number of properties fronting onto the road.

The venue will be used for weddings, professional seminars/presentations, family celebrations and the like. We understand that it will be able to accommodate up to 120 patrons.

On-site parking provision is very limited, but plans provided show that a small area towards the south of the site is available for vehicles to park and for loading activities.



Figure 1: Approved Site Parking Plan (Under an Earlier Resource Consent)

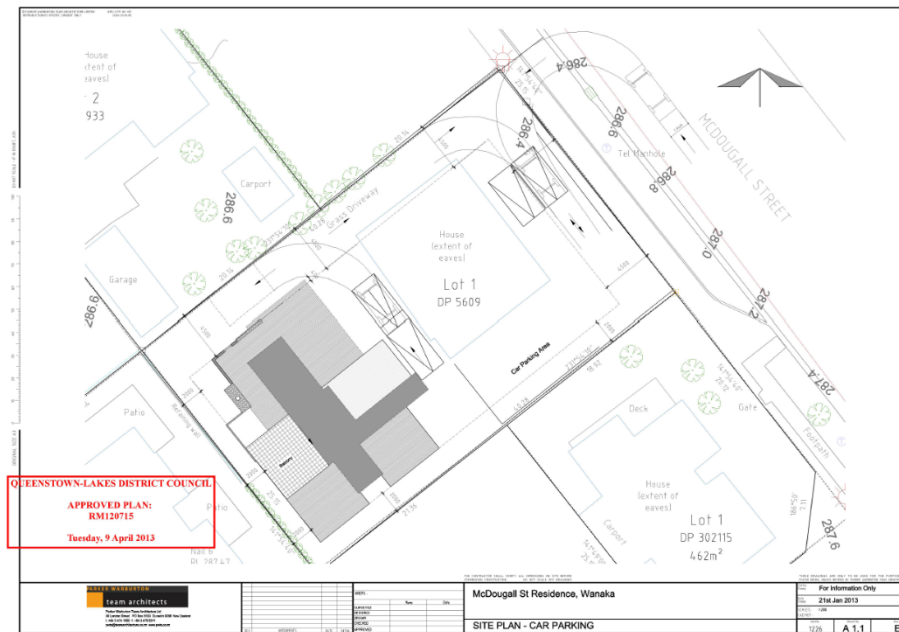


Figure 2: Approved Site Parking Plan (Under an Earlier Resource Consent)

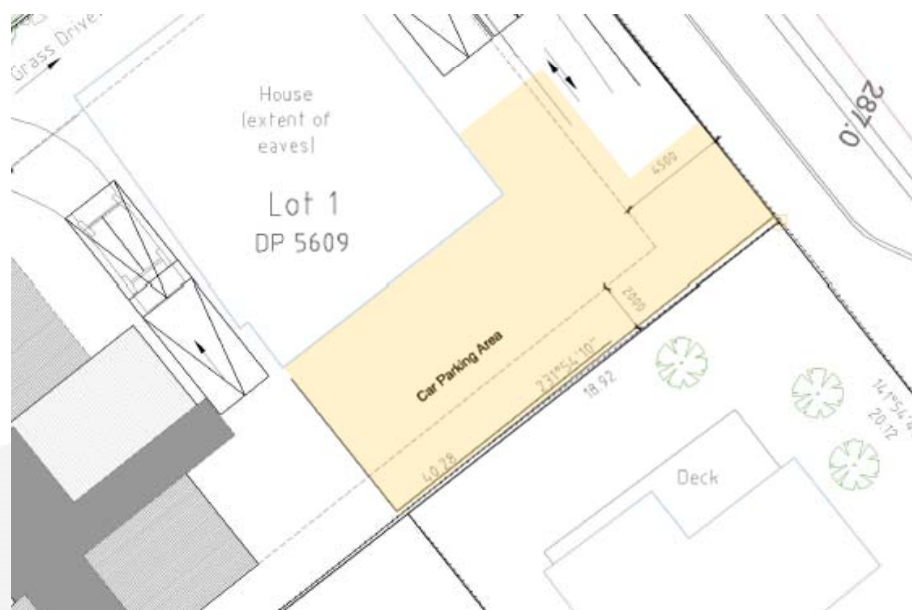


Figure 3: Approximate Area Available for Parking (Extract from Figure 2)

In addition, a turning area is provided towards the northeast of the house, since no vehicle is allowed to reverse from or onto McDougall Street because it is an Arterial Road under the District Plan (Rule 14.2.4.1(vii)(a)).

Parking Layout Options

Figures 2 and 3 above shows that the area available between the southern side of the house and the southern site boundary is some 7.4m in width. Under the District Plan requirements, a width of 7.4m is appropriate for a number of potential parking layouts and could accommodate any of the following:

- Two visitor car parking spaces of up to 2.7m width plus an additional 0.3m width if the spaces are adjacent to obstructions (the house and/or a fence on the southern boundary);

- Two staff car parking spaces of up to 2.7m width plus an additional 0.3m width if the spaces are adjacent to obstructions;
- Two parking spaces for the mobility impaired at 3.6m width each. The width of 3.6m allows for full door opening and thus in this case the additional 0.3m width is not required; or
- One car parking space for any type of user, plus a loading bay of 3.5m width and an additional 0.3m width if the spaces are adjacent to obstructions.

On the basis of our previous analyses, we are aware that due to the anticipated parking demand the facility will require one parking space for the mobility impaired to meet the District Plan requirements (under Rule 14.2.4.1(vi)). The zoning of the site means that a loading space is not required under Rule 14.2.4.1(xi), but the nature of the activity is such that some element of loading/unloading is likely to occur. To minimise the potential for this to take place via the frontage road, we understand that the applicant intends to provide a loading area within the site. However this will not be required for all events or at all times, and so when not used by delivery vehicles, it will be possible to use this for staff car parking.

Consequently, we anticipate that the area will be marked as one parking space for the mobility impaired (which will be 3.6m wide and 5.0m long), plus an adjacent space that could be used for loading or for staff parking. The latter will be marked as 3.8m wide (comprising of a 3.5m width for a truck loading bay plus an additional 0.3m) and 8m long. The dimensions of these spaces all comply with the relevant District Plan requirements.

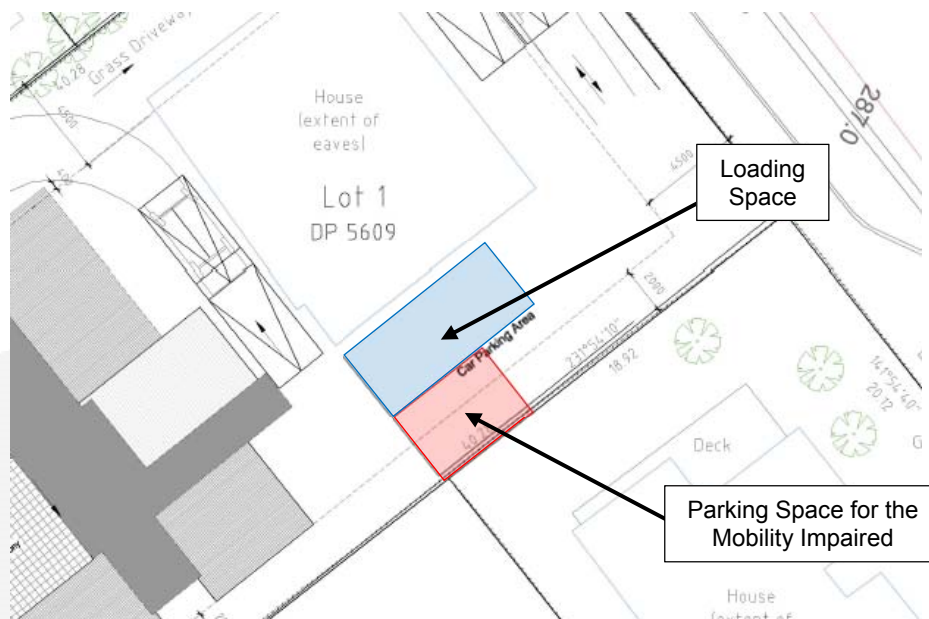


Figure 4: Proposed Site Parking Layout

Because one space (for loading and staff parking) will have a different type of user to the other space (for guests who are mobility impaired), we consider that vehicles will not be manoeuvring to and from the spaces at the same time:

- The loading bay will be used some time before an event starts and after it ends, and vehicles arriving and departing to load/unload during an event itself will be extremely unusual. As a result, when trucks are parking and unparking at this space, the parking space for the mobility impaired will be vacant;

- If trucks do not stay for the duration of the event, then staff may park in this area. Depending on the nature of the staff, the parking space for the mobility impaired may or may not be vacant when staff enter/exit; and
- When mobility impaired guests arrive and depart, the loading space might be vacant, or might be occupied by a truck or a staff car.

Swept Path Analysis

Taking account of the proposed site layout, swept paths have been produced for the various permutations of vehicle movements. These are shown below.

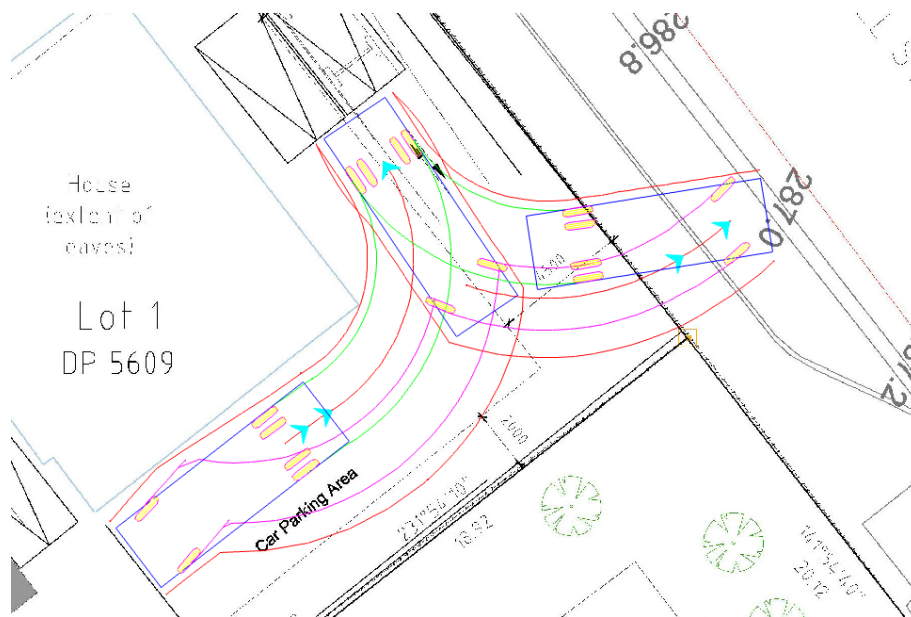


Figure 5: Swept Path of an 8m Truck Exiting the Site

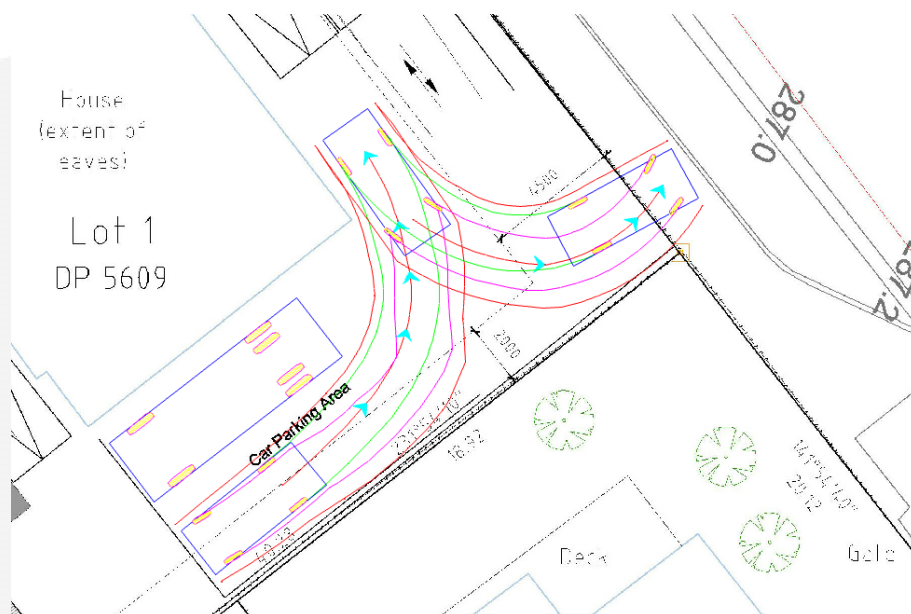


Figure 6: Swept Path of a Car Exiting the Mobility Impaired Parking Space

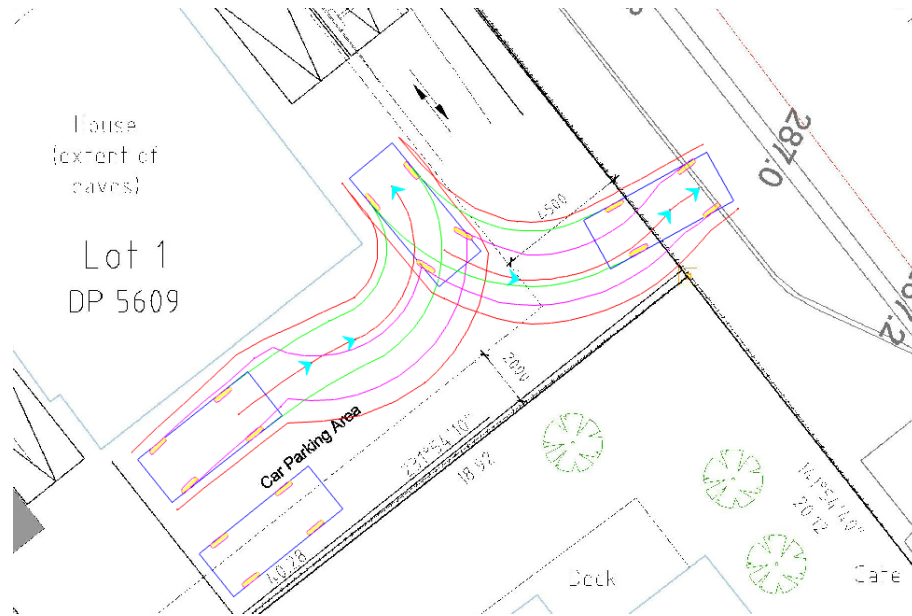


Figure 7: Swept Path of a Staff Car Exiting the Site

It can be seen that in each case, the parking/loading spaces are independently accessible. The exception to this is the truck reversing from the loading space which must pass through part of the parking space for the mobility impaired, but as set out above, trucks will only make this movement when no mobility impaired driver is present. Consequently, we consider that the proposed layout is appropriate and will function effectively.

In passing, we have evaluated the potential for two staff car parking spaces to be provided in a 'stacked' formation, towards the southern side of the house. However the spaces would each need to be 6.1m long, and the house wall is 11.2m long, meaning that one parking space would partially obstruct the turning area. In turn this would be likely to result in vehicles reversing from the site, which as set out above is not permitted due to McDougall Street being an Arterial Road. Consequently, this option has not been progressed further.

Related to this, the turning area is a critical component of ensuring that vehicles emerge from the site in a forwards direction. Accordingly, we recommend that this area is clearly marked as 'no parking' through signage and surface markings.

Summary

A layout providing a loading space (which can also be used for staff parking when loading/unloading is not taking place), plus a parking space for mobility impaired guests, can be accommodated within the available area towards the south of the site. The spaces will have the dimensions required by the District Plan and can be accessed independently other than when a truck reverses from the site at which time other vehicles are unlikely to be parked adjacent. A turning area towards the northeast of the site means that vehicles are not required to reverse from the site onto McDougall Street.

Accordingly, and subject to the turning area being clearly marked as being unavailable for parking, we are able to support the proposed layout from a traffic and transportation perspective.



I trust that this is of assistance, but please do not hesitate to contact me if you require any further information or clarification of any matters.

Kind regards

Carriageway Consulting Limited

Andy Carr

Traffic Engineer | Director

Mobile 027 561 1967

Email andy.carr@carriageway.co.nz





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www.ppgroup.co.nz
0800 PPGROUP



WANAKA BRANCH
19 Reece Crescent
or P.O. Box 283
Wanaka 9343
T 03 443 0110
E wanaka@ppgroup.co.nz

Client & Location:

Varina Pty Limited
200 Brownston Street, Wanaka

Purpose & Drawing Title:

Plan of Onsite Car Parking

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25/09/2015



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WANAKA BRANCH
19 Reece Crescent
or P.O. Box 283
Wanaka 9343
T 03 443 0110
E wanaka@ppgroup.co.nz

Client & Location:

Varina Pty Limited
41 McDougall Street & 177 Upton Street
Wanaka

Purpose & Drawing Title:

Plan of Onsite Car Parking

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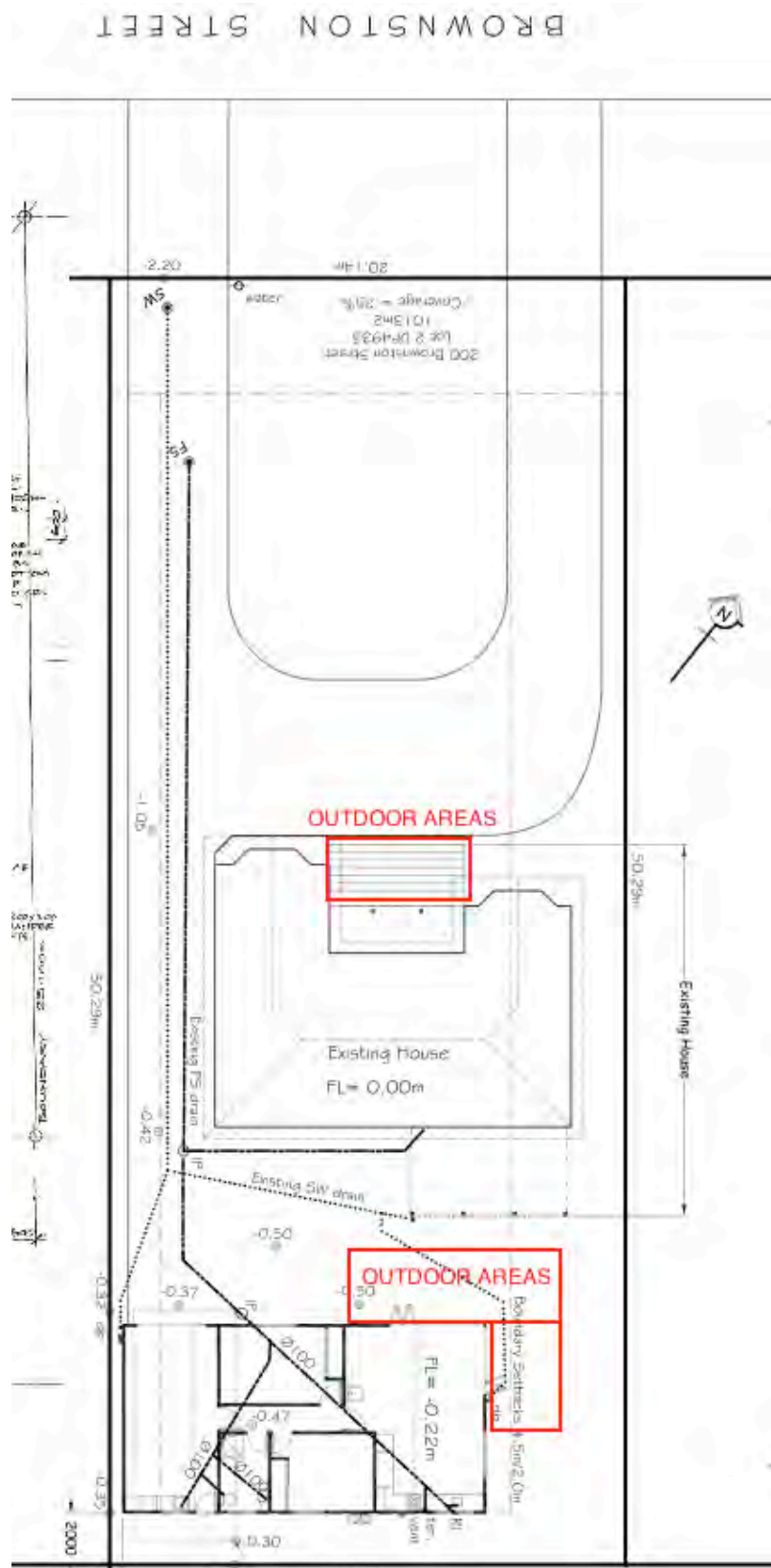
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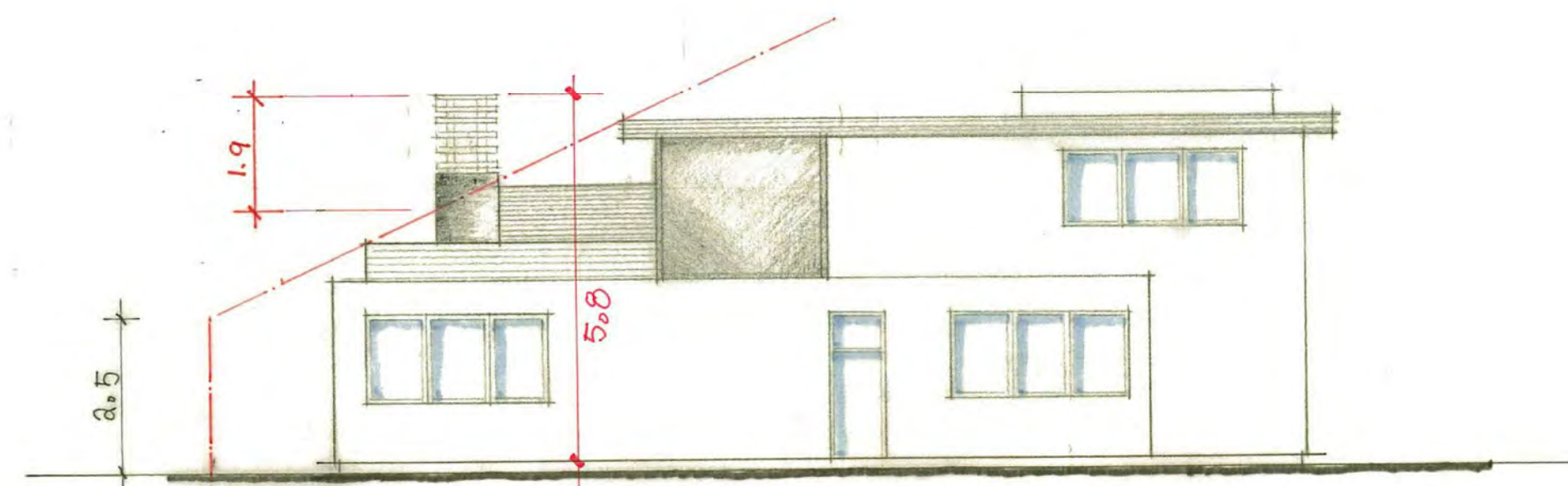
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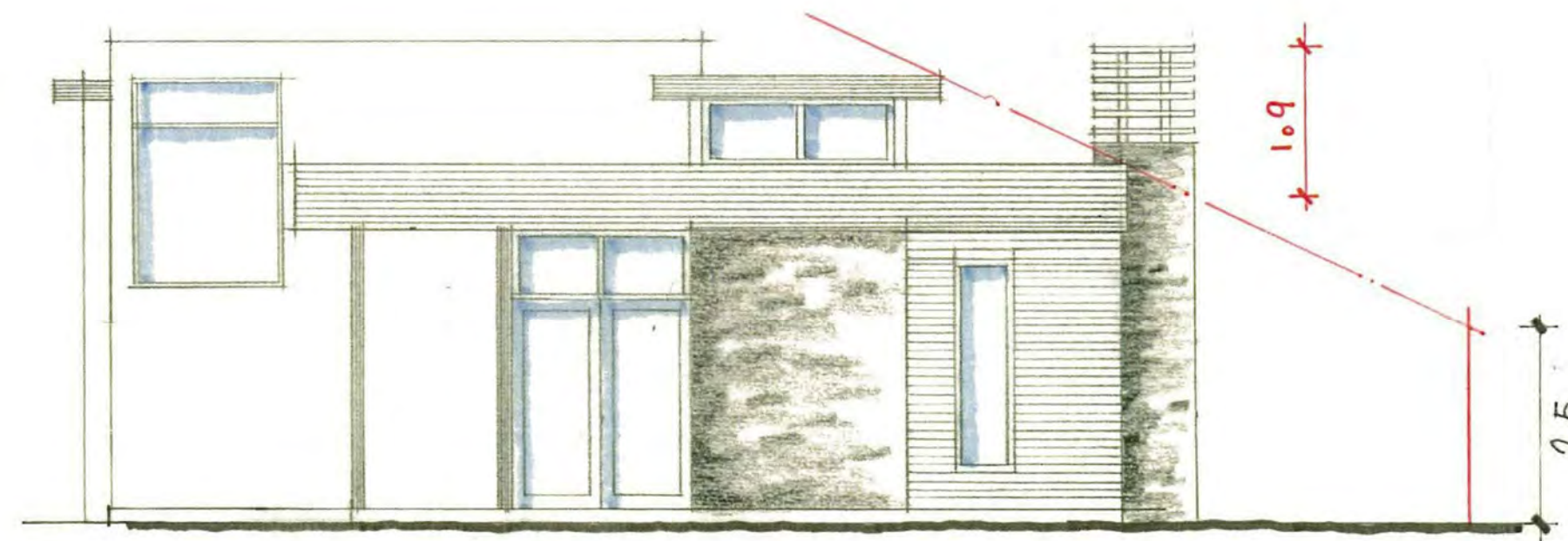
200 BROWNSTON STREET
QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM141047

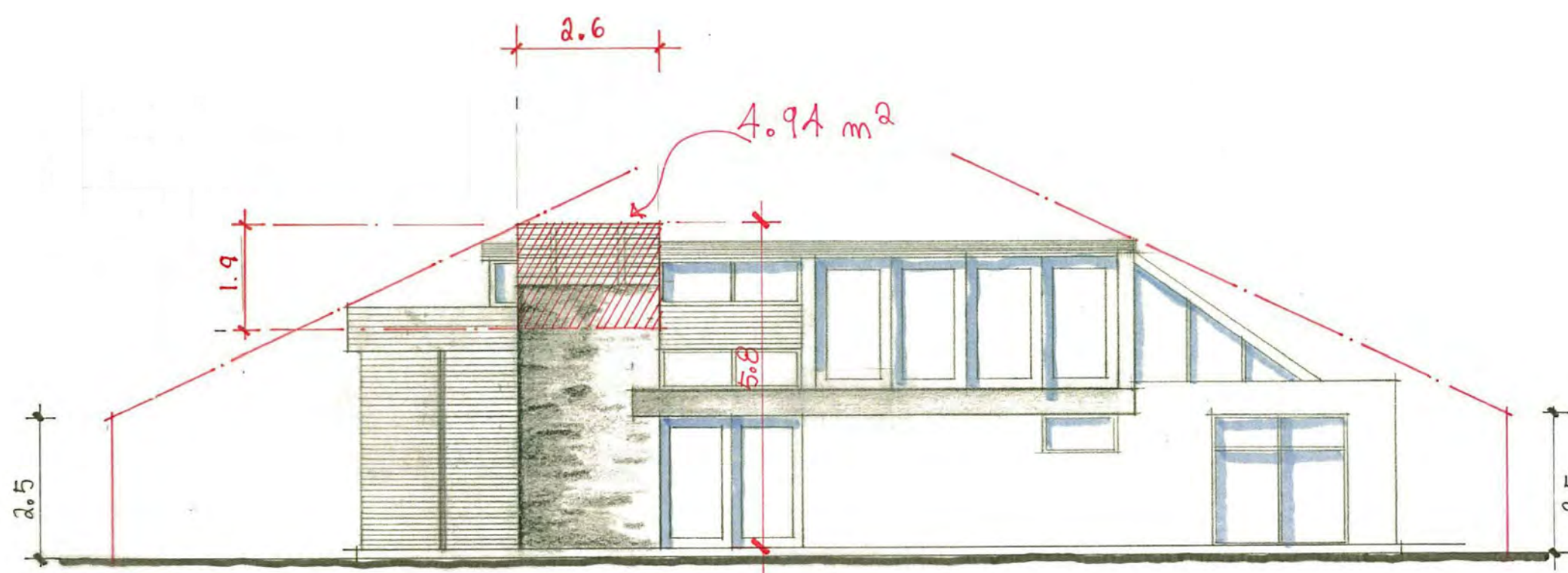
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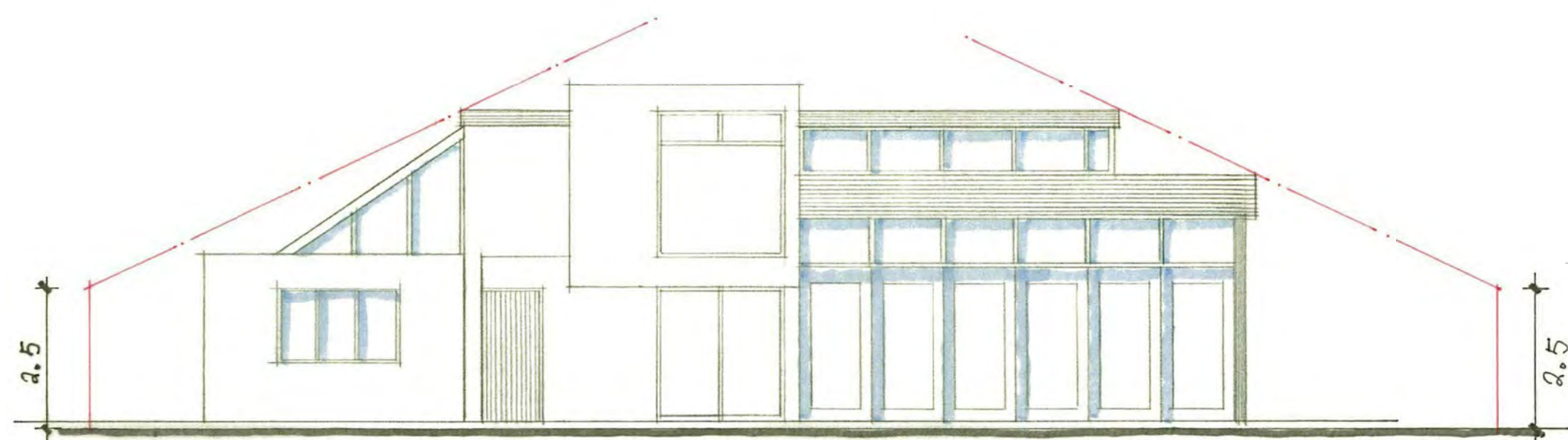
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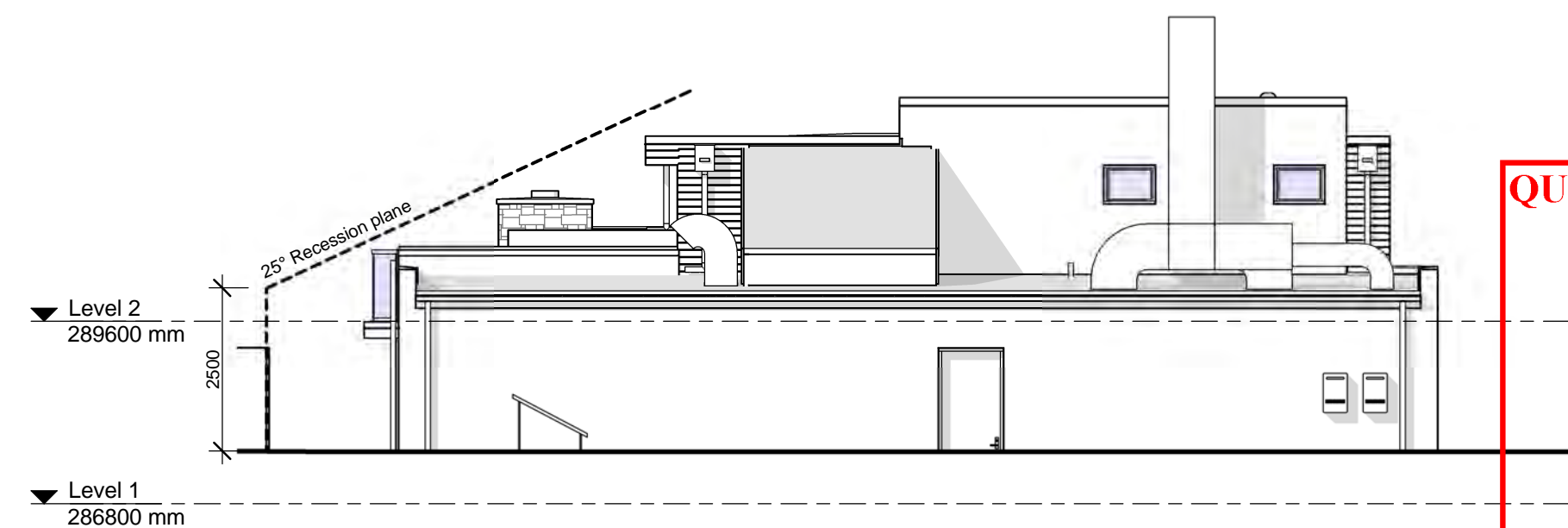
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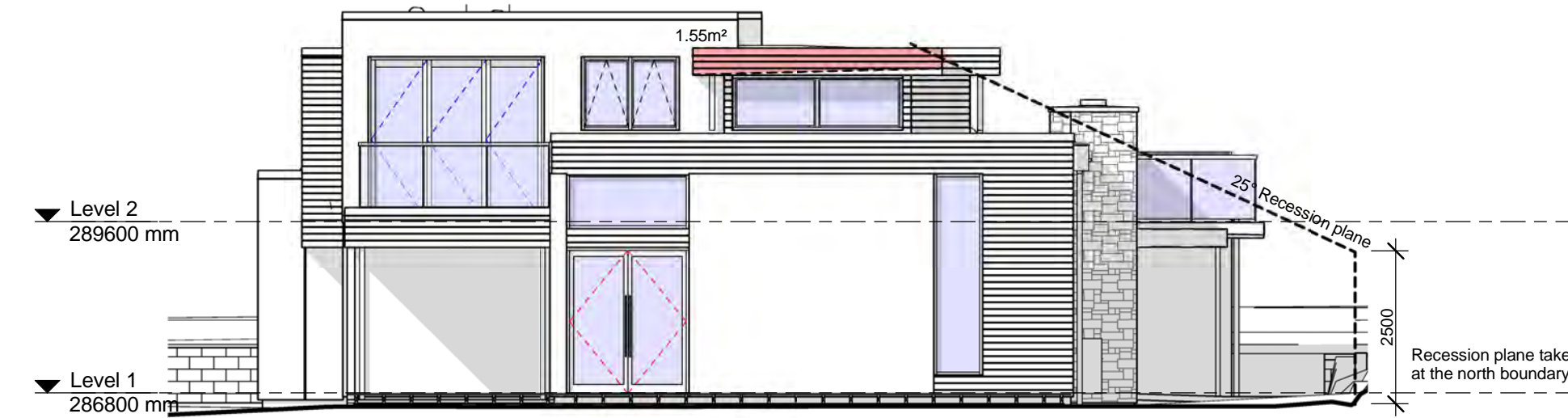
South Elevation (Main Entry)
scale 1:100



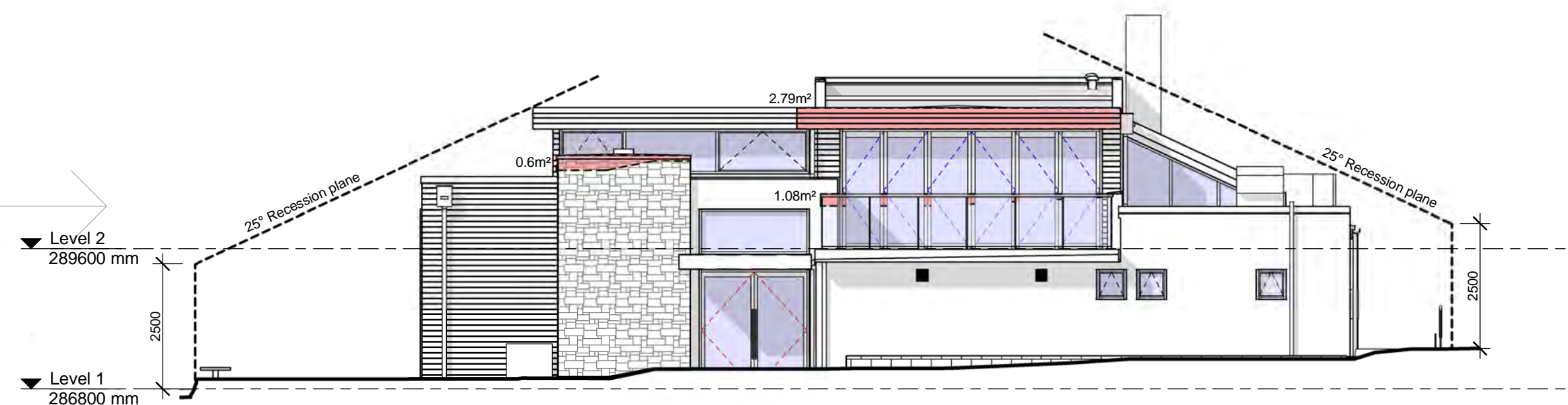
North Elevation
scale 1:100



Final Elevations
1 : 100



Final Elevations
1 : 100



Final Elevations
1 : 100



Final Elevations
1 : 100

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM150535

Monday, 17 August 2015

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM141047

15 June 2016

Principal Consultant:

parker warburton
teamarchitects

Contact Details:

30 London Street PO Box 5133 Dunedin 9058
5 Frederick Street PO Box 680 Wanaka 9343
www.pwta.co.nz
t. +64 3 474 1825 (DUN) t. +64 3 443 1825 (WNA)

Client:

McDougall Residence
37 McDougall Street, Wanaka

Elevations

Revision Schedule

Ref.	Description	Date
1	Issued to Planner	2015.07.07

Job Ref: 1226

Scale: 1 : 100

Drawn: PWTA

Checked: PWTA

Date: 2015.07.07

Information Only

Sheet:

Revision:

RC.01 1

DO NOT SCALE - IF IN DOUBT, ASK

200

150

100

90

80

70

60

50

40

30

20

10

0

0

10

20

30

40

50

60

70

80

90

100

110

120

130

140

150

160

170

180

190

200

210

220

230

240

250

260

ORIGINAL SIZE A1



QUEENSTOWN LAKES DISTRICT COUNCIL

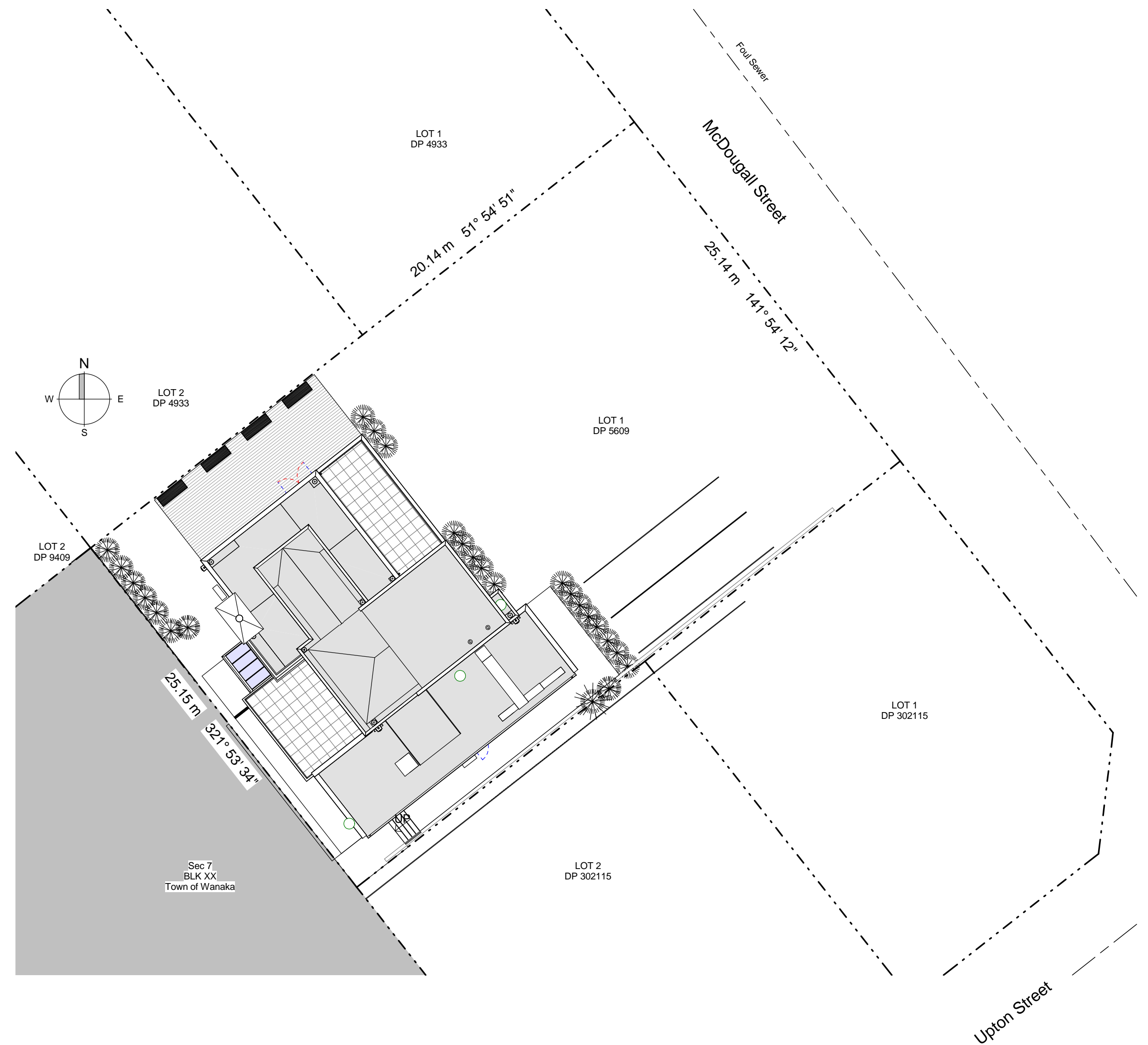
APPROVED PLAN:
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Site Location Plan

1 : 200

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teamarchitects

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www.pwta.co.nz
t. +64 3 474 1825 (DUN) t. +64 3 443 1825 (WNK)

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Site Location Plan

Revision Schedule

Ref.	Description	Date
1	Issued to Planner	2015.07.07

Job Ref: 1226

Scale: 1 : 200

Drawn: PWTA

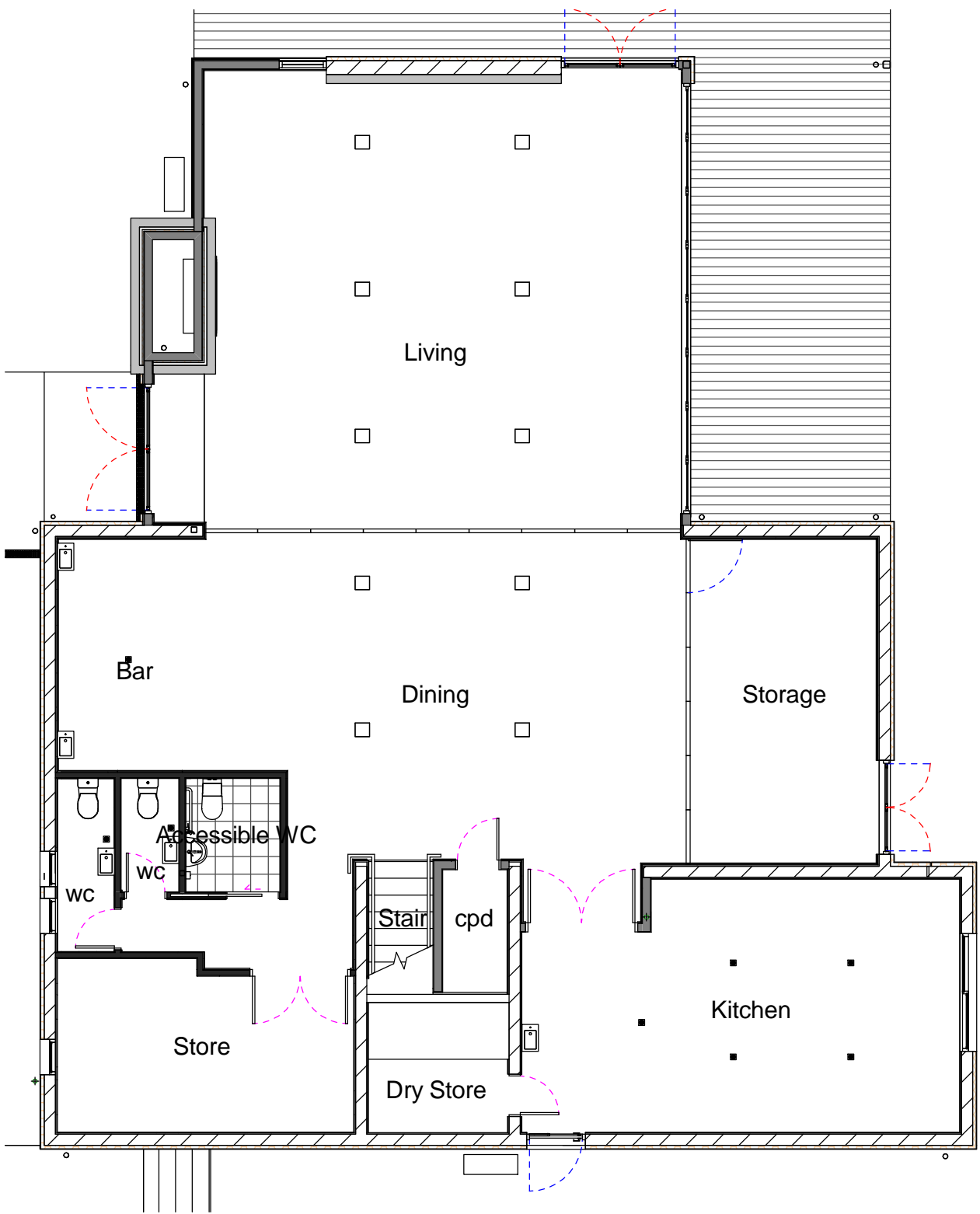
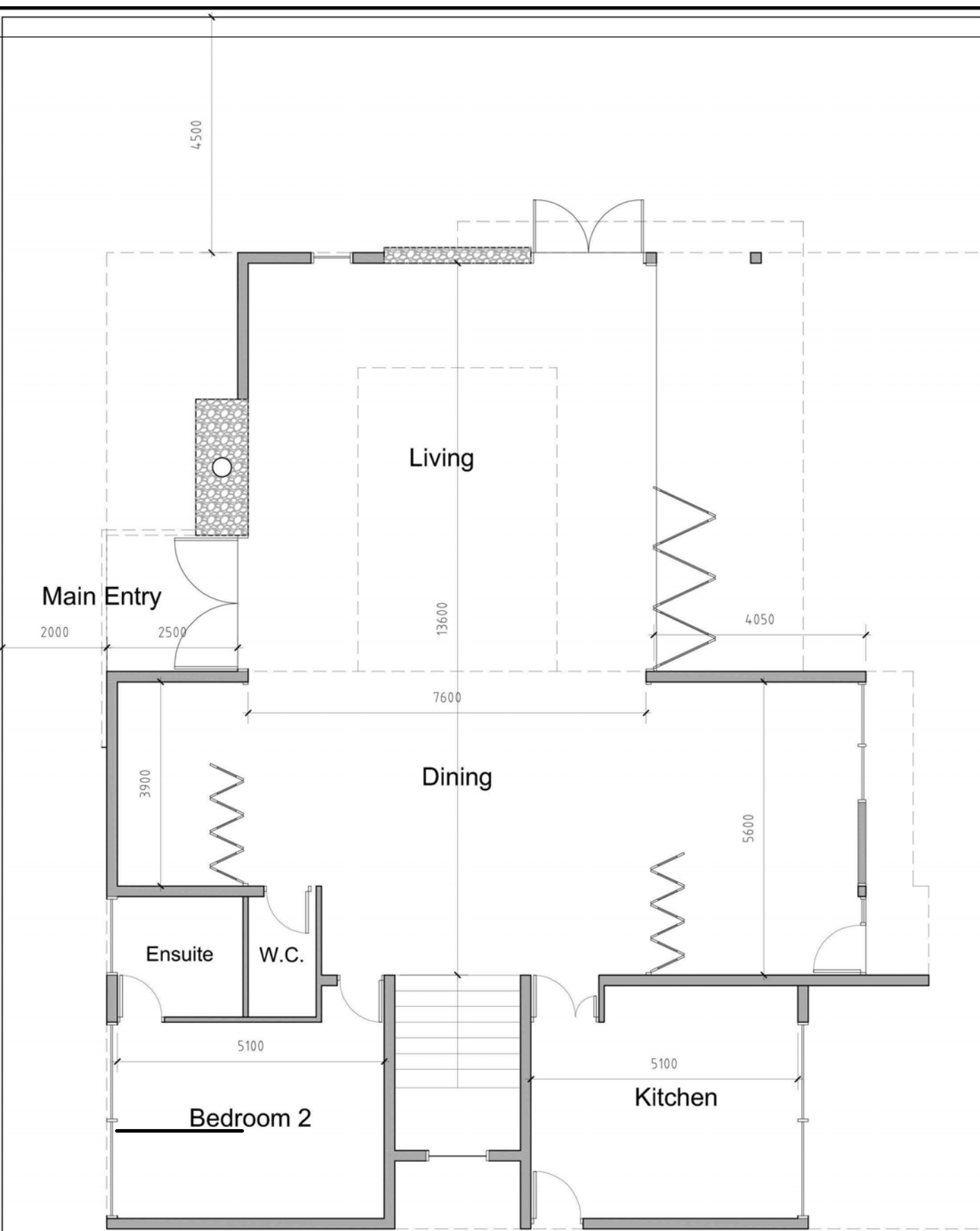
Checked: PWTA

Date: 2015.07.07

Information Only

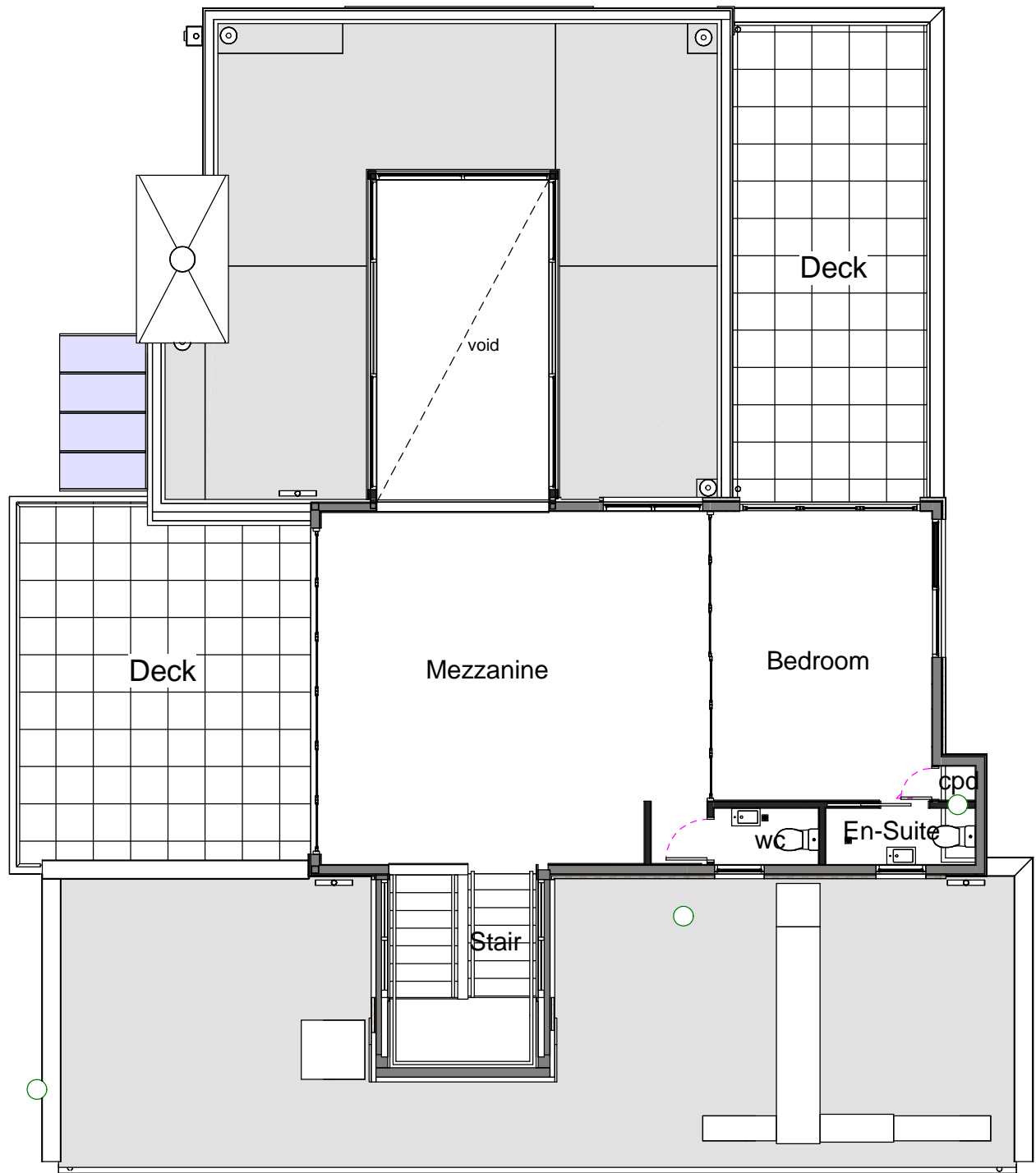
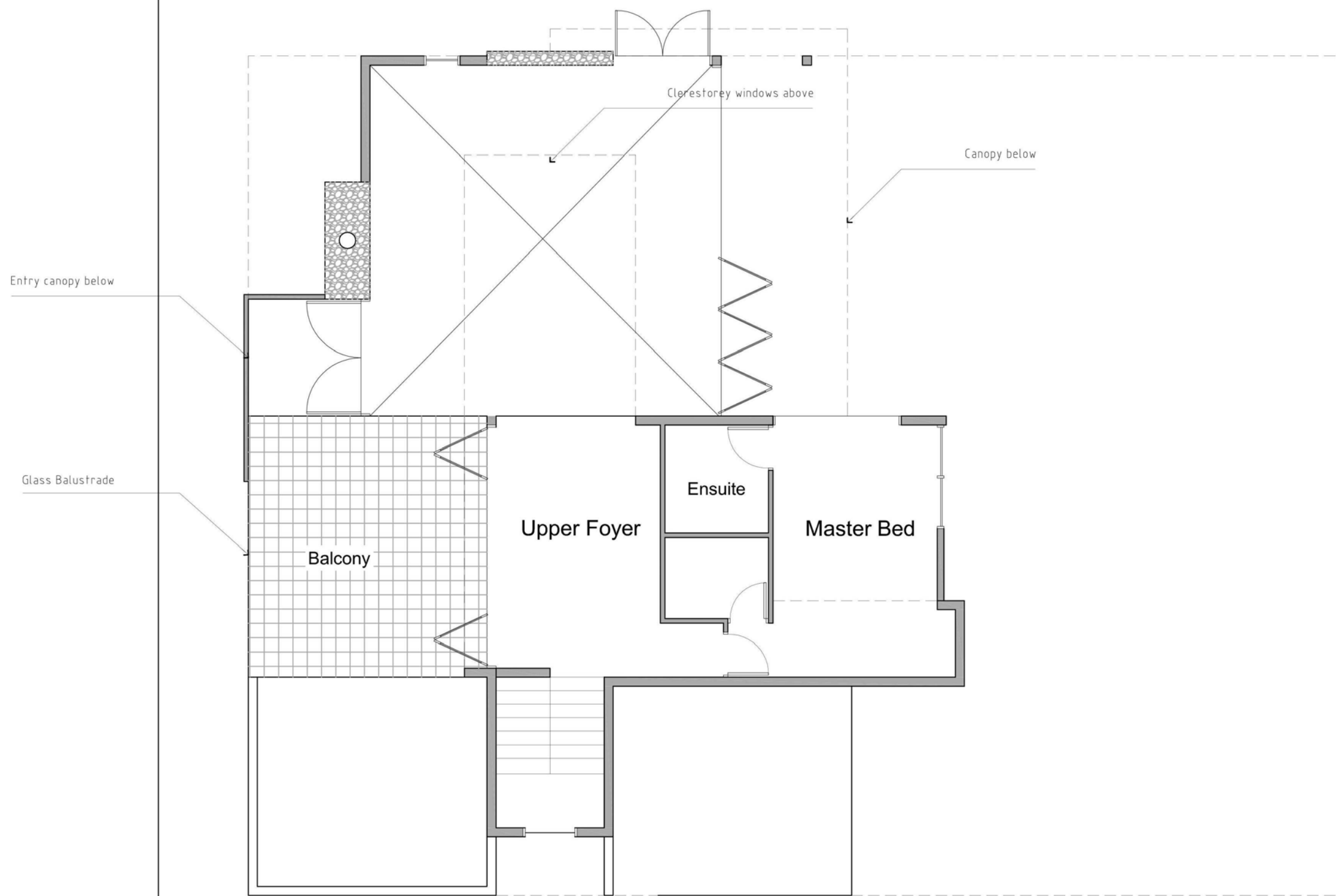
Sheet: Revision:

RC.03 1



Ground Floor Plan

1 : 100



First Floor Plan

1 : 100

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t. +64 3 474 1825 (DUN) t. +64 3 443 1825 (WNK)

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McDougall Residence
37 Mcdougall Street, Wanaka

Floor Plans

Revision Schedule

Ref.	Description	Date
1	Issued to Planner	2015.07.07

Job Ref: 1226

Scale: 1 : 100

Drawn: PWTA

Checked: PWTA

Date: 2015.07.07

Sheet:

Revision:

RC.02 1

- Two staff car parking spaces of up to 2.7m width plus an additional 0.3m width if the spaces are adjacent to obstructions;
- Two parking spaces for the mobility impaired at 3.6m width each. The width of 3.6m allows for full door opening and thus in this case the additional 0.3m width is not required; or
- One car parking space for any type of user, plus a loading bay of 3.5m width and an additional 0.3m width if the spaces are adjacent to obstructions.

On the basis of our previous analyses, we are aware that due to the anticipated parking demand the facility will require one parking space for the mobility impaired to meet the District Plan requirements (under Rule 14.2.4.1(vi)). The zoning of the site means that a loading space is not required under Rule 14.2.4.1(xi), but the nature of the activity is such that some element of loading/unloading is likely to occur. To minimise the potential for this to take place via the frontage road, we understand that the applicant intends to provide a loading area within the site. However this will not be required for all events or at all times, and so when not used by delivery vehicles, it will be possible to use this for staff car parking.

Consequently, we anticipate that the area will be marked as one parking space for the mobility impaired (which will be 3.6m wide and 5.0m long), plus an adjacent space that could be used for loading or for staff parking. The latter will be marked as 3.8m wide (comprising of a 3.5m width for a truck loading bay plus an additional 0.3m) and 8m long. The dimensions of these spaces all comply with the relevant District Plan requirements.

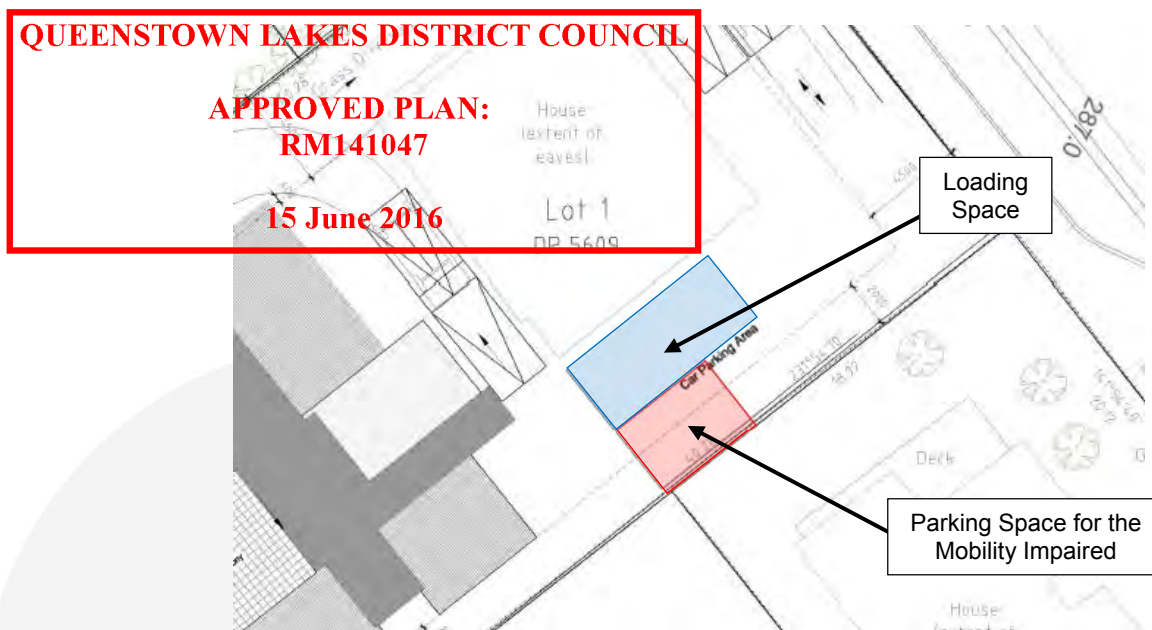


Figure 4: Proposed Site Parking Layout

Because one space (for loading and staff parking) will have a different type of user to the other space (for guests who are mobility impaired), we consider that vehicles will not be manoeuvring to and from the spaces at the same time:

- The loading bay will be used some time before an event starts and after it ends, and vehicles arriving and departing to load/unload during an event itself will be extremely unusual. As a result, when trucks are parking and unparking at this space, the parking space for the mobility impaired will be vacant;