



## **Queenstown Lakes District Proposed District Plan – Stage 1**

**Section 42A Hearing Report**  
**For Hearing commencing: 13 February 2017**

**Report dated: 17 January 2017**

Report on submissions and further submissions  
**Chapter 41 Jacks Point Resort Zone**

File Reference: Chp. 41 - S42A

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I have also referred to and relied on the following evidence filed alongside this section 42A report:

- Dr Marion Read, Landscape – statement dated 17 January 2017.  
Mr David Compton-Moen, Urban Design – statement dated 17 January 2017.  
Mr Timothy Heath, Economics – statement dated 17 January 2017.  
Mr Samuel Corbett, Transport - statement dated 17 January 2017.

## 1. EXECUTIVE SUMMARY

- 1.1. It is recommended that a significant number of changes be made to the provisions in Chapter 41 of the Proposed District Plan (**PDP**), in order to meet the purpose of the Resource Management Act 1991 (**RMA**) and to support Council's Strategic Direction as included in Chapter 3 of the PDP. The provisions as recommended to be amended in this evidence are considered to be effective and efficient and an appropriate means of achieving the purpose of the RMA.
- 1.2. Having considered the various issues raised in submissions, it is recommended that the Structure Plan be amended to show the following key changes:
- a) remove the Farm Preserve 1 (**FP-1**) Activity Area and replace with the Open Space Golf (**OSG**) Activity Area, the Tablelands Landscape Protection Area (**TLPA/ tablelands**) overlay, and the Peninsula Hill Landscape Protection Area (**PHLPA**) over the northernmost part which is within the PDP Outstanding Natural Landscape (**ONL**), and enable a small number of Homesites;
  - b) remove the Farm Preserve 2 (**FP-2**) Activity Area and replace with the Open Space Landscape (**OSL**) Activity Area and the Peninsula Hill Landscape Protection Area (**PHLPA**) overlay;
  - c) Jacks Point hill be amended from Open Space Landscape (**OSL**) Activity Area to OSG Activity Area;
  - d) remove the Education and Innovation Campus (**EIC**) Activity Area and replace with the OSL Activity Area and the Highway Landscape Protection Area (**HLPA**) overlay;
  - e) extend the Lodge Activity Area by adding an additional area;
  - f) amend the western boundary of the Jacks Point Residential Activity Area (**R (JP-2A)**) to that which is shown in the Operative District Plan (**ODP**); such that it does not extend as far west;
  - g) add another primary access road and connection to the state highway to the Hanley Downs portion of the Zone in the location approved through RM160562;
  - h) replace the indicative 'open space' area shown on the Structure Plan and which runs through some of the Hanley Downs Residential Activity Area (**R(HD)**) areas with the Open Space Area (**OSA**) Activity Area; and
  - i) replace the Hanley Downs Residential Activity Area (**R(HD-G)**) with Homesites and replace that part of the **R(HD-F)** Activity Area that is within the ONL with the OSL Activity Area.

1.3. Having considered the various issues raised in submissions, it is recommended that the following key changes be made to the notified Jacks Point provisions:

- a) strengthen the objectives and policies;
- b) remove all references to the FP-1, FP-2, and EIC Activity Areas;
- c) in relation to the Jacks Point residential (**R(JP)**) and Hanley Downs residential (**R(HD)**) Activity Areas, amend the medium density residential (**MDR**) development rule (41.4.6) to apply to densities under 300m<sup>2</sup> rather than 380m<sup>2</sup> and add additional matters of discretion; reduce the allowable coverage in MDR to 55% in all residential areas; make MDR restricted discretionary activity in the R(HD) area (rather than controlled); apply a maximum coverage rule to all sites, including smaller sites; and relax the recession plane, road setback, and front yard fencing rules relating to the R(HD) area;
- d) in relation to the Jacks Point Village (**V(JP)**) and Homestead Bay Village (**V(HB)**) Activity Areas, increase the permitted building height in the Jacks Point village to 10 m (restricted to 3 storeys); restrict commercial buildings in the V(HB) Activity Area to 2 storeys, make all buildings a controlled activity and include a requirement for a Comprehensive Development Plan (**CDP**) and control over traffic generation and effects on the state highway; and add a limit on the total retail and commercial gross floor area (**GFA**) allowable within the village areas;
- e) in relation to the Homesites, make all residential buildings a controlled activity;
- f) in relation to the Peninsula Hill Landscape Protection Area (**PHLPA**), change the status of farm buildings and recreation buildings ancillary to outdoor recreation from a mix of controlled and discretionary to restricted discretionary and retain all other buildings as full discretionary;
- g) In relation to the OSA, change the status of recreation buildings from permitted to controlled;
- h) in relation to the OSG change the status of recreation buildings from permitted to controlled; amend the status of farm buildings in that part that was notified as FP-1 from controlled to discretionary; and retain the discretionary status for all other buildings;
- i) in relation to the Lakeshore Landscape Protection Area (**LSLPA**) and the Highway Landscape Protection Area (**HLPA**), change the status of recreation buildings from discretionary to restricted discretionary in the HLPAs and from discretionary to non-complying in the LSLPA; change the controlled/ discretionary status of farm buildings to restricted discretionary activity/ discretionary; change the status of buildings other than

farm buildings in the LSLPA from discretionary to non-complying and any buildings other than farm or recreational buildings in the HLPAs from discretionary to non-complying;

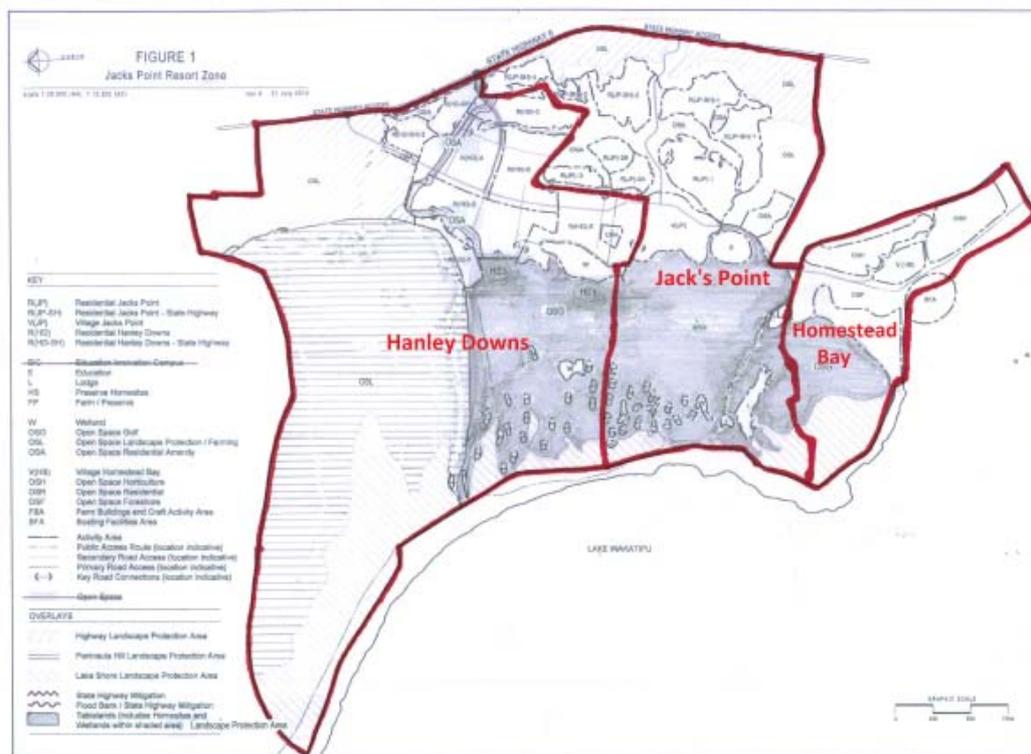
- j) in relation to mining, strengthen the rules such that it is only anticipated in the OSG; and
- k) in relation to infrastructure, amend redraft Rule 41.5.6 to acknowledge that there will be three accesses into the zone from the State Highway and that any more than this will require a restricted discretionary activity consent and remove the trigger rule requiring the Woolshed Road intersection to be upgraded.

1.4. Having considered the various issues raised in submissions, it is recommended that the following key changes be made to the Right of Reply recommended revised subdivision chapter 27, as they relate to Jacks Point:

- a) add a policy (Jacks Point Policy 27.3.13.4) acknowledging that the provisions enable the minimum lot size to be breached in the R(HD) areas under certain circumstances;
- b) add a policy that relates to both the R(HD) and R(JP) Activity Areas, which emphasises the importance of imposing legal mechanisms that place restrictions on the bulk, location, and other design parameters when sites less than 300m<sup>2</sup> are created;
- c) extend the matters of discretion (Rule 27.7.11.3) for the creation of sites less than 300m<sup>2</sup> within the Hanley Downs Residential (R(HD)) Activity Areas to also retain discretion over the design controls that are being proposed, including in relation to building bulk and location, roadside fencing, window heights and locations, effects on the amenity of adjacent sites, and landscaping; and
- d) remove all reference to the FP-1 and FP-2 and EIC Activity Areas.

1.5. I note that the amendments to the Structure Plan have been undertaken in draft for the purposes of this evidence and a digitised version will be provided at or prior to the commencement of the hearing. In particular where additional Homesites have been recommended in general locations in this evidence, their location has not yet been shown in the recommended Structure Plan. Also, I note that where submitters have sought new activity areas be added to the Structure Plan, accurate maps with surveyed boundaries should be presented as part of their evidence and made available electronically for inclusion in the decision version if necessary. I also note that the notified and recommended revised Structure Plan is best viewed electronically so it can be enlarged as necessary.

1.6. The following copy of the recommended revised Structure Plan shows the various parts of the Jacks Point Zone; which are referred to throughout this evidence as the Jacks Point, Hanley Downs, and Homestead Bay "portions" or "parts" of the Jacks Point Zone:



## 2. INTRODUCTION

2.1. My name is Victoria (Vicki) Sian Jones. I am a private consultant contracted by the Queenstown Lakes District Council (**Council**) to prepare the Section 42A (s 42A) report on Chapter 41 of the PDP. I am a full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Resource and Environmental Planning (first class honours), with a major in economics from Massey University. I have over 21 years' planning experience, and have worked as a planner in the Queenstown Lakes District (**District**) for 17 years. During my time in this District, I have held the positions of Consent Planner, Policy Planner, and Policy Manager with CivicCorp Limited and Strategy and Planning Manager with the Council; and have worked as a planning consultant for the past 9 years. During that time, I have presented Environment Court evidence in the hearings on the (now operative) District Plan and was responsible for dozens of variations and plan changes to that Plan (either as the author or in a management role).

2.2. Specifically relevant to the Jacks Point Zone chapter, at a strategic level I managed the preparation of the Growth Options Study (2004) and the Growth Management Strategy (2006). At a more detailed level I was involved in the formulation and processing of Variation 16 (Jacks Point) in my role as the Council's Strategy and Planning Manager at the time, and processed Plan Change 44 (Hanley Downs) in a consultant role for the Council.

2.3. I note that I was not the author of the notified chapter in the PDP.

### 3. CODE OF CONDUCT

3.1. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. I am authorised to give this evidence on the Council's behalf.

### 4. SCOPE OF THIS EVIDENCE

4.1. My evidence addresses the submissions and further submissions received on notified chapter 41 (Jacks Point) and, where submissions and further submissions received on notified chapter 27 (subdivision) have been reallocated to this hearing stream, these are also considered.

4.2. This evidence analyses submissions for the benefit of the Panel in order to assist it to make recommendations on the Jacks Point chapter and relevant provisions from the subdivision chapter. The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, rejected, considered to be out of scope, or transferred to another hearing stream.

4.3. Although this evidence is intended to be a stand-alone document and to meet the requirements of s 42A of the RMA, the Jacks Point Zone s 32 report is also attached as **Appendix 3**. This evidence includes electronic links through to additional documents.

4.4. In this evidence, I discuss the issues raised by submitters under broad issues and where I recommend significant changes to the proposed provisions, I evaluate those changes in terms of s 32AA of the RMA (as set out in **Appendix 4**).

4.5. In preparing this evidence and reaching the conclusions herein, I have read, referred to, and relied on the Council's expert evidence filed alongside this s42A:

- a) Dr Marion Read, Landscape – statement dated 17 January 2017.
- b) Mr David Compton-Moen, Urban Design – statement dated 17 January 2017.
- c) Mr Timothy Heath, Economics – statement dated 17 January 2017.
- d) Mr Samuel Corbett, Transport - statement dated 17 January 2017.

4.6. I have also drawn on other work that has been undertaken by and on behalf of the Council and other parties over the last decade,<sup>1</sup> which also contributes to the evidence base for Chapter 41.

4.7. In this Evidence:

- a) if I refer to a provision number without any qualification, it is to the notified provision number and has not changed through my recommendations; and
- b) if I refer to a 'redraft' provision number, I am referring to the s 42A recommended provision number at **Appendix 1**.

## 5. STATUTORY BACKGROUND AND RELEVANT BACKGROUND DOCUMENTS

5.1. The s 32 report attached as **Appendix 3** provides an overview of the legislation and higher order statutory and planning documents that were considered when preparing Chapter 41. In addition to that, the following, more detailed summary of relevant legislation and background documents is also provided.

### **The Resource Management Act 1991 (RMA)**

5.2. The RMA, and in particular the purpose and principles in Part 2, requires councils to promote the use, development and protection of the natural and physical resources for current and future generations in order to provide for the 'four well beings' (social, economic, cultural and environmental).

5.3. The following section 6 matters (of national importance) are relevant to the consideration of the Jacks Point Zone:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*

5.4. The following section 7 matters are also relevant and shall be had regard to when preparing the chapter:

- (b) *the efficient use and development of natural and physical resources:*

<sup>1</sup> Including those reports identified in the S 32 Evaluation Report - chapter 41; the plan change 44 decision and technical reports that informed that; and the reports listed in this report.

- (c) *the maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems:*
- (f) *maintenance and enhancement of the quality of the environment:*
- (g) *any finite characteristics of natural and physical resources:*

### **The Local Government Act 2002 (LGA)**

5.5. The LGA, and in particular Section 14, emphasises the importance of taking an intergenerational approach to decision-making and the need to take into account the four well beings in decision making.

### **Operative Otago Regional Policy Statement (1998) (Operative RPS)**

5.6. Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "give effect to" any regional policy statement. In particular Chapter 9 of the Operative RPS relates to the Built Environment.

5.7. The relevant objectives and policies include:

- a) Objective 5.4.3: To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development (Policy 5.5.6);
- b) Objective 9.4.1: To promote the sustainable management of Otago's built environment in order to:
  - a. Meet the present and reasonably foreseeable needs of Otago's people and communities; and
  - b. Provide for amenity values, and
  - c. Conserve and enhance environmental and landscape quality; and
  - d. Recognise and protect heritage values.
- c) Objective 9.4.2: To promote the sustainable management of Otago's infrastructure to meet the present and reasonably foreseeable needs of Otago's communities;
- d) Objective 9.4.3: To avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources (Policies 9.5.1, 9.5.3, 9.5.4, 9.5.5 and 9.5.6); and
- e) Objective 11.4.1: To recognise and understand the significant natural hazards that threaten Otago's communities and features (Policies 11.5.1, 11.5.6 and 11.5.7).

5.8. Objective 5.4.3 and Policy 5.5.6 seek to protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development. Policies 5.5.3 to 5.5.5 promote sustainable land use and minimising the effects of development on water and land. The promotion of sustainable management of the built environment and infrastructure, as well as avoiding or mitigating against adverse effects on natural and physical resources is also incorporated into Objectives 9.4.1 to 9.4.3 as well as Policies 9.5.1 to 9.5.5. Objective 11.4.1 and Policies 11.5.1 through to 11.5.3 seek to manage risks from Natural Hazards by identifying and then avoiding or mitigating the risks.

5.9. In my opinion, for the reasons outlined in the s 32AA Evaluation Report in **Appendix 4**, the revised chapter recommended in **Appendix 1** of this evidence is consistent with this policy framework; contributing toward a compact urban form within the urban growth boundary, which makes efficient use of resources, will meet foreseeable future needs, and avoids or minimises adverse effects on the environment.

#### **Proposed Otago Regional Policy Statement 2015 (PRPS)**

5.10. Section 74(2) of the RMA requires that a district plan prepared by a territorial authority shall "have regard to" any proposed Regional Policy Statement. The PRPS was notified for public submissions on 23 May 2015, and decisions on submissions were released on 1 October 2016. Appeals to the Environment Court closed on 9 December 2016. At the time of finalising this s42A report, the Otago Regional Council has not released a summary or indication of provisions affected by any appeals.

5.11. The following objectives and policies<sup>2</sup> are relevant to Chapter 41:

- a) Objective 3.2 Otago's significant and highly-valued natural resources are identified, and protected or enhanced (Policy 3.2.4);
- b) Objective 4.4 Energy supplies to Otago's communities are secure and sustainable (Policies 4.4.1, 4.4.2 and 4.4.4);
- c) Objective 4.5 Urban growth and development is well designed, reflects local character and integrates effectively with adjoining urban and rural environments. (Policies 4.5.1 Managing for urban growth and development, 4.5.2 Planned and coordinated urban growth and development, 4.5.3 Urban design); and
- d) Objective 5.3 Sufficient land is managed and protected for economic production (Policy 5.3 Rural Activities).

<sup>2</sup> Decision version of the PRPS, 1 October 2016.

5.12. The changes made to the PRPS through the decisions on submissions are relatively minor. In summary, together these objectives and policies aim to ensure urban areas are well located, designed, sustainable, and reflect local character. In my opinion, due regard has been had to both the notified and decision versions of the PRPS in formulating the recommended changes in **Appendix 1**.

### **Iwi Management Plans**

5.13. When preparing or changing a district plan, section 74(2A) of the RMA states that Councils must "take into account" any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. The following two iwi management plans are relevant to the PDP in a general sense but the proposed chapter 41 raises no particular issues of concern:

- a) *The Cry of the People, Te Tangi a Taurira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008); and
- b) *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005).

### **National Policy Statement on Urban Development Capacity 2016 (NPS-UDC)**

5.14. The National Policy Statement on Urban Development Capacity (**NPS-UDC**) was gazetted on 3 November 2016 and came into effect on 1 December 2016. The NPS-UDC recognises the national significance of urban environments and the need to enable such environments to develop and change, and provide sufficient development capacity to meet the needs of people and communities and future generations in urban environments.

5.15. Queenstown itself is an "urban environment" and also categorised as a high growth urban area.<sup>3</sup> As an "urban environment", Objectives OA1 through to OD2 apply to the Council when making planning decisions that affect Queenstown. As an "urban environment that is expected to experience growth", Policies PA1 to PA4 apply to Queenstown as well.

5.16. Policies PB1-PB7, PC1-PC14 and PD1-PD4 all apply to the Council as they have a high-growth urban area (i.e. Queenstown) within the District. The application of these policies is not restricted to Queenstown itself, and therefore are relevant across the District (including to the extent they are relevant, Jacks Point). I understand that Council is developing an implementation strategy to respond to the various requirements in the NPS-UDC.

3 "High-growth urban area" is defined at page 7 of the NPS-UDC by reference to Statistics New Zealand definitions. The first introductory guide to the NPS-UDC (ME 1274), which is to be read alongside the NPS-UDC although it does not have statutory weight, lists Queenstown on page 9 as one of five high-growth urban areas (subject to change as population projections are revised).

5.17. It is unclear whether Jacks Point would be its own "area of land" or would be seen to be part of the wider Queenstown area and therefore whether or not it would form an "urban environment" either on its own or in conjunction with other areas.<sup>4</sup> That said, even if it were deemed to be a separate area, it is still possible that it could contain a population of 10,000 people in peak periods and, as such, it is prudent to acknowledge the possibility that the following objectives of the NPS-UDC may be relevant:

- a) OA1: To support effective and efficient urban areas that enable people and communities to provide for their social, economic and cultural wellbeing;
- b) OA2: To provide sufficient residential and business development capacity to enable urban areas to meet residential and business demand;
- c) OA3: To enable ongoing development and change in urban areas;
- d) OB1: To ensure plans and regional policy statements are based on a robust, accurate and frequently-updated evidence base;
- e) OC1: To promote coordination within and between local authorities and infrastructure providers in urban areas, consistent planning decisions, integrated land use and infrastructure planning, and responsive planning processes;
- f) OD1: To ensure that planning decisions enable urban development in the short, medium and long-terms; and
- g) OD2: To ensure that in the short and medium terms local authorities adapt and respond to market activity.

5.18. In the event that the above objectives are relevant to the Jacks Point Zone, I consider that the Jacks Point provisions are consistent with them in that they enable considerable growth capacity within the zone, enable a more diverse mix of housing density and typology, and continue to enable a mix of commercial and retail activity to develop commensurate to the size of the Jacks Point population.

### **Monitoring Report for the Resort Special Zones (2012)**

5.19. This report monitored the efficiency and effectiveness of the operative Resort Zone provisions. The summary here is restricted to the monitoring of the Jacks Point Resort Zone. It was based on a desk-top analysis of consent applications processed between 2006 and

<sup>4</sup> Which is defined in the NPS-UDC as "an area of land containing, or intending to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries".

2011 and the findings from this were considered alongside the consultation that was undertaken as part of preparing the respective Town Centre strategies. In summary, the monitoring report identified that:<sup>5</sup>

- a) the Jacks Point Resort Zone objective and the majority of the policies and provisions are reasonably effective, but can be improved through minor changes to the Structure Plan and several of the rules. It notes that the Structure Plan should be updated to reflect consented development that does not currently comply with the activity area boundaries;
- b) of the 131 consents processed between 2006 and 2011, just one was notified. Of the 131 consents, 44% were for new dwellings, 34% for subdivisions and 21% were for other activities. The data showed that the average cost to obtain consent for a new dwelling at Jacks Point is comparable with other special zones in the District Plan and that all but one of the consents was processed on a non-notified basis and that the one notified consent was appealed to the Environment Court (and was approved by that court); and
- c) the design review process has a significant influence before consents are processed by the Council.<sup>6</sup> However this can lead to inefficiencies as both the Design Review Board and the Council undertake similar assessments and impose costs on applicants, which has caused frustration. The monitoring report was unable to definitively conclude what the role the Jacks Point Design Review Board process has played in terms of the efficiency and effectiveness of achieving good built outcomes.

5.20. I note that the monitoring report is becoming quite dated now and considerably more development has occurred at Jacks Point since it was undertaken.

### **PDP Strategic Directions - Chapter 3**

5.21. This chapter sets out the over-arching strategic direction for the management of growth, land use and development in the District and gives direction to the rest of the plan.

5.22. The following objectives<sup>7</sup> are relevant to Chapter 41:

- a) *Objective 3.2.1.1 - The Queenstown and Wanaka town centres are the hubs of New Zealand's premier alpine resorts and the District's economy;*
- b) *Objective 3.2.1.4 - The significant socioeconomic benefits of tourism activities across the District are provided for and enabled;*

<sup>5</sup> [http://www.qldc.govt.nz/assets/OldImages/Files/Monitoring\\_Reports/Resort\\_Zone\\_Monitoring\\_Report\\_-\\_Millbrook.pdf](http://www.qldc.govt.nz/assets/OldImages/Files/Monitoring_Reports/Resort_Zone_Monitoring_Report_-_Millbrook.pdf)

<sup>6</sup> I note the report refers to Lakes Environmental, the Council's predecessor in terms of processing consents.

<sup>7</sup> Strategic Direction Hearings – Recommended Revised Chapter – Reply 07/04/2016.

- c) *Objective 3.2.1.5 - Development of innovative and sustainable enterprises that contribute to diversification of the District's economic base and create employment opportunities;*
- d) *Objective 3.2.2.1 – Ensure urban development occurs in a logical manner:*
  - *That promotes a compact, well designed and integrated urban form;*
  - *That manages the cost of infrastructure; and*
  - *That protects the District's rural landscapes from sporadic and sprawling development.*
- e) *Objective 3.2.2.2 - Development in areas affected by natural hazards is appropriately managed;*
- f) *Objective 3.2.3.1 - A built environment that ensures our urban areas are desirable and safe places to live, work and play;*
- g) *Objective 3.2.3.2 - Development is sympathetic to the District's cultural heritage values;*
- h) *Objective 3.2.4.7 – Facilitate public access to the natural environment;*
- i) *Objective 3.2.5.1 – Protection of the Outstanding Natural Features and Landscapes from inappropriate subdivision, use and development;*
- j) *Objective 3.2.5.3 – New urban subdivision, use or development will occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values;*
- k) *Objective 3.2.6.3 - A high quality network of open spaces and community facilities; and*
- l) *Objective 3.2.6.4 - Safe and healthy communities through good quality subdivision and building design.*

5.23. I consider that Chapter 41, as recommended, is consistent with these objectives and the supporting policies which, in my view, provide clear and concise direction.

#### **PDP Urban Development - Chapter 4**

5.24. This chapter sets out the objectives and policies for managing the spatial location and layout of urban development within the District. The following objectives<sup>8</sup> are relevant to Chapter 41:

- a) *Objective 4.2.1 - Urban development is integrated with infrastructure and services and is undertaken in a manner that protects the environment, rural amenity and outstanding natural landscapes and features.*

- b) *Objective 4.2.3 – Within Urban Growth Boundaries, provide for a compact and integrated urban form that limits the lateral spread of urban areas, and maximises the efficiency of infrastructure operation and provision.*
- c) *Objective 4.2.4 - Manage the scale and location of urban growth in the Queenstown Urban Growth Boundary.*

5.25. I consider that Chapter 41, as recommended, is consistent with these objectives and the supporting policies which, in my view, provide clear and concise direction in relation to how the Council aims to manage growth within the urban growth boundaries.

### **PDP Landscape - Chapter 06**

5.26. This chapter sets out the objectives and policies for managing the landscapes which are of significant value to the people who live, work or visit within the District. The following objectives<sup>9</sup> are relevant to Chapter 41:

- a) *Objective 6.3.1 - Landscapes are managed and protected from the adverse effects of subdivision, use and development.*
- b) *Objective 6.3.2 – Landscapes are protected from the adverse cumulative effects of subdivision, use and development.*
- c) *Objective 6.3.3 – Protection, maintenance or enhancement of the District's Outstanding Natural Features and Landscapes (ONF/ONL) from the adverse effects of inappropriate development.*
- d) *Objective 6.3.7 – The use and enjoyment of the District's landscapes for recreation and tourism.*

5.27. Chapter 41, as recommended, is considered to be consistent with these objectives and the supporting policies which, in my view, provide clear and concise direction in relation to how the Council aims to protect the District's landscapes from inappropriate development.

5.28. As the s 32 report does not refer to the full range of Council plans, strategies, and reports that are of relevance to this chapter, I have provided a brief summary of these below. They can all be viewed on the Council's website: [http://www.qldc.govt.nz/planning\\_](http://www.qldc.govt.nz/planning_)

## Council strategies and plans

- 5.29. The following strategies and plans are discussed briefly in chronological order simply to provide an overview of the planning context. In respect of infrastructure, trails, and housing, comments are made later in this section in relation to the Jacks Point Stakeholders Deed (attached as **Appendix 7**).

### *Asset Management Plans (2003 – 2006)*

- 5.30. Asset Management Plans (**AMPs**) map out the long term management of the physical assets/ services owned and operated by the Council. The AMPs raise no issues with regards to servicing at Jacks Point.

### *Growth Management Strategy (2007) (GMS)*

- 5.31. The key principles of the GMS direct that growth be located in appropriate places and that it provide a range of opportunities to meet current and future needs. At a high level, the GMS aims to achieve managed growth (rather than no growth or unlimited growth) and, notably, states<sup>10</sup> that growth is:

*To be accommodated mainly in the two urban centres (Queenstown/ Frankton and Wanaka), and existing special zones outside of these centres.*

...

*Greenfields development [should occur] within the defined growth boundaries of the two main urban settlements (Queenstown and Wanaka), such as at Frankton Flats, is to be carefully managed to ensure that land is used to effectively balance the full range of desired community outcomes, and that a mix of activities can be accommodated. This includes encouraging a higher density form of development.*

### *Wakatipu Transportation Strategy (2007)*

- 5.32. The Wakatipu Transportation Strategy (**WTS**) was established to respond to the sustained growth in land use development and growth in resident and visitor numbers. The WTS seeks to deliver a fully integrated transport system that meets the growth in travel demand. The WTS includes two key components that are of particular relevance; one being to enhance passenger transport and the other being network improvements, including the Kawarau Bridge upgrade and the establishment of a new/ upgraded access from the Jacks Point Zone onto State Highway 6.

### *Queenstown Lakes District Urban Design Strategy (2009)*

<sup>10</sup> A Growth Management Strategy for the Queenstown Lakes District, April 2007, at page 11. 28751743\_5.docx

5.33. The Queenstown Lakes Urban Design Strategy (2009) (**UDS**) provides guidance for Council's future urban design practice. The UDS identifies six key urban design goals that represent the community's aspirations for its urban environments:

- a) *Distinctive built form – creating neighbourhoods that reflect their people, culture and history;*
- b) *High quality public places – that complement the appeal of the natural setting and foster economic vitality and community well-being;*
- c) *Consolidated growth – within urban boundaries with walkable, mixed use neighbourhoods that help reduce travel time and urban sprawl;*
- d) *Connected urban form – ensuring people have clear options of transport mode that are convenient, efficient and affordable;*
- e) *Sustainable urban environments – where the natural environment, land uses and transport network combine towards a healthier environment for everyone;*
- f) *Cohesive communities – where the urban environment promotes a stronger sense of local community by encouraging participation in public life.*

*Variation 16 (Jacks Point Zone) to the ODP*

- 5.34. Variation 16 to the ODP was undertaken by the Council in partnership with two of the landowners and resulted in the creation of the Jacks Point Resort Zone. The Henley Downs portion of the Zone was included in this Zone by way of a submission, at which stage more work was undertaken to provide more s 32 analysis in respect of the Henley Downs land.

*Coneburn Study (2002 and subsequent updates)*

- 5.35. The Coneburn Study is a landscape-based assessment of the wider Coneburn landscape unit, which was undertaken by the landowner as part of the Variation 16 Section 32 process. This Study was most recently updated in 2015 and presented as evidence in the Plan Change 44 hearing. This most recent version is Appendix C<sup>11</sup> to the s 32 report that accompanied the proposed chapter 41. This Study includes detailed visibility analysis which informed the location of the residential areas and various open space areas (as reflected in the ODP and PDP Structure Plans). Along with the Jacks Point Stakeholders Deed (2003), this Study helped inform the guidelines that have been produced thus far for the various parts of the Jacks Point Zone.

*The Jacks Point Stakeholders Deed (2003)*

- 5.36. The Stakeholders Deed (**Deed**) was developed to address issues that arose during the Variation 16 hearing. The parties are Jacks Point Limited, Henley Downs Holdings Limited, the "Jardine" group and the Council. The Deed is attached as **Appendix 7**.
- 5.37. The Deed covers land owned by Jacks Point, Henley Downs and the Jardines (referred to as the "Coneburn Land") to the extent that it is within the Jacks Point Zone. The Deed binds the successors in title to the parties. The parties cannot dispose of the land without advising the purchaser of the Deed. Any agreement for sale and purchase must include a clause requiring the purchaser to deliver a signed Deed of Covenant to the vendor, binding the purchaser to meet the vendor's obligations under the Deed.
- 5.38. The Deed has Development Controls attached to it. Prior to any development of the Coneburn Land, the obligation to comply with Development Controls must be covenanted on the title of the land to be developed, under clauses 3(c) and 4(a).
- 5.39. The Deed provides that the Development Controls are to address the following matters:
- a) urban design settlement principles;

11 <http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/private-plan-change-notification/>

- b) infrastructure controls, including roading (soft engineering design principles) and wastewater (on site decentralized wastewater management);
  - c) site development and landscape controls, including maintaining natural drainage patterns, and with specific controls including over plant species; and
  - d) building controls, with all buildings to be subject to a Design Review Board approval process.
- 5.40. The Development Controls may not be amended without the unanimous agreement of the parties, and shall provide a basis for the development of specific Design Guidelines for discrete areas within the zone. Under clause 7, no landowner may seek consent to subdivide or develop the Coneburn Land without a set of Design Guidelines for that area of land (unless the subdivision is to create a large title as an intermediate step).
- 5.41. Under clause 12(e), public access routes as shown on the Structure Plan attached to the Deed must be implemented in respect of each party's land, prior to any residential or commercial activities being carried out on that land. Jacks Point, Henley Downs and Jardine are also obliged to make a contribution to Community Housing under clause 20.
- 5.42. The following statement is included in the ODP under the "Explanation and Principal Reasons for Adoption" of the Jacks Point Zone:

*The Stakeholders Deed embodies the agreement reached between the primary landowners of the Coneburn Land and the Council, ensuring that the land within the Zone will be developed in a coordinated and harmonious manner and that the environmental and community outcomes envisaged by the Deed will be achieved.*

- 5.43. Clearly, the intention was that the Deed would provide significant control over development outside of the RMA process.

## **6. SCOPE ISSUES**

- 6.1. A number of points from the submission by Jardine Family Trust and Remarkables Station Limited (715) are intrinsically linked to the extension of the Jacks Point Zone sought by the submitter and these have been allocated to the hearing stream for mapping.<sup>12</sup>
- 6.2. I have therefore made no recommendations in respect to those submissions. However, the submissions points that have implications for the wider chapter have been considered in this s42A report.

<sup>12</sup> See the Memorandum of Counsel on behalf of the Queenstown Lakes District Council regarding Transfer of Submission Points to Rezoning Hearing, dated 22 December 2016.

6.3. Karen Hansen (203) opposes Standard 41.5.6, stating that Maori Jack Road is a private road and requests that it vests into Council ownership in its current state and form prior to residential development and subdivision occurring within Hanley Downs or Woolshed Bay. In response, the issue of vesting of assets sits outside the District Plan and is therefore beyond scope and no recommendation has been made on it.

## **7. RESPONSE TO MEMORANDUM OF COUNSEL FILED BY JACKS POINT RESIDENTIAL NO. 2 AND OTHERS (762, 856 AND 1275) DATED 15 DECEMBER 2016**

7.1. A memorandum was filed on behalf of Jacks Point Residential No. 2 and others (762, 856 and 1275) (**Jacks Point** for the purposes of this section of this evidence) dated 15 December 2016. This outlined various changes that the submitter proposes to the notified Structure Plan and provisions in an effort to narrow the issues and address the concerns of other submitters.

7.2. The "draft changes" proposed by the submitter primarily relate to the following activity areas in Chapter 41 and the JPZ Structure Plan:

- a) The Education Innovation Campus (EIC);
- b) Farm Preserve 1 and Farm Preserve 2 (FP 1 and 2);
- c) Village Area (V); and
- d) Education Precinct (E).

7.3. I understand Jacks Point propose to change the EIC to a new Education/ Residential (Hanley Downs) activity area, which would enable education and residential activity up to a density of 22 dwellings per hectare in accordance with a spatial layout plan and with an overall building coverage of 30%. In response:

- a) I do not support the specific provision for education in this area but, rather, consider it is more appropriate to encourage education to be located adjacent to the Jacks Point Village as per the notified PDP; and
- b) subject to any infrastructure constraints (including traffic), I consider that residential use within part or all of this area is likely to be an appropriate way of achieving the JPZ objectives and policies.

7.4. I understand it is proposed to absorb the Education (E) activity area into the Jacks Point Village activity area. In response I do not support the change as I consider the E activity area is appropriately located on the notified Structure Plan and that increasing the village area by another 5+ha only serves to exacerbate the concerns that Mr Heath has raised in his evidence in relation to retail and commercial matters.

7.5. I understand Jacks Point propose replacing the FP-2 with the OSG activity area and 22 Homesites. I consider this is far more appropriate than the notified PDP provisions for this area. However, based in part on Dr Read's evidence, I am of the view that:

- a) no more than 13 Homesites should be provided for;
- b) that these should be located in that part of the site closest to the wetland;
- c) that dwellings within the Homesites should be controlled (rather than permitted); and
- d) visitor accommodation either be limited to a certain size or adequate discretion and policy support be included to ensure against visitor accommodation of a scale beyond that anticipated by the operative Homesite rules and approved Preserve Design Guidelines 2009.

7.6. I understand Jacks Point propose replacing the FP-2 with an OSL activity area and 2 Homesites. While this is a more appropriate landuse approach to this sensitive area, I remain concerned about:

- a) the presumption that residential activity will be provided for;
- b) whether the restricted discretionary activity status of buildings and visitor accommodation is sufficient;
- c) the lack of certainty regarding the scale of visitor accommodation given that the Homesites are very large, and visitor accommodation development is not limited to a certain number of units/ area; and
- d) the uncertainty regarding the adverse landscape effects that may arise from the construction of accessways to these relatively remote Homesites.

7.7. Due to the fact the Jacks Point memorandum was received only a matter of days before this evidence was due for internal review, the proposals contained therein have not been considered any more fully in this evidence and no specific recommended amendments have been made as a direct result of this memorandum. That said, as evident from this report, entirely independent of receiving the memorandum, the recommended changes I have suggested to the FP-1 area, and to a lesser extent the FP-2 area, are similar, although less permissive, to the changes that are proposed for those areas in this memorandum.

7.8. Overall the proposals contained in the Jacks Point memorandum are more appropriate than the notified Structure Plan from a landscape perspective but are only slightly more appropriate from the perspective of achieving an integrated community.

## 8. OVERVIEW OF THE ISSUES

### Purpose

- 8.1. The purpose of the Jacks Point Zone is to provide for residential and visitor accommodation in a sustainable environment comprising two villages and a variety of recreation opportunities and community benefits, including access to public open space and amenities.
- 8.2. The review of the operative provisions sought to address a number of key issues, through expanding the existing policy framework, adding two entirely new Activity Areas aimed at providing for education and technology-based industry, expanding the Jacks Point village and some of the Jacks Point residential areas, amending some other key rules, and increasing the overall legibility of the chapter. The notified chapter also sought to align chapter 41 with the amendments that had been notified as part of Plan Change 44 relating to the Hanley Downs portion of the Jacks Point Resort Zone Residential Activity Area, although the decision on Plan Change 44 had not been released at the time the PDP was notified and so there was considerable uncertainty as to what those provisions would be.
- 8.3. The resource management issues the proposed chapter strives to address are:<sup>13</sup>
- a) a lack of integration between activity areas across the zone in order to improve road connections, continuity of open space provisions, and consistent objectives and policies. In the ODP the Homestead Bay, Hanley Downs and Jacks Point areas each had their own Structure Plan;
  - b) protection of landscape values and nature conservation. The Jacks Point Zone is partly within an ONL and partly within a Visual Amenity Landscape (**VAL**) in the ODP. Measures are required to avoid or mitigate adverse visual impacts on the landscape;
  - c) urban form and growth pressures. The GMS makes provision for the intensification of the zone and, as such, a range of residential density should be made available in the zone to help alleviate the housing shortage in the District;
  - d) development potential and housing affordability. One of the main issues of the District is housing affordability. Jacks Point is designed to accommodate permanent residents as well as visitor accommodation; the provision of the latter enables an alleviation of the pressure on visitor accommodation in the Queenstown Bay area, thus enabling more permanent residential development there;

13 These are based on those outlined in the Jacks Point s 32 report, pages 10-13.  
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- e) quality urban design. The monitoring report identified that the existing regime results in duplication, arising from both the Council and the Jacks Point Design Review Board assessing the design of all residential dwellings; and
- f) the adequate provision for commercial and community activities. More community and commercial activities including visitor accommodation is expected in the Hanley Downs area, with small scale convenience retail intended within the zone (with a footprint limited to 200m<sup>2</sup>). The notified Education Innovation Campus (**EIC**) is designed to enable technology based activities including commercial and medical research. The Education (**E**) Activity Area is focused on educational facilities such as a school.

## 9. ANALYSIS OF SUBMISSIONS

9.1. The PDP was notified on 26 August 2015. The submission period closed on 23 October 2015 and summaries of submissions were notified on 3 December and 28 January 2016. A total of 331 original submission points from 37 submitters have been received on the Jacks Point Chapter (41) and 2030 further submissions points have been received from 36 further submitters.

9.2. Submissions are generally considered by issue in this evidence and, where applicable, are considered by provision or sub-issue. The summary of the submissions received on the notified chapter and recommendations of whether the submission should be rejected, accepted, or accepted in part is attached at **Appendix 2**. I have read and considered all of these submissions.

9.3. The RMA, as amended in December 2013 no longer requires a 42A report or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions. Nevertheless this evidence endeavours to identify all relevant submissions under each of the issues discussed.

9.4. Most submissions canvass more than one issue, and in those cases, they will be identified in the context of each relevant issue.

9.5. I have discussed the relief sought in submissions under the following issues/ topics in this evidence:

- a) Issue 1 – Separation of the resort zones;
- b) Issue 2 – Separation of Jacks Point, Homestead Bay and Hanley Downs;
- c) Issue 3 - The appropriateness of the proposed Jacks Point zone purpose, objective, and policies;
- d) Issue 4 – Provision for non-residential (education, commercial and health) activities;
- e) Issue 5 – Infrastructure, servicing and roading;

- f) Issue 6 - Effects on landscape, visual amenity, and open space values;
- g) Issue 7 - Rules relating to the Residential Activity Areas; and
- h) Issue 8 – Miscellaneous.

9.6. The group of original submitters who lodged the same or similar submissions and sought identical relief will be referred to as the 'Jacks Point Landowners' throughout this evidence (and I do not include the specific submission names or numbers again in this evidence). That group comprises:

- a) Joanna & Simon Taverner (131);
- b) Amy Bayliss (246);
- c) Duncan Ashford & Sheena Ashford-Tait (259);
- d) Maria & Matthew Thomson (284);
- e) Karen Page (316);
- f) J M Smith, Bravo Trustee Company Limited & S A Freeman (547);
- g) Neville Andrews (576);
- h) Tony & Bev Moran (582), Christine Cunningham (645);
- i) Scott Sanders (647);
- j) Russel Tilsley & Joanne Ruthven (735);
- k) Harris-Wingrove Trust (802); and
- l) Westenberg Family Trust (787).

9.7. It is noted that the "Jacks Point Residents"<sup>14</sup> further submit in general support to the following original submissions:

- a) Joanna & Simon Taverner (131);
- b) Alexander Schrantz (195);
- c) Clive and Sally Geddes (540);
- d) Tim & Paula Williams (601);
- e) Margaret Joans Williams (605); and
- f) Christine Cunningham (645).

9.8. The "Jacks Point Residents" are listed in paragraph 9.7 above, and I do not include the specific submission names or numbers again in this evidence.

<sup>14</sup> Greig Garthwaite (FS1073), Ben and Catherine Hudson (FS1103), Lingasen and Janet Moodley (FS1114), Stephen and Karen Pearson (FS1116), BSTGT Limited (FS1122), Murray and Jennifer Butler (FS1192), Grant and Cathy Boyd (FS1218), David Martin and Margaret Poppleton (FS1225), James and Elisabeth Ford (FS1227), Kristi and Jonathan Howley (FS1237), Mark and Katherine Davies (FS1247), Sonia Voldseth & Grant McDonald (FS1250), Joanna and Simon Taverner (FS1293), Thomas Ibbotson (FS1299), John and Mary Catherine Holland (FS1321).

9.9. The "Jacks Point Residents" also further submit in general opposition to the following submissions:

- a) RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks Point Ltd (RCL) (632);
- b) Jardines Family Trust and Remarkables Station Limited (715);
- c) Jacks Point Residential No.2 Ltd, Jacks Point Village Holdings Ltd, Jacks Point Developments Limited, Jacks Point Land Limited, Jacks Point Land No. 2 Limited, Jacks Point Management Limited, Henley Downs Land Holdings Ltd, Henley Downs Farm Holdings Ltd, Coneburn Preserve Holdings Limited, Willow Pond Farm Limited (**Jacks Point Residential No.2 et al**) (762); and
- d) Jacks Point Residents & Owners Association Inc. (765).

9.10. The "Jacks Point Residents Group"<sup>15</sup> (a number of pro forma submissions) further submit in general opposition to the following submissions:

- a) RCL (632);
- b) Jardines Family Trust and Remarkables Station Limited (715);
- c) Jacks Point Residential No.2 et al (762);
- d) Jacks Point Residents & Owners Association Inc. (765);
- e) RCL (855); and
- f) Jacks Point Residential No.2 et al (856).

9.11. It is noted that Jacks Point Residential No.2 Ltd, Jacks Point Village Holdings Ltd, Jacks Point Developments Limited, Jacks Point Land Limited, Jacks Point Land No. 2 Limited, Jacks Point Management Limited, Henley Downs Land Holdings Ltd, Henley Downs Farm Holdings Ltd, Coneburn Preserve Holdings Limited, Willow Pond Farm Limited ("Jacks Point Residential No.2 et al" or "Jacks Point") (FS1275) further submits in general opposition to the following original submissions:

- a) Joanna & Simon Taverner (131);
- b) James & Elisabeth Ford (185);
- c) Alexander Schrantz (195);
- d) Julie & William Jamieson (207);
- e) Amy Bayliss (246);
- f) Duncan Ashford & Sheena Ashford-Tait (259);
- g) Maria & Matthew Thomson (284);
- h) Karen Page (316);
- i) Scope Resources and Southern Beaver Ltd (342);

- j) Clive and Sally Geddes (540);
- k) J M Smith, Bravo Trustee Company Limited & S A Freeman (547);
- l) Neville Andrews (576);
- m) Tony & Bev Moran (582);
- n) Tim & Paula Williams (601);
- o) Alpine Trust (603);
- p) Margaret Joans Williams (605);
- q) RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks (632);
- r) Christine Cunningham (645);
- s) Scott Sanders (647);
- t) Russell Tilsley & Joanne Ruthven (735);
- u) Fiordland Tablelands (770);
- v) Westenberg Family Trust (787);
- w) Vivo Capital Limited (789);
- x) Harris-Wingrove Trust (802); and
- y) RCL Queenstown Pty Ltd, RCL Henley Down Ltd, RCL Jacks Point Ltd (RCL) (855).

9.12. It is noted that "Jacks Point" (FS1275) further submit generally in support of Wild Grass Partnership, Wild Grass Investments No 1 Limited & Horizons Investment Trust (567).

## **10. ISSUE 1 – SEPARATION OF THE RESORT ZONES**

10.1. The Jacks Point Landowners (supported by the Jacks Point Residents and opposed by Jacks Point (FS1275) support the creation of separate zones for the resorts (Jacks Point Zone (**JPZ**), Millbrook and Waterfall Park) as they are different and do not share sufficient common attributes to be considered together.

10.2. I consider it is appropriate for these three areas to become three separate zones, especially given that the core focus of Jacks Point is to evolve into a sizeable integrated community with a diverse resident population being a primary focus. The JPZ is, in my opinion, quite different from the Millbrook and Waterfall Park zones. Despite having similar notified objectives, the Millbrook and Waterfall Park zones are on a much smaller scale and do not intend to include the extent of community or commercial activity enabled in the JPZ, or the extent or diversity of permanent residential housing.

## **11. ISSUE 2 – SEPARATION OF JACKS POINT, HOMESTEAD BAY AND HANLEY DOWNS**

11.1. Clive & Sally Geddes (540), Margaret Joans Williams (605), and Tim & Paula Williams (601) seek the reinstatement of the ODP Jacks Point provisions or for the zone to be amended to separate Jacks Point and Hanley Downs into different zones. These submissions are

supported by the Jacks Point Residents, Christine and Neville Cunningham (FS1108), Jacks Point Residents and Owners Association (FS1277), MJ and RB Williams and Brabant (FS1283) and opposed by Jardine Family Trust and Remarkables Station Limited (FS1090) and Jacks Point (FS1275).

- 11.2. I note that, together, Jacks Point, the Jardine Family Trust and Remarkables Station Limited own or control much of the Jacks Point and Homestead Bay land and both are in support of retaining the area as a single zone.
- 11.3. The Jacks Point Landowners, James & Elisabeth Ford (185), Julie & William Jamieson (207), Tim & Paula Williams (601), Alpine Trust (603), and Westenberg Family Trust (787) seek to retain the operative provisions for the Jacks Point portion of the Zone and apply separate provisions to the Jacks Point, Hanley Downs and Homestead Bay. The submitters also seek to retain open space for landscape, visual amenity, urban design and character reasons. The submitters consider the proposed rules to not be prescriptive enough to ensure high quality landscape, visual amenity and urban design that is currently consistent with the JPZ. This relief is supported by the Jacks Point Residents, Christine and Neville Cunningham (FS1108), Jacks Point Residents and Owners Association (FS1277), MJ and RB Williams and Brabant (FS1283), and Peter & Carol Haythornthwaite (FS1096) and is opposed by Jacks Point (FS1275) and opposed in part by Jardine Family Trust and Remarkables Station Limited (FS1090).

#### **The approach of a single Jacks Point zone**

- 11.4. By way of background, the whole of the Jacks Point area (i.e. Hanley Downs, Jacks Point, and Homestead Bay) has, since the zone became operative in August 2003, been included in a single Jacks Point Resort Zone with a single common objective and policies. Apart from operative Policies 3.12 and 3.13 which are specific to Homestead Bay, these policies apply to all parts of the zone with minor exceptions for Homestead Bay in relation to reference to design guidelines (operative Rule 12.2.3.2(xii) Outline Development Plan - Village Activity Areas (j)). However, the Structure Plan is presented as three separate plans rather than a single plan, which is of no consequence to how the zone functions.
- 11.5. Plan Change 44, (which sought to provide for more intensive residential development of the Hanley Downs area, to remove the Hanley Downs Village, and remove the need for controlled resource consent for all dwellings), was notified as a separate proposed chapter to the ODP in March 2013. In response to a submission from the Queenstown Lakes District Council, the Plan Change 44 (Hanley Downs)<sup>16</sup> decision determined that the Hanley Downs provisions should, instead, be incorporated into the wider Jacks Point Resort Zone.

- 11.6. Consistent with the approach taken in the Plan Change 44 (Hanley Downs) decision, the PDP includes all three parts of the JPZ within one chapter and zone, with a single Structure Plan, and adds policies and rules that are specific to the various activity areas as is appropriate. The JPZ provides an objective and policies which, for the most part, apply zone wide albeit that two apply only to Homestead Bay and two apply only to Hanley Downs. Although at the time of writing this evidence the Plan Change 44 decision is still subject to appeal, I note that no appeals request that Hanley Downs be split out from the rest of the Jacks Point Resort Zone.
- 11.7. The s 32 report<sup>17</sup> for chapter 41 canvasses the costs and benefits of the approach proposed to achieve better integration and part of this assessment relates to the amalgamation of the separate ODP Structure Plans into a single Structure Plan and applying the same objectives and policies and for the most part, rules to the various areas. That assessment concludes that this approach could result in the unique environmental conditions being overlooked, but that the landscape and ecological values are, in fact, similar across the zone and that the quality of roads and pedestrian and cycle links and infrastructure may need to be upgraded to meet the existing quality. In terms of benefits, it was contended that the creation of a single Structure Plan would result in more connected roading, open space, and pedestrian and cycle links. I note that the other costs and benefits listed are more about the appropriateness of the specific rules enabling a greater mix of uses and greater density than the amalgamation of the area under a single structure.
- 11.8. Without making any recommendations on the appropriateness of the objective or the provisions at this stage, as far as the framework is concerned, I consider it is most appropriate to include the Hanley Downs, Jacks Point, and Homestead Bay areas within a single JPZ, which is shown in a single Structure Plan and which, other than the application of activity area-specific provisions where necessary, are generally subject to the same provisions.
- 11.9. In response to submissions, I therefore recommend retaining the three parts of the zone within a single zone and structure plan but, where appropriate, applying area-specific provisions to reflect the different characters, in a similar manner as has been done in the notified version. In my view, additional policies should be added to support the varying rules and to help implement the objective. In my opinion, this approach is more efficient and will achieve more effective integration of activities within the wider JPZ than would be achieved from creating three separate zones with their own, potentially quite disparate objectives.

- 11.10. I also note that, regardless of how the development of this wider area is regulated on paper, physically it will be one contiguous area of development. In my opinion, while there may be differences in character and density as one moves through it, just as there is in urban settlement of the size proposed, there should be an overarching objective that applies throughout and clarity as to what elements are fundamental and what elements can differ and in fact, should differ in order to create a diverse community.
- 11.11. I note that a key element of achieving a level of consistency 'on the ground', which sits outside the District Plan/ RMA is though the consistent design and treatment of public spaces, including road and streetscape treatments. Achieving this is complicated by the fact that the Jacks Point portion of the JPZ is something of an anomaly in that the roads and most of the open spaces are not public and hence do not necessarily need to meet the Council's standards. As such, I accept that there may be some differences in character between the Jacks Point portion and the rest of the zone in this respect. However, in my opinion, this is not fatal and is common for a settlement of this size. I consider that having all three parts of the settlement covered by a single zone and objective is preferable.

## **12. ISSUE 3 - THE APPROPRIATENESS OF THE PROPOSED JACKS POINT ZONE PURPOSE, OBJECTIVE, AND POLICIES**

### **Zone purpose**

- 12.1. RCL (632) request that the Zone Purpose be removed as little if any weight can be afforded to it. For legibility and consistency with the format of the rest of the PDP I recommend that the Zone Purpose be retained and do not see any reason why the JPZ should be an anomaly and not include a Zone Purpose. The Zone Purpose is also particularly helpful for a lay person or new person to the District, to get an overall understanding of what is anticipated for the zone.
- 12.2. The Jacks Point Landowners support that a range of housing needs be provided within the District and agree that there is the ability to absorb this housing in the overall JPZ, providing this development is controlled to be sympathetic to the environment.
- 12.3. I therefore do not recommend any change to the Zone Purpose.

### **Zone Objective and Policies**

- 12.4. Jardine Family Trust and Remarkables Station Limited (715) seeks that Policy 41.2.1.4 (ensure residential development not readily visible from State Highway) be deleted. This may be primarily in order to ensure it is consistent with their request to rezone land closer to the State Highway for residential purposes, but ultimately the relief affects the wider Structure Plan and, as such, it is considered now in a zone-wide manner.

- 12.5. Jardine Family Trust and Remarkables Station Limited (715) seeks that the proviso "while ensuring that development associated with those activities does not result in over domestication of the landscape" be deleted from Policy 41.2.1.10 (which relates to providing for farming and associated activities in appropriate areas). Again, this is likely to be closely related to their request to extend the Jacks Point zoning which is a matter for the rezoning hearings, but ultimately the relief affects the wider Structure Plan and as such it is considered now in a zone-wide manner.
- 12.6. The Jacks Point Residents and Owners Association (**JPROA**) (765) and Margaret Joans Williams (605) seek that the provisions be amended to prevent commercial/ intensive farming and factory farming with the exception of low intensity grazing, haymaking, and other non-intensive farming. JPROA's submission is limited to the Jacks Point open spaces managed by the JPROA, whereas Ms Williams' submission seems to be wider. In response I note that farming is only enabled in the OSL, OSH, and FBA in any case. While it is not sufficiently clear from the submission as to which land is managed by the JPROA, if the submitters can provide this information and then, provided scope allows, it may be clearer to amend Rules 41.4.9.11, 41.4.9.13, and 41.4.9.16 to clarify that factory farming is not enabled (noting that it is already non complying pursuant to Rule 41.5.10). However, unless either submitter is able to provide robust definitions for commercial or intensive farming, I do not consider it is desirable to use these terms due to their ambiguity. However, it is relevant to note that I have recommended that the OSL classification on Jacks Point hill be changed to OSG which, in turn, prevents farming activity on that landform.
- 12.7. The Jacks Point Landowners, Sally and Clive Geddes (540), Margaret Joans Williams (605), and Tim and Paula Williams (601) seek that the operative zone objective and policies be reinstated, variously either for the whole zone or just the Jacks Point portion of the zone, except that they seek that the village area is developed in a manner that is commercially viable. This provides scope for widespread amendment of the policies if deemed appropriate.
- 12.8. Wild Grass Partnership (567) supports replacing the existing JPZ policies with the proposed JPZ policies that are relevant to the Lodge Activity Areas.
- 12.9. The Ministry of Education (524) supports the notified objective.
- 12.10. RCL (632) seeks to add reference to Jacks Point Village into the objective. This is generally opposed by the Jacks Point Residents Group,<sup>18</sup> Jacks Point Residents and Owners Association (FS1277), Jacks Point (FS1275), and MJ and RB Williams and Brabant (FS1283).

18 Refer to section 9 for details of this group.  
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- 12.11. RCL (632) seeks that Policy 41.2.1.13 be amended to recognise that the Jacks Point village, along with R(HD), is appropriate for residential development of a greater intensity and scale than elsewhere.
- 12.12. The NZ Transport Agency (719) seeks Policy 41.2.1.25 (relating to providing safe access from the State Highway) be retained as proposed.
- 12.13. Clive and Sally Geddes (540), and Margaret Joans Williams (605), and Jardine Family Trust (715) seek the deletion of Policy 41.2.1.26, or the amendment of the provisions so integrated infrastructure can be developed, if appropriate. These are supported by MJ and RB Williams and Brabant (FS1283), Christine and Neville Cunningham (FS1108) and the Residents of Jacks Point and opposed by Jardine Family Trust and Remarkables Station Limited (FS1090) and Jacks Point (FS1275). The original submitters appear to be concerned that the inference of the policy is that the servicing will all be integrated and Hanley Downs will use the existing Jacks Point system and that this is inappropriate and should be touted as an option only.
- 12.14. Where I have deemed it more legible to do so, some submissions on the objectives and policies are discussed under the respective issue rather than in this section.

### The Objective

- 12.15. The objective for the JPZ in the PDP is notably different to that of the ODP. The operative objective is:

*Objective 3 - Jacks Point Resort Zone  
To enable development of an integrated community, incorporating residential activities, visitor accommodation, small-scale commercial activities and outdoor recreation - with appropriate regard for landscape and visual amenity values, servicing and public access issues.*

- 12.16. The notified objective is:

*41.2.1 Objective - Development of an integrated community, incorporating residential living, visitor accommodation, community, and small-scale commercial activities within a framework of open space and recreation amenities.*

- 12.17. I concur with Dr Read (at her paragraph 19.4) that the most notable alteration to the objective is the removal of 'with appropriate regard for landscape and visual amenity values'. I concur with Dr Read's conclusions that this is not appropriate. Further to Dr Read's comments, in my view, the notified objective is not the most appropriate way of achieving district-wide (reply) Objectives 3.2.5.1, 6.3.1, 6.3.2, or 6.3.3 regarding the management and protection of landscapes and Outstanding Natural Landscapes or the purpose of the RMA.

- 12.18. As such, I recommend that the requirement to have regard to the landscape and visual amenity values be included in Objective 41.2.1 in acknowledgement that:

- a) much of the zone is, in fact, classified as ONL-Wakatipu Basin; and
- b) the Structure Plan and many of the rules (as amended in **Appendix 1**) are aimed toward ensuring the zone contributes to the district wide objectives relating to enabling urban development while protecting landscape values.

#### Chapter 41 Policies

12.19. I note the comparison between the ODP and PDP policies provided by Dr Read at paragraphs 19.9-19.18 of her evidence. I accept her comparison and her conclusion that only two are new or substantially different in effect to the ODP. I share Dr Read's concerns and generally concur with the amendments she has suggested to the policy framework, in order to ensure that the policies and rules are aligned and will be more effective at implementing Objective 41.2.1.

12.20. Most significantly the changes that I recommend to the policies are:

- a) strengthening Policy 41.2.1.1 to require compliance with the Structure Plan;
- b) broadening Policies 41.2.1.1 and 41.2.1.3 from referring to the visibility from the State Highway, to enabling consideration of visibility from public places beyond the zone are taken into account;
- c) amending Policy 4.2.1.12 and deleting Policy 41.2.1.17 such that it is clear that low density rural living is only anticipated within the Homesites. I acknowledge that the added specificity is bordering on duplication of the rules themselves but, in my opinion, if the policies are more open they could weaken the case for declining non complying rural living in areas such as G and OSL where, in my view, it is inappropriate;
- d) adding more detailed policies in relation to the urban design quality and activity mix that is anticipated within the Village Activity Area;
- e) amending Policy 41.2.1.13 to recognise that the villages, along with R(HD) are appropriate for residential development of a greater intensity and scale than elsewhere. I consider it highly important to clearly acknowledge that a significant component of the Village Activity Area will comprise residential activity. I note that this amended policy, along with the increased height recommended in the V(JP), will better implement the objective of an integrated community. This is in response to RCL's submission.

12.21. In regard to the infrastructure-related policies I recommend that Policies 41.2.1.25 and 41.2.1.26 be retained as notified. In response to submissions relating to Policy 41.2.1.26 regarding the expectation that infrastructure be integrated, I agree that this should not be forced. In my view this policy is also unclear as to whether it is referring to infrastructure

being integrated with the existing private Jacks Point water, wastewater, and stormwater schemes (for the Jacks Point portion of the JPZ) or with the Council's infrastructure. However, read at face value it would appear to mean that the servicing of future development must be integrated in some manner with other schemes and that the establishment of new standalone schemes would be contrary to this policy. In my view it may not be necessary or appropriate for the servicing infrastructure (which I take to refer to the three waters) to be integrated across the zone given that the Jacks Point portion is serviced by privately owned providers (and owners within that area are obliged to connect to that scheme through covenants on their titles<sup>19</sup>) while at least the first stage of the Hanley Downs portion of the zone (RM160562) is proposed to connect to the Council's water and wastewater systems. I do not see this as being contrary to the policy. So in respect of ensuring that servicing infrastructure is integrated, I consider this to be an appropriate policy although it could be clearer. I consider it to be very important that the roading is well integrated and well-connected across the zone and with the State Highway.

12.22. In response to the submission from Jardine Family Trust (715) in relation to Policy 41.2.1.10, I do not recommend amending Policy 41.2.1.10 in the manner sought. I rely on the evidence of Dr Read, who considers at her paragraphs 18.4-18.5 that farming can adversely affect the landscape values in parts of this Zone.

12.23. In response to the submission from Jardine Family Trust (715) that Policy 41.2.1.4 (regarding visibility from the state highway) be deleted, I rely on paragraph 19.14 of Dr Read's evidence in not recommending deletion of the policy.

#### Chapter 27 Policies

12.24. RCL (632) seeks that a new Policy 27.7.14 be added to acknowledge that it is anticipated that the minimum lot size in Hanley Downs can be breached and, indeed needs to be in order to achieve a diversity of densities and efficient use and in recognition that design controls will be imposed at subdivision stage in order to ensure well designed outcomes. The addition of such a policy will make the provisions more effective and efficient at achieving the objective of an integrated and diverse community and I have recommended adding a new policy (redraft Policy 27.3.13.4). I note for completeness that if the minimum lot size is breached in the Jacks Point residential area (**R(JP)**) then it is a non-complying activity and, as such the policy has been drafted to only apply to the Hanley Downs Residential Activity Area (**R(HD)**).

19 Clause 10.4(b) of the Constitution of Jacks Point Residents & Owners Association Incorporated obliges JPROA members to use whichever utilities supplier has been nominated for their precinct  
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### **13. ISSUE 4 – PROVISION FOR NON-RESIDENTIAL (EDUCATION, COMMERCIAL AND HEALTH) ACTIVITIES**

- 13.1. This section considers the appropriateness of the notified chapter in regard to the provision it makes for non-residential activity in the JPZ, with a particular focus on the two new significant urban Activity Areas introduced in the PDP (i.e. the EIC and E Activity Areas), the additional urban Activity Areas requested via submission (i.e. the Woolshed Road Village and Open Space Commercial Recreation Activity Areas), and the provision for non-residential activity to occur in the Hanley Downs residential areas.
- 13.2. The following submissions are relevant to this issue generally and are not specific to any particular issue.
- 13.3. Otago Polytechnic (757) seek the enablement of education facilities at Jacks Point, and this is opposed by MJ and RB Williams and Brabant (FS1283) on the basis that an education precinct should be located only in the Hanley Downs area. The Ministry of Education (524) similarly supports Objective 41.2.1 and provision for education. The Jacks Point Landowners oppose the Structure Plan in 41.4.9 as it relates to the Jacks Point portion of the zone, except that they seek that the village area is developed in a manner that is commercially viable. This is supported by the Jacks Point Residents, Christine and Neville Cunningham (FS1108), and Peter & Carol Haythornthwaite (FS1096) and opposed by Jacks Point (FS1275). Similarly, Sally and Clive Geddes (540), Margaret Joans Williams (605), and Tim and Paula Williams (601) oppose the PDP Structure Plan in its entirety.

#### **The appropriate extent and provisions of the notified villages**

##### The Jacks Point Village Activity Area

###### *The Extent of the Village*

- 13.4. The Jacks Point village is approximately 3.6 hectares bigger than the ODP equivalent (increasing from 15.07 ha to 18.7 hectares). Those submissions that seek reinstatement of the open spaces from the ODP provide scope to consider the appropriateness of this expansion compared to the ODP boundaries.
- 13.5. Dr Read confirms at paragraph 5.2 of her evidence that the small alterations to the Village Activity Area are inconsequential from a landscape and visual amenity perspective and are logical; reflecting what is anticipated for this area.

- 13.6. Referring to paragraphs 5.13 to 5.23 of his evidence, Mr Heath has concerns about the size of the ODP village area and, as such, has significant concerns about the expanded area in the PDP version.
- 13.7. Figure 3 of Mr Heath's evidence shows an overlay of the Jacks Point village over the Queenstown Town Centre. It is useful in that it shows very simply just how large the Village activity area is. While I realise that a higher proportion of visitor accommodation and High Density Residential activity is likely to locate within the Village than in the Queenstown Town Centre, I note that the R(HD-E) Activity Area also enables High Density Residential immediately adjacent to the village, which is positive from an urban form perspective. I also note that, to be successful in my view, the Jacks Point village will also cater for community activities and healthcare to a greater extent than occurs in the Queenstown Town Centre, where such activity has been located on the periphery but outside of the Queenstown Town Centre.

*Height and the provision for residential activity in the village*

- 13.8. Jacks Point Residential No.2 et al (762) seek to add reference to Jacks Point Village in Standard 41.5.12 and that height in the Jacks Point village is increased from 10m to 12m. This is supported by Jacks Point Residents and Owners Association (FS1277) and opposed by Harris-Wingrove Trust (FS1316).
- 13.9. I consider increasing the maximum height limit from 10 to 12m in the Jacks Point Village area to be appropriate from an urban design and land use efficiency perspective, subject to controls being incorporated into the rules to ensure the additional height does not result in adverse urban design outcomes. To ensure this I have recommended that the height rule specify a maximum of 3 storeys (which is relatively consistent with the approach taken in Height Precinct 2 in the Wanaka Town Centre (reply 13.5.9.3) and Height Precinct 1 in the Queenstown Town Centre (reply 12.5.10.1(a)), and a specific policy encouraging high quality design and matters of control aimed at achieving this. For example, through some consistency in ground floor ceiling/ veranda heights and encouraging buildings to utilise the generous 12m height limit to incorporate parapets, corner features for landmark sites, and other design elements in order to achieve a positive design outcome.
- 13.10. As a consequence and relying on the submissions from the Jacks Point Landowners in relation to ensuring the commercial viability of the Jacks Point village, I have also recommended that buildings in Homestead Bay Village with a commercial ground floor be capped at 2 storeys. This will help to make the Jacks Point village commercially viable and reinforce its role as the higher order village within the zone. I note there is no scope in submissions to increase heights in Homestead Bay Village from 10m to 12m.

13.11. At paragraph 19.18 of her evidence, Dr Read identifies concerns about the visibility of parts of the Jacks Point village from the state highway and suggests the following additional policy in order to ensure the issue is considered:

*Ensure the visual impacts of subdivision and development within the Village and other non-residential activity areas are appropriately mitigated through landscaping, building design and the provision of open space.*

13.12. In this regard I accept her concerns and have amended notified Policy 41.2.1.4 in a manner that will be similar in effect.

13.13. Rule 41.5.15.3 limits building coverage to 60% of each site within the Jacks Point Village Activity Area. In my opinion, this will not result in efficient land use or high quality development as it will result in low density, spread out development that does not offer an attractive pedestrian environment and which will struggle to achieve the necessary critical mass to make it vibrant and successful. As such, I recommend that the ODP rule, which enables 60% building coverage, calculated across the total Activity Area be reinstated instead. This is likely to result in shared parking areas, laneways, streets, and open spaces with up to 100% of individual sites being covered by building.

#### *Earthworks provisions as they affect the Jacks Point Village*

13.14. Jacks Point Residential No.2 Ltd et al (762) seeks to amend Rule 41.5.4.1 to impose no maximum amount in the Jacks Point village, and to amend Rule 41.5.4.5 'earthworks around water bodies' to exclude man made water bodies. This is supported by Jacks Point Residents and Owners Association (FS1277), and is opposed by Harris-Wingrove Trust (FS1316).

13.15. In response, I recommend accepting these submissions and excluding man made water bodies from Rule 41.5.4.5 and imposing no maximum volume of permitted earthworks in the Village Activity Area. I note that, unlike in areas with landscape sensitivity, this is a matter that can be adequately considered through the recommended addition of a controlled consent rule for building within the villages.

#### The Homestead Bay Village Activity Area (V(HB))

13.16. Jardine Family Trust and Remarkables Station Limited (715) seeks the deletion of Rule 41.5.15.4, which limits building coverage within the Village (Homestead Bay) Activity Area to 21,500m<sup>2</sup>.

13.17. The Homestead Bay village is 6.24ha in area, which means that limiting building coverage to 21,500m<sup>2</sup> equates to a building coverage across the Activity Area of around 35%. This does

seem reasonably low for a village development (noting that Mr Compton-Moen cites 60-70% building coverage across such an Activity Area as being realistic in his view).

- 13.18. As such, relying in part on the evidence of Mr Heath in relation to commercial activity within the zone generally (at his paragraphs 5.1 to 5.23), I recommend amending Rule 41.5.15.4 to remove the 21,500m<sup>2</sup> maximum and replace it with a 60% coverage rule, enabling 60% of the Homestead Bay Village Activity Area, to be covered with built form. Given that I also recommend elsewhere in this evidence that this change be made to the rules of the Jacks Point village, this has the benefit of the rules being consistent for both villages (which is efficient) and reflects the maximum that is realistically likely to be achievable in such village settings. I have also recommended that a breach of the coverage rule in V(HB) should be a restricted discretionary activity, to be consistent with the status of the equivalent rule that applies to the V(JP). For legibility I have left them as two separate rules.

#### The Village Activity Area, as a whole

- 13.19. The recommended increase in height and allowable coverage will enable an increase in capacity in both villages when compared to the notified Village Activity Area provisions. In lieu of that and in order to better encourage the establishment of high quality and commercially viable mixed use villages in a manner that will not undermine other centres or create a retail centre that is out of scale with its local catchment, I have recommended imposing a cap on the amount of commercial activity that can occur within each village, for the reasons outlined in Mr Heath's evidence at paragraphs 3.3 - 3.6.
- 13.20. Due to limited scope provided in submissions, I have recommended that the amount of land that can include commercial activity within the Jacks Point Village be capped at 9.9 ha (being 2/3 of the building coverage allowed in the ODP Village area) and that the amount of commercial activity allowed within the Homestead Bay Village area be capped at 28,300m<sup>2</sup> (being 2/3 of the building coverage allowed in the ODP village area). While preferable to having no cap at all, based on Mr Heath's evidence, these caps are likely to be relatively ineffective at achieving a positive commercial outcome for Jacks Point and the District as a whole. As such, if the Panel considers there is scope within the Jacks Point landowners' submission, then my clear preference would be to impose caps on retail within the Jacks Point village of 5,000m<sup>2</sup> and in the Homestead Bay village of 1,000m<sup>2</sup>.
- 13.21. In recommending the caps contained in the recommended revised chapter, I am relying on those submissions that seek greater height in the Jacks Point Village; those submissions and further submissions which oppose increasing the size of the Jacks Point Village (over open space areas) and those by the Jacks Point Landowners, which seek that the provisions of the ODP be reinstated; and those by the Jacks Point Landowners that changes be made to support the village area to develop in a commercially viable manner that supports the

community it services at an appropriate scale and design. I note that my recommendation to accept the increased height and village area (as compared to the ODP Structure Plan) is, in large part, contingent on imposing limits on retail and better reflecting the mixed use nature of these villages in policy in order to ensure they are successful and vibrant hubs for the community. I also understand that Mr Heath is only comfortable with the increased capacity enabled by the extra height and land area provided such limits are in place.

13.22. Although there is no scope in the submissions, a more appropriate approach for the Homestead Bay village, which I consider would better achieve the objective of the Zone, would be to change the V(HB) Activity Area to a new R(HB) Activity Area and apply the Hanley Downs Residential Activity Area provisions to it. This would mean that up to 550m<sup>2</sup> of commercial and retail activity could occur as a restricted discretionary activity, along with visitor accommodation and residential development of a density equal to that enabled in R(HD-E), which is up to 45 units/ha. In my view, this would be more complementary to the Jacks Point village and better reflect the fact that medium density residential development is a more appropriate principal use in this location than a sizeable commercial centre. As there is no scope for this amendment, it has not been included in the attached revised chapter.

13.23. I also refer to paragraph 13.10 of this evidence in relation to my recommended change to the height of buildings in Homestead Bay Village with commercial buildings being capped at 2 storeys.

#### **Provision for non-residential activity within the Residential (Hanley Downs) Activity Areas**

13.24. In addition to the general submissions cited above, RCL (632) seeks the deletion of the text regarding restricting activity in the R (HD) areas to residential activities.

13.25. In response to RCL's submission, while I agree that limited non-residential activity is anticipated within the R(HD) areas pursuant to Rules 41.4.7.2, 41.5.5.4, 41.5.9.3, and 41.5.17.1, in my opinion the wording of Rule 41.4.9<sup>20</sup> already sufficiently clarifies that where an activity is not listed as a permitted activity in Rule 41.4.9 but is provided a specific activity status through any other rule within Rule 41.5, then the more specific rule takes precedence over the general rule (i.e. 41.4.9).

13.26. While I do not consider it is necessary to amend Rule 41.4.9.1 to specifically list commercial, community and visitor accommodation activity within the R(HD) areas, I do consider that the wording of Rule 41.4.9 needs to be amended as follows, to ensure that where an activity is

<sup>20</sup> Any activity which is not provided for within the list of activities below or which is not provided a specific activity status through any other rule within Rule 41.5 Table 2 - Standards for Activities:...

specifically listed elsewhere in 4.9 then that rule takes precedence over the more general rule 41.4.9:

*41.4.9: Any activity which is not provided for within the list of activities below or which is not provided a specific activity status through any other rule within Rule 41.4 Table 1- Activities located within the Jacks Point Zone or Rule 41.5 Table 2 - Standards for Activities*

13.27. As recommended to be amended, I consider redraft Rule 41.4.9 will be more consistent with Rules 1.4.7.2, 41.5.5.4, 41.5.9.3, and 41.5.17.1 and will more effectively and efficiently implement notified Policies 41.2.1.18 and 41.2.1.19.

### **The requested 'Village Woolshed Road' (residential and a village centre)**

13.28. Vivo Capital Ltd (789) seeks a change to the Structure Plan (and consequential changes) to create a village centre area to enable the more efficient use of land and better distribution of centres within the zone. This is opposed by RCL (FS1303), Jacks Point (FS1275), Jacks Point Residents and Owners Association (FS1277), and MJ and RB Williams and Brabant (FS1283).

13.29. Based on the map provided with Vivo Capital's submission the total area of land that the submitter requests to be reclassified is approximately 65ha. However, I note that Vivo Capital Ltd has provided no information as to the size of the respective village or residential activity areas sought within that land or what rules would apply. As such, in order to provide any useful opinions or recommendations, I have assumed the village would be no more than a few hectares in size, that the standard village rules would apply and that the remaining land would be developed as residential, with development based on the R(HD) Activity Areas. Suffice to say, due to the large area of land, considerable additional residential capacity would be enabled by replacing the OSL Activity Area with a residential Activity Area (conservatively 600 dwellings at a standard low density residential yield).

13.30. With regard to the village component, Dr Read's evidence at her paragraph 12.11 is that, while from a character perspective the presence of a village centre adjacent to the EIC (allowing a range of uses and 10m building heights and 60% building coverage) would appear isolated and therefore somewhat odd, it would not necessarily detract significantly from views to Bayonet Peaks or Peninsula Hill.

13.31. However, Dr Read is supportive of replacing the OSL Activity Area outside the Outstanding Natural Landscape with a Residential Activity Area, stating in her paragraphs 12.5 – 12.11 that she considers the landscape effects of doing so would be acceptable. She goes on to say that in her opinion, if this were to occur, then she would consider the Woolshed Village to also be appropriate solely from a landscape perspective.

- 13.32. With regard to the residential use sought, in the absence of any detailed s 32 evaluation from the submitter (particularly in relation to the servicing, traffic, and landscape effects), I am not in a position to recommend amending the Structure Plan to classify this area for residential purposes.
- 13.33. From a planning perspective, and from a retail perspective, Mr Heath's evidence is that there is no retail economic justification for enabling an additional Woolshed Road Village at this point in the process (at paragraph 3.11). Balancing all the evidence I am of the opinion that the inclusion of a 'Village - Woolshed Road' Activity Area would be inappropriate for the same reasons outlined in relation to the inappropriateness of the EIC in paragraphs 13.50 and 13.51 of this evidence and in the attached S 32AA evaluation.
- 13.34. I therefore do not recommend replacing the notified OSL (Highway Protection Area) with a 'Village - Woolshed Road' or associated Residential Activity Area in the manner sought.
- 13.35. In coming to this conclusion I also wish to alert the Panel to the (late) submission by RCL (855) that an alternative access (in addition to or instead of the Woolshed Road intersection that was agreed to via Plan Change 44) be included in the Structure Plan. This is opposed by various submitters including NZTA and is discussed in more detail below. However, I mention it here because, if that submission is accepted, then it is possible that the Woolshed Road Village would not, in fact, be on the main primary road into the zone at all but, rather, be on 'a limb' with little if any passing traffic.

#### **Requested Open Space Community and Recreation (OSCR) activity area**

- 13.36. RCL (632) seeks amendments to the Structure Plan to show a new Open Space Community and Recreation Area (OSCR) and consequential amendments and additions to the rules to enable community and recreation, including buildings as a restricted discretionary activity, limited to 10% of the site and up to 10m in height and with no setback required from the boundary. This is opposed by the Jacks Point Residents and Peter & Carol Haythornthwaite (FS1096), Christine and Neville Cunningham (FS1108), MJ and RB Williams and Brabant (FS1283), the Jacks Point Residents Group,<sup>21</sup> the Jacks Point Residents and Owners Association (FS1277) and Jacks Point (Jacks Point (FS1275)).
- 13.37. Relevantly, 'community activity' and 'recreational activity' are defined in notified chapter 2 as follows:

**Community activity** - Means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual wellbeing. Excludes recreational activities. A community activity includes schools day care facilities, education activities,

21 Bravo Trustee Company (FS1219), Tim & Paula Williams (FS1252), Harris-Wingrove Trust (FS1316).  
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*hospitals, doctors' surgeries and other health professionals, churches, halls, libraries, community centres, police stations, fire stations, courthouses, probation and detention centres, government and local government offices.*

**Recreational Activity** - Means the use of land and/or buildings for the primary purpose of recreation and/or entertainment. Excludes any recreational activity within the meaning of residential activity.

- 13.38. I understand that no amendments to these proposed definitions have been recommended to chapter 2 through any s42A report or right of reply to date.
- 13.39. In my opinion, the issues with reclassifying the land as sought are two-fold. First, there is the issue regarding where commercial recreation (which is presumably what the submitter is anticipating) and community activities are most appropriately located within Jacks Point. Secondly, there is the issue of landscape effects and effects on neighbouring residents who, under the ODP, have an expectation of overlooking an open space area.
- 13.40. Notably, under the PDP, while recreational activities are enabled on this OSL-classified land, its scale is limited by the fact buildings can only be 4m in height. Section 15 (landscape) of this evidence further recommends that recreational buildings within the OSL be a controlled activity (as per the ODP) and thereafter, that they be a discretionary activity. Under the PDP community activities and associated buildings would be full discretionary as they are not anticipated within the OSL.
- 13.41. Regarding the recreational use of this land, if larger scale commercial recreation and community activities is to be provided for at Jacks Point at all (rather than in the Town Centres elsewhere in the District), then I am of the opinion that such activity (which could include activities such as a gym, climbing wall, performing arts centre, education, healthcare, etc.) is more appropriately located within the Village Activity Area in order to help contribute to its vibrancy. The express provision for such activity (along with education, health, innovation, technology-based business, visitor accommodation, and medium-high density housing) within the village helps to justify extending the village by approximately 3 ha, as sought by Jacks Point Residential No. 2 (762) and as recommended in **Appendix 1**.
- 13.42. To the contrary, if those activities are to be allowed to establish in separate areas throughout the JPZ, then it becomes increasingly difficult if not impossible in my view to rationalise any extension of the notified village boundaries.
- 13.43. Regarding the landscape effects of reclassifying this land as OSCR Activity Area, Dr Read outlines what is enabled by the proposed OSCR Activity Area and compares this with what is enabled on that land under the ODP in paragraphs 11.7– 11.13 of her evidence. She concludes that the OSCR Activity Area could enable a considerable amount of relatively high and extensive built form (i.e. up to 29,000m<sup>2</sup> ground floor area (GFA) as a restricted discretionary activity, which is far greater than what is enabled under the ODP. From a

landscape perspective, she opines that while it would alter the views from the State Highway, if well executed this would have an insignificant adverse effect on the quality of those views. However, she considers (at paragraphs 11.15 and 11.17) that such development would:

- a) diminish the quality of views from and the anticipated amenity of residents within R(JP)-1 and R(JP-SH)-1); and
- b) given the proposed exemption from the zone setback rule, could have significant potential to cause adverse effects on the adjoining property beyond the zone.

13.44. Relying in part on the evidence of Dr Read referred to above and also of Mr Compton-Moen, I am of the opinion that the creation of the OSCR Activity Area, as promoted, is not the most appropriate way of achieving the objectives of the PDP and should not be accepted.

#### **The notified Education Innovation Campus (EIC) Activity Area**

13.45. Scope Resources Ltd. & Southern Beaver Ltd (342) seeks amendments to the Structure Plan boundaries, including the deletion of the EIC. This is opposed by Jacks Point (FS1275). In a general sense, the submissions by Tim and Paula Williams (601), Margaret Joans Williams (605), and Sally and Clive Geddes (601) also seek that this area reverts back to the ODP open space classification.

13.46. The EIC is a 13 ha area of land at the northern end of the JPZ. Of relevance to the EIC, Policy 41.2.1.15 enables the development of education, innovation and technology and associated activities while achieving good design and the key rules proposed to implement that include:

- a) Rule 41.4.9, which limits the uses to technology-based activities and associated commercial and recreation;
- b) Rule 41.4.7, which makes commercial and community activity (including the buildings) controlled;
- c) Rules 41.5.12, which allows buildings up to 10m high and Rule 41.5.12.5, which allows non-residential buildings up to 15m high where they have already obtained a controlled consent through Rule 41.4.7.2;
- d) Rule 41.5.15.2, which allows 50% coverage or up to 70% where building has already obtained a controlled consent through Rule 41.4.7;
- e) Rule 41.5.9 enables commercial of any scale and retail tenancies to be limited to 200m<sup>2</sup> and such activity can be located anywhere in the area subject to the controlled consent (41.4.7.2), which includes street layout etc. but commercial activity needs to be

associated with technology uses. This is still potentially the most permissive commercial area within the JPZ;

- f) All other activities and buildings for uses not specifically listed above (e.g. residential associated with technology) are permitted;
- g) There is no limit on the density of permitted residential use (i.e. that associated with the technology based industry), with the only limitation being on height (10m); and
- h) The Structure Plan requires state highway mitigation planting.

13.47. Of relevance, the PDP definitions<sup>22</sup> of 'education activity' and 'community activity',<sup>23</sup> both of which are enabled in the EIC area, are as follows:

**Education activity** - Means the use of land and buildings for the primary purpose of regular instruction or training including early childhood education, primary, intermediate and secondary schools, tertiary education and including ancillary administrative, cultural, recreational, health, social and medical services (including dental clinics and sick bays) and commercial facilities.

**Community activity** - Means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual wellbeing. Excludes recreational activities. A community activity includes schools day care facilities, education activities, hospitals, doctors' surgeries and other health professionals, churches, halls, libraries, community centres, police stations, fire stations, courthouses, probation and detention centres, government and local government offices.

13.48. In summary, a very wide mix of commercial and accommodation uses is enabled (particularly given the uncertainty with the word 'associated') including an unlimited amount of small to medium format retail, with buildings up to 15m and coverage up to 70%. The controlled consent (41.4.7.2) aimed at achieving a higher quality overall layout is positive.

13.49. Relying in part on the evidence of Mr Compton-Moen, Mr Timothy Heath (paragraphs 3.1 – 3.7) and, to a lesser extent, Dr Read (paragraphs 12.1 – 12.11) I recommend removing the EIC Activity Area from the PDP.

13.50. Supported by the Council's expert evidence cited above, it is my opinion that the notified EIC Activity Area poses a significant threat to both the viability and vibrancy of the (uncontested) Jacks Point and Homestead Bay villages and undermines the importance of the major centres, as articulated in the district wide objectives in reply chapter 4 of the PDP. This view is based on the area's significant size (approximately 13.2 ha) (41.7); generous height provisions (10m and 15m for commercial activity that has already obtained controlled consent);<sup>24</sup> relatively generous coverage provisions (50% and 70% if a controlled consent for commercial development has already been obtained) (Rule 41.5.15); and the diverse range of

22 <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Hearing-Stream-6/Council-Right-of-Reply/QLDC-06-Residential-Chapter-7-Amanda-Leith-Reply-28591339-v-1.pdf>

23 Chapter 2, notified PDP

24 Rules 41.5.12.2 and 41.5.12.5  
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permitted commercial, retail, and accommodation activities that are allowed.<sup>25</sup> As notified, while the rules require administrative, office, accommodation, retail, and recreation activities to be 'associated' with technology based industry and limit retail tenancies (but not other commercial) to 200m<sup>2</sup> in area, Mr Heath has confirmed that such rules do not, in his opinion, provide a sufficient safeguard against the area evolving into something more akin to a third village centre.

- 13.51. I note that in paragraphs 5.13 – 5.14 of his evidence, Mr Heath provides an approximation of the sort of GFA that would be enabled under the notified provisions and discusses what the effects of this could be on the Jacks Point village and other centres such as Frankton Flats.
- 13.52. Mr Compton-Moen also discusses this issue in the context of the Jacks Point village. Supported by Mr Compton-Moen's evidence and Mr Heath's evidence regarding the size of the village and the likely surplus of land there, I am of the view that, even if the types of activities proposed in the EIC are narrowed (e.g. a cap on the total GFA of ancillary retail and commercial activity), any technology-based industry is better located in the major centres or, if they are attracted to locating in Jacks Point, then they should be located in the Jacks Point village. In saying this, I note that it is notoriously difficult to tenant the upper levels of new greenfields commercial developments, particularly early on and it will be important to cluster all such uses primarily within the Jacks Point Village if it is to be successful.
- 13.53. In coming to this conclusion, I rely on the evidence of Mr Heath, which confirms that no more than 2.2 ha of the village will be needed for commercial uses (on the basis of a permanent resident population base of 3,200 households at Jacks Point and an acknowledgment that there will also be some inflow of visitors to the area) and that, even assuming a large amount of high density residential and visitor accommodation locates there, it will be important to encourage as many other compatible uses as possible to locate in this area in order for it to be successful.
- 13.54. I also alert the Panel to the (late) submission by RCL (855) that an alternative access (in addition to or instead of the Woolshed Road intersection that was agreed to via plan change 44) be included in the Structure Plan. This is opposed by various submitters including NZTA and is discussed in more detail in 14.4 – 14.10 below. I mention it here because, if that submission is accepted, the EIC would potentially no longer be strategically located on one of the two main roads into Jacks Point and, as such, while this will reduce the risk that it will capture a large amount of passing traffic that might otherwise visit (and help to activate) the Jacks Point village it adds weight to the argument that this location is isolated and is a missed

opportunity to have such activity as an integrated part of the village core in a manner that helps to achieve the zone objective.

- 13.55. While the issue is not primarily a landscape one, I also note that in her paragraph 12.4, Dr Read concludes that the establishment of an EIC in this location and in the manner enabled by the provisions would "have a moderately insignificant adverse effect on the character of the landscape (but) would appear somewhat surprising in the context of its rural foreground but would not detract significantly from views across the valley floor to Bayonet Peaks".
- 13.56. On balance, I do not consider the creation of the EIC is the most appropriate way of achieving the Jacks Point objective of an integrated community at Jacks Point (Policy 41.2.1), district wide objectives 3.2.1,1, 3.2.2.1, 3.2.3.1, and 4.2.3 or the purpose of the RMA. On this basis and on the basis of the evidence circulated with this report, I therefore recommend removing the EIC from the Structure Plan and all provisions that specifically relate to that. I also refer you to paragraphs 13.6-13.7 and 13.19-13.23 of this evidence in relation to my recommendations in relation to the extending the PDP Village Activity Area boundaries, height, and coverage and which should be considered in conjunction with and complementary to the recommended removal of the EIC Activity Area.
- 13.57. For completeness, should the Panel be of a mind to approve something in this location notwithstanding my recommendation, while I would prefer to see education located adjacent to or within the Jacks Point village, I am of the view that uses should be limited to education, the area significantly reduced in size as 13 ha is significantly greater than would be required for a primary (or secondary) school, and that no more than 50m<sup>2</sup> of commercial (including retail) be enabled. I consider the 50% coverage is appropriate but that the increase to 70% for non-residential buildings on the basis that the development has been granted a controlled consent pursuant to Rule 41.4.7 is not. Given the extent of carparking that will be required, I do not believe that allowing 70% building coverage will lead to a campus style development as intended or an outcome that would appear appropriate on the edge of a town/ suburb/ settlement.

#### **The notified Education (E) Activity area**

- 13.58. In addition to the general submission cited above, Jacks Point Residential No.2 et al (762) seeks that Rule 41.4.9.4 (regarding the Education Activity Area) be amended to also enable healthcare facilities.
- 13.59. The inclusion of a new Education (E) Activity Area (Activity Area) in the notified PDP is supported by Jacks Point Residents No. 2 et al (762) who has also sought that the E Activity Area be extended to allow healthcare and is generally opposed by the Jacks Point Landowners, Sally and Clive Geddes, (540), Margaret Joans Williams (605), Tim and Paula

Williams (601), and JPROA (765), as it represents a change in classification from open space to urban development and they seek to retain the open space areas generally as per the Jacks Point Structure Plan in the ODP.

13.60. While there is no policy that directly relates to the Education area, the key rules proposed to implement the overarching Jacks Point objective of an integrated community are:

- a) Rule 41.4.9, which limits the uses to education and daycare facilities;
- b) 41.4.2, which makes education and daycare facilities (including the buildings) controlled; and
- c) 41.5.15.1, which imposes a maximum building coverage in the Education area of 45%.

13.61. Of relevance, the PDP definitions<sup>26</sup> of 'education activity' and 'day care facility'<sup>27</sup> (both of which are enabled in the E area) are as follows:

**Education activity** - Means the use of land and buildings for the primary purpose of regular instruction or training including early childhood education, primary, intermediate and secondary schools, tertiary education and including ancillary administrative, cultural, recreational, health, social and medical services (including dental clinics and sick bays) and commercial facilities.

**Day Care Facility** - Means land and/or buildings used for the care during the day of elderly persons with disabilities and/or children, other than those residing on the site.

13.62. Relying in part on the evidence of Dr Read (at paragraphs 9.1 – 9.3), I support the inclusion of an Education Activity Area in the location as notified as an appropriate method of implementing the (reply) Strategic Directions objectives 3.2.1.5, 3.2.2.1, 3.2.3.1, and 3.2.5.3 and Jacks Point Objective 41.2.1 (as recommended to be amended by this report). It will contribute toward the objectives and policies through complementing the village; provide for education facilities for the projected Jacks Point population (of around 3,250 usually resident households),<sup>28</sup> thereby minimising vehicle movements beyond the zone; enable the establishment of a private school which is unable to use the designation process; provided development is well designed and will not adversely affect landscape values or residential amenity to any significant degree. While the 5 ha area proposed is reasonably large and more than would be required for a primary school, for instance (noting that Queenstown Primary school is approximately 3.7 ha in area), it will enable a range of education activities to co-locate on the site in due course.

26 <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Hearing-Stream-6/Council-Right-of-Reply/QLDC-06-Residential-Chapter-7-Amanda-Leith-Reply-28591339-v-1.pdf>

27 Chapter 2 of the PDP.

28 Refer to Mr Timothy Heath's evidence dated 17 January 2017 at paragraph 5.13 and Appendix 6 to this report.

- 13.63. With regard to making provision for healthcare activities, I am of the opinion that such activities are better located within the Jacks Point village as they will contribute positively to its vibrancy and viability and to the ultimate success of the village. I also note that there will be a tendency for associated retail such as a café and pharmacy to co-locate there, thereby resulting in a lost opportunity for those to locate within the village where they are more likely to assist in achieving a 'critical' mass and will be better placed to perform a broader community function. I have relied in part on the evidence of Mr Compton-Moen and Mr Heath (at paragraphs 3.8 – 3.10) in forming this view.
- 13.64. I support the Education Activity Area as notified and the rules that apply to it. While public schools can rely on the designation process (and may well do so if they decide to locate somewhere other than the Education Activity Area), the provision of a specific Activity Area for this purpose provides a more certain and potentially more cost-effective option for private education than having to obtain resource consent if it were to locate elsewhere. The existence of an Education Activity Area adjacent to the Jacks Point village will indirectly encourage the location of such educational facilities to co-locate there, which would likely result in some efficiencies and help to activate and improve the commercial viability of the village.
- 13.65. While no submitter has sought an alternative location for education, I note for completeness that the other suitable location for such an Education Activity Area (be it primary, secondary, or tertiary) is within the R(HD) and a restricted discretionary activity consent would be required. The other area suitable for the Education Activity Area (and potentially more so) would be within the R(HD-E) Activity Area as this is more accessible to the largest population base within the JPZ and to the wider Queenstown population (who may travel to Jacks Point to attend a private school). The other suitable location for education activity is, of course, within the Jacks Point village itself given its generous size and the fact that very little of it is likely to be required for or appropriate for commercial use.
- 13.66. Based in part on the evidence of Mr Compton-Moen and Dr Read and having considered whether the Education Activity Area will appropriately achieve the relevant district wide and Objective 41.2.1, I consider that the proposed location of an Education Activity in the Structure Plan is appropriate and that an additional policy (redraft 41.2.1.15) be added; but that the rules not be amended to enable healthcare within the Activity Area.

#### **14. ISSUE 5 – INFRASTRUCTURE, SERVICING AND ROADING**

- 14.1. The submissions on infrastructure-related policies are discussed under Issue 3 above.

#### Funding

- 14.2. Joanna & Simon Taverner (131), Amy Bayliss (246), Duncan Ashford & Sheena Ashford-Tait (259), Maria and Matthew Thomson (284), Karen Page (316), JM Smith, Bravo Trustee Company Ltd & SA Freeman (547), Neville Andrews (576), Tony & Bev Moran (582), Christine Cunningham (645) and Scott Sanders (647) seek that Council address the financial burden of Jacks Point residents providing funding for infrastructure for Hanley Downs and Homestead Bay access and the trail networks. This is supported by the Jacks Point Residents, Jacks Point Residents and Owners Association (FS1277), MJ and RB Williams and Brabant (FS1283), Christine and Neville Cunningham (FS1108), and Peter & Carol Haythornthwaite (FS1096) and opposed by Jacks Point (FS1275).
- 14.3. In response, the matter of whether development in Hanley Downs and Homestead Bay will impose a financial burden on Jacks Point residents who are compelled to fund the access and trail infrastructure is a matter that sits outside the District Plan and is, in large part, the result of Jacks Point having initially been established with private services and roading. I do not consider the District Plan can play any role in addressing these concerns and therefore recommend rejection of these submissions.

#### Roading

- 14.4. RCL (855), opposed by various submitters including NZTA,<sup>29</sup> seeks that Rules 41.5.3, 41.5.6, 41.7 (the Structure Plan), and 27.8.9 (subdivision) be amended to ensure that state highway access is enabled via Lot 3 DP 475609 (as shown on the below map included with the submission) in addition to or instead of the Woolshed Road intersection that was agreed to via Plan Change 44 and as shown in the PDP Structure Plan; that the rules enable the final location to be moved 120m in either direction; and that resource consents that utilise an access in this location be processed with the same activity status as development that is accessed via Woolshed Road.



Source: Submission 855

- 14.5. This new access onto the State Highway and the design of the collector road has now been approved via RM160562<sup>30</sup> and NZTA provided its 'affected party approval' for the proposed access onto the State Highway in the context of the 109 lots consented by RM160562. RCL has recently (December 2016) applied for resource consent to subdivide a further 160 lots accessed from this road and I understand, at the time of preparing this report, that the

30

*Conditions:*

10(f) The main collector road (contained within Lot 1) for the initial 400 m from SH6 has a target operating speed of 50 km/hr and shall be designed and formed in accordance with the QLDC LDCP, Table 3.2 "Suburban, Live and Play, Primary Access to housing up to 800 du", Figure E13 with the following exceptions:

- A 2.5 m shared asphalt footpath / cycleway shall be provided on the northern side.
- A footpath is only required on the northern side of the road.
- Separate and recessed parking is not required.

10(i) Where the carriageway and footpath crosses the Woolshed Creek Floodway box culvert, a barrier shall be provided for pedestrian and vehicular safety. These barriers shall be designed by a suitably qualified engineer and an IPENZ PS1 producer statement provided prior to installation and an IPENZ PS4 producer statement provided on completion.

10(j) The main collector road (contained within Lot 1) where it fronts residential lots has a target operating speed of 50 km/hr and shall be designed and formed in accordance with the QLDC LDCP, Table 3.2 "Suburban, Live and Play, Primary Access to housing up to 800 du", Figure E13 with the following exceptions:

- A 2.5 m shared asphalt footpath / cycleway shall be provided on the northern side.
- The carriageway shall be formed in asphaltic concrete.
- Pedestrian crossing points shall be delineated by alternative surface treatment.
- Kerbs shall be standard kerbs with drop crossings (not mountable).
- No berm strip is required between the footpath and lot boundaries

applicant is working with NZTA for approval for use of this access for the additional lots. It would be helpful if NZTA and RCL could update the Panel on this through evidence or at the hearing as no doubt things will have progressed considerably by then.

14.6. In summary:

- a) whereas NZTA has lodged a further submission against RCL's request to show the road on the Structure Plan (and make consequential amendments) it has since approved the road, at least for access by 109 lots;
- b) regardless of whether RCL's submission (855) is accepted, pursuant to RM160562 this road will connect to the state highway;
- c) this road/ connection is being constructed immediately as opposed to enabling the first 500 residential units established at Hanley Downs being accessed via Maori Jack Road (Rule 41.5.6.2) (or the first 300 residential units/titles may be built/ 2,400 movements as sought by various submitters as outlined above);
- d) the creation of this road makes Rules 41.5.6.1 and 41.5.6.2 (and the submission to those) somewhat non-sensical and outdated as:
  - a. Rule 41.5.6.1 can in fact no longer be achieved as an access other than in the specified locations is now inevitable;
  - b. Rule 41.5.6.2 now lacks any evidential basis as there will very likely be no need to upgrade the Woolshed Road access in the manner earlier considered essential now that a new collector road is being constructed in an alternative location;
  - c. NZTA retains the right to decline any further access from Woolshed Rd should it determine that the existing and consented accesses are sufficient and that the creation of a third urban access will affect the safety and efficiency of the State Highway to an unacceptable degree. If that is the case, Rules 41.5.6.1 and 41.5.6.2 may in fact never be able to be met;
- e) this last point means that there is now considerably greater uncertainty as to whether the Woolshed Rd intersection will be upgraded; what its function will be/ what areas it may serve; and when it might occur. This potentially significantly changes the context within which the Panel needs to consider the appropriateness of the EIC and Woolshed Road Village Activity Areas in that they may not necessarily be located on the primary road or on one of the main entrances to the zone. In my opinion, this means that Rule 41.5.6 needs to be amended in some manner in order to be effective.

14.7. Relying in part on the evidence of Mr Samuel Corbett, I therefore recommend that the new collector road approved as part of RM160562 be shown on the Structure Plan as part of the

primary road network. As there is insufficient evidence to determine whether the Woolshed Bay Road intersection will also be necessary at some point in the future and whether it remains a safe and efficient option in the context of the third access having been approved, I recommend that this road and its connection with State Highway 6 also continue to be shown on the Structure Plan.

14.8. With regard to Rule 41.5.6 which makes it a restricted discretionary activity to create an access onto the State Highway other than from Woolshed Road or Maori Jack Road and requires Woolshed Road to be upgraded once a certain amount of development has occurred at Hanley Downs, the following submissions have been received:

a) NZ Transport Agency (719) seeks 41.5.6 be amended as follows:

*41.5.6. 1 Access from State Highway 6 shall be only at the intersections at Maori Jack Road and Woolshed Road, as shown on the Structure Plan.*

*~~47.5.6.2 No more than 500 residential units may be built within the R(HD) and R(SH-HD) Activity Areas without the Woolshed Road intersection being completed and available for use. The Woolshed Road access shall not be used until that road's intersection upgrade with State Highway 6 has been completed and available for use.~~*

*~~47.5.6.3 No more than 300 residential units/titles may be built, or no more than 2,400 vehicle movements per day (weekly average) may be generated, whichever is the lesser, within the EIC, R(HD) and R(SH-HD) Activity Areas of the Jacks Point Zone until the Woolshed Road intersection upgrade is completed and available for use.~~*

b) Jacks Point Residential No 2 et al (762) seek that Rule 41.5.6 be amended as follows:

*41.5.6.1 Access from State Highway 6 shall be only at the intersections at Maori Jack Road and Woolshed Road, as shown on the Structure Plan.*

*41.5.6.2 The Woolshed Road access shall not be used until an amended design for that road's intersection with State Highway 6 has been upgraded, completed and available for use, except as provided for through the approval of a Traffic Management Plan by the NZ Transport Agency (refer Advisory Note below)*

*41.5.6.23 No more than 500/300 residential units/ titles or 2,400 vehicle movements per day (weekly average), whichever is the lesser, may not be exceeded may be built within the EIC, R(HD) and R(SH-HD) Activity Areas without until the Woolshed Road intersection upgrade is being completed and available for use.*

*Discretion is restricted to the safe and efficient functioning of the road network.*

*Advisory Notes:*

*i. A 'Traffic Management Plan' is required to be submitted to the NZ Transport Agency from any person/s using Woolshed Road in relation to construction within the Jacks Point Resort Zone*

*ii. The upgrade of the intersection of Woolshed Road and State Highway 6 will require*

approval from the NZ Transport Agency. The expectation of the NZ Transport Agency is that the existing crossing points CP60, CP62 and CP63 will be permanently and physically closed when that intersection upgrade is completed

- c) Scope Resources Ltd & Southern Beaver Ltd (342) seeks that Rule 41.5.6.2 is amended to read:

In advance of 224(c) being issued for any residential development in the R(HD) Residential Activity Areas a roundabout intersection constructed to New Zealand Transport Agency standards and available for public use should be constructed at Woolshed Road. This roundabout should enable access for land to the east.

- 14.9. The Jardine Family Trust and Remarkables Station Limited (715) seeks deletion of notified Standard 41.5.6.1 or that it specifically provide for new accesses to be created within Lot 8 DP 443832.
- 14.10. Relying in part on the evidence of Mr Samuel Corbett, in response to these submissions and in the context of the recommendation above that the new collector road approved as part of RM160562 be shown on the Structure Plan as part of the primary road network, I recommend that Rule 41.5.6.1 be amended in order to acknowledge that access will also be enabled via the recently approved collector road and that Rule 41.5.6.2 be deleted as there is no longer any evidence base to support it. As a consequence of including this access in the Structure Plan, I recommend removing any reference to the trigger threshold dictating the point at which the Woolshed Road intersection needs to be upgraded (in response to RCL's submission seeking consequential amendments). I also recommend adding to Rule 41.5.6.2 (similar to that sought by Jacks Point Residential No. 2 et al) in order to clarify that the intersection will need to be upgraded prior to being used to an extent any greater than is currently the case. I have not recommended including the words "The expectation of the NZ Transport Agency is that the existing crossing points CP60, CP62 and CP63 will be permanently and physically closed when that intersection upgrade is completed" at this stage but, rather, invite NZTA to provide evidence on that matter as to whether such wording is appropriate.
- 14.11. Consideration of the request that additional access be allowed at the southern end of the JPZ (by the Jardine Family Trust and Remarkables Station Limited) will require further traffic analysis to be undertaken and I suggest this should be provided by the submitter prior to preparation of the section 42A report for the mapping hearing. This matter can be better considered at that time in the context determining the appropriateness of expanding the JPZ in this location.

## Non notification

14.12. NZTA (719) seeks that Rule 41.6.2, exempting the NZTA from the non-notification rule, be retained.

14.13. Rule 41.5.6 reads as follows:

*41.6.2 Any application for resource consent for the following restricted discretionary activities shall be considered without public notification but notice shall be served on those persons considered to be adversely affected if the written approval has not been obtained:*

...

*41.6.2.5 Access to the State Highway, only in respect of the New Zealand Transport Agency"*

14.14. For reasons outlined in paragraphs 3.9 - 3.12 in legal submissions as part of the Council's Right of Reply for Hearing Stream 8 dated 13 December 2016, this is considered *ultra vires* and has therefore been amended in the same manner proposed for the Queenstown Town Centre chapter, which has the effect of enabling NZTA to be considered affected where appropriate but avoids the *vires* issue.

## The management of traffic effects resulting from the expanded village areas, the education area, and the EIC area

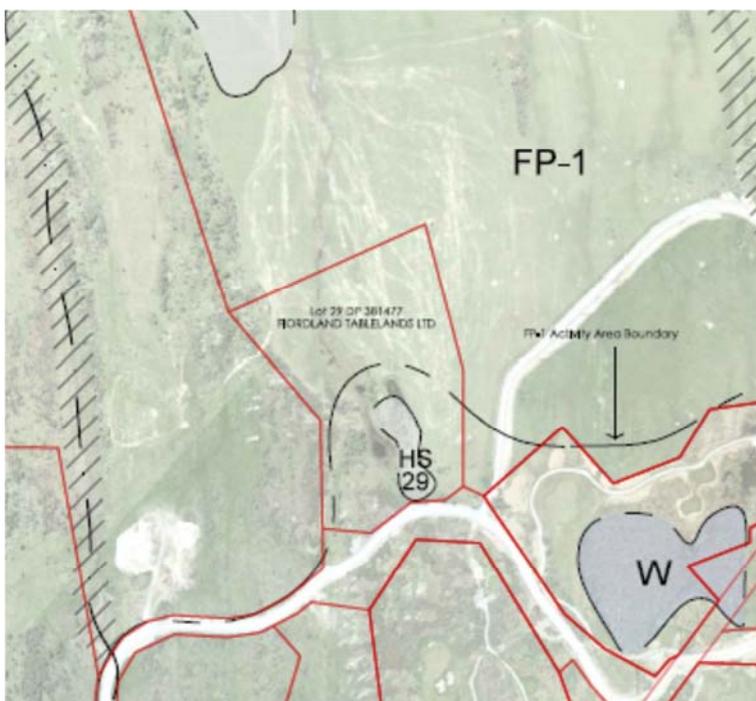
14.15. Due to the large size of the village areas and the mix of uses enabled within those and to, a lesser extent, within the education area (and the EIC if it were to progress) I am of the view that a policy and control/ discretion over traffic effects are necessary. The uncertainty of what and how much activity will realistically occur in these areas makes it difficult to accurately predict traffic generation. Therefore, I favour policy and rules in the PDP which, together, acknowledge that traffic generation and the consequent effects of that may constrain the extent and/ or type of development that is able to occur within these activity areas and that Council may impose conditions on consent in order to ensure such effects are able to be managed (or decline building development where necessary).

## 15. ISSUE 6 - EFFECTS ON LANDSCAPE, VISUAL AMENITY, AND OPEN SPACE VALUES

### General opposition to the PDP Structure Plan from a landscape and visual amenity perspective

- 15.1. Jacks Point Residents & Owners Association Inc. (JPROA) (765) seeks to retain the open space activity areas in accordance with the Structure Plan. This is supported by the Jacks Point Residents, and opposed by the Jacks Point Residents Group, Vivo Capital Limited (FS1346), Christine and Neville Cunningham (FS1108), and MJ and RB Williams and Brabant (FS1283).
- 15.2. Clive & Sally Geddes (540) and Margaret Joans Williams (605) seek to amend the Jacks Point Residential neighbourhood and Open Space annotations on the proposed Structure Plan so that the landscape and amenity values and the planned outcomes in the ODP version can continue to be achieved. This is supported by the Residents of Jacks Point, Christine and Neville Cunningham (FS1108), Jacks Point Residents and Owners Association (FS1277) and MJ and RB Williams and Brabant (FS1283), and opposed by Jacks Point (FS1275).
- 15.3. RCL (632) seeks changes to the Structure Plan and related rules in regards to Open Spaces – in particular Rule 41.5.3. This is opposed by the Jacks Point Residents, Jacks Point Residents and Owners Association (FS1277) and MJ and RB Williams and Brabant (FS1283).
- 15.4. The Jacks Point Landowners and Westenberg Family Trust (787) seek that Rule 41.4.9 retains the protection of the golf course and open space area from residential or commercial subdivision and development by reinstating the descriptions of the G and F areas of the ODP in the PDP. This is supported by the Jacks Point Residents, Christine and Neville Cunningham (FS1108), and Peter & Carol Haythornthwaite (FS1096), and is opposed by Jacks Point (FS1275).
- 15.5. The Jacks Point Landowners and Westenberg Family Trust (787) seek that Standard 41.5.12 retains the operative maximum building height of 4m in Areas G and G/F including areas owned by JPROA. This is supported by the Jacks Point Residents, Christine and Neville Cunningham (FS1108) and Peter & Carol Haythornthwaite (FS1096), and opposed by Jacks Point (FS1275).
- 15.6. Jacks Point Residents & Owners Association Inc. (765) supports the identification of landscape protection areas with high levels of control in relation to views from the State Highway and the Lake. This is supported by the Jacks Point Residents and opposed by Christine and Neville Cunningham (FS1108), Vivo Capital Limited (FS1346), Jacks Point Residents Group and MJ and RB Williams and Brabant (FS1283).

- 15.7. Jacks Point Residents & Owners Association Inc. (765) supports the intended uses and management of the open space areas. This is supported by the Jacks Point Residents and opposed by Christine and Neville Cunningham (FS1108), Vivo Capital Limited (FS1346), Jacks Point Residents Group and MJ and RB Williams and Brabant (FS1283).
- 15.8. Clive and Sally Geddes (540), Margaret Joans Williams (605), JPROA (765) and Tim & Paula Williams (601) seek the reinstatement of the ODP provisions/ Structure Plan in relation to the Open Space provisions to ensure the outcomes as sought by the ODP are realised. This is supported by the Jacks Point Residents and opposed by Jacks Point (FS1275).
- 15.9. Alexander Schrantz (195) seeks that the ODP Open Space and Landscape Protection Areas not be changed and seeks removal of the Farm Preserve Activity Areas. This is supported by Christine and Neville Cunningham (FS1108), Stephen and Karen Pearson (FS1116), Wei Heng Fong (FS1128), Jacks Point Residents and Owners Association (FS1277), MJ and RB Williams and Brabant (FS1283), the Jacks Point Residents and opposed by Jacks Point (FS1275).
- 15.10. Fiordland Tablelands Limited (770) seeks that no decision be made in regards to FP-1 until the boundaries have been clarified. This is opposed by Jacks Point (FS1275). The following close up of a cadastral map overlaid with the FP-1 zoning was supplied to me by the plan change author (i.e. Jacks Point) and illustrates the submitter's concern that its lot has been partially reclassified as FP-1:



15.11. The Jacks Point Landowners and Westenberg Family Trust (787) seek that Rule 41.4.9 retains the protection of the farm preserve area from residential or commercial subdivision and development. This is supported by the Jacks Point Residents, Christine and Neville Cunningham (FS1108), and Peter & Carol Haythornthwaite (FS1096) and opposed by Jacks Point (FS1275).

### **General Discussion**

15.12. In her evidence, Dr Read discusses in some detail how the ODP open space activity areas (which the Jacks Point Resident submissions seek be reinstated) compare with those in the PDP.

15.13. In paragraphs 8.1 – 8.6 of Dr Read's evidence, she specifically discusses the change from O/P and part of the G/F in the ODP to OSA in the PDP. She concludes that the provisions will have a similar level of effect and that the change is appropriate. I concur with her summary of the ODP and PDP activity area classifications and with her conclusion, noting that it is positive that the rules now anticipate facilities such as playgrounds, toilets, etc. and provide for these as permitted.

15.14. Rule 41.5.3.3 states that the open spaces are indicative only. The submission from RCL (632) requests that this be deleted as the open space areas have now been more accurately determined as shown in their submission, thus making it unnecessary. Indirectly the submissions seeking the reinstatement of the ODP Structure Plan request the inclusion of more open space between the Hanley Downs residential areas.

15.15. In response, and as outlined in paragraphs 16.25 – 16.26 below, I have recommended replacing the (indicative) open spaces with OSA Activity Areas in the Structure Plan as the (indicative) open spaces create uncertainty and a level of confusion. Also, rather than deleting the rule as sought by RCL, I recommend that Rule 41.5.3.3 be amended to make it clearer that the boundaries of the open space activity areas (OSA, for example) can only be moved by +/- 20 m).

15.16. Dr Read raises concerns at her paragraphs 7.5 and 7.6 that the extent of the notified R(HD)-F Activity Area needs to be limited to the area outside of the PDP ONL and that the density rules should enable no more than 8 dwellings in the lower reaches of R(HD)-G with appropriate controls, as opposed to the 22 dwellings that are enabled by the PDP. On this basis, I recommend reducing the area of R(HD)-F as per Dr Read's evidence at paragraph 7.5 and as shown on the recommended revised Structure Plan included in **Appendix 1**, and removing area R(HD)-G and replacing it with eight homesites (location to be determined on site). The use of the homesite regulatory framework is, in my view, more efficient than creating specific rules that only apply to the R(HD)-G Activity Area.

15.17. I refer you to Section 13 of this evidence for discussion and recommendations in terms of the most significant changes to the open space areas that are proposed either in the notified PDP or through submissions; namely the appropriateness of the replacement of various open space with the OSCR, EIC, E, FP-1, and FP-2 activity areas.

15.18. The rest of this section deals specifically with the various activity areas that make up the open space network and then considers how a number of specific activities are managed in the PDP.

### **The notified Farm Preserve (FP) Activity Areas**

15.19. In the FP Activity Areas of the PDP:

- a) farm buildings are a controlled activity (Rule 41.4.3.2);
- b) residential buildings in FP-2 are a restricted discretionary activity (Rule 41.4.3.3);
- c) residential activity in FP-1 on a site created in accordance with Rule 27.8.9.2 (right of reply Rule 27.7.11.2) is permitted or, if it has not been then it is a restricted discretionary activity (Rule 41.4.3.3);
- d) visitor accommodation in both FP Activity Areas is a restricted discretionary activity;
- e) all buildings are limited to a maximum height of 8m (potentially other than farm buildings which arguably can extend to 10m) (Rule 41.5.12.2); and
- f) all buildings are a full discretionary activity in the Peninsula Hill Landscape Protection Area (**PHLPA**), which overlays most of the FP-2 Activity Area.

15.20. Notably, notified Policies 41.2.1.12 and 41.2.1.7 now make explicit provision for farm and rural living at low densities while retaining rural amenity, protecting landscape values, native vegetation, and open space and ensuring buildings are not visible from the State Highway and lake.

### Farm Preserve 1 Activity Area

15.21. Rules 27.6.1, 27.8.9.2, 27.7.11.2, 41.4.3.3, and 41.4.9.8 would enable up to 34 lots to be created; each containing a seemingly unlimited number of dwellings as a permitted activity and/ or visitor accommodation as a restricted discretionary activity. I concur with Dr Read's opinion (at her paragraphs 16.16-16.17) that the level of development enabled and supported by Policies 41.2.1.6, 41.2.1.7, 41.2.1.9, 41.2.1.12, and 41.2.1.17 would have significant adverse effects on the visual amenity of those residing in or visiting Jacks Point and would affect the general amenity and the character of the zone as a whole. It would significantly alter the views of an open and natural backdrop to the west from the established residential

areas, which will be all the more important in terms of amenity and landscape context once the valley floor is developed in a medium to high density manner as recommended in this evidence.

- 15.22. I note that Dr Read considers that there is some potential to locate some dwellings along the lower margins of the slope to the west of the wetlands and on the lower area to the immediate north of the quarry at a density of 1 per hectare, provided rules are in place to ensure the visual effects are mitigated by vegetation and specific rules to manage their development would be required so as to avoid adverse effects on the internal amenity of the zone. This would result in approximately 13 dwellings in this location.
- 15.23. On balance, having considered Dr Read's evidence, the s 32 evaluation (although I note this contains very little analysis), and the Coneburn Study Update (2015), I favour reclassifying that part of the FP-1 area that sits outside the ONL as OSG/ Tablelands and identifying up to 13 Homesites (and showing these on the Structure Plan) in the lower reaches of this land, adjacent to the wetland and the balance land that is within the Outstanding Natural Landscape as OSL. The amendments have been made to the revised chapter in **Appendix 1**, including an amended Structure Plan although I note that the Homesites have not yet been identified onsite and so are not shown on the recommended Structure Plan at this stage). A s 32AA evaluation has been undertaken in relation to this recommendation.
- 15.24. If, contrary to my recommendations, the Panel decides that the FP-1 Activity Area is appropriate in the form generally proposed then I recommend that the boundary is realigned to exclude Lot 29 DP 381477, owned by Fiordland Tablelands and as shown in the map above.

#### Farm Preserve 2 Activity Area

- 15.25. The 337 ha FP-2 area is located entirely within the area which has been identified as ONL (Wakatipu Basin), which is the highest category of landscape in the District.
- 15.26. The FP-2 provisions would enable the subdivision of this area to a minimum lot size of 2ha with an average of 40ha (reply Rule 27.6.1). Farm buildings would be controlled outside the landscape protection areas (Rule 41.4.3.2), and residential units and visitor accommodation activity would be a restricted discretionary activity (Rule 41.4.3.3) with all buildings, including farm buildings, within the PHLPA (which overlays part of FP-2) being full discretionary (41.4.3.4). These are intended to implement the single Jacks Point Zone Objective 41.2.1 which, unlike that in the ODP, no longer requires development to have appropriate regard for landscape and visual amenity values.

15.27. In summary, having considered Dr Read's evidence, the s 32 report, and the Coneburn Study (2015) and based on my own knowledge of the ODP and PDP provisions affecting ONLs, I am of the opinion that the FP-2 classification and provisions, as outlined above, are an inappropriate way of achieving the district wide landscape objectives 6.3.1, 6.3.2, 6.3.3, and 6.3.7 or the purpose of the RMA, particularly considering the relevance of section 6 of the RMA in respect of this land.

15.28. In particular, I am concerned about the effectiveness of:

- a) allowing all farm buildings as a controlled activity without the constraints imposed on other ONLs in the district;
- b) the restricted discretionary status of dwellings without clear and directive objectives, policies, and/ or assessment matters;
- c) the non-notification clause (41.6.2.1) specifying that residential units in the FP-2 activity area and visitor accommodation within FP-1 and FP – 2 Activity Areas would be non-notified and no affected parties approvals required; and
- d) the controlled status of subdivision (27.7.1 and 27.7.4) which may result in a subdivision layout that is not landscape-led; the approval of sites which do not provide for a suitable building platform to be positioned anywhere on the site (as building platforms are not a requirement) and, in turn, result in 'reasonable use' arguments at the time of land use consent; and access ways to the sites that are inappropriate but are unable to be declined.

15.29. Therefore, I recommend deleting the FP-2 area in its entirety; replacing it with OSL and a PHLPA overlay over the entire area notified as FP-2 on the basis of the evidence of Dr Read and, in summary on the basis that the land is all within ONL-WB and is deserving of a significantly higher level of protection. A s 32AA evaluation in relation to this recommendation is included in **Appendix 4**.

15.30. Even with the Farm Preserve Activity Areas removed, I remain concerned about the controlled subdivision status recommended in the S42A report for the Subdivision chapter 27 (recommended Rules 27.7.1 and 27.7.4) in relation to the open space areas of Jacks Point Zone for the reasons outlined in paragraph 14.29 above. I note that these rules were recommended to be further amended in the Right of Reply version of that chapter and that, as currently recommended, subdivision is controlled provided it is in accordance with the Structure Plan and there is no control over landscape effects. While I realise that this matter has already been heard by the Panel, for completeness I wish to note my concern with the recommended rule. In my opinion, the purpose of the RMA and the PDP district wide landscape objectives (cited above) would be far better achieved by subdivision within the

open space activity areas of the Jacks Point Zone being discretionary except for boundary adjustments. I have not made this amendment in the attached recommended revised version of the Subdivision chapter 27.

- 15.31. While I note that the rules achieve the zone objective and are likely to align with the policies, I recommend that the objective and a number of the policies be amended in Section 12 of this evidence as I do not consider them to be the most appropriate way of achieving the purpose of the RMA or the district-wide landscape objectives.

### **The open space areas (OSG and OSL) and the landscape protection areas (LPAs) and Tablelands overlays**

- 15.32. At paragraphs 17.1 - 17.30 of her evidence, Dr Read provides a useful summary of the three LPAs that exist both in the ODP and PDP and how the rules attributed to them vary. In the ODP, within that land now proposed as FP-1 and FP-2 farm buildings in the open space (O/S) area are controlled and all other buildings are non-complying (Rules 12.2.3.2(vii), 12.2.3.5(vii) and 12.2.5.1) and in the G area, recreation buildings are controlled and all others are non-complying. Dr Read notes that the Tablelands and PHLPA provide important additional control over planting.

- 15.33. In summary she concludes that, in the PDP, the whole of proposed FP-2 should be overlain with the PHLPA and, in so doing, recommends changing the status of buildings other than farm buildings in the FP-2 area to (at least) full discretionary throughout the area.

- 15.34. These areas are highly valued landscapes and, in the case of the PHLPA, I am satisfied that all buildings other than farm buildings should be full discretionary and that this should be complemented by strengthening the Jacks Point Objective 41.2.1 in a manner that will be consistent with the District wide landscape objectives 6.3.1, 6.3.2, 6.3.3, and 6.3.7. I have recommended amending the Structure Plan to show the whole proposed FP-2 area as OSL with a PHLPA overlay and amending the objective in this manner.

- 15.35. In regard to the Lake Shore LPA (**LSLPA**) and Highway LPA (**HLP**A), relying on Dr Read's evidence, for the reasons outlined in her paragraphs 17.13 – 17.20, I recommend amending Rule 41.4.3 such that the status of buildings is strengthened to non-complying, except for farm buildings which are variously provided for as restricted discretionary/ discretionary activities and recreation buildings which are provided for in the HLP A as a restricted discretionary activity.

- 15.36. In my opinion, the Tablelands overlay should be recognised as a landscape protection area and be reinstated on the Structure Plan, as references to it in the text of the PDP are meaningless without its inclusion. For the reasons outlined in Dr Read's evidence, it is an

important overlay to parts of the OSG and OSL and it is more legible to use the same terminology as is used for other such overlays.

- 15.37. The OSL Activity Area on Jacks Point Hill raises concerns for Dr Read in that it enables farming and farm buildings, whereas under the ODP this area is included in Activity Area G, which provides for a far narrower range of uses and makes farming a restricted discretionary activity and farm buildings a non-complying activity (Rules 12.2.3.2(vii), 12.2.3.5(vii) and 12.2.5.1). For the reasons outlined in Dr Read's evidence and relying on the submissions of the Jacks Point Landowners, JPROA (765), Sally and Clive Geddes (540), Margaret Joans Williams (605), and Tim and Paula Williams (601), I recommend that Jacks Point Hill be amended from OSL to OSG and that the description of OSG in Rule 41.4.9 be amended to more closely reflect that of the ODP such that it refers to outdoor recreation rather than only to golf, and explicitly provides for indigenous revegetation.
- 15.38. In response to the Jacks Point Landowners' submissions seeking that buildings in the G and G/F areas of the ODP should be restricted to no more than 4 m in height, relying on Dr Read's evidence generally in relation to the values of these areas, I consider that this is appropriate and recommend that Rule 41.5.12 (height) be amended accordingly.

#### **The Homesites**

- 15.39. Building within the Homesites is permitted in the PDP yet it is controlled in the ODP. I am of the view, relying in part on the evidence of Dr Read (at her paragraph 15.5), that these areas are too sensitive and the risks too great to rely wholly on the land covenants to ensure appropriate design and landscape treatment. In saying this, I understand the issue will be addressed in legal submissions presented on behalf of the Council. As such, in response to the submissions of the Jacks Point Landowners, Sally and Clive Geddes (540), Margaret Joans Williams (605), and Tim and Paula Williams (601), I recommend adding the controlled activity consent for building within the homesites (that exists in the ODP) to the PDP.

#### **The Wetland Activity Area**

- 15.40. Jacks Point Residential No.2 et al (762) seek to amend Rule 41.5.19 to allow exception for landscaping, the development for pedestrian access, fencing (to control stock movement), or structures to ensure protection of the area. This is supported by Jacks Point Residents and Owners Association (FS1277) and opposed by Harris-Wingrove Trust (FS1316).
- 15.41. I recommend inserting the exemption as sought, apart from the fact that I recommend that landscaping remain non-complying except for the purpose of ecological restoration or the removal of plant pests). In my opinion, this is the only type of landscaping that should be

occurring within such close proximity of such an ecologically significant wetland. I note that Dr Read concurs with this amendment. This is within scope of the submission (762).

### **The Lodge Activity Area**

15.42. Wild Grass Partnership, Wild Grass Investments No 1 Limited & Horizons Investment Trust (567) generally supports the provisions as they relate to the Lodge, with some amendments. The submitter supports the controlled status for buildings and tennis courts in the Lodge Activity Area and opposes the restricted discretionary status for sale of liquor in the Lodge Activity Area, preferring controlled. The submitter opposes Rule 41.4.9.6 and seeks the rule to include residential activities and 'meeting facilities'. The submitter generally supports the height for the Lodge Activity Area. This is supported by Jacks Point (FS1275) and, in relation to 41.4.9 and the continuation of the lodge activity areas, by MJ Williams and RJ Brabant (FS1283).

15.43. Wild Grass Partnership, Wild Grass Investments No 1 Limited & Horizons Investment Trust (567) also seeks deletion of earthworks rules 41.5.4.1 and 41.5.4.2 as they relate to the Lodge Activity Area and seeks the reinstatement of operative Rule 12.2.3.3. This is supported by Jacks Point (FS1275).

### The requested extensions to the Lodge Activity Area

15.44. Wild Grass Partnership, Wild Grass Investments No.1 Ltd. & Horizons Investment Trust (567) (**WGP**) seek the expansion of the Lodge Activity Area to incorporate a parking area and presumably to expand the development of lodge-related activities and further building. This is supported by Jacks Point (FS1275).

15.45. Dr Read has undertaken an assessment of the two areas that Wild Grass Partnership requests be redefined as Lodge Activity Area.

15.46. Dr Read concludes (at her paragraphs 14.16-14.17) that the 1.8 ha area proposed on Lot 2 DP 447241 (stated as being primarily for the purpose of parking by the submitter) would be appropriate provided all buildings are a restricted discretionary activity and that a building setback of 10m from the boundaries of the Lodge Activity Area be imposed in order to ensure that suitable mitigation could be constructed and / or planted.

15.47. Dr Read confirms at her paragraphs 14.18-14.19 that, in her opinion, the other areas proposed to be included within the Lodge Activity Area are both located within the ONL. While she concludes that the eastern extension to the Lodge Activity Area would be appropriate, the remaining areas proposed for inclusion within the Lodge Activity Area would result in excavation, built form, and a loss of indigenous scrub that would modify the landform

to a degree which would have a cumulative adverse effect on the visual amenity provided by this ONL, when considered in conjunction with the consented development in the operative Lodge Activity Area.

- 15.48. Dr Read has also undertaken an assessment against the proposed district wide objectives and policies, which I have, in turn, considered (her paragraphs 14.18 – 14.29). From that, I conclude that the classification of this area would not be an appropriate way of achieving the district-wide landscape objectives (Reply) 6.3.1, 6.3.2, 6.3.3, and 6.3.7 of the PDP.
- 15.49. I accept the landscape assessment of Dr Read in regard to this submission and concur with her conclusions at paragraph 14.29 that only the area shown as "LP" on the plan attached as Appendix 1 to the submission and the eastern extension (i.e. not the two extensions proposed at the western side of the operative Lodge Activity Area) would be appropriate. I therefore recommend that the Structure Plan be amended to show these two areas and that new redraft Rule 41.5.5.5 should include the 10m setback rule in relation to the Lodge (east) Activity Area. A s32AA evaluation has been undertaken in relation to this recommendation.

#### Notified Lodge Activity Area provisions

- 15.50. As compared to the ODP provisions (which the Jacks Point Landowners and others seek be reinstated), Rule 41.4.3.1 reduces the status of buildings in the Lodge Activity Area from restricted discretionary activity to controlled, and Rule 41.4.4.1 provides for tennis courts in the smaller Lodge Activity Area and outdoor swimming pools throughout the Lodge Activity Areas as controlled activities, as opposed to being restricted discretionary activities in the ODP (both of which are supported by WGP).
- 15.51. QLDC (corporate submission 383) seeks the removal of references to development controls and design guidelines in the District Plan. Due to the fact that the Lodge design guidelines are non-statutory only (due to the lack of any clear reference in the PDP (i.e. date) and the fact they were not notified with the PDP), I recommend removing the reference to the design guidelines in Rule 41.4.3.1.
- 15.52. Due to the landscape sensitivities and prominent location of the notified Lodge Activity Area, Dr Read considers at her paragraphs 14.5 that it is important to retain the restricted discretionary activity for all buildings (with the exception of tennis courts in the smaller Lodge Activity Area as outlined below) within the Lodge Activity Area, rather than weakening this to controlled. In my opinion, this is particularly important given the recommendation above to remove the reference to the design guidelines, for the reasons given above. As such, I recommend amending Rule 41.4.3.1 so that buildings are restricted discretionary activities and re-casting the notified matters of control as matters of discretion.

- 15.53. Dr Read is satisfied that Rule 41.4.4.1, which enables tennis courts in the smaller part of the Lodge Activity Area and outdoor swimming pools throughout the Lodge Activity Areas (and within the Tablelands) as controlled activities (pools less than 9m<sup>2</sup> are permitted), is appropriate provided the materials and colours of fencing and pools are restricted (paragraphs 14.7 – 14.12). While the manner in which Dr Read has suggested this be achieved is a little unorthodox, I have amended controlled Rule 41.4.4.1 and inserted redraft Rule 41.4.4.2 to address the concerns she has raised, by making pools and fencing that complies with certain colours and materials controlled and all others a restricted discretionary activity, and by adding the issue of glare from glass fencing as a matter of control. If the Panel considers this to be unreasonably strict then the guidance regarding colour and materials could be provided as assessment matters.
- 15.54. As such pools and tennis courts are a restricted discretionary activity in the ODP, the submissions from Jacks Point Landowners, Sally and Clive Geddes (540), Margaret Joans Williams (605), and Tim and Paula Williams (601) provide scope to amend the controlled activity rule.
- 15.55. The PDP (Rules 41.5.4.1 and 41.5.4.2) imposes no maximum amount of earthworks but requires cuts/ batters associated with accessways to be no more than 1 m/ 65° and fill to be no more than 2m in height in the Lodge Activity Area. The relevant rules in the ODP (Rules 12.2.3.2(x), 12.2.3.4(vi), and 12.2.5.1(vi) permit earthworks associated with subdivision and building; make it controlled to undertake earthworks over certain limits for golf course development; and impose maximum limits (100m<sup>3</sup> / 200m<sup>2</sup>/ 2.4 m cuts and 2.0 m fill) on all other earthworks.
- 15.56. In response, I note section 14 of Dr Read's evidence, in which she discusses the ONL classification of Jacks Point hill and the potential effects of earthworks in the Lodge area in the context of building, swimming pools, and the creation of accesses. Relying on that evidence and considering that I have recommended to relax the status of pools from restricted discretionary to controlled, I consider that, on balance, the PDP rules are preferable and more effects-based and provide greater guidance as to the extent of earthworks that is permitted, imposes a more stringent rule in relation to accesses and batter angles, and applies more broadly to include earthworks related to building activity as well as stand-alone earthworks. The only change that I recommend to Rule 41.5.4 is to amend Rule 41.5.4.2(iii) to also limit the height of any cut to 2.4 m, which is consistent with Rule 41.5.4.3 which applies to the other, less sensitive activity areas of the zone.
- 15.57. In regard to the request that the status of consents for the sale of liquor in the Lodge Activity Area should be lessened to controlled, I note the following:

- a) There are no general hours of operation rules that would apply to such activity and if the sale of liquor were to be controlled this would seriously reduce the Council's ability to impose hours beyond those stipulated in the Sale and Supply of Alcohol Act 2012; and
- b) The sale of liquor is a restricted discretionary activity in other areas, where it would be anticipated, such as in the Village Activity Area and, as such, it would be inconsistent to be more lenient in the Lodge area.

15.58. In the absence of any reasons from the submitter as to why the activity status of the sale of liquor should be changed from restricted discretionary to controlled, I am of the opinion that it should remain a restricted discretionary activity.

15.59. In regard to the request to extend 41.9.6 to enable residential activities and meeting facilities, I do not consider that the rule should:

- a) be extended to include residential activity, as this would be less effective in contributing to the objective of a community that includes visitor accommodation (noting that this is the only Activity Area where the provision of visitor accommodation is assured), and would result in less certainty in terms of effects on the landscape. This is because the development would not necessarily be comprehensively designed, there would be no density constraints, and there would be likely to be more curtilage areas created and more accesses; and
- b) be amended to provide specifically for meeting facilities as I would interpret the definition of visitor accommodation<sup>31</sup> to include such facilities in any case.

31 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 3 months; and

i. Includes such accommodation as camping grounds, motor parks, hotels, motels, boarding houses, guest houses, backpackers' accommodation, bunkhouses, tourist houses, lodges, homestays, and the commercial letting of a residential unit; and

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.

For the purpose of this definition:

a. The commercial letting of a residential unit in (i) excludes:

- A single annual let for one or two nights.
- Homestay accommodation for up to 5 guests in a Registered Homestay.
- Accommodation for one household of visitors (meaning a group which functions as one household) for a minimum stay of 3 consecutive nights up to a maximum (i.e.: single let or cumulative multiple lets) of 90 nights per calendar year as a Registered Holiday Home.

(Refer to respective definitions).

b. "Commercial letting" means fee paying letting and includes the advertising for that purpose of any land or buildings.

c. Where the provisions above are otherwise altered by Zone Rules, the Zone Rules shall apply.

## **Homestead Bay open space activity areas**

- 15.60. Jardine Family Trust and Remarkables Station Limited (715) seeks that the Farm Buildings and Craft Activity Area (**FBA**) be replaced with Open Space Foreshore (**OSF**) and Open Space Residential (**OSR**) from the Structure Plan and, as a consequence, that notified Rule 41.4.9.16, which restricts activities within the FBA to the existing residence, farm buildings and buildings and activities associated with craft and farming related activities, retail sales of goods produced or reared on site, a farm stay and a bed and breakfast operation) be deleted. Although the submitter is likely pursuing this relief to advance its rezoning submission, the FBA is located on the notified Structure Plan and so is considered briefly here.
- 15.61. From a planning perspective, I support removing the activity area and replacing it with other, more broadly applied open space activity areas.
- 15.62. However in my opinion, the appropriateness of these amendments is closely related with decisions on expanding the OSR elsewhere and therefore it is my preference that it be considered more fully as part of the rezoning hearing.
- 15.63. Jardine Family Trust and Remarkables Station Limited (715) also seeks the deletion of notified Standard 41.5.2.7, which requires that within the OSR Activity Area, at least 50% of any site shall be planted in native vegetation, prior to building.
- 15.64. Again, as the appropriateness of this amendment is closely related to the zoning extension, which includes creating a large new area of OSR over rural zoned land, I consider it is more appropriate to consider it more fully as part of the rezoning hearing.

## **Farm buildings**

- 15.65. In response to the submissions from Alexander Schrantz (195), Jacks Point Landowners, Sally and Sally and Clive Geddes (540), Margaret Joans Williams (605), Scope Resources Ltd & Southern Beaver Ltd (342), and Tim and Paula Williams (601), I consider it appropriate to strengthen the rules relating to farm buildings in certain parts of the JPZ.
- 15.66. Relying in part on the evidence of Dr Read,<sup>32</sup> I recommend that farm buildings are controlled in OSL Activity Area; restricted discretionary in the PHLPA and HLPAs; and full discretionary in the OSG Activity Area; and LSLPA.

<sup>32</sup> In particular, sections 11, 14, 16 and 17.  
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## Public access

- 15.67. Alexander Schrantz (195) opposes the public access shown in the location on the PDP Structure Plan, which runs along the northerly boundary of his property and seeks that public access through 'The Preserve' via 'Stragglers Loop' be retained. This is supported by the Jacks Point Residents, Jacks Point Residents and Owners Association (FS1277), MJ and RB Williams and Brabant (FS1283), and Wei Heng Fong (FS1128), and opposed by Jacks Point (FS1275).
- 15.68. Without detailed graphical information as to the location of the access shown on the PDP Structure Plan relative to Mr Schrantz's property, I am unable to properly consider the effects of the access on his amenity and privacy. As such, at this stage I recommend that no change be made to the access shown in the Structure Plan and invite the provision of more detailed information by Mr Schrantz in evidence so that the matter can be further considered.

## Planting/ vegetation provisions

- 15.69. Dr Read considers the wording of the vegetation rules at paragraphs 19.25 – 19.32 of her evidence and recommends that Rule 41.5.2.6 be amended as follows:

*41.5.2.6. On any site within a Residential Jacks Point Activity Area ~~there shall be no shrub and tree~~ at least 75% of all trees and shrub planted shall with less than of be from the species identified on the Jacks Point plant list contained within Part 41.8. Percentages are in terms of overall plant numbers.*

*Discretion is restricted to the following:*

- *any effects on nature conservation values*
- *effects on landscape character and visual amenity*

- 15.70. I note that Dr Read's proposed rule derives from the design guidelines and was included as a result of removing the controlled building rule that exists in the ODP (which enables consideration of the guidelines).

- 15.71. I also note that RCL (632) has sought that Rule 41.5.2.9 be deleted as it is impractical. While Dr Read agrees it is impractical as drafted, she sees merit in retaining it in an amended form so that it is applied where re-vegetation is required rather than all vegetation. I expect this will satisfy the intention of RCL's submission.

- 15.72. I have therefore recommended the following amendments in line with Dr Read's evidence:

*41.5.2.9 Except as provided for in (41.5.2.6) above, any native revegetation required to be ~~planted~~ undertaken within this Zone shall:*

- a. *Include species appropriate to the ecosystems of the area being planted.*
- b. *Aim to Be capable of reaching 80% canopy closure for the ecosystem type being planted within five years of implementation.*

- c. ~~Have eradicated any invasive plant pests the time of planting.~~ Ensure the ongoing eradication of all plant pests which might compete with the planting
- d. Ensure the planting is appropriately protected from animal pests
- e. ~~Be maintained, with any plants that die or are diseased replaced.~~ Maintain the planting on an ongoing basis replacing dead or diseased plants as necessary to reach compliance with (b) above.

*Discretion is restricted to any effects on nature conservation values.*

### **Glare and the night sky**

- 15.73. QLDC (383) seek to amend Rule 41.5.13.1 by adding 'and the night sky' to limit impacts. This is supported by Jacks Point (FS1275) and JPROA (FS1277).
- 15.74. As outlined in full in paragraph 3.6 of the Council's legal submissions submitted on behalf of the Council as part of its Right of Reply for Hearing Stream 8 – Business (13 December 2016), the rule is considered to be *ultra vires* and therefore would be ineffective. As such, I do not recommend making this amendment.

### **Mining**

- 15.75. Submissions from Alexander Schrantz (195), Jacks Point Landowners, Sally and Clive Geddes (540), Margaret Joans Williams (605), JPROA (765), and Tim and Paula Williams (601) generally seek the reinstatement of the ODP open space provisions and/ or Structure Plan.
- 15.76. On this basis, Dr Read and I have considered the appropriateness of the PDP Structure Plan and associated provisions in relation to mining activity, relative to those of the ODP. The PDP enables mining in the Open Space Golf (**OSG**), Open Space Landscape, and Farm Preserve Activity Areas as a discretionary activity, provided the material is used within the zone and the environmental effects are managed. On the other hand, the ODP enables such mining only within the OSG area, within which the existing quarry is located. On the basis of Dr Read's assessment of the values associated with the open space areas (sections 10 and 11 of her evidence), in my opinion it is not appropriate to enable mining throughout as a restricted discretionary activity supported by enabling policy and an objective that does not require regard to be had to landscape values.
- 15.77. I have therefore recommended amending Rules 41.4.5 and 41.4.9.11 such that specific mining is a full (rather than restricted) discretionary activity in the OSG area only and non-complying elsewhere and tightening up Policy 41.2.1.11 to reflect that.

## **16. ISSUE 7 - RULES RELATING TO THE RESIDENTIAL ACTIVITY AREAS**

- 16.1. It would appear that submissions from Jacks Point Landowners, Tim & Paula Williams (601), Margaret Joans Williams (605), and Sally and Clive Geddes (601), which seek reinstatement of the ODP provisions throughout the JPZ, indirectly seek that all bulk and location/ design-related rules either reflect the residential guidelines, which govern such matters under the existing regime or are removed altogether, therefore resulting in complete reliance on the residential guidelines (which is given some weight in the ODP via rule 12.2.3.2(vii)). These submissions are relied on to further consider the appropriateness of a number of the key design-related standards in the PDP below, where no specific submissions exist.

### **The appropriateness of applying the PDP provisions to the Jacks Point portion of the Jacks Point Zone**

- 16.2. The Jacks Point Landowners submit that the amended rules will undermine the established character and quality and that the Jacks Point part of the zone should not be subject to the PDP but rather, continue to be subject to the ODP rules (with the exception of the permitted status for building in R(JP) and enabling the viable development of the Jacks Point village).
- 16.3. The submissions from Tim and Paula Williams (601), Margaret Joans Williams (605), and Clive Geddes (540) are cast more widely and request that, alternatively, the ODP provisions for the whole JPZ be reinstated. However, it is noted that from reading each submission as a whole, the focus of both seems to be on the rules as they apply to the Jacks Point portion of the zone as opposed to seeking to reconsider those that relate to the Hanley Downs residential areas.
- 16.4. I have considered the relative appropriateness of the ODP and PDP objectives for the JPZ in section 12 of this evidence and therefore the following discussion focuses on the appropriateness of the PDP rules (coupled with the non-RMA regulation that exists via the Stakeholder's Deed and covenants which, together, obligate the creation of design controls and guidelines and compliance with these via the design review board (**DRB**)), as opposed to alternatives.
- 16.5. Before turning to what rules are most appropriate, it is useful to summarise the main differences between the rules in the ODP and PDP, as they apply to the Jacks Point portion of the zone, which appears to be the main focus of the submissions from the Jacks Point Landowners. I refer to Sections 8, 10, and 11 of Dr Read's evidence for a comparison of the open space activity areas in the ODP and PDP and will not repeat them here.
- 16.6. In summary, in regard to activity areas other than the open spaces, the notified PDP:

- a) no longer includes a requirement to obtain resource consent for an outline development plan and, as such, no longer requires the design guidelines to be approved by Council (as occurs under the operative outline development plan rule (12.2.3.2(xi));
- b) no longer requires development to comply with design guidelines as in the ODP, but the guidelines are still required to be complied with via covenants and a requirement for house designs to go through the DRB. I note that the Council's legal submissions address some pertinent issues with regard to the robustness of that non-RMA process;
- c) introduces new rules 41.4.6, 41.5.5, 41.5.12, and 41.5.15 enabling the development of 3 or more units and units on sites less than 550m<sup>2</sup> or of a density greater than 1 house per 380m<sup>2</sup> to be subject to more lenient height and coverage rules (and in the case of lots less than 550m<sup>2</sup> also be exempt from internal setback rules) on the basis that issues of layout and built form will instead be comprehensively determined through a controlled or restricted discretionary activity consent and assured through legal mechanisms on titles;
- d) dwellings in the R(JP) area are permitted (rather than controlled) other than in areas R(JP1 - 3) and R(JP SH-4 ) where the construction of 3 or more dwellings or multiple dwellings with a density of less than 380m<sup>2</sup> are a restricted discretionary activity unless they have already been approved on sites less than 550m<sup>2</sup> through a controlled or restricted discretionary activity subdivision consent, in which case they too are permitted;
- e) in lieu of the fact that a controlled consent is no longer required for most individual dwellings in the R(JP) areas, dwellings are now subject to standards relating to setbacks, height, planting, building coverage, and colour/ glare except that:
  - dwellings that are erected on lots smaller than 550m<sup>2</sup> are not subject to these standards or are subject to more lenient ones in relation to height and coverage. This is on the basis that the small lots will have already gone through a restricted discretionary activity subdivision process that is intended (although not required) to result in legal mechanisms (e.g. covenants) to control built form to ensure a good urban design outcome even though it may not comply with traditional bulk and location standards; and
  - medium density residential (i.e. 3 or more units or a density more than 1/380m<sup>2</sup>) or the dwelling is on a site approved via subdivision consent, the maximum height permitted is 10 m instead of 8 m and the maximum building coverage is 55% instead of 45% for more low density type housing.

16.7. I note that the standards included in the PDP regarding setbacks, height, planting, coverage, and colours are similar to those in the Jacks Point Residential Design Guidelines 2009 (**Residential Guidelines 2009**) (as such it would appear that the submitters should not have much issue with them) although the residential guidelines also include more detailed

standards regarding roof pitch, upper floors, built form, materials, continuous building length, garage doors, and boundary treatments (hedges and fences). The key differences between the Residential Guidelines 2009 and those standards in the PDP are that the PDP standards:

- a) allow an additional internal setback arrangement as an alternative to the one specified in the Residential Guidelines and duplicated in the PDP (i.e. one of 6m, one of 3, and others of 2) which is not vastly different and potentially an improvement and, as such, this is considered appropriate;
- b) contain no road setback minimum yet the Residential Guidelines 2009 require at least 2m;
- c) contain no continuous building length whereas the Residential Guidelines 2009 suggest a 16m maximum; and
- d) enable all dwellings to be up to 8m in height whereas the Residential Guidelines 2009 (enforceable through covenants) impose a specified maximum height of 5.5m on certain lots within the R-SH areas.

16.8. Mr Compton-Moen has considered these differences and whether the minor difference in standards or the lack of PDP controls over matters such as building material is of concern in terms of achieving the Jacks Point redraft Objective 14.2.1. He concludes that the PDP standards are sufficiently similar to the Residential Guidelines 2009 and that the extra level of detailed design control in the Residential Guidelines 2009 need not be duplicated in the PDP. Considering the robustness of the covenants, the DRB's track record of enforcing those in a responsible manner, and the fact that matters such as colour and roof pitch are not fundamental to achieving quality urban design outcomes, I do not recommend any changes to the PDP standards relating to setbacks, height, planting, coverage, and colours.

16.9. The notified Structure Plan replaces the G and G/F areas with proposed OSL, OSA, OSG, E, and FP-1 areas. The highway and lakeshore protection areas are retained but the rules have changed slightly and the boundary around Maori Jack Road has changed. The boundary of R(JP-2)(2A/ 2B) has changed slightly; the boundary of R(JP-1) has changed to include Lot 400 DP 378578 (being the lot approved for 7 dwellings;<sup>33</sup> the boundary of JP(SH-4) has increased slightly, and the boundary of JP(V) has changed to align with the northern cadastral boundary and the lakeshore edge. These changes are shown on the map attached as **Appendix 5** to this evidence. An assessment of the notified PDP Structure Plan, as compared to the ODP Structure Plan sought by submitters is provided in paragraphs 16.13 - 16.26 of this evidence below.

16.10. Most fundamentally, the key differences between the ODP and PDP provisions, as they affect the Jacks Point portion of the JPZ (open space areas aside), are:

- a) an amended objective, which is not as strong as that in the ODP, in terms of protection of the landscape;
- b) removal of the Outline Development Plan requirement and, with it, the ability for Council to consider appropriateness of proposed density masterplans and design guidelines;
- c) the addition of the Medium Density Residential (**MDR**) and smaller lot rules (Rule 41.4.6), which enable dispensation from many of the bulk and location rules, although I note that other than height, the ODP includes no such rules for any residential development; instead relying on the Residential Guidelines 2009 that sit outside the PDP to control the design of MDR development. In that respect, the PDP approach is not that far removed except that it also adds an extra level of certainty that MDR developments will be considered via the resource consent process. I consider this to be appropriate and more effective than relying solely on the Residential Guidelines 2009 as it provides greater certainty of a high quality outcome and, depending on the status determined by the Panel for small lot subdivision, will enable affected party approvals to be obtained where necessary;
- d) the addition of more standards for residential buildings. These are similar to but not the same as the design guidelines, noting that these do not apply to buildings that are part of a MDR or on lots smaller than 550m<sup>2</sup>. The bulk, location, and appearance of buildings that are part of an MDR or on lots smaller than 550m<sup>2</sup> are proposed to be administered instead through legal mechanisms on the titles achieved via a restricted discretionary subdivision consent or comprehensive MDR consent; and
- e) buildings within the village are permitted in the PDP whereas they are subject to controlled consents for an Outline Plan approval (including the establishment of guidelines) and for all building under the ODP. I recommend that, in the absence of the Outline Development Plan requirement, some form of comprehensive planning consent is a necessary component of any development/ building within the Village Activity Areas and furthermore, that the quality of buildings is sufficiently important to the commercial viability and amenity of the village environments that it does warrant the introduction of a controlled activity consent. This would also be the case for the Education Activity Area (and the EIC if it were to proceed). As I am not entirely confident that the requirements of the Stakeholders Deed (2003) to establish such guidelines will necessarily be upheld in perpetuity, in my opinion there is insufficient certainty that a high quality village will result in Homestead Bay without introducing such rules controlling the overall layout and design.

## **Permitted building status of residential dwellings - design control**

- 16.11. Jacks Point Landowners, JPROA (765), and Tim & Paula Williams (601) support dwellings in the existing neighbourhoods/ of residential property not requiring consent for design review purposes.
- 16.12. I support not requiring controlled consent for dwellings in the Hanley Downs and Jacks Point residential areas unless the dwellings fall within the meaning of MDR, in which case it is subject to a restricted discretionary activity consent pursuant to redraft Rule 41.4.6. I also note that, as mentioned elsewhere in this evidence, I recommend reinstating the controlled activity status for dwellings within the homesites, buildings within the village, and recreational buildings in the OSL and OSG Activity Areas.

## **The boundaries of the Hanley Downs and Jacks Point Residential Activity Areas in the PDP Structure Plan**

- 16.13. This section discusses the modified boundaries of the R(JP) and R(HD) areas, which have been 'carried over' from the ODP and their boundaries amended to varying degrees.
- 16.14. The map attached as **Appendix 5** provides a useful comparison between the OPD and PDP Structure Plans and is particularly useful for comparing the boundaries of the residential and village activity areas.

### Jacks Point Residential Activity Areas

- 16.15. The Jacks Point Landowners, Jacks Point Residents and Owners Association (765), and Tim & Paula Williams (601) seek the ODP Structure Plan be retained in the PDP, at least in respect of the Jacks Point portion of the JPZ. The main differences between the Jacks Point Residential Activity Areas shown in the PDP Structure Plan as opposed to the ODP Structure Plan are in relation to Areas R(JP-2) and R(JP-1).
- 16.16. The amended boundaries primarily raise issues of landscape and residential amenity. In saying this, I refer you to section 12 of this evidence where I discuss in more detail the relative density and residential yield enabled by the ODP and the PDP provisions and Structure Plan and explain why, in my view, the increase in density and yield is minor and will not, in and of itself, result in adverse effects on character or amenity, when compared to what is enabled under the ODP.
- 16.17. In paragraphs 4.3 – 4.10 of her evidence, Dr Read explains these changes with reference to a plan which usefully overlays the ODP and PDP Structure Plans. I agree with her summary of changes and do not intend repeating them here. She notes that in many instances the change from Open Space Activity Area to a Residential Activity Area in the PDP Structure

Plan reflects an approved resource consent and that, therefore, the landscape effects have been well considered and she is satisfied that from a landscape and visual amenity perspective, they are appropriate. She is also satisfied that all but one of the other residential expansions is appropriate with the one exception being the easterly extension of R(JP-2A) to abut Woolshed Road. In that location she prefers to reinstate the ODP alignment in the PDP.

- 16.18. I note that the amended boundaries only add 2.26 ha of (gross) residential land and will result in an estimated increase in residential yield within the R(JP) areas from a maximum 850 dwellings (as enabled by Rule 12.2.5.1(vii) of the ODP, which allows a maximum gross density of 12 dwellings/ ha) to a maximum of 882 dwellings within the R(JP) areas (as enabled under the more detailed maximum net density requirements of the PDP). I note that this extra density allowed is largely attributable to the inclusion of the 7 lot residential development approved in R(JP)-1 by the Environment Court<sup>34</sup> and the expectation that a large un-subdivided lot in R(JP)-1 will be developed.
- 16.19. I note that Dr Read does not support the extension of the R(JP)-2 area as it will, in her opinion, significantly reduce the residential amenity of those residents currently on the edge of this residential area (at her paragraphs 7.2 – 7.3). The options in this respect are to retain a strip of open space between them and the road (35 m wide at its narrowest) or for the residential area to extend to the edge of the R(HD)-E Activity Area. I have considered the benefits of increased housing and increased land efficiency from the additional 0.8 ha against the costs of reduced amenity and a change in character from the rest of the R(JP) areas which are typically set back from primary and secondary road. In the context of the fact that the land in R(HD-E) and the V(JP) will be the highest density areas of the zone and are within the foreground of these houses' view, I am of the view that the boundary of the R(JP)-2 area should remain setback from the R(HD)-E Activity Area in order to provide some relief and sense of openness when looking to the west.
- 16.20. Relying in part on Dr Read's evidence, I therefore recommend supporting the PDP boundaries of the R(JP) areas for all but the R(JP)-2 area, which I recommend be retained as per the ODP Structure Plan. I am not concerned about making a consequential amendment to the density enabled in the R(JP)-2 area and, as such, the same residential yield will be possible within this highly accessible part of the zone.

#### Hanley Downs residential areas

- 16.21. Although no detail is provided and the substance of their submissions does not suggest it is a key concern, the submissions from Tim and Paula Williams (601), Margaret Joans Williams

(605), and Sally and Clive Geddes (540) request the ODP Structure Plan be reinstated over the whole zone (as one alternative relief) and, as such, the Panel is required to consider the merits of the Hanley Downs residential areas proposed in the PDP compared with those in the ODP.

- 16.22. In this respect I note that the main spatial difference is that the Hanley Downs residential areas in the ODP followed a pod style development separated by swathes of open space, whereas the PDP dispenses with that layout in favour of showing some key fixed open space areas (**OSA**) and some indicative open space areas and enabling more connected development and road networks.
- 16.23. The size of the Hanley Downs residential area has increased significantly in the PDP by approximately 74 ha (from 60.70 ha to 134.80 ha). However, this needs to be seen in light of the fact the areas now include much of the land that will be taken up by reserves and roads. Further, the areas include a range of densities from high density residential in the area that is classified as the Hanley Downs village in the ODP (and which allows unlimited density in the ODP), to standard low density residential at most in other areas where no development is enabled in the ODP.
- 16.24. In addition, while recognising this is a de novo hearing, the boundaries of the Hanley Downs residential areas (i.e. including all R(HD) and R (HD-SH) areas) and the densities and yields enabled within those areas are generally consistent with the Council's decision on Plan Change 44 (dated 10 March 2016). While at the time of writing this evidence, that decision is still subject to appeals to the Environment Court, I note that none of those appeals relate to the Hanley Downs residential areas.
- 16.25. In summary, in my opinion the notified boundaries of the Hanley Downs residential areas are appropriate in that they provide for more efficient land use, more affordable land development, and more connected street networks, while still ensuring the most important open space swathes of land are provided in a manner that will help to integrate the Hanley Downs and Jacks Point parts of the JPZ. The exception however is that I concur with Dr Read that the indicative open space areas shown within the Hanley Downs residential areas should be shown as fixed open space (OSA). I consider that stronger provisions that ensure that these will be provided and not developed will contribute positively to the character of the Hanley Downs residential areas and will provide a common character element with Jacks Point residential areas; being a high degree of accessibility (visually and physically) to a well-connected open space network. Removing the (indicative) open spaces annotation also simplifies the Structure Plan and provisions.

16.26. I therefore recommend that the residential boundaries are retained except that the 'open spaces' shown on the Structure Plan are replaced by OSA Activity Areas.

### **The provision for medium density development (MDR)**

16.27. RCL (632) seek that the threshold of what constitutes MDR for the purpose of Rule 41.4.6 and subsequent rules to that be amended to capture any development of 2 or more units as MDR, and therefore exempting such development from the standard bulk and location rules, instead requiring a controlled activity consent to determine an appropriate outcome.

16.28. RCL (632) seeks that Rule 27.7.15 (subdivision) be amended to ensure that the assessment matters which, as notified would apply to lots created between 380m<sup>2</sup> and 550m<sup>2</sup> be amended to apply to all lots 380m<sup>2</sup> and smaller. These matters of discretion seem to have been recommended to be removed from chapter 27 through the S42A report for that hearing and, as such, I have not considered it further.

16.29. RCL (632) also seeks that Rule 41.5.5 (internal setbacks) be amended such that all buildings in the Hanley Downs residential areas are exempt from the setback rules, as opposed to only exempting those on sites less than 550m<sup>2</sup>, as in the notified PDP.

16.30. Rules 41.4.6.1 - 41.4.6.3 require consent (controlled in Hanley Downs and restricted discretionary activity in Jacks Point) for medium density residential development with 'medium density residential' being the development of 3 or more dwellings or density of less than 380m<sup>2</sup>, except that if the site is less than 550m<sup>2</sup> then landuse consent is not required under this rule as it is assumed that matters of control/ discretion will have all been considered as part of the subdivision. Then Rules 41.5.5.2, 41.5.12.4, 41.5.12.5, 41.5.15.1 and 41.5.15.2 exempt lots smaller than 550m<sup>2</sup> (**small lot**) from the setback rules; exempt small lot and MDR from the recession plane rules; increase the allowable building height for small lot and MDR development from 8 to 10m; in Jacks Point, increase the allowable building coverage for MDR to 55%; and in Hanley Downs, increase it to 70% for MDR and 100% or small lots.

16.31. In my opinion these rules are highly complex; providing for exemptions and/ or different rules on the basis that matters of external appearance, access, carparking, and landscaping will have already been decided through Rule 41.4.6. While both Mr Compton-Moen and I agree in principle with the general approach that at a certain density of residential development, bulk and location can be better determined on a case by case basis, I have recommended the following amendments to the rules to ensure they are effective at implementing the recommended revised objective of an integrated well designed settlement and, in particular, Policy 41.2.1.14 to enable MDR that is of a scale and form that is appropriate to the character of the Activity Area. In summary, I recommend:

- a) amending the objective to specify well designed medium density housing opportunities as a key outcome;
- b) simplifying the rules such that any exemptions from the standard rules are for sites less than/ density greater than 380m<sup>2</sup> (as opposed to 380m<sup>2</sup>/ 550m<sup>2</sup> as in the PDP). This is consistent with the threshold in the reply version of Chapter 8 (for the PDP low density residential zone), is supported by Mr Compton-Moen's evidence, and is far less complicated;
- c) exempting small lot/ medium density residential development as outlined above from the internal setback rules and the recession plane rules. I note that buildings on lots less than 380m<sup>2</sup> or at a density greater than 1 per 380m<sup>2</sup> will not need to comply with the internal setbacks but all others will, which goes part way to addressing the relief sought by RCL yet ensures that the matter is instead addressed comprehensively through the subdivision or MDR consent stage);
- d) amending Rule 41.4.6 to make medium density residential a restricted discretionary (rather than controlled) activity in Hanley Downs, consistent with the rule for the R(JP) Activity Area;
- e) amending Rule 41.4.6 by adding control/ discretion over bulk and location, and effects on adjacent sites that are not part of the MDR development being applied for, and to include the requirement to ensure legal mechanisms. Without this the Council will have no control over such matters and there could be some quite serious effects on neighbours (such as a 10m high building on the boundary of a low density property);
- f) applying a lesser (55% not 70%) building coverage to small lot and medium density residential development; and
- g) amending reply version subdivision rules 27.5.15, 27.6.1, and 27.7.11.3 by adding a further matter of discretion and policies in order to acknowledge that sites under 380m<sup>2</sup> in size are anticipated in Hanley Downs and that the establishment of legal mechanisms which establish the bulk, location and design of built form is fundamental to obtaining approval for smaller sites in both the Hanley Downs and Jacks Point residential areas.

16.32. I have relied on the submissions of RCL (632), which seeks that notified rule 27.7.15 applies to sites 380m<sup>2</sup> or smaller rather than those between 380m<sup>2</sup> and 550m<sup>2</sup> to remove the 550m<sup>2</sup> threshold and on the submissions by the Jacks Point Landowners, Sally and Clive Geddes (540), Margaret Joans Williams (605), and Tim and Paula Williams (601) to apply it consistently throughout both chapters 41 and 27. The scope to do so stems from those submitters' concerns about the different built outcomes enabled under the PDP vs. under the ODP and their (and others') support for enabling dwellings as a permitted (as opposed to controlled) activity. Requiring all sites over 380m<sup>2</sup>/ densities under 380m<sup>2</sup> to comply with a

set of relatively consistent performance standards and dealing with more dense housing through a more rigorous (but more costly and arguably less certain) restricted discretionary consenting process is considered to better meet the submitters' concerns than the notified version.

### **Residential density and overall residential and visitor accommodation yield**

- 16.33. QLDC (383) seeks that the intent of 41.5.8.2 be clarified and this is supported by Jacks Point (FS1275).
- 16.34. Jacks Point Residential No.2 et al (856) seek to amend the average density of residential units in Residential Areas in order to correct errors in the notified version of the Density Rule 41.5.8 that resulted:
- a) from rounding the average density to the nearest whole number;
  - b) miscalculating the areas in R(JP-SH – 4) on the basis of the entire (gross) area of land within this pod which would provide for a much lower density of development than intended (12.13 units/ha). The submitter states that the change sought for R(JP-SH – 4) will bring the density in line with the current approved version of the Density Master Plan; and
  - c) in the notified version, when calculating the development capacity within the existing residential activity areas, any "Comprehensive" (multiple unit development) sites that contained one existing unit were counted as only one unit. This is also incorrect as Comprehensive development under the operative ODP provided for two residential units and the figures have been updated to reflect this. This has resulted in changes to the upper density range for R(JP) – 1.
- 16.35. The Jacks Point Landowners, JPROA (765), and Tim & Paula Williams (601) express concerns about the apparent significant increase in density enabled in the Jacks Point residential activity areas of the PDP, as compared to the ODP.
- 16.36. Rule 41.5.8 of the PDP states minimum and maximum densities that shall be complied with; otherwise development is a restricted discretionary activity.
- 16.37. Attached as **Appendix 6** is a table comparing the respective maximum residential unit yield enabled in the various residential activity areas in the ODP and PDP, along with an estimate of the number of residential and visitor accommodation units that might be developed in the mixed use villages and EIC and in the FP-1 and FP2 areas. I note that I prepared this table based in part on information provided to me by the primary author of the notified chapter 41 (i.e. Jacks Point).

- 16.38. In summary, it is estimated that a maximum of 5,277 residential unit equivalents are enabled by the PDP, comprising 3,426 units in the residential areas, 36 residential units in the Homesites, 27 residential units in Homestead Bay residential areas, 17 residential units and 17 visitor accommodation units in the Farm Preserve areas, and 1,788 residential or visitor accommodation units in the villages and EIC areas.
- 16.39. I note that there is unavoidable uncertainty as to how the available GFA in the villages and the EIC will be developed (e.g. be it commercial, community, or residential) and that the total number of residential and/ or visitor accommodation units could well increase beyond the approximately 900 residential and 900 visitor accommodation units that I have estimated might occur in the villages and EIC. For example, if hotels, rather than apartment type accommodation, is built in the villages then there will be more visitor accommodation units but not necessarily any more visitor beds/ capacity.
- 16.40. From the conclusions reached in **Appendix 6**, I note that:
- a) while the densities enabled in the Jacks Point residential areas appear vastly different in the PDP compared with the ODP this is largely due to the change in expression from a gross density to a net density and in part due to the slight increases in the size of three of the residential areas;
  - b) I am satisfied that there is only a minor increase in density and total maximum yield (from 855 - 905) enabled on the Jacks Point residential areas when compared with what can be undertaken under the operative gross density of 12 dwellings/ ha;
  - c) I am satisfied that the Jacks Point residential activity area densities reflect what has already been approved through the density master plan (RM160426) except that the relatively undeveloped JP(SH-4) area could arguably result in greater density and a higher yield (i.e. 23 more dwellings) under the PDP rules, than has been approved in the density masterplan;
  - d) once one includes the extent of housing that could occur under the ODP in the Hanley Downs Village (which is absorbed into the Hanley Downs residential area in the PDP) there is only a minor increase in density and overall yield enabled in the Hanley Downs residential areas when compared to the ODP; and
  - e) the densities and overall maximum theoretical yield enabled in the Hanley Downs residential areas are similar to those determined through the Plan Change 44 decision (dated March 2016) and I understand the matter of density in those areas to be beyond challenge and no submitter to the PDP has directly submitted on that matter.
- 16.41. In my view the more detailed specification of where the density will be located (as opposed to relying on an Activity Area-wide density provision of 10 - 12 dwellings per (gross) hectare in

the ODP provides greater certainty in terms of the physical outcome and range of density that will result. For example in the ODP there is no certainty that any higher density would be delivered whereas in the PDP, the developer is required to deliver a minimum yield (e.g. of at least 25/ ha in R(HD-E) which provides an assurance of some higher density and greater affordability.

- 16.42. On balance, with the safeguards of the restricted discretionary activity subdivision and MDR consent requirements for higher density and multi-unit development, in principle I support the densities generally as notified and further support amending Rule 41.5.8 as sought by Jacks Point Residents No. 2 et al (856).
- 16.43. In response to QLDC's submission regarding the intention of Rule 41.5.8.2, as the rule (41.5.8) clearly relates to average density within each Activity Area and not to site density, I consider that Rule 41.5.8.2 is superfluous and recommend that it be deleted.

#### **Coverage in the Hanley Downs Residential Activity Areas**

- 16.44. In the PDP, in the R(JP) areas the maximum coverage is 45%, except that this increases to 55% where 3 or more dwellings are proposed or density is less than 380m<sup>2</sup>, and in the R(HD) areas, the maximum coverage is 50% except that this increases to 70% where the density is less than 380m<sup>2</sup> and there is no limit on building coverage on sites smaller than 550m<sup>2</sup>. The residential guidelines for the Jacks Point portion of the Zone impose a maximum coverage of 45% or 300m<sup>2</sup>; whichever is less.
- 16.45. Submissions from Tim and Paula Williams (601), Margaret Joans Williams (605), and Sally and Clive Geddes (540) seek the reinstatement of the ODP provisions and raise concerns that the proposed provisions, coupled with the lack of design guidelines for the Hanley Downs Residential areas, will result in poor outcomes within Hanley Downs residential areas. In response and relying in part on Mr Compton-Moen's evidence, I am of the opinion that:
- a) it is necessary to impose a coverage rule for all residential development, regardless of lot size or the density of development;
  - b) building coverage is a key determinant of character and residential amenity and will help to integrate the Jacks Point and Hanley Downs portions of the JPZ by ensuring a minimum amount of private open space is assured in both;
  - c) the existing guidelines for the Jacks Point portion of the JPZ may not be effective at ensuring appropriate coverage into the future, in that they are non-statutory and can be amended without Council approval;

- d) unlike in respect of setbacks and recession planes, relying solely on covenants established at the time of subdivision to ensure appropriate coverage (which will encourage 2 storey development and better landuse efficiency) is too uncertain;
- e) the 45% coverage is consistent with the coverage proposed in the reply version of chapter 8 (medium density residential) and the coverage stipulated in the approved Jacks Point Residential Guidelines 2009 and I consider it is appropriate for all residential Activity Areas, including within Hanley Downs, where the site size/ density is greater than 300m<sup>2</sup>/ 380m<sup>2</sup>; and
- f) the maximum allowable building coverage should be lower for sites or multi-unit developments of a size/ density less than 380m<sup>2</sup> for the reasons cited in Mr Compton-Moen's evidence and, in this respect, I support the 55% coverage included in the PDP, together with a restricted discretionary activity subdivision process (or landuse consent where this precedes subdivision).

16.46. Having recommended simplifying the complex PDP rules, which provided for dispensations and/ or different rules variously for MDR and development of varying densities and site sizes as outlined above, I now further recommend amending the redraft rule 41.5.15 to apply the more onerous 55% coverage rule to all sites/ developments of a density less than 300m<sup>2</sup>.

### **Building height in Hanley Downs**

16.47. RCL (632) seeks the deletion or improvement of 41.5.12 (recession planes). This is opposed by Jacks Point Residents Group,<sup>35</sup> Jacks Point Residents and Owners Association (FS1277), Jacks Point (FS1275), and MJ and RB Williams and Brabant (FS1283).

16.48. The notified recession plane rule only applies to the Hanley Downs Residential Activity Area. By comparison, there is no recession plane rule in the Jacks Point Residential Activity Area rules or the Jacks Point Residential Guidelines 2009.

16.49. I agree that the Rule 41.5.12 is overly restrictive, especially in a medium density residential context, and recommend that it be amended to be consistent with the recession plane rule in the medium density residential zone provisions of the PDP (reply, chapter 8), which is more permissive and more effects-based in that different angled recession planes are applied to the various boundaries depending on the orientation of the site.

### **Setback rules in Hanley Downs**

<sup>35</sup> See section 9 of this evidence.  
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- 16.50. RCL (632) seeks to amend the road setback rule (41.5.5.4.b) that relates exclusively to the Hanley Downs Residential Activity Area from 4.5m to 3m. This is opposed by Jacks Point Residents Group,<sup>36</sup> Jacks Point Residents and Owners Association (FS1277), Jacks Point (FS1275), and MJ and RB Williams and Brabant (FS1283). As drafted, the rules require a 4.5 m road setback for residential dwellings in the Hanley Downs Residential Activity Area (unless exempt due to being an MDR development or on a lot smaller than 550m<sup>2</sup>) and no setback in the Jacks Point Residential Activity Area, presumably on the basis that the (current approved) residential design guidelines that pertain to that area require at least a 2m road setback.
- 16.51. I recommend, relying in part on Mr Compton-Moen's evidence, that Rule 41.5.5.4.b is amended to require buildings to be setback at least 3m (rather than 4.5m) from the front boundary but that garages shall be setback at least 4.5m. I consider this to be positive in that it will discourage garage doors from dominating the streetscape; enable more efficient landuse; encourage more active interface between the dwelling and the street; and be consistent with Crime Prevention Through Environmental Design (**CPTED**) principles.
- 16.52. RCL (632) also seek that the internal setbacks (Rule 41.5.5.2) in the Hanley Downs Residential Activity Areas and in both Village Activity Area(s) be reduced to 1m. Relying in part on Mr Compton-Moen's evidence, I am of the opinion that 1m setbacks in the residential areas will not result in a positive outcome but that it is appropriate in the village Activity Area where low and medium density stand-alone housing is to be discouraged. As such, I have recommended excluding the buildings in the Village Activity Area from having to provide internal setbacks and, relying on Jacks Point Landowner submissions which seek reinstatement of the ODP provisions (which include no setbacks) and changes to make the Jacks Point village commercially viable and well designed, have further recommended that there be no internal or road setbacks in the Village Activity Area.
- 16.53. Furthermore, I am relaxed about retaining the two options provided in the setback rule (i.e. parts a) and b) of that rule) as it relates to the residential areas. Even though b) is inconsistent with the Jacks Point residential guidelines, I see this as being of little consequence. In saying this I note that under the rules recommended through this evidence:
- a) all MDR developments of 3 or more units will undergo a comprehensive planning consent pursuant to redraft Rule 41.4.6 and discretion has been recommended to include effects on neighbouring sites to ensure their amenity is not adversely affected; and
  - b) individual developments on sites smaller than 300m<sup>2</sup> will be exempt on the basis that covenants will dictate building location.

## **Fencing in Hanley Downs**

- 16.54. RCL (632) seeks to delete Rule 41.5.7. This is opposed by Jacks Point Residents and Owners Association (FS1277), Jacks Point Residents Group,<sup>37</sup> MJ and RB Williams and Brabant (FS1283) and Jacks Point (FS1275).
- 16.55. RCL (632) seek the deletion of Rule 41.5.7.2, relating to fencing, as it claims it is more efficient to regulate it through covenants and a Design Review Board. In response, in the absence of any certainty that such covenants will be established on all titles in the Hanley Downs residential Activity Area it is my view that a rule relating to fencing in front yards in the Hanley Downs residential areas is appropriate. I rely in part on Mr Compton-Moen's evidence in coming to this conclusion and concur with the reasoning he provides. To put this in context I note that the Jacks Point Residential Design Guidelines 2009 that apply in the Jacks Point portion of the zone require street boundary walls to be a maximum height of 1.5m dry stack and constructed of locally sourced schist stone with vertical capping in the agricultural stone wall style and that for 25% of its length it may be 1.8m high along that street. I note however, that such walls exist in only some parts of the Jacks Point portion of the zone.
- 16.56. I have recommended that Rule 41.5.7.2 be amended to ensure an appropriate fence height while enabling privacy for outdoor living space. The rules are a relaxation of the notified rules but still prevent very high blank solid fences, which can have highly adverse effects on amenity and public safety.

## **17. ISSUE 8 - MISCELLANEOUS**

### **General support**

- 17.1. Kain Fround (19) generally supports the zone.

### **Providing for a range of housing**

- 17.2. The Jacks Point Landowners and Westenberg Family Trust (787) consider that the proposed provisions do not achieve the goal of providing a range of housing. This is opposed by Jacks Point (FS1275) and Bravo Trustee Company (FS1219) and supported by Jacks Point Residents and Owners Association (FS1277), Peter & Carol Haythornwaite (FS1096), Christine & Neville Cunningham (FS1108), and the Jacks Point Residents.<sup>38</sup>

<sup>37</sup> See section 9 of this evidence.

<sup>38</sup> Greig Garthwaite (FS1073), Ben and Catherine Hudson (FS1103), Lingasen and Janet Moodley (FS1114), Stephen and Karen Pearson (FS1116), BSTGT Limited (FS1122), Murray and Jennifer Butler (FS1192), Grant and Cathy Boyd (FS1218), David Martin and Margaret Poppleton (FS1225), James and Elisabeth Ford (FS1227), Kristi and Jonathan  
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- 17.3. In my opinion, as outlined in some detail in this evidence, I consider that the more specific density provisions, together with the provision of additional homesites and the restriction on retail and commercial within the Village Activity Area (which will, in turn, encourage more high density residential development in the villages) will successfully provide a range of housing types.
- 17.4. Karen Page (316) states that residential flats are not anticipated in Jacks Point and indicates that this is supported by covenants on titles that prevent this. She goes on to suggest that the rules should be aligned and not permit such flats. This is opposed by Bravo Trustee Company (FS1219). From the titles I have perused I cannot see that they prevent the establishment of a residential flat on a site and therefore, it may be useful for Ms Page to further explain her submission at the hearing. Nevertheless, even if such covenants do exist on some titles, I do not consider it necessary to prevent residential flats in the PDP but to the contrary, consider that they add positively to housing choice, affordability, and community safety. As such, I do not recommend amending the provisions to require resource consent for residential flats.

### **Non-notification rules**

- 17.5. Jacks Point Residential No.2 Ltd, et al (762) seeks changes to the notification rule (41.6) to 'notice may be served' instead of 'shall'. This is supported by Jacks Point Residents and Owners Association (FS1277) opposed by Harris-Wingrove Trust (FS1316).
- 17.6. While I understand the submitter's concern with the wording and acknowledge that the various chapters variously use the words "shall" and "will", the use of the word "may" is inconsistent with the wording used in other chapters of the PDP (e.g. Rule 13.6.3 of the Wanaka Town Centre reply chapter) and I recommend retaining Rule 41.6 as notified for consistency purposes. I also note this part of the rule is simply re-stating the requirements of the RMA (i.e. that if a party is deemed adversely affected and their written approval has not been provided then they shall be served notice).
- 17.7. I also refer to the submission relating to notification in paragraphs 14.2 - 14.14 of this evidence in relation to the NZTA as an affected party.

### **Design guidelines**

- 17.8. QLDC (383) seeks to delete reference to design guidelines in the chapter (opposed by Jacks Point (FS1275) and Jacks Point Residents and Owners Association (FS1277). Karen Page (361) seeks to ensure Council approval for any changes to the design guidelines.
- 17.9. The design guidelines are only referenced in the PDP in the purpose and in relation to the Lodge Activity Area. As the reference in the purpose is to non-statutory guidelines and such guidelines do exist and perform a fundamental function, I propose that the reference be retained in the purpose.
- 17.10. In relation to the Lodge Activity Area I recommend the reference be removed as, given their non-statutory nature, they do not contribute to the effectiveness of the rule.

### **Drafting Issues**

- 17.11. RCL (762), Jacks Point Residential No.2 Ltd et al (632), and Wild Grass Partnership (567) seek to change the text from 'to all of the following' to 'discretion is restricted to'. This is supported by FS1277 (Jacks Point Residents and Owners Association) opposed by FS1316 (Harris-Wingrove Trust).
- 17.12. I agree and recommend that the amendment be made throughout and note that this is consistent with the approach taken in the Business chapters (Hearing Stream 8).

### **Effects on Residents and Neighbouring Properties**

- 17.13. James & Elisabeth Ford (185), Julie & William Jamieson (207), Alpine Trust (603), Westenberg Family Trust (787) and the Jacks Point Landowners seek a new rule that specifically refers to an assessment of effects (**AEE**) on neighbouring properties of resource consent applications so that their views can be considered. This is supported by the Residents of Jacks Point,<sup>39</sup> and Christine and Neville Cunningham (FS1108), and Peter & Carol Haythornthwaite (FS1096). It is opposed by Jacks Point (FS1275) and Bravo Trustee Company (FS1219).
- 17.14. In my opinion, such a rule is not appropriate in a District Plan as an AEE will always be undertaken pursuant to Clause 2, Schedule 4 of the RMA in relation to any application for resource consent and this obligation should not be duplicated in the PDP.

39 Greig Garthwaite (FS1073), Ben and Catherine Hudson (FS1103), Lingasen and Janet Moodley (FS1114), Stephen and Karen Pearson (FS1116), BSTGT Limited (FS1122), Murray and Jennifer Butler (FS1192), Grant and Cathy Boyd (FS1218), David Martin and Margaret Poppleton (FS1225), James and Elisabeth Ford (FS1227), Kristi and Jonathan Howley (FS1237), Mark and Katherine Davies (FS1247), Sonia Voldseth & Grant McDonald (FS1250), Joanna and Simon Taverner (FS1293), Thomas Ibbotson (FS1299), John and Mary Catherine Holland (FS1321)

## Minor amendments to the Structure Plan

- 17.15. Jacks Point Residential No.2 et al (762) seeks minor amendments to the Structure Plan boundaries of the Village (JP) and R(JP-2A) activity areas. These are supported by Jacks Point Residents and Owners Association (FS1277) and opposed by Vivo Capital Limited (FS1346) and Harris-Wingrove Trust (FS1316).
- 17.16. While the submission makes it clear that minor changes have been sought to the R(JP-2A) and V(JP) Activity Areas, due to the scale of the Structure Plan provided with the submission, it is unclear exactly what the changes involve. Due to the lack of clarity, it is recommended that the Structure Plan not be amended at this stage in response to the submission and the submitter is invited to provide more detail on this at the hearing.

## 18. CONCLUSION

- 18.1. On the basis of my analysis within this evidence, I recommend that the changes within the revised version in **Appendix 1** are accepted.
- 18.2. The changes will improve the clarity and administration of the Plan; contribute towards achieving the objectives of the PDP and Strategic Direction goals in an effective and efficient manner, and give effect to the purpose and principles of the RMA.



**Vicki Jones**  
**Consultant Planner**  
**17 January 2017**