

**BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act  
1991

**AND**

**IN THE MATTER** of the Proposed District Plan Visitor  
Accommodation Variation, Chapter  
38 Open Space and Recreation and  
Chapter 31 Signs

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**Statement of Evidence of Christopher Bruce Ferguson**

Darby Planning LP (#2376)  
Henley Downs Farm Holdings Ltd and Henley Downs Land Holdings Ltd  
(#2381)  
Mount Christina Limited (#2383)  
Glendhu Bay Trustees Limited (#2382)  
Glencoe Station Limited (#2379)  
Soho Ski Area Limited, Blackmans Creek No.1 LP (#2384)  
Treble Cone Investments Ltd (#2373)

**6 August 2018**

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**anderson  
lloyd.**

## INTRODUCTION

### Qualifications and Experience

- 1 My name is Christopher Bruce Ferguson. I hold the position of Associate Partner with the environmental consultancy firm Boffa Miskell Limited (**Boffa Miskell**).
- 2 My qualifications and experience are detailed within my evidence presented to the Stream 14 hearing, dated 13 June 2018.

### Scope of Evidence

- 3 I have been asked to prepare evidence on the new Visitor Accommodation provisions, proposed as a variation to the Proposed District Plan ('PDP'), the range of changes proposed through the introduction of the Open Space and Recreation Chapter 38 and the new Signs Chapter 31 by Darby Planning LP (#2376) Henley Downs Farm Holdings Ltd and Henley Downs Land Holdings Ltd (#2381) Mount Christina Limited (#2383) Glendhu Bay Trustees Limited (#2382), Glencoe Station Limited (#2379), Soho Ski Area Limited, Blackmans Creek No.1 LP (#2384) and Treble Cone Investments Ltd (#2373).
- 4 For each of the above clients I was involved in the initial assessment of the notified provisions, and the preparation of submissions and further submissions.
- 5 This brief of evidence consists of three sections to present a structured assessment of the issues, as follows:
  - (a) Issue 1 – Short Stay Visitor Accommodation within the Jacks Point Zone
  - (b) Issue 2 – Short stay Visitor accommodation within the rural and rural lifestyle Zones
  - (c) Issue 3 – Chapter 38 Open Space and Recreation Zone
  - (d) Issue 4 – Chapter 31 Signs
- 6 In preparing this evidence I have reviewed:
  - (a) The Otago Regional Policy Statement 2013 (**ORPS**);
  - (b) The proposed Otago Regional Policy Statement (**pORPS**);
  - (c) The Council's decisions on Stage 1 of the PDP, including Chapter 3 Strategic Directions and Chapter 6 Landscapes;
  - (d) The section 32 report associated with the visitor accommodation variation, Chapter 38 Open Space and Recreation and Chapter 31 Signs;

- (e) The relevant submissions and further submissions of other submitters; and
- (f) The Council s.42A Reports prepared in relation to the visitor accommodation variation, Chapter 38 Open Space and Recreation and Chapter 31 Signs, including the evidence of Ms Bowbyes, Mr Heyes, Ms Edgley and Ms Leith.

## **BACKGROUND TO SUBMITTERS' INTERESTS**

7 Darby Planning LP is a Queenstown and Auckland based master planning and design firm specialising in large-scale project work within New Zealand. Within the Queenstown Lakes area, it leads the design and planning of many projects that are addressed through this brief of evidence through a number of the related entities. These include:

- (a) Henley Downs Farm Holdings Ltd and Henley Downs Land Holdings Ltd (collectively referred to as Jacks Point) as one of the landowners and developers of the Jacks Point Resort Zone and who retain significant land interests within this area
- (b) Mount Christina Limited are the owner of 28 ha of land located within the rural residential and rural zones on the Glenorchy – Paradise Road, approximately 12km north of Glenorchy
- (c) Glendhu Bay Trustees Limited are the owners of land located at Glendhu Bay, Wanaka containing a development consented through the Environment Court in 2012 to undertake the construction, provision and use of:
  - (i) An 18 hole championship golf course located either side of the Mt Aspiring Road;
  - (ii) A series of lakeside buildings, including:
    - a club house with restaurant and cafe
    - a jetty to facilitate public access to the building from the water
    - twelve visitor accommodation units, spread over three buildings
  - (iii) 42 residences/visitor accommodation units, to be located on the rolling terrace to the south of the golf course, each set on an area of land between 3,525 m<sup>2</sup> and 8,719 m<sup>2</sup>;
  - (iv) Ecological enhancement of approximately 65 hectares in accordance with a revegetation strategy including planting of locally appropriate native plants in the golf course and around the proposed houses;

- (v) Covenanted areas from which stock are precluded to allow natural revegetation to occur;
  - (vi) Enhanced public access
- (d) Glencoe Station Limited are the owners of approximate 125 ha of land located on the Crown Terrace on Glencoe Road
  - (e) Soho Ski Area Ltd operates the Soho Ski Area located on crown land on the south and western flanks of Mount Cardrona under a Recreation Permit, along with Blackmans Creek No. 1 LP being the owners of an adjoining freehold parcel of land containing part of the SASZ and extending to the Cardrona Valley Road.
  - (f) Treble Cone Investments Ltd owns and operates the Treble Cone ski area located on crown land approximately 23km from Wanaka Township.

### **EXECUTIVE SUMMARY**

- 8 My evidence on the visitor accommodation variation supports the addition of new definitions for Residential Visitor Accommodation and Homestays and associated standards for these activities within residential areas. Applying the same rules and standards within the Jacks Point Village will create distortions given the status of Visitor Accommodation and the nature of the mixed-use environment anticipated for this area.
- 9 For those members of the Hearings Panel unfamiliar with the Jacks Point Zone, it is one of the special zones developed at the time of the first-generation District Plan where a structure plan was established to identify appropriate areas for development and to ensure the long term comprehensive and integrated management of the zone. At its core is the Jacks Point Village, designed to be a vibrant mix-used hub for this community. Surrounding the Village are a range of residential activity areas designed to accommodate a diversity of living accommodation. The Lodge Activity Area is located on elevated topography along the northern flanks of the Jacks Point landform and provides exclusively for Visitor Accommodation activities. All of the development areas are set within a framework of open space.
- 10 The structure of the Jacks Point Zone treats each of the activity areas much like zones, in that each are supported by policies and rules with environment outcomes suitable for their location and intended purpose. As the names imply, the residential activity areas are designed to provide for housing, the Lodge for visitor accommodation and the Village as a mixed-use hub.

- 11 In this context and with reference to the provisions established for the Jacks Point Village and the Lodge, I consider that both Homestays and RVA should be permitted and not subject to further standards (as proposed within the residential areas).
- 12 I raise concerns with the proposed changes to the definition of Visitor Accommodation that in combination with the creation of the new definitions of Homestays and RVA, would create for many zones a lack of policy support for these activities. Fundamentally, I consider both forms of letting occurring with residential units to be a particular form of visitor accommodation and that the variation has not provided the necessary policy support for the new standards within all zones. To resolve this issue, my evidence is that the definition of Visitor Accommodation should include RVA and Homestays that are compliant with the relevant standards specified with the relevant zones so that any that fail to comply with those standards can be supported by the existing policies that apply to Visitor Accommodation.
- 13 I am concerned at the way in which the economic analysis undertaken by the Council is being used to support the proposed changes. That analysis shows a significant increase in the supply of Visitor Accommodation occurring through current construction now underway, the impact of which on the demand for the letting of accommodation within residential units is not known. The evidence demonstrates sufficient land capacity for housing, but significant shortfalls for visitor accommodation. Against a backdrop of the benefits of RVA in economic and employment terms, constraining the supply of RVA does not in my view adequately respond to the requirements of the NPS on Urban Development Capacity – which considers the adequacy of land supply for both housing and business purposes. Additionally, there are information gaps relating to the 28% of the district's housing stock that is vacant and to what extent that is being used to add to the supply for accommodation purposes, rather than diminishing housing availability (as has been assumed).
- 14 The requirements of s32 establish important checks also in relation to the identification and assessment of the economic and employment implications (good and bad) from the provisions. Despite undertaking a comprehensive analysis of the economic and employment benefits of the status quo, a similar level of analysis has not occurred of the impact of the proposed restrictions on RVA and Homestays. With an upswing in the supply of commercial accommodation and the lack of analysis of the economic and employment impacts of the proposed new provisions, I consider that the Panel are lacking important information to reach decisions on the appropriateness of the visitor accommodation variation.
- 15 My analysis of the rural zone provisions finds that there is no basis in policy for this zone being regarded as an area for the supply of housing. Regulation designed to

protect the availability of housing within this area is not supported by the policies of the rural zone.

- 16 Within the rural residential and rural lifestyle Zones, my evidence is that these areas provide generally large sites within rural settings where short stay accommodation is appropriate and is not incompatible within the anticipated outcomes for these areas. Given the social and economic value of these activities, the option of further regulating RVA and Homestays within these zones is of marginal utility.
- 17 The Council's evidence for the Open Space and Recreation Chapter helps to clarify the intended relationship to the policies and rules within Chapter 6 (Landscapes). I support the addition of a new policy to provide for the necessary integration of the Open Space and Recreation Chapter into Chapter 6. A number of the other changes made to Chapter 6 at the time of notification are no longer necessary (or supported) and require deletion.
- 18 The addition of a new Informal Recreation Zone within Jacks Point lacks analysis of the alternative of retaining this land within the Jacks Point Zone, including the policy support that exists to implement the objectives for this zone. The creation of a new zone for this isolated area of Council reserve (also designated) is complex and confusing given that the provisions do not amend the Jacks Point Structure Plan. Having considered the importance of this open space to the policies and objectives for Chapter 41, I consider retaining it within the framework of Chapter 41 the most appropriate option that avoids the complex and confusing arrangement of zones, structure plans and designations that are proposed by the Council. In this case I consider an exemption to the general approach to inclusion of reserve land within the Open Space and Recreation Zone appropriate as a one-off case because of the reserve's somewhat unique relationship to the structure plan and zone around it.
- 19 My evidence on Chapter 31 Signs supports recognition of the particular signage requirements for the SASZs. I support many of the changes proposed within the Council's s42A report in this regard together with a small number of changes to the table to clarify the relationship of the standards to the SASZs. My evidence is that the commercial and local servicing function of Jacks Point Village are broadly similar to the standards set out for commercial areas and would be best grouped with these provisions.

**BACKGROUND TO VISITOR ACCOMMODATION UNDER PDP STAGE 1**

- 20 The notified version of the definition of visitor accommodation<sup>1</sup> defines this activity as being 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 includes the commercial letting of a residential unit. That definition is the same as that under the operative District Plan and created through Plan Change 22 Definition of Visitor Accommodation.<sup>2</sup>
- 21 For the purposes of this definition, the commercial letting of a residential unit 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.
- 22 The notified definition of Homestay means a residential activity where an occupied residential unit is also used by paying guests. Under this regime, the use of a residential unit for visitor accommodation was structured to provide for either:
- (a) Letting a property for one or two nights per year;
  - (b) Letting within an established residential unit as part of a residential activity as a Homestay where owners followed a process for registration with the Council to become a Registered Homestay and any consequential adjustment of rates; or
  - (c) Letting of an entire residential unit for the accommodation of a household of visitors for between 3 and 90 nights, where owners also followed a process with the Council to become a Registered Holiday Home.
- 23 Where the exclusionary criteria are met, short term letting remained as residential activities and does not fall within the definition of Visitor Accommodation. Within most residential zones that means a limited form of visitor accommodation is enabled as a permitted activity.

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<sup>1</sup> The Panel did not issue a recommendation on the Stage 1 PDP decision because of the variation.

<sup>2</sup> Queenstown Lakes District Council, Decision on Plan Change 22, 22 November 2008.

- 24 In summary, the visitor accommodation regime that was promulgated through Stage 1 of the PDP as notified prior to the Variation had the same characteristics of the regime under the operative District Plan and that provides:
- (a) Letting of individually owned residential units for visitor accommodation purposes
  - (b) A limitation of 5 guests within a Homestay
  - (c) Parameters for a minimum and maximum duration of stay (3 – 90 nights)
  - (d) A process for adjusting rates to recovery of the addition demand of such activities on Council infrastructure through registration with the Council

#### **Chapter 41 Jacks Point Zone**

- 25 The Council's decision version of Chapter 41 Jacks Point Zone provides for the establishment of residential activities and visitor accommodation within the Jacks Point Village as a controlled activity, provided the activity is in accordance with a Comprehensive Development Plan. The purpose of that rule is primarily to manage the spatial layout of development across the Village. Under the regime relating to visitor accommodation under Stage 1 of the PDP, letting of any residential units for visitor accommodation purposes within the Village activity areas was provided for as a permitted activity where the criteria detailed in paragraph 23 are met.
- 26 Within the residential activity areas, apart from Activity Area R(HD) – E Visitor accommodation, Visitor Accommodation is a discretionary activity as it is not provided for explicitly<sup>3</sup> and smaller scale the letting of an existing residential unit for visitor accommodation is permitted, subject to the criteria in paragraph 23 above.

#### **Chapter 21 and 22 Rural, Rural Residential and Rural Lifestyle Zones**

- 27 Visitor Accommodation is listed within the Rural, Rural Residential and Rural Lifestyle Zones as a discretionary activity,<sup>4</sup> with the same criteria as that detailed above enabling the letting of residential units for accommodation.

#### **THE VISITOR ACCOMMODATION VARIATION**

- 28 The variation seeks to address the management of the short term letting of residential units for accommodation through the imposition of restrictions. These restrictions included the creation of a new definition of Residential Visitor Accommodation, relating to the use of a residential unit by paying guests where the length of stay is less than 90

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<sup>3</sup> Rule 41.3.2.1, Chapter 41 Jacks Point Zone, Decisions Version

<sup>4</sup> Rule 21.4.19 and Rule 22.4.10, PDP Decision Version

days, and the modification to the definition of Homestay, meaning the use of a residential unit or flat by paying guests at the same time as its occupation as a residential activity.

- 29 The definition of Visitor Accommodation was also modified to exclude the use of a residential unit or flat for accommodation purposes i.e. Residential Visitor Accommodation and Homestay.
- 30 Within each of the Rural and Residential zones<sup>5</sup>, rules and standards were proposed to restrict RVA for a limited number of days per year (no more than 28), for a limited number of lets (no more than 3) and restrictions on the number of vehicle trips. Homestays were listed as permitted activities for up to 5 paying guests, also with limitations on vehicle trips. Any RVA or Homestay falling outside of the standards within each zone was classified as a discretionary or non-complying activity.
- 31 Within the High Density Residential, Visitor Accommodation Sub-Zones or Transitional Commercial or Town Centre Overlays, and Business Mixed Use Zones, new rules were proposed that permitted RVA for 28 days per stay and a limitation of 3 lets and restrictions on vehicle movements. Homestays within these zones were listed as permitted activities up to 5 paying guests per night and restrictions on vehicle trips. Any RVA or Homestay falling outside of the standards within these zones was classified as a controlled or restricted discretionary activity.
- 32 The variation did not alter the status of Visitor Accommodation generally within the zones to which it applied.
- 33 The variation proposed the addition of new objectives and policies for RVA and Homestays within urban areas, including the low, medium and high density residential zone, the Arrowtown Residential Historic Management Zone, Large Lot Residential Zone, but not within the Business Mixed-Use Zone, Rural Zone, Gibbston Character Zone, Jacks Point Zone, Waterfall Park Zone and Millbrook Zone.

## **STATUTORY FRAMEWORK**

- 34 Section 79 provides for a review of district plans in the manner set out in Part 1 of Schedule 1 of the Resource Management Act 1991 (**RMA**).
- 35 In changing its district plan, the Council is required to:

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<sup>5</sup> Low and Medium Density Residential Zones, Arrowtown Residential Historic Management Zone, Large Lot Residential Zone, Business Mixed Use, Rural, Rural Residential & Rural Lifestyle, Gibbston, and specified locations within Jacks Point, Waterfall Park, and Millbrook zones

- (d) “give effect to” any national policy statement;<sup>6</sup>
- (e) “give effect to” any regional policy statement;<sup>7</sup>
- (f) “must not be inconsistent with” a regional plan;<sup>8</sup> and
- (g) “have regard to” any proposed regional policy statement.<sup>9</sup>

### **National Policy Statements**

36 The National Policy Statement of Urban Development Capacity (**NPSUDC**). The purpose of the NPS is to give policy guidance that local authority planning should provide enough opportunities for development to meet the feasible housing and business needs of people and communities – both current and future. To address this, the NPS-UDC directs decision-makers under the RMA to:

- (a) put greater emphasis on enabling change and development when making decisions about urban development
- (b) provide sufficient urban development capacity to support housing and business growth
- (c) ensure that planning processes enable urban development when it is needed.

37 The NPSUDC is intended to apply to urban environments.<sup>10</sup> I do not consider that the land located within the rural zones, including the rural lifestyle and rural residential or the Wakatipu Rural Amenity Zones to fit within the definition of an urban environment. Accordingly, I do not consider the NPSUDC as being relevant to visitor accommodation or Residential Visitor Accommodation within these zones<sup>11</sup>.

38 Within the urban zones, including the Jacks Point Zone, the NPS is relevant. The NPSUDC covers development capacity for both housing and business, to recognise that mobility and connectivity between both are important to achieving well-functioning urban environments. Planning should promote accessibility and connectivity between housing and businesses.<sup>12</sup>

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<sup>6</sup> RMA s 75(3)

<sup>7</sup> Ibid

<sup>8</sup> RMA s 75(4)

<sup>9</sup> RMA s 74(2)

<sup>10</sup> Defined within the NPSUDC as meaning “*an area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries.*”

<sup>11</sup> Refer also Stage 1 PDP Recommendation Report 04A, at paragraph 50 (page 22)

<sup>12</sup> Page 3, Preamble, NPSUDC 216

- 39 The Council's s32 Report prepared for the Visitor Accommodation Variation assess the impact of the NPS-UDC with respect to urban environments and the implications of residential visitor accommodation and homestay on residential housing capacity. It maintains that providing for visitor accommodation development within defined VA sub-zones, commercial or town centre transition overlays provide for a portion of VA demand and thereby ensure sufficient business land capacity is available.
- 40 The evidence prepared for the Council by My Heyes provides useful background on the supply of commercial accommodation within the District, setting out the extent to which growth in capacity has stalled since 2001. There is evidence that that capacity is under pressure with rising occupancy rates. At the same time and without surprise the market for RVA has grown. It appears from the data presented by Mr Heyes that there is now considerable capacity currently under construction, potentially generating up to an additional 3,025 commercial accommodation units, which could increase capacity by 29% (from 2017 numbers).
- 41 Neither the evidence of Mr Heyes or Ms Bowbyes presents data to supply whether the District has sufficient land zoned for commercial accommodation purposes, to underpin the basis that the VA sub-zones, commercial or town centre transition overlays will in fact provide enough land supply to meet demand.
- 42 Returning to the policies of the NPSUDC, the evidence and data supplied by the Council establishes there to be sufficient zoned capacity land to meet the demands for housing for the next 30 years, as required by Policy PA1. The evidence is that RVA is having some effect on housing supply, but is inconclusive on some important points, including the extent to which the estimated 28% of vacant dwellings across the District are contributing to the RVA supply – in other words, are adding to the supply equation, what impact the estimated 1.3 million additional guest nights/year provided within commercial accommodation under construction will alleviate the pressure for use of RVA.
- 43 In my view, there seems to be shortages in supply of both housing and commercial accommodation and potential imbalances between each. It appears from the Council's data that there needs to be balance in supply of land for both housing and commercial accommodation. Pushing the lid down on housing supply by restricting RVA within urban areas does not in my view adequately respond to the requirements of the NPSUDC and Policy PA 1.
- 44 To a degree, Policies PA3 and PA4 expand on the point above around distorting supply for housing without also looking at businesses. Policy PA3 requires decision makers to provide for the social, economic, cultural and environmental wellbeing of people and

communities and future generations, whilst having particular regard to providing for choices that will meet the needs of people and communities, both in terms of dwellings, but also working environments and places to locate businesses; and limiting as much as possible adverse impacts on the competitive operation of land and development markets.

- 45 Urban environments, such as the Jacks Point Village provide areas where communities can have the choice between places to live and work as well as choices within the types of accommodation from commercial to RVA. Enabling RVA and commercial accommodation within this area would positively implement Policy PA3.
- 46 The benefits of commercial accommodation and RVA are expanded on within the evidence of Mr Heyes. The main conclusions I have taken from this evidence are:
- (a) Guests of properties listed on Airbnb spent a total of \$130.2 million in the District's economy in 2017.
  - (b) Airbnb guests in the District spend more on accommodation than other tourists.
  - (c) Based on the Airbnb guest spend for 2017, it is estimated that it would support 748 jobs – equivalent to 5.9% of the Queenstown Lakes District's tourism employment.
- 47 Bearing in mind these figures do not exclude expenditure or employment from other accommodation platforms, the impact this form of accommodation has on the district's economy is significant. Policy PA4 requires the Council when considering effects of urban development to take into account the benefits that urban development will provide with respect to the ability of people and communities to provide for their social, economic, cultural and environmental wellbeing. In broad terms, the choices that people within urban environments can make with respect to the provision of short term accommodation from their houses will give rise to economic benefits.

### **Section 32 Matters**

- 48 The requirements of s32 and s32AA are considered throughout the evidence below with respect to whether and how the provisions are the most appropriate to achieve the objectives of the plan, having regard to the effectiveness and efficiency of the provisions and a consideration of the reasonably practicable options available.
- 49 The requirements of s32(2) of the Act also require that an assessment undertaken as part of s32(1) must:

- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
  - (i) *economic growth that are anticipated to be provided or reduced; and*
  - (ii) *employment that are anticipated to be provided or reduced; and*
- (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

50 The evidence by My Heyes (summarised above), provides background for a consideration of the economic and employment factors of visitor accommodation being undertaken from residential units, which is helpful as baseline information in terms of the understanding the *status quo*. The analysis from Council does not however consider the implications of the proposed changes to the visitor accommodation regime on employment or economic growth. It would be difficult from the Council's evidence to therefore quantify the benefits or the costs of the proposed changes.

51 As mentioned above, there are factors outside of the variation at play and that could in the absence of further regulation of the short term letting occurring from residential units, positively impact on the supply of commercial visitor accommodation, in particular the scale of commercial accommodation that has been consented and now under construction. In my opinion that dynamic needs to be better understood should the Panel wish to quantify the impact of the proposed variation.

### **Otago Regional Policy Statement**

52 In changing its district plan, the Council is required to "give effect to" any regional policy statement.<sup>13</sup> Through the progressive release of consent orders from the Environment Court on appeals under the proposed Regional Policy Statement, many of the provision of the ORPA are now redundant.

53 The ORPS provides a very general policy framework for the management of the land resource areas in the region. The objective of most relevance is Objective 5.4.1 relating to the sustainable management of Otago's land resource. This is supported by Policy 5.5.4 to promote the diversification and use of the land resource to achieve sustainable land use and management systems.

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<sup>13</sup> s.74(2), Resource Management Act 1991

- 54 In a broad sense, RVA could be considered a diversification of the use of land and is thus supported by the ORPS.
- 55 Within the built environment Objective 9.4.1 is to promote the sustainable management of Otago's built environment in order to meet the present and reasonably foreseeable needs of Otago's people and communities and provide for amenity values.
- 56 Policy 9.5.4 addresses the effects of urban development and settlement. This policy is concerned with the management of the effects of urban growth and in particular the discharges to the environment, landscape qualities and a range of further matters including community values, Kai Tahu cultural and spiritual values, heritage, amenity, ecosystems and the habitats of trout and salmon.
- 57 Associated with this is Policy 9.5.5 addressing the quality of life for people and communities within Otago's built environments through the identification and provision of an acceptable level of amenity; management of effects on communities' health and safety from the use, development and protection of natural and physical resources; and managing effects on landscape values.
- 58 The provisions of the ORPS relating to the built environment are concerned with the overall sustainability of that resource to meet current and future needs, the environmental effects of urban growth and quality of life and levels of amenity. To this extent, the ORPS is relevant to how the built environment could be used to accommodate housing and RVA needs. The policies might also support further controls relating to RVA, designed to make provisions for acceptable levels of amenity.

### **Proposed Otago Regional Policy Statement**

- 59 In reviewing its District Plan, the Council is required to "have regard to" any proposed regional policy statement.<sup>14</sup> The Otago Regional Council released its decision on submissions to the pORPS on 1 October 2016 and many appeals have now been resolved through the issue of a number of consent orders from the Environment Court.
- 60 Chapter 1 of the pRPS now includes Objective 1.1<sup>15</sup> that Otago's resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities. This new objective is supported by Policy 1.1.1 to provide for the economic wellbeing of Otago's people and communities by enabling the resilient and sustainable use and development of natural and physical resources; and Policy 1.1.2 to

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<sup>14</sup> s.74(2), Resource Management Act 1991

<sup>15</sup> As confirmed through Consent Order (Chapter 1) issued by the Environment Court on 28 June 2018, including Policies 1.1.1 and 1.1.2

provide for the social and cultural wellbeing and health and safety of Otago's people and communities when undertaking the use and protection of physical resources by taking into account the diverse needs of Otago's people and communities (amongst other things).

- 61 As part of the provisions relating to urban growth and development, the relevant Objective 4.5<sup>16</sup> is that urban growth and development is well designed, occurs in a strategic and coordinated way and integrates effectively with adjoining urban and rural environment. This objective is supported by Policy 4.5.1, as follows:

***Policy 4.5.1 Providing for urban growth and development***

*Provide for urban growth and development in a strategic and co-ordinated way, including by:*

...

- c) Ensuring that there is sufficient housing and business land development capacity available in Otago;*
- d) Setting minimum targets for sufficient, feasible capacity for housing in high growth urban areas in Schedule 6;*

- 62 At this stage Schedule 6 is a placeholder provision to be populated at some future time. A discussion of land supply for housing and business purposes is detailed above in relation to the NPSUDC.

- 63 Objective 5.3 provides that sufficient land is managed and protected for economic production. A related Policy 5.3.3<sup>17</sup> seeks to manage the distribution of commercial activities by:

- a) Enabling a wide variety of commercial, social and cultural activities in central business districts, and town and commercial centres;*
- b) Enabling smaller commercial centres to service local community needs;*
- c) Restricting commercial activities outside of a) and b) when such activities are likely to undermine the vibrancy and viability of those centres;*
- d) Encouraging the adaptive reuse of existing buildings.*

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<sup>16</sup> As confirmed through Consent Order (Urban Growth and Development) issued by the Environment Court on 28 June 2018, including Policy 4.5.1

<sup>17</sup> As confirmed through Consent Order (Commercial Activities) issued by the Environment Court on 28 June 2018

64 Policy 5.3.3 provides some support for a broad base of activities, including RVA, within commercial centres such as the Jacks Point Village. The variation proposes to establish a number of new rules and standards for the newly defined activities of Residential Visitor Accommodation and Homestays that would establish limitations on the short term letting of residential units greater than those on visitor accommodation generally. In my view, such changes are less enabling of a wider variety of commercial activities in this commercial centre.

Policy 5.3.6<sup>18</sup> seeks to recognise the social and economic value of some forms of tourism having access to, and being located within outstanding natural landscapes and features. This policy would have relevance to some land located within the Rural Zone, including the land owned by Glencoe Station Limited, Glendhu Bay Trustees Ltd and for the owners of the ski areas, Treble Cone Investments Ltd and Soho Ski Area Ltd and Blackmans Creek No.1 LP. Visitor accommodation of any sort is an important component of tourism and has particular social and economic value within the Queenstown Lakes District. The extent of the economic contribution has been quantified in the evidence of Mr Heyes.

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<sup>18</sup> As confirmed through Consent Order (Tourism and Outdoor Recreation) issued by the Environment Court on 28 June 2018

## **ISSUE 1 – RESIDENTIAL VISITOR ACCOMMODATION AND HOMESTAYS WITHIN JACKS POINT**

- 65 The submissions by Henley Downs Farm Holdings Ltd and Henley Downs Land Holdings Ltd ('**Jacks Point**') seek changes to the proposed changes to Chapter 41 and the related changes and additional definitions relating to visitor accommodation, homestays and residential visitor accommodation. The Jacks Point submission generally supports the approach to regulate the effects of short term stays for paying visitors and guests within residential areas as this aligns with the constitutional arrangements at Jacks Point. There are however, commercial areas such as the Jacks Point Village and the Lodge Activity Areas, where visitor accommodation is an anticipated outcome and where further rules are unnecessary and inappropriate in that they undermine the purpose of these areas.
- 66 Jacks Point seeks changes to the new standards to ensure they only apply within the Jacks Point residential areas and not the Village, Lodge and Homesite Activity Areas.

### **Summary of Proposed Relief**

- 67 The relief sought in the submission from Jacks Point is to:
- (a) Retain the definition of Visitor Accommodation, so as to include any residential unit or residential flat.
  - (b) Amend the rules relating to Residential Visitor Accommodation and Homestays within Rule 41.4.18.1 to exclude the Jacks Point Village, the Lodge and Homesite Activity Areas.
  - (c) Amend the standards for Residential Visitor Accommodation within Rule 41.5.20 to exempt Residential Visitor Accommodation within the Village (V), Homesite (HS) and Lodge (L) Activity Areas from these standards.
  - (d) Amend the standards for Homestays within Rule 41.5.21 to exempt Residential Visitor Accommodation within the Village (V), Homesite (HS) and Lodge (L) Activity Areas from these standards.

### **Section 42A Report**

- 68 The Council's s42A report identifies the extent to which Visitor Accommodation is provided for within the Jacks Point Zone as an integrated component of the activities anticipated. Ms Bowbyes recommends that the relief sought in the submission by Jacks

Point be accepted in part. The suggested changes to the rules and standards within Chapter 41, are summarised as follows:

- (a) Amending Rule 41.4.18.1 listing Residential Visitor Accommodation and Homestays within the Jacks Point Zone as a permitted activity, by removing the list of Activity Areas.
- (b) Amending non-complying Rule - Standard 41.5.20, to increase the duration of stays to a maximum of 42 nights and removing the limitation of 3 lets per year and preventing heavy vehicle and bus movements rather than stating maximum trip numbers.
- (c) Inserting a new restricted discretionary Rule - Standard 41.5.x to provide for RVA within the V(JP), V(HB) and L Activity Areas, subject to the same standards as the residential zones above.
- (d) Amending non-complying Rule – Standard 41.5.21 Homestays through minor wording changes, lowering the maximum scale of paying guests from 5 to 3 and inserting the same restriction as above on heavy vehicle movements.

- 69 Within the Rural, Rural Residential and Rural Lifestyle Zones, the s42A Report proposes to amend the standards that apply to RVA and Homestays to lower the status of a breach of these rules from Non-Complying to Discretionary, to remove the limitation of 3 lets and to increase the total number of guest nights from 28 to 42.

### **Evaluation**

- 70 The problem with the provisions contained within the variation and as amended by the s42A Report are that it would still result in the newly defined activities of Residential Visitor Accommodation and Homestays becoming a non-complying activity, where standards are breached, when the longer form of stay falling within the definition of Visitor Accommodation being either permitted or controlled activities within the Jacks Point Village. The scope of the proposed new rules for RVA and Homestays have been applied to areas of the JPZ that anticipate and provide for Visitor Accommodation and it makes little sense conferring non-complying activity status in such situations.
- 71 Within the Jacks Point Zone provisions (decision version), Visitor Accommodation is provided for in the following locations:
- (a) Activity Area R(HD) – E, as a restricted discretionary activity through Rule 41.4.1.8 and as a discretionary activity within all other Residential Activity Area (Rule 41.3.2.1)
  - (b) Village Activity Area (V) and V(HB) as a controlled activity through Rule 41.4.2.1

(c) Lodge Activity Area as a discretionary activity through Rule 41.4.3.1

72 The Objectives and policies for the Jacks Point Zone that provide support for these rules, include:

**Objective 41.2.1** – *The establishment of an integrated community, incorporating residential living, visitor accommodation, community, and small-scale commercial activities with appropriate regard for landscape and visual amenity values, and within a framework of open space and recreation amenities*

**41.2.1.17 a.** *Enable the Jacks Point Village Activity Area (V(JP)) to develop as the vibrant mixed use hub of the Jacks Point Zone, comprising a range of activities including:*

- i. high and medium density residential housing;*
- ii. a small local shopping centre that services the needs of Jacks Point residents and provides for small scale destination shopping and office space;*
- iii. visitor accommodation;*
- iv. education facilities, community activities, healthcare, and commercial recreation activities;*
- v. technology and innovation-based business.*

**Policy 41.2.1.18** *Enable commercial and community activities and visitor accommodation in the Jacks Point Village (V(JP)) and Homestead Bay Village (V(HB)) Activity Areas, provided residential amenity, health and safety are protected or enhanced through:*

- a. compatible hours of operation and noise;*
- b. a high standard of building design;*
- c. the location and provision of open space, buffers and setbacks;*
- d. appropriate landscape mitigation;*
- e. efficient design of vehicle access and car parking; and*
- f. an appropriate scale of activity, and form of building development.*

**Policy 41.2.1.30** *To provide for travellers accommodation and ancillary facilities within the Lodge (L) Activity Area in a manner consistent with protecting the open character and amenity of the surrounding Open Space Golf Course (OSP) Activity Area.*

#### Appeals on Stage 1 PDP – Jacks Point Zone (Chapter 41)

73 The appeals made with respect to the JPZ would have further implications for Visitor Accommodation, as follows:

*Coneburn Preserve Holdings Limited & Others ('Jacks Point') ENV -2018 -CHC -137*

- (a) Creation of new Homesite Activity Areas 57 and 58, as sought in the evidence by Jacks Point, together with the insertion of new provisions listing Visitor Accommodation as a restricted discretionary activity within these Home Sites.
- (b) Deletion of Rule 41.4.1.8 and amendments to Rule 41.4.17 to make provision for commercial and community activity as a restricted discretionary activity within this area, and to remove visitor accommodation.
- (c) Insertion of new Rules within JP Village to provide for the creation of a Comprehensive Development Plan as an information requirement to support establishment of any commercial, community, residential, or visitor accommodation activity in the Jacks Point Village. The effect of the changes sought to the CDP rules within Jacks Point Village would mean further Visitor Accommodation Activity undertaken in accordance within the CDP would be permitted.

*Wild Grass Investments No 1. Limited & Others ENV-2018-CHC-074*

- (d) Amend Rule 41.4.3.1 to make Visitor Accommodation a permitted activity

*Alexander Schrantz and Jayne Schrantz ENV-2018-CHC-61*

- (e) A change to the activity status for buildings (other than farm buildings) and activities such as visitor accommodation in the Peninsula Hill Landscape Protection Area

- 74 The effect of the appeals on Visitor Accommodation are to modify how this activity is provided for within the JP Village (through the CDP mechanism), lower its status within the Lodge Activity Area, delete from the Activity Area R(HD) – E and to make provision within Home Sites 57 and 58. In other respects, they would not modify its status in a manner inconsistent within the Stage 2 PDP variations within the Residential Activity Areas (JP), R(JP-SH), R(HD) and R(HD-SH).
- 75 Appreciating that each of the above appeals are in very early stages and are as yet unresolved, I focus below on the changes to the Stage 2 PDP provisions designed to reflect position within Chapter 41 resolved through decisions and not under appeal.
- 76 The effect of the changes proposed by Ms Bowbyes within the JP Village and Lodge Activity Areas retain the same approach to Visitor Accommodation and RVA as the notified variation and that are inconsistent with and undermine the purpose of the settled provisions for these areas. The table below sets out the differences in the status of each activity.

	Jacks Village	Point Residential Activity Areas
<b>Residential activity</b>	Controlled	Permitted
<b>Residential Visitor Accommodation</b>	Permitted	Permitted
<b>Non-compliant Residential Visitor Accommodation</b>	Restricted discretionary	Non-complying
<b>Homestay</b>	Permitted	Permitted
<b>Non-compliant Homestay</b>	Non-complying	Non-complying
<b>Visitor accommodation</b>	Controlled	Discretionary

- 77 The status of any non-compliant RVA or Homestay within the Village is higher than full Visitor Accommodation, which is anticipated and provided for as a controlled activity.
- 78 Objective 41.2.1 for the establishment of an integrated community, incorporating residential living, visitor accommodation, etc. This objective is supported by the primary policy 41.2.1.17 for the Jacks Point Village that is to enable the Village to develop as a vibrant mixed-use hub comprising a range of activities, including both high and medium density residential housing and visitor accommodation. Within such an environment, there would be very little difference between the effects of medium or high density residential activity, residential visitor accommodation, residential visitor accommodation having greater than 42 nights and fully-fledged visitor accommodation.
- 79 Issues of residential cohesion and character were examined within the s.32 report for the visitor accommodation variation. The report found that the character and cohesion of residentially zoned land will continue to be affected by VA activities and that the extent of those effects will be related to scale, intensity and location. The situation with the JP Village is somewhat different to pure residential zones, where the policies and rules seeks to create a mixed-use environment having lower elements of residential character and residential cohesion. The effects of other factors, such as traffic, parking and amenity values are managed separately through the rules relating to the Comprehensive Development Plan, parking and standards for building. In my view there is no need to distinguish between the letting of residential units for accommodation purposes and commercial visitor accommodation within an area such as Jacks Point Village because residential cohesion and character are not features of this area.

- 80 The changes recommended within the s42A Report to the definition of Visitor Accommodation to exclude RVA and Homestays, also mean that there is a policy lacuna within (at least) the Jacks Point Zone for any proposals to establish RVA or Homestays exceeding the standards prescribed for both activities. Despite the policy direction for the Jacks Point Village, any non-compliant RVA or Homestay would not fit within the anticipated policy outcomes by the nature of the definitions that are now proposed. In particular, the variation simultaneously proposes the introduction of new definitions of 'Residential Visitor Accommodation' and 'Homestays', and then proposes changes to the definitions of 'Residential Activity' and 'Visitor Accommodation' by excluding Residential Visitor Accommodation and Homestays. The effect of these changes means that if a RVA or Homestays breaches the prescribed activity standards, the policies relating to visitor accommodation would not apply. As the Visitor Accommodation variation does not introduce any policies for RVA or Homestays within the Jacks Point Zone the standards are orphaned without supporting policies anywhere within the PDP.
- 81 To resolve this issue, I suggest amending the proposed changes to the definition of Visitor Accommodation so that it includes (rather than excludes) RVA and Homestays that are compliant with the relevant standards imposed within any zone. That way any RVA or Homestay failing to comply with the relevant standards falls within the definition of Visitor Accommodation and can be supported by the framework of objectives and policies. Conceptually I disagree with the suggested exclusion of both activities from the definition of visitor accommodation as they are simply a refined version of the same thing.
- 82 The effect of short term visitor accommodation on residential development capacity within the Jacks Point Village is much more difficult to quantify given the mixed-use nature of the Village provisions. Residential activity is not mandatory. Equally residential activity could change to visitor accommodation (and vice versa) without resource consent. It makes sense that the visitor accommodation variation does not apply within the Town Centre Zones, which act in a similar fashion to the Village. In my view, a more appropriate response for Jacks Point would be to exempt Jacks Point Village from the activity standards relating to RVA and Homestays.
- 83 On the basis of the above, I consider changes to the Visitor Accommodation variation are necessary to more appropriately implement the objectives of the Jacks Point Zone and to create a coherent set of provisions, through the following:
- (a) Amending the definition of Visitor Accommodation to include RVA and Homestays that are compliant with the standards established for those activities;

- (b) Providing for RVA and Homestays as permitted activities within the Lodge and Village Activity Areas V(JP) and V(HB) without any further standards; and
- (c) Provide for RVA and Homestays as permitted activities within the Residential Activity Areas subject to achieving the standards recommended by the Council s42A Report.

## Recommendations

84 Adopting the decisions version of Chapter 41 Jacks Point Zone, my suggested changes to provide for RVA and Homestays in accordance with the changes detailed in my evidence above are as follows:

- (a) Renumber proposed new Rule 41.4.18.1 as Rule 41.4.1.9, listing Residential Visitor Accommodation and Homestays within the Residential Activity Areas as a permitted activity, and amend as follows:

*Residential Visitor Accommodation and Homestays located within the Residential Activities Area R(JP), R(JP-SH), R(HD), and R(HDSH), Village Area (V), and Home Site Activity Area (HS).*

- (b) Insert a new Rule 41.4.2.3 listing Residential Visitor Accommodation and Homestays within the Village Activity Areas V(JP) and V(HB) as a permitted activity.
- (c) Renumber proposed non-complying Rule - Standard 41.5.20 as Rule – Standard 41.5.1.12, and amend as follows:

*Residential Visitor Accommodation*

**41.5.20.1** Must be limited to ~~The commercial letting of one residential unit or residential flat per site for up to 3 lets not exceeding a cumulative total of 28~~ 42 nights occupation by paying guests per 12 month period.

**41.5.20.2** Must not generate any vehicle movements by heavy vehicles, coaches or buses to and from the site.

~~The maximum number of vehicle trips (whereby a vehicle trip is two movements, generally to and from a site) shall be:~~

~~a. — Heavy vehicles, coaches or buses: none.~~

~~b. — Other vehicles: 8 vehicle trips per day~~

- (d) Renumber proposed non-complying Rule – Standard 41.5.21 Homestays as Rule Standard 41.5.1.13, and amend as follows:

**41.5.21.1** May occur within either an occupied residential unit or an occupied residential flat on a site, and shall ~~shall~~ must not occur within both on a site.

**41.5.21.2** ~~Shall~~ Must ~~not exceed 5~~ not exceed 3 paying guests per night.

~~41.5.21.3 Shall Must comply with minimum parking requirements of standard 29.9.9 in Chapter 29 Transport.~~

41.5.21.3 Must not generate any vehicle movements by heavy vehicles, coaches or buses to and from the site.

~~The maximum number of vehicle trips (whereby a vehicle trip is two movements, generally to and from a site) shall be:~~

~~a. Heavy vehicles, coaches or buses: none.~~

~~b. Other vehicles: 8 vehicle trips per day~~

- (e) Amend the proposed changes to the definition of Visitor Accommodation (adopting the s42A version with my changes **highlighted**), as follows:

~~Means the use of land or buildings (excluding the use of a residential unit or residential flat) for short-term, fee paying, living accommodation to provide accommodation for paying guests where the length of stay for any visitor/guest is less than 3 months90 days nights; and~~

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

~~b. May Includes some centralised services or facilities that are directly associated with, and ancillary to, the visitor accommodation, such as food preparation, dining and sanitary facilities, conference, bar, and recreational facilities and others of a similar nature if such facilities are associated with the visitor accommodation activity. The primary role of these facilities is to service the overnight guests of the accommodation however they can be used by persons not staying overnight on the site.~~

~~iii. Includes on-site staff accommodation.~~

~~iv. Excludes/Includes Residential Visitor Accommodation and Homestays failing to comply with any relevant Activity Standards.~~

## ISSUE 2- RESIDENTIAL VISITOR ACCOMMODATION AND HOMESTAYS WITHIN RURAL AREAS

85 The submissions from Mount Christina Ltd, Glendhu Station Ltd, Glendhu Bay and Darby Planning LP oppose the changes proposed through the visitor accommodation variation to introduce new controls over short term guest stays within residential units or residential flats within the rural and rural living zones. The submission is that the effects of short term stays within the rural and rural living areas do not justify the proposed restrictions for the following reasons:

- (a) These zones contribute comparatively little to the housing stock across the District and enabling this form of accommodation has much less impact on the availability houses to provide for residential accommodation;
- (b) Housing within rural area is less affordable than housing within the urban areas and any reduction to residential capacity within these areas through short term accommodation would have little impact on the affordability of housing within the District;
- (c) Based on the analysis provided in support of the changes to the PDP by Infometrics<sup>19</sup>, the majority of short term accommodation is occurring within urban areas of the District<sup>20</sup>;
- (d) The addition of the rules over short term guest accommodation within residential units or residential flats is not effects based; and
- (e) Short term visitor stays within residential units and residential flats provides for the economic wellbeing of people and communities without adversely affecting the environmental qualities of the rural residential or rural living environment

### Relief Sought

86 The relief sought in the submissions is to:

#### Rural Zone

- (a) Delete Rule 21.4.37, Delete Rule – Standard 21.5.53 and Delete Rule – Standard 21.5.54

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<sup>19</sup> Infometrics, “Measuring the scale and scope of Airbnb in Queenstown-Lakes District” (November 2017)

<sup>20</sup> Section 6, *ibid*

Rural Lifestyle Zones

- (b) Delete Rule 22.5.15

Wakatipu Basin Rural Amenity Zone

- (c) Delete Rule 24.5.15

**Section 42A Report**

- 87 The s42A Report does not agree that rules relating to the use of residential units and residential flats for RVA and homestays should be deleted, as they “*play a complementary role to rules on new buildings, in managing effects on rural amenity and landscape values*”. Acknowledging that the issues of residential development capacity, residential coherence and amenity are not as relevant in the rural zones compared to the residential zones, the s42A Report considers that a permitted threshold of 42 nights for the rural zones would be more appropriate than the notified 28 night limit.
- 88 The report considers that a requirement for a discretionary activity status for breaches to the recommended 42 night limit, is consistent with the discretionary activity status of VA provided in the decisions version of the respective Rural, Rural Lifestyle & Rural Residential and Gibbston Character Zone Chapters.

**Evaluation**

- 89 In practical terms, the operation of a Homestay under the proposed standards within the Rural Zones is much the same as under the ODP and PDP as notified. For RVA, the maximum limitation of 42 nights is about half of the 90 days previously allowed before it falls into the definition of Visitor Accommodation. However, the creation of a new definition for RVA and the related changes to the definition of residential activity and visitor accommodation (by excluding VA) could create some administrative differences, particularly around the policy support for these activities failing to comply with those standards. Accordingly, my analysis below is focussed on the changes arising from the standards proposed within the Rural Zone for RVA and the integration of the visitor accommodation variation into the rural zone.
- 90 The reasons detailed within the original submissions (paragraph 85 above), remain as important and valid concerns. I do not wish to repeat in this evidence, but rather expand on the policy basis for the relief sought in the submissions below.
- 91 The purpose of the rural zone is to enable farming activities and to provide for appropriate other activities that rely on rural resource while managing landscape values. There is no preference in the rural zone for residential activity and the use of

land or buildings for residential activity, other than located within an identified building platform, as a discretionary activity<sup>21</sup>.

- 92 There is much greater support for the notation of the Rural Zone being a more diverse environment designed to accommodate a range of business activity, through the following objectives and policies:
- (a) *21.2.1 Objective - A range of land uses, including farming and established activities, are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values*
  - (b) *Policy 21.2.1.10 - Commercial activities in the Rural Zone should have a genuine link with the rural land or water resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone*
  - (c) *Policy 21.2.1.11 - Provide for the establishment of commercial, retail and industrial activities only where these would protect, maintain or enhance rural character, amenity values and landscape values*
  - (d) *21.2.9 Objective - Provision for diversification of farming and other rural activities that protect landscape and natural resource values and maintains the character of rural landscapes*
  - (e) *Policy 21.2.9.1 - Encourage revenue producing activities that can support the long-term sustainability of the rural areas of the district and that maintain or enhance landscape values and rural amenity*
  - (f) *Policy 21.2.9.2 - Ensure that revenue producing activities utilise natural and physical resources (including existing buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources*
  - (g) *Policy 21.2.9.3 - Provide for the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term*
  - (h) *21.2.13 Objective - Rural industrial activities and infrastructure within the Rural Industrial Sub-Zones will support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values*

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<sup>21</sup> Rule 21.4.9, Proposed District Plan (Decisions Version)

- (i) *Policy 21.2.13.1 Provide for rural industrial activities and buildings within established nodes of industrial development while protecting, maintaining and enhancing landscape and amenity values*

- 93 By contrast, residential activity has no specific objectives and policies within Chapter 21 (Rural) or Chapter 6 (Landscapes). Policy 3.3.23 seeks to avoid residential development within areas identified as ONF/Ls and that cannot absorb further change. In addition to the focus on landscape values, the policies of the rural zone further constrain residential activity through the objectives and policies to minimise the conflict between incompatible land uses and prohibiting new activities sensitive to aircraft noise on rural land within the Outer Control Boundary of Queenstown Airport.
- 94 Within this policy framework the introduction of any further rules or standards relating to residential visitor accommodation that has the purpose of protecting the availability of housing is misguided as the policies of the rural zone do not provide for housing and in some instances actively discourage residential activity. It follows that there is nothing within the rural zones provisions supporting the concept of residential coherence or contributing towards housing capacity.
- 95 The policy situation with the Rural Residential and Rural Lifestyle Zones is slightly different to that of the Rural Zone, whereby the purpose of these zones are to provide residential living opportunities on the periphery of urban areas and within specific locations amidst the Rural Zone<sup>22</sup>. Residential development is anticipated and appropriate within these zones. The extent to which that purpose can be realised is not yet settled through the notification of the Wakatipu Basin variation, which proposes to absorb all of the Stage 1 PDP rural residential and rural lifestyle zones into a newly created Lifestyle Precinct.
- 96 The provisions of chapter 22 contain a number of objectives and policies relevant to visitor accommodation. Objective 22.2.2 provides that the predominant land uses within the Rural Residential and Rural Lifestyle Zones are rural and residential activities. This objective is supported by Policy 22.2.2.1 seeking to enable residential and farming activities and provide for visitor accommodation activities, which in terms of location, scale and style, community are compatible with and enhance predominant activities of the relevant zone. This policy is of relevance to the Visitor Accommodation variation within this chapter as it provides qualified support for visitor accommodation in terms of location, scale and style. With full visitor accommodation being listed as a discretionary activity and the proposed new rules relating to RVA and Homestay activities containing

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<sup>22</sup> 22.1 Zone Purpose, Chapter 22 PDP (Decision Version)

standards relating to the length of stay and numbers of guests, the broad direction given in the policy is being met.

- 97 Assuming that the rules for visitor accommodation remain unchanged and without any limitation of the duration of stay or numbers of guests as sought in the submissions by Lake Hayes Ltd *et al*, the issue is whether this style of accommodation remains compatible with the relevant zone. To meet the definition of being a Homestay or RVA, both activities need to be carried out within a residential unit. The aspects of that activity of most relevance to controlling effects include nature and scale, parking, noise and hours of operation. Any form of accommodation that occurs beyond a residential unit would trigger resource consent for Visitor Accommodation. The rules for the rural residential and rural lifestyle zones require a minimum net area to achieve the site density standards of 4,000m<sup>2</sup> and 1ha. Given this size and the nature of other often rural based activities occurring, I do not consider short stay accommodation within existing dwellings to be capable of generating effects that are incompatible within the zone they are located and do not therefore justify further regulation.
- 98 Based on the Council analysis undertaken by Infometrics, the majority of the demand for short term letting of residential units occurs within urban areas, and those areas contribute the greatest in terms of land available for housing capacity. Given this and the evidence of Mr Heyes on the social and economic value of such accommodation, the option of regulating RVA and Homestays seems to have marginal utility.
- 99 As with the Jacks Point Zone, the exclusion of Homestays and RVA from the definition of visitor accommodation has implication for the Rural Zone by creating a policy vacuum with no framework proposed to manage the effects of Homestays or Visitor Accommodation failing to comply with the proposed standards. The types of proposals that might breach the standards without falling into the definition of Visitor Accommodation include a Homestay offering accommodation for greater than 5 guests or RVA for greater than 42 nights, but less than 90 nights.
- 100 I note that the variation has proposed to amend existing policies and the creation of a new policy.
- 101 Conceptually I prefer the approach under the ODP and PDP as notified whereby Homestays and the short term letting of a residential unit are only exempt from the definition of Visitor Accommodation where the criteria within that definition are met. Under this approach, activities that fail to meet the criteria are captured by the primary definition of visitor accommodation. Visitor Accommodation is then regulated through the existing rule framework and guided by existing policies within each zone to provide the necessary support for an assessment of its appropriateness. Under the Council's

proposed visitor accommodation variation many of the zones are not supported by additional policies for RVA or Homestays, including the Business Mixed Use Zone, Rural Zone, Gibbston Character Zone, Jacks Point Zone, Waterfall Park Zone and Millbrook Zone.

- 102 To resolve this concern, which is the same as under Issue 1, I propose changes to the definition of Visitor Accommodation to include RVA and Homestays that comply with the standards relevant to any zones. The effect of this change would be to resolve the same disconnect between rules and policies within the Rural Zone.
- 103 On the basis of the above, I consider changes to the Visitor Accommodation variation are necessary to more appropriately implement the objectives of the Rural Zone and to create a coherent set of provisions, through the following:
- (a) Amending the definition of Visitor Accommodation to include RVA and Homestays that are compliant with the standards established for those activities; and
  - (b) Providing for RVA and Homestays as permitted activities within the Rural, Rural Residential and Rural Lifestyle Zones without any further standards.

### **Recommendations**

- 104 Without repeating my suggested changes to the definition of Visitor Accommodation detailed within Issue 1 above, the proposed changes to the variation within the rules of the rural zone, rural residential and rural lifestyle zones and the Wakatipu basin Rural Amenity Zone are outlined below.

#### Chapter 21 Rural Zone

- (a) Delete Rule Standards 21.5.53 and 21.5.54

#### Chapter 22 Rural Residential and Rural Lifestyle Zone

- (b) Delete the proposed additions to Policy 22.2.2.5
- (c) Delete new Policy 22.2.2.6
- (d) Delete Rule – Standards 22.5.14 and 22.5.15

### ISSUE 3 – CHAPTER 38 OPEN SPACE AND RECREATION

105 As Part of the suite of changes proposed as part of the introduction of Chapter 38 Open Space and Recreation, the Council also proposed changes to Chapter 6 Landscapes, including the deletion of the description of the Values within Part 4.2 and amendments to the Implementation Rules within 6.4 having the effect of broadening the application of the landscape categories and applying assessment matters to the Gibbston Character Zone, the Rural Lifestyle Zone and the Rural Residential Zone.

#### Relief Sought

106 The submissions made by of Henley Downs Farm Holdings Ltd and Henley Downs Land Holdings Ltd (**Jacks Point**), Lake Hayes Cellar Limited, Lake Hayes Ltd, Mount Christina Limited, Glendhu Bay Trustees Limited, Treble Cone Investments Ltd, Soho Ski Area Ltd and Blackmans Creek No.1 LP opposed the changes to Chapter 6 and sought the following relief:

(a) To retain the description of the values within part 4.2

(b) Amend Rule 6.4.1.2, as follows:

*The classification of landscapes of the District and related objectives policies for each classification within Chapter 6 landscape categories apply only to the Rural Zone. The Landscape Chapter and Strategic Direction Chapter's objectives and policies are relevant and applicable in all zones where landscape values are at issue*

(c) Amend Rule 6.4.1.3, as follows:

*The ~~landscape categories~~ classification of landscapes of the District, the related objectives policies for each classification within Chapter 6 and the landscape assessment matters within provision 21.7 (Chapter 21), do not apply to the following within the Rural Zones:*

*a. Ski Area Activities within the Ski Area Sub Zones.*

*b. The area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps.*

*c. The Gibbston Character Zone.*

*For the avoidance of doubt, the Rural Zone does not include the Wakatipu Basin Rural Amenity Zone (or Precincts) (Chapter 24), ~~d.~~ the Rural Lifestyle Zone ~~or e.~~ the Rural Residential Zone (Chapter 22).*

107 The submission by Jacks Point also opposed the creation of a small area of Informal Recreation Zone within Planning Map 41 and for that to be retained as part of the Jacks Point Zone and the Open Space Amenity (OSA) Activity Area of the Structure Plan relating to the Jacks Point Zone.

## Section 42A Report

### Chapter 6 Landscapes

- 108 The recommendations contained within the s42A Report by Ms Edgley retain all of the changes to Chapter 6 from the variation as notified, but further seeks to add a new provisions 6.3.XB as follows:

*Classify the Open Space and Recreation zoned land located outside the Urban Growth Boundary as ONL, ONF or RCL, and provide a separate regulatory framework for the Open Space and Recreation Zones within which the remaining policies of this chapter do not apply*

- 109 The s42A Report identifies the overlap between the release of decision of Stage 1 topics, which occurred slightly after the notification of the Stage 2 topics. The Stage 2 variation to Chapter 6 was intended to remove text stating that the landscape categories would apply only to the Rural Zone. This appeared to have the purpose of accommodating the introduction of the new Open Space and Recreation Zone notified as part of the Stage 2 proposals.
- 110 Based on the decisions made through Stage 1 and in particular the direction within Policies 6.3.1 and 6.3.3, Ms Edgley no longer supports retention of the text proposed through Stage 2 or through subsequent changes sought by submissions.
- 111 In order to appropriately manage the landscape values of the Open Space and Recreation Zone, Ms Edgley proposes to insert a new Policy within Chapter 6 to classify the landscapes of this zone located outside of the Urban Growth Boundaries as ONL, ONF or RCL and provide a separate regulatory framework for those zones. The proposed new Policy also establishes that the remaining policies of Chapter 6 do not applied within these zones.

### Jacks Point Zone

- 112 The s42A Report recommends that the relief sought by Jacks Point to delete the proposed new area of Informal Recreation Zone within Jacks Point be rejected. The report considers that the zoning of the land as Informal Recreation means that the provisions of the Jacks Point Structure Plan within Chapter 41 no longer apply, resolving any conflicts. Ms Edgley concedes it is a little untidy having a parcel identified as an activity area within the Structure Plan [with the new zone over top], but that does not prevent the application of Chapter 38.

## Evaluation

### Chapter 6 Landscapes

- 113 I understand what Ms Edgley is saying and that helps to confirm the Council's position over what was intended. In the context of Chapter 38 and the Open Space and Recreation Zones, I agree that landscape values can be managed through the provisions within that zone and the introduction of a new policy would achieve that in a manner consistent with the way other zones containing ONF/Ls have been managed under Policy 6.3.3.
- 114 Having reached the position in her evaluation, Ms Edgley does not however carry through her findings that she no longer support the Stage 2 changes to Chapter 6 into the recommendations within Appendix 1 to the s42A Report. I note for completeness these changes need to be carried through to the provisions.
- 115 Given that the purpose of the changes to Chapter 6 were designed to accommodate Chapter 38, I do not consider there are any further changes necessary to Chapter 6 to provide for that integration.

### Chapter 41 Jacks Point Zone

- 116 The proposed Informal Recreation Zone occupies all of the land contained within designation 537 (Recreation Reserve) with the Queenstown Lakes District Council as requiring authority. Under Chapter 41 and the Structure Plan for the Jacks Point Zone, the land is located within the broader Open Space Residential Activity Area (OSA).
- 117 The outcome of the Council's proposal is that this area of Jacks Point recreation reserve would be identified as Informal Recreation Zone on Planning Map 41 with designation 537 and also identified as Open Space Residential Activity Area on the Jacks Point Structure Plan.
- 118 I understand from the Council's s32 Report that the designations will be retained until the Council undertakes a review and that will not occur until after the PDP is fully operative. The purpose of zoning this land, it appears, is to resolve issues with external organisations such as sports clubs using land where they are not the requiring authority and making it extremely difficult to realise community and recreation benefits. This complexity of overlapping management roles, tools and legislation have led to the creation of the proposed Open Space and Recreation Zones.
- 119 Despite this imperative to reduce complexity the end result for the recreation reserve at Jacks Point is just that, complex.

- 120 The Council's evidence fails to consider the effectiveness or efficiency of the proposed zone, having regard to the status quo. Under the OSA the land has an appropriate and integrated set of provisions to provide for a range of community and recreational amenities, including Recreation amenities, playgrounds, landscaping, pedestrian and cycle trails, lighting, stormwater retention, and underground services<sup>23</sup>.
- 121 The OSA forms part of a wider network of open space within the Jacks Point Zone and an integral part of the Jacks Point Structure Plan. This is reflected within the objectives and policies of Chapter 41. Objective 41.2.1 is the establishment of an integrated community incorporating range of activities within a framework of open space and recreation amenities. The objective is supported by Policy 41.2.1.1 requiring activities to be located in accordance with a structure plan to establish the spatial layout of development within the zone, taking into account amongst other things, open space and trails. Open space plays an important role for the residential and village areas they adjoin and to the identity, character and amenity of the Jacks Point Zone for residents and visitors<sup>24</sup>.
- 122 The use of land within the OSA is protected by policies including 41.2.1.22 that seek to avoid building, other than ancillary small scale recreational buildings and that are of a design sympathetic to the landscape.
- 123 Although it has different ownership, the recreation reserve at Jacks Point forms a key part of the framework of open space to achieve an integrated settlement.
- 124 The Council s32 evaluation and s42A Reports have both failed to adequately consider the options of retaining this land within the Jacks Point Zone. Having considered the importance of this open space to the policies and objectives for Chapter 41, I consider retaining it within the framework of Chapter 41 the most appropriate option that avoids the complex and confusing arrangement of zones, structure plans and designations that are proposed by the Council.

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<sup>23</sup> Rule 41.4.4.9, Chapter 41 Jacks Point Zone (Decisions Version)

<sup>24</sup> Policy 41.2.1.21, Ibid

## ISSUE 4 – CHAPTER 31 SIGNS

- 125 The submissions made on Chapter 31 by Soho Ski Area Limited, Blackmans Creek No.1 LP and Treble Cone Investments Ltd (**Treble Cone *et al***) are concerned with provision for signs within the Ski Area Sub Zones (**SASZs**). The submission opposes the blanket approach taken to sign standards within the rural area and lack of recognition of the SASZs. Ski areas are unique activities within the rural zone and attract large number of visitors for commercial recreation purposes. They require a significant number of directional signs for route finding, traffic management, safety as well as commercial signage associated with certain base facilities. The thrust of the submissions from Treble Cone *et al* are to recognise and provide for these distinct elements through a separate suite of integrated objectives, policies and rules.
- 126 The submission by Jacks Point is again confined to the nature of the proposed Sign provisions as they affect activities being undertaken within the Jacks Point Zone (Chapter 41). Chapter 31 (as notified) recognises the Jacks Point Zone, but has not recognised and provided for the different activity areas within the Zone , particularly between the mixed-use environment of the Jacks Point Village and surrounding areas of predominantly residential activity. The submission seeks to better recognise these differences through changes to the standards that apply for each of these areas.

### Relief Sought

#### Treble Cone *et al*

- 127 The relief sought in the submissions from Treble Cone *et al* include the following:
- (a) Formulate a new objective and associated policies seeking to enable signs associated with ski area activities located within SASZs;
  - (b) Amend Rule 31.6.7 to provide an exemption stating that this rule shall not apply Ski Area Activities located within the Ski Area Sub-Zones;
  - (c) Amend the standards for signs in other areas (Table 31.9) to:
    - (i) Separately recognise and provide for the signage requirements for ski areas and that are not sufficiently addressed through the existing standards applying across the Rural Zone as a permitted activity; and
    - (ii) Provide for signage within or attached to buildings associated with ski area activities located within SASZs as a permitted activity.
  - (d) Amend Rule 31.9.1 to exempt signage associated with Ski Area Activities location within SASZs; and

- (e) Amend Rule 31.9.11 to exempt signage associated with Ski Area Activities located within SASZs.

### Jacks Point

128 The relief sought in the submissions from Jack Point seeks the following:

- (a) Amend all rules applying to the Jacks Point Zone such that the Residential Activity Areas are subject to the standards proposed for Residential areas (Table 31.8); and the Village Activity area be subject to the standards proposed for the Town Centres Zones/Commercial Areas (Table 31.7).

### **S42A Report**

129 The s42A Report by Ms Leith agrees with the submissions from Treble Cone *et al* that the sign provisions are not suitable for the consideration of signage within the SASZs. Ms Leith considers that ski fields are commercial businesses within which people expect signage providing directions, information and instructions. In addition some level of business advertising is anticipated. The s42A Report recommends the following changes to Chapter 31:

- (d) The addition of a separate objective within Chapter 31 to provide for signage associated with the safe operation of the ski field, including operational, direction and safety aspects;
- (e) The addition of new policies for the SASZs to provide for signage within SASZs that convey operational, directional and safety information regarding ski field activities; and ensuring signs for commercial activities are limited in their size and are suitably located so as not to detract from the views and amenity of surrounding public places; and
- (f) Insertion of SASZs standards within Table 31.9 – Standards for signs in other areas, including the addition of two new permitted activities specific for the SASZs, as follows:

31.9.12 Any operational, directional and safety signage relating to the movement of vehicles and people around the zone

31.9.13 Up to 4m<sup>2</sup> of signage per site with no internal or external illumination of the sign.

130 For the Jacks Point Zone, the s42A Report does not recommend any changes to the signs provisions for the Jacks Point Zone. In terms of the inclusion of Jacks Point Village into the Rules – Standards (Table 31.7), the s42A report considers that such standards are more generous than those which apply across all of the Jacks Point

Zone, Waterfall Park Zone and Millbrook Resort Zone. The report considers that the objectives and policies in Chapter 41 (decision version) do not support a proposition that the Jacks Point Village is equivalent to the standards established within Table 31.7 for Commercial areas. Additionally, the report raises the ease of administrative of having all resort zone being treated the same.

## **Evaluation**

### Jacks Point Signage

- 131 The objective and relevant policies relating to Jacks Point Village are set out within paragraph 72 above. From that it can be concluded that Jacks Point is an integrated community, comprising residential, visitor accommodation, community and small scale commercial activities. The Village however will develop as a vibrant mixed-use hub for the zone and includes a range of activities, including high to medium density housing, local shopping services, offices, visitor accommodation, education and community facilities and technology and innovation based business. It is clearly not focussed primarily on the provision of residential living accommodation only or the protection of open space, ecology and landscape areas as provided for within the residential and open space activity areas.
- 132 The nature and scale of the commercial activity (broadly defined to include visitor accommodation) standards within the Jacks Point Zone is quite different from either the Waterfall Park or Millbrook Zones. The purpose of the Village activity area within the Millbrook Resort Zone is to provide for residential and visitor accommodation activities and commercial activity associated with the resort. The Village activity areas within the Waterfall Park Zone is much smaller, but has a broader range of similar resort-type activities including visitor accommodation and associated licensed premises, theatres, conference, cultural and resort facilities, community activity (limited to creches and child care) and education facilities.
- 133 In my view the Village area at Jacks Point exhibits greater similarities to the commercial zones. Comparing with the Local Shopping Centre Zone, this would function in a similar way to the Jacks Point Village to service the small scale commercial and business needs of discrete areas. I note retailing is also restricted to 300 m<sup>2</sup> within the Local Shopping Centre Zone, as it is within the Village.
- 134 Comparing the nature and scale of commercial activity anticipated within the commercial areas under Table 31.7 against the wide range of residential and other activities anticipated within Jacks Point Village, I consider separate treatment of the Village an appropriate option that meets the policies better than the notified provisions.

### SASZ Signage

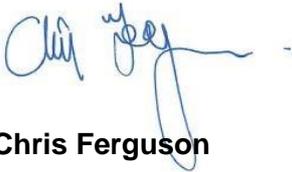
- 135 The s42A Report has proposed an objective and two new policies to recognise and provide for the unique signage requirements within the SASZs. Policy 31.2.7.1 appropriate seeks to provide for signage within the SASZs that convey operation, directional and safety information regarding ski area activities. Policy 31.2.7.2 provides for advertising associated with commercial activities within the SASZ and seek to ensure these are limited in size and suitably located so as not to detract from the views and amenity of surrounding public places. I support the addition of these provisions for the reasons expressed within the submissions.
- 136 The s42A Report proposed changes to the standards within Table 31.9 as the primary means to give effect to these policies, as sought through the submission. Through the addition of proposed standard 31.9.12 any operational, direction and safety signage relating to the movement of vehicle and people is permitted. Standard 31.9.13 then limits signage to 4m<sup>2</sup> per site and stipulates no internal or external illumination. The rationale for the 4m<sup>2</sup> threshold appears reasonable on the basis that operational, directional and safety signs are excluded.
- 137 However, the application of the other standards within Table 31.9 to the SASZ is unclear. Under the new column for SASZs, standards 31.9.1 to 31.9.10 are shaded out, implying that they do not apply within this area. The submissions from Treble Cone *et al* sought to exempt signs within the SASZ from the standards 29.9.1 and 29.9.11. With the addition of new standards for the SASZs I accept the need for 31.9.11 to identify the status of any breach of the standards relating to the SASZ. Given that specific standards are proposed for the SASZ it would be clearer to readers of the plan if the shaded cells of Table 31.9 contained text such as “Not Applicable” or abbreviation, to make it clear that the other standards, including 31.9.1 do not apply to the SASZs.

### **Recommendations**

- 138 In order to affect the relief sought by Jacks Point and Treble Cone *et al*, the following changes to Chapter 31 (s42A version) are considered necessary:
- (a) Insert a new objective within Chapter 31 (as recommended within the s.42A Report) to provide for signage associated with the safe operation of the ski field, including operational, direction and safety aspects;
  - (b) Insert two new policies for the SASZs (as recommended within the s.42A Report) to provide for signage within SASZs that convey operational, directional and safety information regarding ski field activities; and ensuring signs for commercial

activities are limited in their size and are suitably located so as not to detract from the views and amenity of surrounding public places;

- (c) Insert two new standards within Table 31.9 – Standards for signs in other areas, including the addition of two new permitted activities specific for the SASZs, as follows:
  - 31.9.12 Any operational, directional and safety signage relating to the movement of vehicles and people around the zone
  - 31.9.13 Up to 4m<sup>2</sup> of signage per site with no internal or external illumination of the sign.
- (d) Insert the text “not applicable” within the shaded cells within Table 31.9
- (e) Amend Table 3.7 – Standards for signs in Commercial Area by:
  - (i) Inserting a new column for the Jacks Point Zone Village Activity Area; and
  - (ii) Replicating the status of activity from the Local Shopping Centre Zone within the new column for Jacks Point Village



**Chris Ferguson**

6 August 2018