

**BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL**

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

**AND**

**IN THE MATTER** of the Proposed District Plan  
Review, Stream 4 Hearing: Chapter  
27 Subdivision

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**STATEMENT OF EVIDENCE OF CHRISTOPHER BRUCE FERGUSON**

Darby Planning LP (#608)  
Soho Ski Area Ltd (#610)  
Treble Cone Investments Ltd (#613)  
Lake Hayes Ltd (#763)  
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 (#762)  
Glendhu Bay Trustees Ltd (#583)  
Hansen Family Partnership (#751)

**15 July 2016**

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## INTRODUCTION

### Qualifications and Experience

- 1 My name is Christopher Bruce Ferguson. I hold the position of Principal with the environmental consultancy firm Boffa Miskell Limited. I am based in Queenstown and have been employed by Boffa Miskell since April 2015.
- 2 I hold the qualification of a Bachelor of Resource and Environmental Planning (Hons) from Massey University and have 20 years' experience as a planning practitioner. I am based in Queenstown and am a full member of the New Zealand Planning Institute. I have held positions as a Planner in both local Government and private practice within Selwyn, Christchurch, and Queenstown Lakes Districts, as well as London, England.
- 3 Prior to commencing employment at Boffa Miskell, I was employed by AECOM New Zealand Limited as a Principal Planner, based in Christchurch. My work experience in Queenstown has included employment with Civic Corporation Ltd from Feb 2000 to Nov 2001, planning manager at Clark Fortune McDonald & Associates Ltd from 2003 to 2010 and then as Director of planning consultancy company Ferguson Planning Ltd.
- 4 I have been involved with many policy processes within Queenstown over the last decade, including Plan Changes 6, 8 and 10 (Amenity in the High Density Residential Zone), Plan Change 11 (Ground Level), Plan Change 19 (Frankton Flats) throughout the process to final environment court decision, Plan Change 30 (Urban Boundary Framework), Plan Change 41 (Shotover Country) as well as preliminary work for the Council on the District Plan review (NPS-REG, Earthworks and Utilities).
- 5 My project specific experience in working with landowners to gain subdivision consent over mostly greenfield land development in the Queenstown Lakes District includes:
  - (a) Lake Hayes Estate (Stages 4 –5) – approximately 120 lots
  - (b) St Andrews Park, Highview Terrace, Queenstown – 69 lots
  - (c) Albatross QT Ltd, Frankton Road, Queenstown - 17 Lots
  - (d) Jacks Point Ltd, R(JP-SH)3, R(JP-SH)4 – 54 lots
  - (e) East Wanaka Land Trust Holdings Ltd (North Wanaka) – 52 Lots

- (f) Henley Downs Land Holdings Ltd – 68 lots (lodged, no decision issued)
  - (g) Private Property Ltd (Glenorchy) – 26 lots
- 6 In addition, I have been involved in assisting clients and the Council with a range of subdivisions within rural areas mostly under the landscape based regime created by the Environment Court. Within urban areas, I have also been involved in gaining consents for clients for several multi-unit developments each involving combined land use and subdivision. My planning experience with subdivision includes an understating of internal Council regulatory processes, the commercial imperatives arising within the private sector, and having this knowledge tested through many council and Environment Court hearings.
- 7 In accordance with the directions of the Hearing Panel Chair, this evidence has been prepared and presented in the same manner as expert evidence presented to the Environment Court. I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note. This evidence has been prepared in accordance with it and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

### **Scope of Evidence**

- 8 I have been asked to prepare evidence on Chapter 27 Subdivision of the Proposed District Plan (**'PDP'**) by Darby Planning LP (#608), Soho Ski Area Limited (#610), Treble Cone Investments (#613), Lake Hayes Limited (#763), 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 (collectively referred to as **'Jacks Point'**) (#762) Glendhu Bay Trustees Ltd (#583) and Hansen Family Partnership (#751). For each of the above clients I was involved in the initial assessment of the notified provisions, the preparation of submissions and further submissions.
- 9 Following the Minute and Directions of the Hearings Panel Chair<sup>1</sup>, this brief of evidence has been structured to include all of the matters involved in this

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<sup>1</sup> Dated 25 January 2016

hearing topic. In addition, this evidence has also been prepared in respect all of the submitters I represent within this topic group (as detailed above).

- 10 The scope of this evidence does not address the particular changes to Chapter 27 relating to the rezoning of the land creating a new Glendhu Station Special Zone by Glendhu Bay Trustees Ltd (#583), which are dependent on future decisions in respect of the planning maps. The submissions by Lakes Hayes Cellar Ltd (#767) and Mt Christina Ltd (#764) seeking changes to existing zones and for rezoning land, rely on the underlying framework of subdivision rules and do not require changes to Chapter 27 particular to these areas. The scope of the evidence for these submissions provides further support to the more general issues arising from the default status of subdivision.
- 11 The submission by Lake Hayes Ltd (#763) also seeks to change the average lot size rule that would apply within the Rural Lifestyle Zone. At the request of the Panel, the Council has filed a Minute agreeing to undertake a planning study of the floor of the Wakatipu Basin to assist in the Panel's consideration of submissions to the hearing on Stream 2: Rural and Rural Living. The submission by Lake Hayes Ltd is expressed in a way that provides for a District wide change to the minimum and average allotment size applying within the Rural Lifestyle Zone. This evidence elects to defer those aspects of the Lake Hayes Ltd submission relating to the minimum allotment size for the rural living zone to the future consideration of Wakatipu Basin matters and does not pursue this as District Wide change.
- 12 In preparing this evidence, I have also assumed that the Panel proposes to address the changes requested by this submitter to Chapter 27 within the Jacks Point Zone, and that issues relating to this zone are not being deferred to the future hearing on this zone.
- 13 I have structured this evidence, as follows:
  - (a) The relevant provisions of the Otago Regional Policy Statement 1998 ("**ORPS**")
  - (b) The relevant provisions of the proposed Otago Regional Policy Statement 2016 ("**pORPS**")
  - (c) The higher order objectives and policies from the Strategic Directions, Urban Development and Landscape chapters of the Proposed District Plan

- (d) An analysis of the issues:
  - (i) Issue 1: Default Status for subdivision
  - (ii) Issue 2: Jacks Point
  - (iii) Issue 3: Ski Area Sub Zones
- 14 In respect to the analysis of issues, a summary evaluation has been prepared under section 32AA of the Act to supplement any suggested changes to the notified provisions. References in this evidence to the provisions of Chapter 27 are in terms of the notified provisions with the redrafted provisions contained within Appendix 1 to the s.42A report identified in parenthesis.
- 15 In preparing this evidence I have reviewed:
  - (a) The ORPS
  - (b) The pOPS
  - (c) The section 32 report associated with Chapter 27;
  - (d) The relevant submissions and further submissions of other submitters; and
  - (e) The Council s.42A Reports prepared in relation to Chapter 27 and including the associated evidence prepared by Mr Ulrich Glasner and Mr Garth Falconer.

#### **EXECUTIVE SUMMARY**

- 16 This evidence has been prepared for the hearing on Chapter 27 of the PDP. It addresses the key planning issues and matters raised in the submissions to this chapter by the range of submitters listed in paragraph 8 above. I have structured this evidence along three main issues, relating to the default status of subdivision; the provisions relating to subdivision within the Jacks Point Zone; and subdivision within the Ski Area Sub Zones. Below is a summary of my evidence in respect to these issues.
- 17 The issues defined in the Council's s.32 Report are not in my view resolved through a blanket discretionary regime. None of the s.32 Report, the Council evidence prepared for this hearing, and the s.42A Report identify any underlying problems with subdivision activities within the Queenstown Lakes District of such significance which justify a change from a default activity status to controlled activity. I have had 16 years' experience working

with the current provisions and I am not personally aware of any such problems.

- 18 I acknowledge there is potential for refinements to the subdivision provisions to address discrete issues, such as incorporating the Queenstown Lakes District Council Subdivision Design Guidelines. These are capable of being addressed through targeted provisions.
- 19 The Council has in my view significantly underestimated the administrative and transaction costs arising from a discretionary regime that ultimately leads to much greater uncertainty and provisions that are ineffective and inefficient at achieving the relevant objectives of the PDP.
- 20 Further justification for restricted discretionary activity status based on the existence of landscape sensitive zones is flawed as the Panel will need to conduct an inquiry first into the appropriateness of the spatial planning outcomes before it settles on the provisions that will apply to those areas, including subdivision. As part of iterative process of hearing submissions on the PDP, it is entirely appropriate for the Panel to establish a default status for subdivision as a controlled activity on a district wide basis in the knowledge that this framework may not suit all of the future changes being addressed as part of the hearings on the planning maps. Chapter 27 is structured in a way to accommodate location specific provisions and these may provide the appropriate means by which to address location specific responses for future decisions on the planning maps that cannot be appropriately dealt with under a controlled, restricted discretionary or even discretionary activity approach.
- 21 The evidence supporting a district wide approach to controlled activity status is equally relevant for subdivision within Jacks Point. The Council has identified that as a zone where subdivision will be undertaken in accordance with a structure plan, it provides a high level of certainty as to the spatial planning outcomes. Whilst I support this overall sentiment, it is also the case with Jacks Point that subdivision is supported by a range of further and detailed matters of control (or discretion) providing confidence that access, open space, landscape and amenity values, recreation values and housing needs are appropriately addressed. For these reasons I support subdivision within the Jacks Point Zone as a controlled activity, subject to the further standards set out in the subdivision provisions.

- 22 Soho and Treble Cone have sought changes to Chapter 27 to enable a departure from the discretionary activity status applying to subdivision across the Rural Zone. My evidence reviews the higher level policies from Chapter 6 (Landscapes) and Chapter 21 (Rural) that apply to Ski Area Activities within the Ski Area Sub Zones. These provisions establish a clear basis for enabling growth, development and consolidation of activities and include exempting these areas from the landscape categories. The PDP also recognises the dependence of tourism on landscape values and establishes a general approach for management of the adverse effects of activities on the environment. Overall, the regime for development within the SASZs is substantially different from the remainder of the rural zone. Subdivision activities are a method by which ski area operators can facilitate investment within ski areas and achieve the objectives to grow, develop and consolidate activities. Given the range of controls over land use activities established within the SASZs and as proposed within the evidence presented at Stream 01B (Rural), I consider controlled activity subdivision within the SASZs an appropriate outcome that will give effect to the relevant objectives of the PDP.

#### **Subdivision under the Resource Management Act 1991**

- 23 Subdivision is an activity defined under the Act<sup>2</sup> to mean the division of an allotment –
- (i) *by an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of the allotment; or*
  - (ii) *by the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or*
  - (iii) *by a lease of part of the allotment which, including renewals, is or could be for a term of more than 35 years; or*
  - (iv) *by the grant of a company lease or cross lease in respect of any part of the allotment; or*
  - (v) *by the deposit of a unit plan, or an application to the Registrar General of Land for the issue of a separate certificate of title for any part of a unit on a unit plan; or*

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<sup>2</sup> s.218, Resource Management Act 1991

(b) *an application to the Registrar-General of Land for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by section 226,—*

- 24 It is an activity that cannot occur unless it is allowed by a national environmental standard, a rule in a district plan or a resource consent<sup>3</sup>. There are currently no national environmental standards that apply in a way that allows subdivision.
- 25 The matters of national importance within s.6 of the Act incorporate subdivision, in the following ways:
- (a) the preservation of the natural character of wetlands, lakes and rivers and their margins from inappropriate subdivision, use and development<sup>4</sup>;
  - (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development<sup>5</sup>; and
  - (c) the protection of historic heritage from inappropriate subdivision, use and development<sup>6</sup>.
- 26 The functions of territorial authorities may also include the control of subdivision<sup>7</sup> and rules within District Plan's to provide for setting aside esplanade reserves, or esplanade strips including circumstances where these may be greater or less than required by the Act.
- 27 In processing a subdivision consent, s.106 of the Act provides a territorial authority with the ability to refuse to grant consent if it considers land is or likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source<sup>8</sup>.
- 28 The subdivision consent process is unique also in terms of the steps that are applied to the post-resource consent process whereby consent holders are required to typically follow a three or four step process, as follows:
- (a) To have the subdivision consent given effect to through the signing and sealing of the survey plan under s.223 of the Act. This confirms

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<sup>3</sup> s.11, Resource Management Act 1991

<sup>4</sup> s.6(a), Ibid

<sup>5</sup> s.6(b), Ibid

<sup>6</sup> s.6(f), Ibid

<sup>7</sup> s.31(2), Ibid

<sup>8</sup> s.106(1), Ibid



the spatial layout of lots and enables easements access for all necessary services.

- (b) Prior to the commencement of construction, the Council requires consent holders to provide a range of more detailed engineering plans for certification. This step enables the development of more detailed engineering design plans, narrowing the feasibility concept information relied upon to obtain consent, providing much greater detail of what is to be constructed, and ensuring that Council standards will be met.
- (c) To obtain a completion certification under s.224(c) of the Act, Council is required to certify that all of the conditions of the subdivision consent have been satisfied (or bond entered into in compliance with any condition imposed under s.108(2)(b)). In practical terms this final stage will involve an inspection by the Council of the work undertaken as part of the subdivision and in compliance with the earlier detailed engineering plans approved prior to construction commencing. Once issued, the 224(c) approval provides the ability for the consent holder to request the Registrar General of Land (LINZ) to issue new titles.
- (d) In some instances, conditions are imposed with enduring effect beyond the issue of titles. The territorial authority may seek to have these conditions secured through a registered consent notice under s.221 of the Act. Consent notice conditions are common in the Queenstown Lakes District, especially within the rural areas where they are used to define parameters for future building within residential building platforms.

### **Otago Regional Policy Statement 1998**

- 29 In changing the district plan, the Council is required to “give effect to” any Regional Policy Statement<sup>9</sup>.
- 30 Policy direction on subdivision within the RPS been incorporated into the objectives and policies relating to the management of land (Chapter 5) and the built environment (Chapter 9). The objectives and policies from the ORPS relevant to this topic are contained within **Appendix 2**.

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<sup>9</sup> Ibid

- 31 With Chapter 5, Objective 5.4.1 seeks to promote the sustainable management of Otago's land resource in order to maintain and enhance the primary productive capacity and life supporting capacity of land resources; and to meet the present and reasonably foreseeable needs of Otago's people and communities. Of particular relevance to the Queenstown Lakes District is Objective 5.4.3 and the related Policy 5.5.6 seeking to protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.
- 32 Policy 5.5.1 recognises and provides for the relationship of Kai Tahu with Otago's land resource and seeks to establish processes that allow the existence of heritage sites, waahi tapu and waahi taoka to be taken into account when considering the subdivision, use and development of Otago's land resource.
- 33 Recognition of public access is provided through Policy 5.5.7 that promotes the provision of public access opportunities to natural and physical land features throughout the Otago region. This policy has some relevance to subdivision, particularly where the provision of esplanade reserves or esplanade strips is triggered upon subdivision as well as through the general formulation of policies relating to subdivision design and in order to achieve public access to and along the margins of rivers, lakes and streams<sup>10</sup> (as a matter of national importance).
- 34 Within the built environment (Chapter 9) the provisions of the oRPS establish broad direction to promote the sustainable management of Otago's built environment<sup>11</sup>; to promote the sustainable management of Otago's infrastructure<sup>12</sup>; and to avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources<sup>13</sup>.
- 35 Of particular relevance to subdivision and related development of infrastructure is Policy 9.5.2 seeking to promote and encourage efficiency in the development and use of Otago's infrastructure through encouraging development that maximises the use of existing infrastructure while recognising the need for more appropriate technology; and avoiding or

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<sup>10</sup> s.6(a), Resource Management Act 1991

<sup>11</sup> Objective 9.4.1 Otago Regional Policy Statement 1998

<sup>12</sup> Objective 9.4.2 Ibid

<sup>13</sup> Objective 9.4.3 Ibid

mitigating the adverse effects of subdivision, use and development of land on the safety and efficiency of regional infrastructure.

- 36 Policy 9.5.5 addresses the impacts of subdivision on quality of life for people and communities; providing a level of amenity acceptable to communities; and avoiding, remedying or mitigating the adverse effects of subdivision on landscape values.

### **Proposed Otago Regional Policy Statement 2016**

- 37 In changing the district plan, the Council is required to “have regard to” any proposed regional policy statement<sup>14</sup>. The objectives and policies from the pRPS relevant to this topic are contained within **Appendix 3**.
- 38 The pORPS provides much more direction than the operative RPS in terms of the design of urban areas, including use of the principles of good urban design<sup>15</sup>; encouraging low impact design techniques<sup>16</sup>; and designing for warmer buildings<sup>17</sup>. These policies are of direct relevance to the design and layout of subdivisions as well as for related infrastructure design.
- 39 In so far as subdivision occurs within the rural areas, Objective 3.8 provides direction in relation to how urban growth is designed and integrates effectively with adjoining urban and rural environments. Policy 3.8.3 seeks to manage the fragmentation of rural land by subdivision, use and development. Particular and specific direction is provided in relation to management of the subdivision, use and development of rural land to:
- a) *Avoid development or fragmentation of land which undermines or forecloses the potential of rural land:*
    - i. *For primary production; or*
    - ii. *In areas identified for future urban uses; or*
    - iii. *In areas having the potential for future comprehensive residential development; and*
  - b) *Have particular regard to whether the proposal will result in a loss of the productive potential of highly versatile soil, unless:*
    - i. *The land adjoins an existing urban area and there is no other land suitable for urban expansion; and*
    - ii. *The highly versatile soils are needed for urban expansion, any change of land use from rural activities achieves an*

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

<sup>15</sup> Policy 3.7.1, Proposed Otago Regional Policy Statement 2015

<sup>16</sup> Policy 3.7.2, Ibid

<sup>17</sup> Policy 3.7.3, Ibid

*appropriate and highly efficient form of urban development;  
and*

*iii. reverse sensitivity effects on rural productive activities can be avoided; and*

*c) Avoid unplanned demand for provision of infrastructure, including domestic water supply and waste disposal; and*

*d) Avoid creating competing demand for water or other resources*

40 This policy is supplemented by Policy 4.3.1 seeking to manage activities in rural areas, to support the region's economy and communities by minimising the loss of soils highly valued for their versatility for primary production; and minimising the subdivision of productive rural land into smaller lots that may result in rural residential activities.

41 Both Policies 3.8.1 and 4.3.1 are considered relevant for the subdivision chapter generally as well as for the rural and rural residential zones (Chapters 21 and 22), considered by the Panel during the Stream 2 hearings.

42 Also of relevance to subdivision are the general suite of provisions contained within Chapter 2 addressing the identification and management of outstanding natural landscapes and features<sup>18</sup> and special amenity landscapes<sup>19</sup>.

43 The pRPS also sets out a range of provisions providing specific direction in relation to natural hazard risk. These policies are relevant to subdivision processes, including the obligations under s.106 of the Act. The thrust of the policies in the pRPS is to establish a risk assessment based approach to hazard management in line with contemporary practice.

### **Strategic Directions Policies, Proposed Queenstown Lakes District Plan**

44 The provisions within Chapter 27 Subdivision are required to achieve the relevant objectives of the plan<sup>20</sup>. The strategy chapters contained within Part 2 of the PDP and considered as part of the hearings on Streams 01A and 01B, establish a range of objectives of relevance to subdivision.

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<sup>18</sup> Objective 2.2 and Policies 2.2.3, 2.2.4, Ibid

<sup>19</sup> Policies 2.2.5 and 2.2.6., Ibid

<sup>20</sup> s.32(1), Resource Management Act 1991

45 I presented evidence at the hearing on Stream 01B (differently composed Panel) in relation to the strategic directions chapters<sup>21</sup>. As part this evidence, I suggested a range of additions and changes to these provisions and this evidence is prepared on the basis of the position advanced at the hearing on Stream 01B. I attached within **Appendix 4** the relevant objectives and policies from the strategic directions chapters, as amended through my earlier evidence.

46 The objectives within Chapter 3 provide overall strategic direction for the management of district wide issues relating to the management of land within the Queenstown Lakes District. There is significant overlap in the strategic directions objectives in relation to the management of landscapes and urban development with Chapters 6 and 4. Objective 3.2.2.1 does however provide direction regarding the strategic and integrated management of growth that is relevant not only for the spatial planning outcomes but for subdivision as well, as follows:

*Objective 3.2.2.1 Urban development; ~~occurs in a logical manner~~:*

- *~~to promote a~~ has a well designed and integrated urban form;*
- *~~to manages~~ the cost of Council infrastructure; and*
- *~~to protects~~ the District's rural landscapes from ~~sporadic and sprawling-urban sprawl~~ development*

47 There is a suite of objectives under the goal of enabling a safe and healthy community that is strong, diverse and inclusive for all people, which provide specific direction in relation to subdivision design. This includes ensuring a mix of housing opportunities<sup>22</sup>; providing a high quality network of open spaces and community facilities<sup>23</sup>; and ensuring planning and development maximises opportunities to create safe and healthy communities through subdivision and building design<sup>24</sup>. In addition, Objective 3.2.3.1 also seeks to achieve a built environment that ensures urban areas are desirable and safe places to live, work and play.

48 The objectives from Chapter 4 (Urban Development) establishes direction for the management of urban growth, including through the establishment

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<sup>21</sup> Statement of Evidence of Christopher Bruce Ferguson, 29 February 2016

<sup>22</sup> Objective 3.2.6.2, Proposed Queenstown Lakes District Plan

<sup>23</sup> Objective 3.2.6.3, Ibid

<sup>24</sup> Objective 3.2.6.4, Ibid

of urban growth boundaries. Whilst these are primarily a tool to aid in the spatial planning outcomes for urban development, they also provide a basis for the co-ordination of infrastructure and services<sup>25</sup>; and a compact and integrated urban form that maximises the efficiency of infrastructure operation and provisions<sup>26</sup>. Such outcomes are relevant for the density of subdivision occurring within urban areas and linking directly to the rules within Chapter 27 relating to minimum and average allotment sizes. They also provide a basis for the subdivision provisions to co-ordinate infrastructure with development.

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<sup>25</sup> Objective 4.2.1, Proposed Queenstown Lakes District Plan

<sup>26</sup> Objective 4.2.3, Ibid

**ISSUE 1: DEFAULT STATUS OF SUBDIVISION**

- 49 The submissions by Darby Planning LP, Jacks Point, Soho Ski Area Ltd, Treble Cone, Lake Hayes Ltd, Glendhu Bay Trustees Ltd sought the deletion of Chapter 27 and its replacement with Chapter 15 from the operative Queenstown Lakes District Plan. In the alternative, these submissions sought amendments to Rule 27.4.1 to change the default status of subdivision from discretionary to controlled, with the exception of subdivision in the rural zone which would remain fully discretionary.
- 50 The key drivers for, and rationale behind, the retention of the default status for subdivision as a controlled activity are set out in the submission by Darby Planning LP. The submission reasons that:
- (a) The basis for the Council's proposed change to a fully discretionary regime appears to be driven by a desire to increase efficiency through a reduction in the length and complexity of the provisions. That desired outcome will not be achieved.
  - (b) The Council has failed to properly assess the options in undertaking this approach in relation to transaction costs, resource consent processing time, uncertainty and relative efficiencies of other approaches including retention of the status quo, as required under section 32 of the RMA.
  - (c) Subdivision certainty is key to efficient and effective use of resources in the district, and this is facilitated by clear understanding of the outcomes which can be achieved in any particular zone or area. If subdivision is retained as a discretionary activity, then subdivision may be appropriate in any given zone, but not on every particular site. A case by case assessment is required. Despite provision for non-notification, there is no certainty as to what might be approved. This could result in undesirable and ad-hoc planning outcomes such as inconsistency as to what is recommended and what is not, and therefore increases in litigation.

**Summary of position from Strategic Directions Hearing**

- 51 For the hearing for the strategic directions chapters, my evidence to the Panel under the Stream 01B Topics<sup>27</sup> discusses problems in defining urban

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<sup>27</sup> Evidence of Christopher Bruce Ferguson, 29 February 2016

development, particularly within the rural areas under the no minimum allotment size regime. Following a review of the Council's evidence relating to infrastructure and urban design, I agree that the establishment of Urban Growth Boundaries (UGBs) would be an effective tool for managing development within urban areas. My evidence on Stream 01B focused on the more detailed aspects of the provisions relating to urban development within UGBs. I support the integration of urban development with infrastructure and networks and sought to amend some of the higher order provisions to ensure private and public infrastructure is considered under the relevant policies.

- 52 Aside from these discrete issues, and the spatial planning outcomes that are not relevant to this hearing, my evidence either supports or does not seek to change any of the objectives and policies identified within Chapters 3, 4 and 6 above (as proposed to be amended through my earlier evidence) and which are relevant to subdivision.

#### **S.42A Report**

- 53 The s.42A Report recommends two key changes affecting the status of subdivision within Chapter 27, as follows:
- (a) Changing Rule 27.4.1 so that the default status for subdivision becomes a restricted discretionary activity through the introduction of two rules for urban areas and for rural living areas. The main differences relating to the matters of discretion.
  - (b) The introduction of a new zone and location specific standard listing subdivision undertaken in accordance with a structure plan, spatial layout plan or concept development plan as a controlled activity.
- 54 The s.42A report structures its consideration of the default status for subdivision around three main points: the ability to respond to subdivision variability and design; efficiencies of administration; and the ability to decline consent. In terms of subdivision design, the s.42A report identifies landscape sensitivities of some Rural Lifestyle zones located within ONLs, including those at Makarora and Mt Barker, where a higher quality design response is required. Within urban areas, the report opines that the existing subdivision provisions are ineffective in delivering good subdivision responses, particularly within the Low Density Residential Zones relying on the urban design critique conducted in 2010.



- 55 The evidence of Mr Glasner identifies alleged potential difficulties in addressing the adverse outcomes from subdivision promoting substandard road design, including the consequences that access design may have on the overall lot layout. Because of the existence of areas of landscape sensitivity, potential constraints with natural hazards and the provision of substandard services, the s.42A report considers restricted discretionary activity status as the most appropriate “default” over controlled activity status because it provides the Council with the ability to decline consent.
- 56 The effect of the s.42A recommendations are to ensure subdivision within the Jacks Point Zone becomes a controlled activity and thereby accepting the alternative relief sought in the submission by Jacks Point. The s.42A report reasons that in the circumstances of zones having a structure plan. There is a level of certainty to both proponents and decision makers for what is expected in terms of subdivision design.

### **Evaluation**

- 57 The Council’s s.42A Report retracts from the notified position, for the reasons set out above and I support some of the recommendations, particularly to change the status for subdivision within zones containing structure plans from restricted discretionary to controlled. The revised proposal considers in more depth the impact of the notified regime on district plan administration (inefficiencies) and the uncertainty of outcomes. Because of this change in position, I focus much of my evaluation on the main points of difference.

### **What is the Problem?**

- 58 As set out in the s.42A Report, there has been no specific report prepared by the Council examining the effectiveness of the current subdivision provisions, nor does the s.32 report point to any identified problem experienced by practitioners, landowners or developers. Apparent from the Council’s s.32 report prepared in support of the notified provisions is a “philosophical” drive to reduce the length of the subdivision chapter. This, coupled with a perception of poor quality design outcomes arising from the implementation of the operative provisions, leads to the default status of subdivision being elevated from controlled to discretionary.
- 59 From my involvement in subdivision processes within the Queenstown Lakes District over the last 16 years, I have a thorough understanding of any shortcomings with the operative provisions. There are no shortcomings

under the operative provisions that, in my view, warrant a philosophical shift in the default status of all subdivision away from being a controlled activity.

- 60 The overwhelming number of submissions to Chapter 27 oppose this key change in the status of activity and this has unfortunately shifted focus from a consideration of the finer details of helpful improvements to the existing controlled activity regime to a broader discussion of problems that in my view do not exist. That is not to suggest there is no room for improvement, including of the issues described in the evidence for the Council, which in my view could provide justification for fine tuning that does not require a change in the default status of all subdivision.

### **The Current Regime**

- 61 Under the operative District Plan, the structure of Chapter 15 is a hybrid of the 'Cascade' model of District Plan together with some listed activities. Consistent with the approach elsewhere in the operative District Plan there are Site Standards establishing performance based triggers to be met for all activities and where failure to comply leads to the requirement for resource consent as a restricted discretionary activity. Zone Standards provide further performance based triggers to be met for all activities and where the failure to comply triggers a requirement for resource consent as a non-complying activity.
- 62 Under the hybrid structure there is a combination of listed non-complying activities and Zone Standards to be met, listed Restricted Discretionary activity and Site Standards to be met as well as other listed controlled and fully discretionary activities.
- 63 Within the operative subdivision rules, the default status for all subdivision is a controlled activity. Because of this and the range of issues required to be addressed as part of the subdivision process, this chapter contains a very detailed suite of controlled activity rules, as follows:
- 15.2.7.1 Controlled Subdivision Activities - Subdivision Design*
  - 15.2.7.2 Site Subdivision Standards – Subdivision Design*
  - 15.2.8.1 Controlled Subdivision Activities - Property Access*
  - 15.2.9.2 Controlled Subdivision Activities - Esplanade Provision*
  - 15.2.10.1 Controlled Subdivision Activities - Natural and Other Hazards*
  - 15.2.11.1 Controlled Subdivision Activities - Water Supply*
  - 15.2.12.1 Controlled Subdivision Activities - Stormwater Disposal*

- 15.2.13.1 *Controlled Subdivision Activities - Sewage Treatment and Disposal*
- 15.2.14.1 *Controlled Subdivision Activity - Trade Waste Disposal*
- 15.2.15.1 *Controlled Subdivision Activity - Energy Supply and Telecommunications*
- 15.2.16.1 *Controlled Subdivision Activities - Open Space and Recreation*
- 15.2.17.1 *Controlled Subdivision Activities - Vegetation and Landscape*
- 15.2.18.1 *Controlled Subdivision Activity – Easements*

- 64 I note this basic framework has been carried over into the revised proposal through the new matters of discretion under Rules 27.5.5 and 27.5.6.
- 65 For each of the above controlled activity subdivision rules there are a range of assessment matters. The assessment matters are included within the District Plan in order to enable the Council to implement the Plan's policies and fulfil its functions and duties under the Act<sup>28</sup>. In administering the relevant rules, the District Plan describes how the relevant assessment matters will be applied, as follows:
- (iii) *In the case of Controlled and Discretionary Subdivision Activities, where the exercise of the Council's control or discretion is restricted to specified matter(s), the assessment matters taken into account shall only be those relevant to that/those matter(s).*
  - (iv) *In the case of Controlled Subdivision Activities, the assessment matters shall only apply in respect to conditions that may be imposed on a consent.*
  - (v) *In the case of Controlled Subdivision Activities, the application would only be declined pursuant to section 106 of the Act (Natural Hazards).*
- 66 Together the controlled activity rules and assessment matters create a very detailed framework explaining clearly what can be expected for any subdivision. The same level of detail has not been included within either the notified version of Chapter 27 or the revised version.
- 67 As a practitioner using these provisions over the last 16 years, I can navigate my way confidently around the operative provisions and apply them with a reasonable degree of certainty. They are not complex or difficult to understand. A significant reason for having certainty is controlled activity status and in terms of the more detailed elements of subdivision, the very detailed guidance provided through the assessment matters. A potential

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<sup>28</sup> 15.2.2.8 Application of Assessment Matters, Page 15-15, operative Queenstown Lakes District Plan

improvement that could be made to the chapter would be to rationalise the rules and standards to follow a more concise structure, including through the use of activity tables being adopted within the PDP, but there is no need to change from controlled activity status to make them easier to apply.

### **Subdivision Design**

- 68 The s.32 Report prepared in support of the notified provisions purports to identify the positive benefits from a fully discretionary regime for achieving better quality subdivision design. The focus of the discussion within the s.42A Report on subdivision design appears to relate more to the sensitivity of subdivision of particular Rural Lifestyle zones located within ONL's, an urban design critique of urban subdivision and loss of heritage values.
- 69 In terms of the notified position, utilising a fully discretionary activity status, this also retained a minimum allotment size table. Despite specifying minimum allotment sizes for the Stage 1 zones, the provisions retain full discretion over the subdivision activity and ultimately provide the Council unfettered ability to control the size of lots through refusal of consent, setting conditions or as part of a s.92 request for redesign. The minimum lot size table provides no certainty that the anticipated density for any given zone can be achieved. This has adverse commercial and planning implications for the landowner. In terms of the broader integrated planning between Council infrastructure and land use activities, the notified subdivision regime would provide no certainty on the likely development yield and therefore demand for Council and other infrastructure planning.
- 70 Under the revised proposal, the Council evidence and s.42A Report establish a basis for restricted discretionary activity status to also improve subdivision design, in particular to address issues relating to landscape sensitive zones, differences between urban and rural living areas, a critique of subdivision design within the Low Density Residential Zone and heritage values. I address each of these matters in turn below.

### *Landscape Sensitive Areas*

- 71 The issue relating to landscape sensitivities in the Rural Lifestyle zones, in particular, appears to confuse activity status for subdivision with the appropriateness of the separate decisions relating to the spatial planning outcomes created under the planning maps. I am conscious that the Panel has yet to make decisions on the planning maps. In terms of subdivision, I believe decisions on the appropriateness of the zone and associated

objectives and policies applying to the land concerned should be made in advance of the rule provisions employed to achieve them.

- 72 At a district wide level, the Panel will need to be satisfied that any proposed new sensitive Rural Lifestyle zones located within ONLs are appropriate in the first instance. Having done that, it may well be that targeted provisions that focus on the particular landscape issues of those areas would represent the most effective and efficient response, having regard to the alternative being an blanket lift in activity status from controlled to restricted discretionary.
- 73 Taking an approach of determining the suitability of the zoning first, it could be that in order for that zone to align with the higher order strategic and landscape objectives, a higher class of activity status (such as RDA) is necessary and appropriate. In all other instances a controlled activity regime would provide a suitable base from which to operate across the majority of zones where landscape sensitivities are not present to such a high degree.
- 74 I acknowledge that the Panel may not have the opportunity to consider the appropriateness of existing zones at the time of hearing submission on the planning maps, where the zones themselves are not subject to submissions. In the event the Panel have concerns about the potential effects within any existing zone, and does not have the opportunity to make a decision on the appropriateness of that zone through future hearings on the planning maps, the structure of Chapter 27 provides for location specific rules to be formulated to address discrete issues without having to resort to a blanket approach.

*Rural Lifestyle Zones (District Wide)*

- 75 Aside from the status of subdivision consent, the s.42A report usefully suggests the addition of further matters of discretion, which could be included as a limitation on control, relating to subdivision design within the RL zones, including:
- (a) *the extent to which the design maintains and enhances rural living character, landscape values and visual amenity;*
  - (b) *the extent to which the location of building platforms could adversely affect adjoining non residential land uses;*

- (c) *orientation of lots to optimise solar gain for buildings and developments;*
- (d) *the effects of potential development within the subdivision on views from surrounding properties;*
- (e) *In the case of the Makarora Rural Lifestyle Zone, the concentration or clustering of built form to areas with high potential to absorb development, while retaining areas which are more sensitive in their natural state;*
- (f) *In the Rural Residential Zone at the north end of Lake Hayes, whether and to what extent there is the opportunity to protect and restore wetland areas in order to assist in reducing the volume of nutrients entering Mill Creek and Lake Hayes.*

76 As matters that restrict discretion the above list could benefit from some minor editing to read less like assessment matters and genuinely as matters limiting the exercise of the Council's discretion. The full list of matters of discretion also repeats much of the same matters listed under the urban areas Rule 27.5.5. There is scope for a simple cross reference to reduce the length of matters here. I also have some concerns about how the effects on private views can be effectively incorporated into subdivision within an area zoned for rural living. It could be incorporated instead into a consideration on the location of building platforms (required within Rural Lifestyle Zones). I include some recommended changes to the Council's wording within **Appendix 1**.

#### *Urban Areas*

- 77 The s.42A Report, informed through the evidence of Mr Falconer, promotes the use of the Council's Subdivision Design Guidelines as a matter of discretion for all subdivision. Having considered the evidence of Mr Falconer, I agree with the benefits in referencing the Design Guidelines to promote good design. I do not agree with the suggestion/inference in the Council's evidence that elevating the status of subdivision will benefit the quality of design in a way controlled activity status cannot.
- 78 As a positive influence on design outcomes, I note that the district now has the benefit of the Queenstown Lakes Urban Design Panel established in 2004, a commitment to promoting good urban design outcomes through becoming a signatory to the New Zealand Urban Design Protocol, the

adopting of an Urban Design Strategy in 2009 and the ability to draw on internal urban design expertise to better inform the subdivision process. In my view, these factors, together with the use of the Subdivision Design Guidelines will provide a more effective and efficient means of achieving good subdivision design outcomes within areas where subdivision is an anticipated and expected outcome from the relevant zone provisions.

- 79 The evidence of Mr Falconer for the Council, draws on the results of an urban design critique of subdivision within the Queenstown Lakes District which provides a mediocre rating of the seven subdivisions assessed. This urban design evidence supports the recommendation by the s.42A report for subdivision, which is not supported by a structure plan, to become a restricted discretionary activity.
- 80 The evidence of My Falconer does not however establish a link between the urban design critique of subdivision within the District to any failing on the part of the subdivision provisions. Referring to the example of Lake Hayes Estate, the urban design critique considers three elements of the urban design outcomes as being unsuccessful, as follows:
- (a) Nerin Square and Hope Avenue – central square and wide avenue are less successful due to low perimeter buildings and lack of enclosure / built scale;
  - (b) Out of Town location – This subdivision requires residents to drive or bus for most of their daily needs; and
  - (c) Roads and Road Reserve Widths – Street Scale is not matched by a sufficient built scale to create meaningful enclosure of spaces, or human comfort
- 81 In response to these factors, I note that Nerin Square has since been developed to contain a number of medium density (two storey) units as part of a comprehensive housing development undertaken by the Queenstown Lakes Community Housing Trust. This includes also some limited provision of convenience retail and a food and beverage outlet that together with the higher density residential development around the core of the settlement from a greater sense of enclosure, as well as community focus.
- 82 The out of town location is a function of the zoning decision made under the first generation District Plan.

- 83 The standard of road reserves and carriageways within Lake Hayes Estate were set at a scale that complied with the Council's Code of Practice of Subdivision and Land Development at the time. It is relevant to note in my time operating as a practitioner within the Queenstown Lakes District, there have been three versions of the Councils Code of Practice for subdivision, each being based on New Zealand Standard NZS4404, with Council amendments to these being adopted sometime after publication of the NZS4404:1981, again in September 2005 and 28 May 2015. Over time the standard of road reserve and carriageways widths have been refined both in terms of taking into account predicted traffic flows but also to progressively require narrower legal road and carriageway widths. In this context, it does not come as any surprise that subdivision undertaken before 2015 or 2005 would have roads wider than considered appropriate under contemporary standards.
- 84 In summary, I do not consider that the Council's evidence establishes any significant problems with subdivision design directly attributable to the operative District Plan provisions. The qualities of past subdivision may well reflect the Codes of Practice for Subdivision, adopted by Council, at that time compared to the increased awareness and commitment to good urban design outcomes in more recent times. The operative subdivision provisions in my opinion have sufficient flexibility to enable continued improvements to be made in urban design outcomes without adopting a fully discretionary or restricted discretionary framework.

#### *Heritage Values*

- 85 The subdivision provisions of Chapter 27, list as a discretionary activity, the subdivision of land containing a heritage or other protected item and schedule in the District Plan<sup>29</sup>; and the subdivision of land identified on the planning maps as a Heritage Landscape<sup>30</sup>; and the subdivision of a site containing a known archaeological site<sup>31</sup>. These are recognised areas or items mapped through other parts of the plan and for which a targeted set of rules have been formulated through Chapter 27 with an appropriate class of activity taking into account the level of protection now afforded to historic heritage under s.6(f) of the Act.

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<sup>29</sup> Rule 27.5.9, Chapter 27, PDP

<sup>30</sup> Rule 27.5.10, Ibid

<sup>31</sup> Rule 27.5.11. Ibid



- 86 Given these rules that trigger the requirement for resource consent as a discretionary activity (unrestricted) I do not consider heritage values as providing separate justification for restricted discretionary activity status for subdivision across all urban or rural living areas.

#### **Ability to decline consent**

- 87 The Council's s.32 and s.42A Reports support an elevation in status of subdivision to provide the ability to decline consent, based on areas of natural, cultural and historic value "*that a discretionary activity regime will help focus the importance of these values through better subdivision design*". In addition, the s.42A report identifies hazards constraints as further justification where landowners may have an "unrealistic expectation" and where the provision of services, such as road widths, and not satisfied.
- 88 In my view, each of the above are discrete issues that require a more refined approach and the formulation of an appropriately targeted planning framework and not through an across the board solution.

#### *Infrastructure*

- 89 The evidence of Mr Glasner for the Council is that, while controlled activity status for subdivision generally works in terms of infrastructure requirements, restricted discretionary activity status is preferred over a controlled activity status<sup>32</sup> because restricted discretionary activity status allows the Council to decline substandard applications that have inappropriate vehicle access widths, amongst other infrastructure concerns (although no other concerns have been identified). In addition, the Council's evidence and s.42A Report recommend deletion of reference to the Council's Land Development and Subdivision Code of Practice.
- 90 The notified and revised Chapter 27 provisions primarily address the adequacy of infrastructure through the objectives and policies, with only one rule/standard proposed relating to water supply. The proposed new rules relating to subdivision within urban and rural living areas include discretion over property access, roading, water supply, stormwater, wastewater, energy supply and communications.

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<sup>32</sup> Paragraph 5.1, Page 6, Evidence of Ulrich Wilhelm Glasner, 29 June 2016

- 91 I understand the basis for this change to the referencing of the Code of Practice is the evidence of Mr Glasner who describes it as a living and ever evolving document and where the Council are anticipating further amendments and review within the next three months<sup>33</sup>.
- 92 In terms of the standard of roading design, I note that assessment matter 15.2.8.3 (iii) under the operative District Plan makes reference to "*The provisions of the Council's Code of Practice for Subdivision in respect of the design and construction of roads and private access*" and other assessment matters contain similar references. I accept that a standard in a District Plan cannot incorporate by reference an external document that can be amended without involving a formal plan change process, but as an assessment matter, I understand this legal restriction does not apply and there is flexibility for the Code of Practice to be applied as those standards change or are updated.
- 93 I also agree that the Code of Practice is fit for purpose as a guideline most appropriately enforced through consent conditions. This matches with my experience in dealing with subdivision where the standards contained within the Council Code of Practice are almost always secured through a consent condition, expanding on the matters of further detailed engineering design to be submitted prior to the sign and sealing of survey plans.
- 94 Typically subdivision consents involving the installation of services (i.e. not boundary adjustments) commence with a condition worded something along the lines of the following:
- All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any subdivision consent.*
- Note: The current standards are available on Council's website via the following link:*  
<http://www.qldc.govt.nz/planning/resource-consents/qldc-land-development-and-subdivisioncode-of-practice/>
- 95 Given this practice, the ability to confer this as an element in the exercise of control and my experience in working under the operative regime I do

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<sup>33</sup> Paragraph 4.2, Ibid

not consider it necessary to further elevate the status of all subdivision to create discretion to refuse consent.

- 96 The evidence of Mr Glasner outlines a theoretical example where the Council might be faced with a subdivision having a substandard road width and where the imposition of a condition to widen the road would result in the entire subdivision layout impossible to exercise<sup>34</sup>. I note that the evidence of Mr Glasner does not appear to be based on an actual consent application to illustrate the point. I cannot recall any subdivision in my time working either for Council or the private sector, where the imposition of a condition on access, within the site, would render the layout impossible to exercise.
- 97 The Council always had, and still has the capacity under a controlled activity regime to require a certain standard of access to be met. Changing consent status does not change the extent of Council control over this issue.

#### *Natural Hazards*

- 98 Natural hazards are an important aspect to a consideration within the subdivision framework and need to be carefully evaluated to mitigate unacceptable risk for the safety of people and communities. Within the Queenstown Lakes District, which contains large areas of mountainous topography, significant water bodies and their dynamic processes in proximity to human habitation, natural hazards are an issue requiring proactive management. The PDP seeks to manage natural hazard risk through the district wide objectives and policies contained within Chapter 28 (Natural Hazards) and the imposition of location specific policies within the Makarora Rural Lifestyle Zone. Over and above the PDP, all subdivision is subject to s.106 of the Act.
- 99 The existence of natural hazards will also be a factor informing the suitability of decision relating to the appropriateness of any particular zone and not in itself justification for elevating the status of all subdivision. As demonstrated through the provisions included within Chapter 27 for the Makarora Rural Lifestyle Zone, site specific provisions are one possible solution and the appropriateness of the subdivision rules would flow from decisions made in terms of the planning maps where the full range of planning options would be available to address that risk.

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<sup>34</sup> Paragraph 5.2, Ibid

100 In situations where natural hazard risk arises after the creation of a zone, the provisions of s.106 provide an appropriate regulatory method to address hazard risk for people and communities. I have been involved with clients providing resource management advice for subdivision in circumstances where s.106 has become a significant issue through natural hazard risk. This included two separate projects near Wanaka on land zoned for urban and rural residential urban development alongside Stoney Creek and Waterfall Creek. In both instances the statute enabled a full consideration of natural hazard risk to occur, including facilitating input from the Otago Regional Council, and a sustainable outcome was reached.

### **Summary**

101 Taking into account the matters set out above, I consider controlled activity status as the default position for all subdivision activities within the District as being appropriate, in circumstances where:

- (a) In respect of any new zone or any zone under challenge, the Panel is satisfied in the first instance that the spatial planning outcomes and the zoning provided on the planning maps are appropriate to those areas;
- (b) A framework of location specific provisions are established in support of zones where the default controlled activity status is inadequate or needs further support;
- (c) The Code of Practice for Subdivision continues to be applied through relevant matters of control; and
- (d) The matters of control incorporate the Council's Subdivision Design Guidelines.

102 In order to achieve this relief, and acknowledging the benefit of the redrafted and restructuring of provisions suggested within the s.42A report, I suggest replacing Rule 27.5.5 (revised proposal) to establish the default status for all subdivision (excluding the rural zone) as a controlled activity with the possible exception of certain identified areas where location specific rules could apply. Adopting the suggestion from the s.42A report to separately provide for subdivision within the rural lifestyle and rural residential zones, including through additional matters of discretion/control, I suggest replacing the Rules 27.5.5 and 27.5.6 from the revised proposal, as follows:

	<b>Subdivision Activities – District Wide</b>	<b>Activity Status</b>
<b><u>Rule 27.5.5</u></b>	<p><u>All subdivision activities, except as otherwise stated.</u></p> <p><u>Council's control is limited to:</u></p> <ol style="list-style-type: none"> <li>a. <u>The intended purpose of any future land use, having regard to the relevant standards of the zone;</u></li> <li>b. <u>Subdivision design and the urban design principles set out in the QLDC Subdivision Design Guidelines;</u></li> <li>c. <u>Property access and roading;</u></li> <li>d. <u>Esplanade provision;</u></li> <li>e. <u>Natural hazards;</u></li> <li>f. <u>Fire fighting water supply;</u></li> <li>g. <u>Water supply;</u></li> <li>h. <u>Stormwater disposal;</u></li> <li>i. <u>Sewage treatment and disposal;</u></li> <li>j. <u>Energy supply and telecommunications;</u></li> <li>k. <u>Open space and recreation; and</u></li> <li>l. <u>Easements</u></li> </ol>	<u>C</u>
<b><u>Rule 27.5.6</u></b>	<p><u>All subdivision activities within any Rural Lifestyle Zone or Rural Residential Zone</u></p> <p><u>Council's control is limited to:</u></p> <ol style="list-style-type: none"> <li>a. <u>The matters of control listed within Rule 27.5.5;</u></li> <li>b. <u>The location of building platforms in any rural lifestyle zone;</u></li> <li>c. <u>Orientation of lots to optimise solar gain</u></li> </ol> <p><u>Within the Makarora Rural Lifestyle Zone</u></p> <ol style="list-style-type: none"> <li>d. <u>The concentration or clustering of built form to areas with high potential to absorb development, while retaining areas which are more sensitive in their natural state;</u></li> </ol> <p><u>Within the Rural Residential Zone at the north end of Lakes Hayes</u></p> <ol style="list-style-type: none"> <li>e. <u>Opportunities to protect and restore wetland areas in order to assist in reducing the volume of nutrients entering Mill Creek and Lake Hayes</u></li> </ol>	<b>C</b>

103 My proposed Rule 27.5.5 above is almost the same as Mr Bryce's recommended rule. I highlight the fact that I have removed reference to "lot sizes ...", and this is a critical difference. Under the current operative regime

the Council's control over lot sizes and dimensions is limited through Rule 15.2.6.1, as follows:

**15.2.6.1 Controlled Subdivision Activities - Lot Sizes and Dimensions**

*Except where specified as Discretionary or Non-Complying Subdivision Activities in Rules 15.2.3.3 and 15.2.3.4, any subdivision of land in any zone, which complies with all of the Site and Zone Subdivision Standards, is a **Controlled Subdivision Activity**, with the Council reserving control in respect of the following:*

- i Lot sizes and dimensions for subdivisions of land in the Town Centre, Corner Shopping Centre, Remarkables Park, Resort and Visitor Zones.*
- ii Sizes and dimensions of lots for access, utilities, reserves and roads.*
- iii There will be no minimum lot sizes or areas for hydro development activities and subdivision.<sup>35</sup>*

104 Apart from the limited areas stated above in (i), the operative District Plan does not retain control over lot size (other than compliance with minimum lot sizes). Therefore landowners have certainty about development yield. My amendment removing that element of control reinstates that certainty.

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<sup>35</sup> Page 15-26, operative Queenstown Lakes District Plan

## ISSUE 2: JACKS POINT

106 Under the Chapter 27 provisions as notified, subdivision within the Jacks Point Zone requires consent as a restricted discretionary activity as the default status with the addition of a range of further standards relating to a range of specific matters. The rule that triggers consent as a restricted discretionary activity for all subdivision within Jacks Point is Rule 27.4.3 (as notified), as follows:

*Rule 27.4.3 The following shall be Restricted Discretionary activities:*

- a Subdivision undertaken in accordance with a structure plan or spatial layout plan that is identified in the District Plan. Discretion is restricted to the matters specified in the Location Specific Objectives, Policies and Provisions in Part 27.7.*

107 The relief sought in the submission by Jacks Point was to enable subdivision as a controlled activity, through changes to Rule 27.4.1 (**Appendix 1**). In addition to changing the status of subdivision, the Jacks Point submission sought a range of further minor changes to the provisions designed to improve clarity and understanding, including:

- (a) Amending Rule 27.5.1 Lot Size table by making a minor correction to clarify that it is “all other activity areas” which are required to comply with the average density requirements set out in Rule 41.5.8.
- (b) Amending matter of discretion 27.7.14 Jacks Point by adding a new heading after Policy 27.7.14.1 stating “Matters of Discretion for subdivision within the Jacks Point Zone”
- (c) Amending Rule 27.7.14.3 R(HD) Activity Areas, matters of discretion to refer to provision 27.7.14.2 stated within the parenthesis on the first line. Provision 27.7.14.2 contains the general matters of discretion for subdivision within the Jacks Point Zone.
- (d) Amending Rule 27.8.9.2 Jacks Point Zone Conservation Lots by making minor corrections to clarify restricted discretionary activity status as being triggered in relation to “this” rule. A further amendment is also sought to delete “all of the following” from the restrictions on discretion.

### **s.42A Report**

108 The s.42A Report has recommended numerous changes to the overall structure of the objectives, policies and rules, including in relation to the location specific areas affecting Jacks Point. The s.42A Report recommends shifting the location specific objectives and policies from within Section 27.7 into 27.3, so that they would immediately follow the general district wide objectives and policies. The report further recommends taking the “other provisions” contained within section 27.7 and including within a new rule 27.7 being a table containing all of the location specific standards. A helpful way to understand the overall structure of the revised Chapter 27 is to summarise by main headings as follows:

27.1 Purpose

27.2 Objectives and Policies – District Wide

27.3 Location – specific objectives and policies

27.4 Other provisions and Rules

27.5 Rules – Subdivision

27.6 Rules – Standards for Subdivision Activities

27.7 Rules – Zone and Location Specific Standards

27.8 Rules – Exemptions

27.9 Deleted [renumbering required]

27.10 Deleted [renumbering required]

27.11 Rules – Non-Notification of Applications

27.12 Rules – General Provisions

27.13 Natural Hazards

27.14 Development and Financial Contributions

27.15 Structure Plans and Spatial Layout Plans

109 The s.42A Report supports a change to Rule 27.4.3 (as notified), Rule 27.7.1 (revised), whereby all subdivision undertaken in accordance with a structure plan or development plan is a controlled activity. The s.42A Report considers that in the case of subdivision undertaken in accordance with a structure plan, there is a level of certainty to both proponents and



decision makers of what is expected in terms of subdivision design. Because of these factors, the s.42A Report supports controlled activity status.

- 110 Through all of the suggested structural changes to the chapter and in particular the location specific provisions and rules, many elements of the relief sought in the Jacks Point submission have been accepted through a change in status or as part of the redrafting of rules to fit within the revised structure.
- 111 The further changes accepted within the s.42a Report, arising from the Jacks Point submission, include the addition of a new rule providing for boundary adjustments and the amendments to the lot size table for Jacks Point to clarify wording.

### **Evaluation**

#### *Default status of subdivision within the Jacks Point Zone*

- 112 There are two main options proposed for the status of subdivision within the Jacks Point Zone, being to retain the notified status as a restricted discretion activity or to change to a controlled activity. The evidence for the Council supports a change to a controlled activity for the reasons outlined above. The submission from Jacks Point also seeks controlled activity status through changes to the default activity status for all subdivision under Chapter 27.
- 113 I agree with the s.42A Report findings that structure plans afford a degree of certainty regarding the spatial planning outcomes for a particular area and the overall conclusion about the appropriateness of controlled activity status. In terms of subdivision within the Jacks Point Zone, there are a range of matters to be considered as matter of control under the revised proposal. In the case of the Jacks Point zone, these matters support and complement the structure plan to ensure subdivision provides for the public access routes, primary and secondary road corridors, open spaces, public transport routes, pedestrian and cycle connections, landscape mitigation, road and street designs and other more detailed controls relating to building at particular densities.

- 114 In the case of Jacks Point, the nature of the associated controls<sup>36</sup> addressing these detailed elements provides a high level of confidence that the structure plan addresses the type of factors set out within the s.42A Report in support of restricted discretionary activity status for subdivision occurring within urban and rural living zones.
- 115 In the event the Panel accepts this evidence and the evidence from the Council in support of controlled activity status for the Jacks Point Zone, it is possible to grant this relief through the addition of the new Rules 27.7.1 (revised proposal) relating to subdivision undertaken in accordance with a Structure Plan and the additional matters of control relating to the Jacks Point Zone set out in the new Rule 27.7.4 (revised proposal).
- 116 Alternatively, I set out in this evidence within Issue 1 above a basis for establishing controlled activity status as the default for all subdivision activities across the district (excluding the Rural Zone), in circumstances where:
- (a) In respect of any new zone or any zone under challenge, the Panel is satisfied in the first instance with the spatial planning outcomes and the zoning provided on the planning maps are appropriate to that areas;
  - (b) A framework of location specific provisions are establish in support of zones where the default controlled activity status is inadequate;
  - (c) The Code of Practice for Subdivision continues to be applied through relevant matters of control; and
  - (d) The matters or control incorporate the Council's Subdivision Design Guidelines.
- 117 In the event the Panel accepts the evidence in relation to Issue 1 and the district wide default status changes to a controlled activity, the relief sought in the submission by Jacks Point and supported in evidence by the Council could be provided through the changes proposed in relation to Rule 27.5.5 (revised proposal) and supplemented through the additional matters of control relating to the Jacks Point Zone contained within Rule 27.7.4.

*Redrafting and Restructuring of Chapter 27 (consequential changes)*

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<sup>36</sup> Provision 27.7.14, Chapter 27 (as notified), Rule 27.7.4, Chapter (revised proposal)

- 118 The changes proposed to the structure of Chapter 27 contained within Appendix 1 to the s.42A Report broadly reflect the structure of the other PDP chapters, which follow a sequence of objectives and policies, district wide rules (contained within an activities based list in table format), and standards to be met for all activities (also based around a table format). Accepting this structure is appropriate, it makes sense to restructure the chapter to provide the location specific objectives and policies to immediately follow the district wide objectives and policies and to also include the location specific rules and standards within separate tables.
- 119 However, in reviewing the revised proposal as it relates to Jacks Point, I am unsure that the status of subdivision activities is clear. For example, Rule 27.5.5 (revised proposal) states that subdivision within all urban areas is a restricted discretionary activity, but under Rule 27.7.1 (revised proposal) subdivision undertaken in accordance with a structure plan is listed as a controlled activity. In the case of Jacks Point that is both within an urban area and part of a zone containing a structure plan, it is unclear whether both rules apply.
- 120 In the event the Panel accepts this evidence to change the default status of subdivision to being a controlled activity through changes to Rule 27.5.5 (revised proposal) there would be no need for Chapter 27 to have a specific rule relating to subdivision undertaken in accordance with a structure plan and by deleting this rule the inconsistencies would also be removed.
- 121 In the event the Panel does not accept the evidence in support of the district wide change to the default status of subdivision activities, then further changes are suggested to Rule 27.7.1 (revised proposal) to tidy up the wording and minimise repetition within this rule relating to subdivision undertaken in accordance with a structure plan. In my view the length of the rule could be reduced through appropriate cross reference to Rule 27.5.5. The s.42A reports includes the previous restrictions on discretion from notified Rule 27.7.14.2 as matters of control. In general terms that is fine, but as a controlled activity it is not appropriate to include the extent to which subdivision is consistent with the relevant location specific objectives and policies in Part 27.3. As a controlled activity, the subdivision must by virtue of its status be consistent with the objectives and policies. Further matters of control are included to make reference to the Subdivision Design Guidelines, which I generally support, but are worded more as assessment matters.

27.7.1	<p><b>Subdivision undertaken in accordance with a structure plan, spatial layout plan, or concept development plan that is identified in the District Plan.</b></p> <p>Council's <del>c</del>Control is <del>restricted</del><u>limited</u> to all of the following:</p> <ul style="list-style-type: none"> <li>• <u>The matters of discretion listed within Rule 27.5.5;</u></li> <li>• <del>The extent to which the subdivision is consistent with the relevant location specific objectives and policies in part 27.3;</del></li> <li>• <del>Lot sizes, averages and dimensions;</del></li> <li>• <del>Subdivision design, lot configuration, roading patterns (including footpaths and walkways) in accordance</del> <u>Compliance</u> with the applicable structure plan or spatial layout plan;</li> <li>• <del>The extent to which the subdivision design achieves the subdivision and urban design outcomes set out in QLDC Subdivision Design Guidelines;</del></li> <li>• <del>Property access;</del></li> <li>• <del>Landscaping and vegetation;</del></li> <li>• <del>Heritage, where applicable;</del></li> <li>• <del>Esplanade provision;</del></li> <li>• <del>Natural and other hazards;</del></li> <li>• <del>Fire fighting water supply;</del></li> <li>• <del>Water supply;</del></li> <li>• <del>Stormwater design and disposal;</del></li> <li>• <del>Sewage treatment and disposal;</del></li> <li>• <del>Energy supply and telecommunications;</del></li> <li>• <del>Open space and reserves;</del></li> <li>• <del>Easements;</del></li> <li>• Opportunities for enhancement of ecological and natural values;</li> <li>• <del>Provision for internal walkways, cycle ways and pedestrian linkages;</del></li> <li>• <del>The nature, scale and adequacy of environmental protection measures associated with earthworks.</del></li> </ul>	C
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122 In addition to the restructured location specific objectives and policies relating to Jacks Point, the s.42A Report has also recommended adding two new Policies 27.3.13.2 and 27.3.13.3 (revised proposal) relating to subdivision within Jacks Point. These policies were not sought within any submission and in my view are unnecessary. Existing Policy 27.3.13.1 (revised proposal) establishes the necessary cross reference to the

Chapter 41 provisions and the additional policies would conflict with those provisions. I recommend these two new policies within the revised proposal be deleted.

### ISSUE 3: SKI AREA SUB ZONES

- 123 The submissions to the PDP by Soho and TC both sought to insert a new Rule 27.4.4 listing subdivision within a Ski Area Sub Zone (SASZ) as a controlled activity as well as to amend Rule 27.9.1 (notified version) to exempt subdivision within the SASZ from the requirement to obtain written consent of other persons and notification or limited notification.
- 124 The Council's s.42A Report does not support the relief to exempt subdivision within the SASZs from notification. The report considers that subdivision has the potential to create arbitrary lines in these sensitive landscape settings and as a consequence there is a need for the effects of subdivision activities to be considered on a case-by-case basis<sup>37</sup>. While this decision is made with reference to the notification Rules 27.9.1 and 27.9.2 (notified version) it appears to be a bundling of the issues arising also in relation to the status of subdivision.

#### Higher Order Objectives and Policies

- 125 The relevant objectives and policies from Chapter 6 Landscape, include Objective 6.3.8 and its attendant policies, as detailed below.

**6.3.8 Objective** - *Recognise the dependence of tourism on the District's landscapes.*

**Policy 6.3.8.1** *Acknowledge the contribution tourism infrastructure makes to the economic and recreational values of the District.*

**Policy 6.3.8.2** *Recognise that commercial recreation and tourism related activities locating within the rural zones may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values.*

**Policy 6.3.8.3** *Exclude identified Ski Area Sub Zones from the landscape categories and full assessment of the landscape provisions while controlling the impact of the ski field structures and activities on the wider environment.*

- 126 These higher order provisions are an important basis for the recognition of the importance of Ski Area Activities to the district and provide specific direction on the management of activities within the district's landscape where they are located within SASZs. Subdivision is one method by which investment in tourism infrastructure can be enabled.

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<sup>37</sup> Para 23.4, Queenstown Lakes District Council s.42A Report

## Chapter 21 Rural Zone and evidence on Stream 02

- 127 Within my statement of evidence to the Stream 2 Hearing on the rural zone provisions for Soho and Treble Cone, I supported changes to the objectives and policies relating to the ongoing use and development within the SASZs, in particular the provision of transportation links and for the establishment of visitor accommodation. Changes to the rules relating to Ski Area Activities constructed outside of SASZs were proposed by the Council as a means of addressing the provision of transportation, and my evidence sought further changes to capture Passenger Lift Systems through a controlled activity consent rule.
- 128 This evidence also proposed a range of amendments to the definition of Ski Area Activity to assist in an understanding of what use and development is anticipated within the SASZs. A further key change proposed within this evidence was to build on the support from the Council for the establishment of Visitor Accommodation activities within a resource consent framework that makes provision for workers and staff for a duration not exceeding 6 months and to secure positive landscape and ecological outcomes.
- 129 The relevant objectives and policies from Chapter 21 Rural, as proposed to be amended through my evidence to Stream 02, relating to the SASZ include:

**Objective 21.2.6** ~~Encourage t~~ ~~The future g~~ *Encourage growth, development and consolidation of existing Ski Area Activities within identified Ski Area Sub Zones, while avoiding, remedying or mitigating adverse effects on the environment.*

**Policy 21.2.6.1** *Identify Ski Field Sub Zones and encourage Ski Area Activities to locate and consolidate within the sub zones.*

**Policy 21.2.6.2** *Control the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.*

### *Summary of policy framework*

- 130 Based on the provisions contained within Chapter 6 (Landscapes) and Chapter 21 (Rural), the policy position under the PDP relevant to activities within the SASZ can be summarised as follows:
- (a) It anticipates and promotes for growth and development and consolidation of ski area activities;
  - (b) Ski area activities are a form of tourism activity recognised as being dependent on the landscape; and

- (c) Recognising this dependency on landscape values, the policies seek to exclude ski area activities within the SASZs from the landscape categories (identified within the rural zones outside of the SASZs) and provide a focus instead on managing adverse effects on the environment.

### Evaluation

- 131 Subdivision is one method that can be used by ski area operators to facilitate investment and growth with the SASZs and to achieve the policies of the PDP. The future activities that may seek to locate within the SASZs are controlled through a comprehensive suite of rules that provide an appropriate framework for the management of land use activities, buildings and structures.
- 132 That investment could relate to any one of a range of related Commercial, Recreation and Visitor Accommodation activities that may seek to locate within the area of the SASZ and which fall within the definition of a Ski Area Activity.
- 133 Within the structure of the revised Chapter 27, contained within Appendix 1 to the s.42A Report, the relief sought in the submission on Soho and Treble Cone could be accommodated within Rule 27.5.5 as part of the district wide rule relating to all subdivision, together with a further change to Rule 27.5.8 that lists all subdivision within the Rural General Zone as a discretionary activity, as follows:

	<b>Subdivision Activities – District Wide</b>	<b>Activity Status</b>
<b>27.5.8</b>	All subdivision activities in the Rural General and Gibbston Character Zones, <u>excluding subdivision within any Ski Area Sub Zone.</u>	<b>D</b>



## SECTION 32AA EVALUATION

- 134 I have prepared the following summary evaluation under section 32AA of the Act to supplement the proposed amendments to Chapter 27 outlined above. S.32AA requires that a further evaluation under sections 32(1) to (4) is necessary for any changes that have been made to the proposal since the evaluation report for the proposal was completed.
- 135 In accordance with s.32AA(1)(c) this evaluation has been undertaken at a level of detail which corresponds to the scale and significance of the changes.

### Issue 1: Default Status of Subdivision, including Jacks Point

#### *Proposed Changes*

- 136 Insert new Rules 27.5.5 and 27.5.6, as follows:

	<b>Subdivision Activities – District Wide</b>	<b>Activity Status</b>
<b><u>Rule 27.5.5</u></b>	<p><u>All subdivision activities, except as otherwise stated.</u></p> <p><u>Council's control is limited to:</u></p> <ul style="list-style-type: none"> <li>a. <u>The intended purpose of any future land use, having regard to the relevant standards of the zone;</u></li> <li>b. <u>Subdivision design and the urban design principles set out in the QLDC Subdivision Design Guidelines;</u></li> <li>c. <u>Property access and roading;</u></li> <li>d. <u>Esplanade provision;</u></li> <li>e. <u>Natural hazards;</u></li> <li>f. <u>Fire fighting water supply;</u></li> <li>g. <u>Water supply;</u></li> <li>h. <u>Stormwater disposal;</u></li> <li>i. <u>Sewage treatment and disposal;</u></li> <li>j. <u>Energy supply and telecommunications;</u></li> <li>k. <u>Open space and recreation; and</u></li> <li>l. <u>Easements</u></li> </ul>	<b><u>C</u></b>
<b><u>Rule 27.5.6</u></b>	<p><u>All subdivision activities within any Rural Lifestyle Zone or Rural Residential Zone</u></p> <p><u>Council's control is limited to:</u></p> <ul style="list-style-type: none"> <li>a. <u>The matters of control listed within Rule 27.5.5;</u></li> </ul>	<b><u>C</u></b>

	<p>b. <u>The location of building platforms in any rural lifestyle zone;</u></p> <p>c. <u>Orientation of lots to optimise solar gain</u></p> <p><u>Within the Makarora Rural Lifestyle Zone</u></p> <p>d. <u>The concentration or clustering of built form to areas with high potential to absorb development, while retaining areas which are more sensitive in their natural state;</u></p> <p><u>Within the Rural Residential Zone at the north end of Lakes Hayes</u></p> <p>e. <u>Opportunities to protect and restore wetland areas in order to assist in reducing the volume of nutrients entering Mill Creek and Lake Hayes</u></p>	
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*Identification of other reasonably practicable options for achieving the objectives s.32(1)(b)(i)*

137 The reasonably practicable options available to achieve the objectives under the PDP relating to the default status of subdivision activities for non-rural areas, include:

- (a) Retention of Discretionary activity status, as notified;
- (b) Restricted discretionary activity status, as proposed in the S.42A Report; or
- (c) Controlled activity status as proposed in submissions and this evidence.

138 Whilst all options would, at least in part, achieve the objective set out in the Plan, I consider that controlled activity status as proposed within this evidence would be the most appropriate in achieving the objectives as it provides most certainty with least administration costs.

*Assessment of efficiency and effectiveness of provisions s.32(1)(b)(ii) and s.32(2)(a)*

(a) Effectiveness:

As outlined in the evaluation of the PDP objectives above, the proposed wording will be effective in that it will achieve the objectives of the PDP.

(b) Efficiency:

Benefits	Costs
<ul style="list-style-type: none"> <li>– Increased certainty to land owners, developers and the Council as to the likely outcomes from subdivision.</li> <li>– Certainty that third party input through notification or affected parties will not be required</li> <li>– Continued support for good urban design outcomes through reference to the Subdivision Guidelines</li> <li>– Lower administration and transaction costs for consent processing</li> </ul>	<ul style="list-style-type: none"> <li>– Separate provisions may be required for landscape sensitive zones, that are not being addressed through future hearings on the planning maps</li> <li>– Resource consent cannot be refused</li> </ul>

139 I consider that the proposed new Rules 27.5.5 and 27.5.6 will be efficient in providing certainty of the resource consent process, with less transaction and administration costs. Through the continued use of the Code of Practice for Subdivision and the addition of a new matters of control relating to the Subdivision Design Guidelines, this method will be effective in encouraging good design outcomes. These rules rely on additional safeguards being in place, including decisions relating to the appropriateness of the spatial planning outcomes through the planning maps and the provisions under s.106 of the Act to protect the safety of people and community from the adverse effects of natural hazards.

140 The benefits of this approach are considered to outweigh the potential costs.

## **Issue 2: Jacks Point subdivision provisions**

### *Proposed Changes*

(a) Amend Rule 27.5.13 (revised proposal), as follows:

*Within the Jacks Point Zone, subdivision that does not comply with the standards in ~~Part Rule 27.65 and location specific standards in part 27.8~~*

(b) Amend Rule 27.5.1 (notified version), Rule 27.6.1 (Revised proposal) Lot Size Table for the Jacks Point Zone, to identify the standard for “all other activity areas”

(c) Add a new Rule 27.5.3 (Revised Proposal) for Boundary Adjustment

*For boundary adjustment subdivision activities where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided:*

(i) *In the case of the Rural, Gibbston Character and Rural Lifestyle Zones the building platform is retained in its approved location;*

(ii) *No additional separately saleable lots are created.*

(iii) *the areas of the resultant lots comply with the minimum lot size requirement for the zone (where applicable).*

*The matters over which the Council reserves control are:*

- *The location of the proposed boundaries, including their relationship to approved residential building platforms, existing buildings and vegetation patterns and existing or proposed accesses;*
- *Boundary treatment;*
- *Easements for existing and proposed access and services*

(d) Shift the location specific objectives into Part 27.3.13 and separating out the matters of control to a new Rule 27.7.4.

(e) Add a new Rule 27.7.4 (revised proposal) containing the additional matters of control for subdivision within the Jacks Point Zone from the Location specific provision within 27.7.14 (Notified version).

(f) Add new restricted discretionary activity Rule 27.7.11.2 relating to conservation lot subdivision within Jacks Point, shifted from Rule 27.8.9.2 (notified version)

*Identification of other reasonably practicable options for achieving the objectives s.32(1)(b)(i)*

141 The reasonably practicable options available to achieve the objectives under the PDP relating to the subdivision provisions within Jacks Point, include:

- (a) Retention of provisions as notified; or
- (b) Modified rules and structure of Chapter 27 as proposed in the s.42A report and this evidence.

142 Whilst all options would, at least in part, achieve the objective set out in the Plan, I consider that the modified provisions would be the most appropriate in achieving the objectives as it provides most certainty with least administration costs.

*Assessment of efficiency and effectiveness of provisions s.32(1)(b)(ii) and s.32(2)(a)*

- (a) Effectiveness:

The proposed restructure and redrafting proposed will be more effective in that it will reduce plan administration costs and retain consistency with the objectives of the PDP.

- (b) Efficiency:

<b>Benefits</b>	<b>Costs</b>
<ul style="list-style-type: none"> <li>– The proposed wording will ensure the protection of the environmental values at Jacks Point.</li> <li>– Clarified wording and a better structure will assist in ensuring appropriate uses can be established within Jacks Point and that appropriate development is not hindered.</li> <li>– The community will benefit from clarity within the wording of the Plan through lower administration costs.</li> <li>– Boundary adjustment is a common form of subdivision and the addition of this rule to Chapter 27 will provide certainty this form of</li> </ul>	<ul style="list-style-type: none"> <li>– There are no appreciable costs likely to result from the proposed restructuring and redrafting of wording associated within the location specific provisions nor of the new boundary adjustment rule.</li> </ul>

<p>subdivision can continue where appropriate standards are met.</p>	
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143 I consider that amending the structure of the location specific provisions, together with the addition of a new rule for boundary adjustment will be efficient as the benefits will outweigh any costs. Clarity and precision in Plan wording is important to ensure consistent and appropriate implementation of the Plan.

**Issue 3: Subdivision within the Ski Area Sub Zones**

*Proposed Changes*

(a) Insert new Rule 27.5.5, as follows:

	<b>Subdivision Activities – District Wide</b>	<b>Activity Status</b>
<b><u>Rule 27.5.5</u></b>	<p>All subdivision activities, except as otherwise stated.</p> <p><u>Council's control is limited to:</u></p> <ul style="list-style-type: none"> <li>a. <u>The intended purpose of any future land use, having regard to the relevant standards of the zone;</u></li> <li>b. <u>Subdivision design and the urban design principles set out in the QLDC Subdivision Design Guidelines;</u></li> <li>c. <u>Property access and roading;</u></li> <li>d. <u>Esplanade provision;</u></li> <li>e. <u>Natural hazards;</u></li> <li>f. <u>Fire fighting water supply;</u></li> <li>g. <u>Water supply;</u></li> <li>h. <u>Stormwater disposal;</u></li> <li>i. <u>Sewage treatment and disposal;</u></li> <li>j. <u>Energy supply and telecommunications;</u></li> <li>k. <u>Open space and recreation; and</u></li> <li>l. <u>Easements</u></li> </ul>	<u>C</u>

144 Amend Rule 27.5.8 (revised proposal) to exempt subdivision within the SASZs from the discretionary activity regime that applies across the Rural Zone, as follows:

	<b>Subdivision Activities – District Wide</b>	<b>Activity Status</b>
<b>27.5.8</b>	All subdivision activities in the Rural General and Gibbston Character Zones, <u>excluding subdivision within any Ski Area Sub Zone.</u>	<b>D</b>

*Identification of other reasonably practicable options for achieving the objectives s.32(1)(b)(i)*

145 The reasonably practicable options available to achieve the objectives under the PDP relating to the default status of subdivision activities within the SASZs, include:

- (a) Retain the notified provisions where all subdivision within the Rural Zone, including the SASZs, are a discretionary activity; or
- (b) Enable subdivision within the SASZs as a controlled activity as detailed within this evidence;
- (c) Retain the notified provisions where all subdivision within the Rural Zone, including the SASZs, are a discretionary activity on a non-notified basis.

146 Option (b) is considered the most appropriate in achieving the objectives and policies for the SASZs, with Option (a) being the least appropriate in terms of these provisions, but providing a higher degree of landscape protection. Recognising the dependency of tourism on landscapes and the specific exclusions provided to the landscape categories for ski areas, option (b) is considered the most appropriate with least uncertainty and the lowest administration costs. Options (c) is second most preferred option below option (b) because of the uncertainty provided with the discretionary activity status.

*Assessment of efficiency and effectiveness of provisions s.32(1)(b)(ii) and s.32(2)(a)*

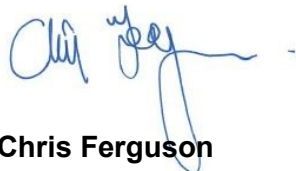
(a) Effectiveness:

Controlled activity status for subdivision within the SASZs will facilitate growth and development within ski areas and reduce plan administration costs while retaining consistency with the objectives of the PDP.

(b) Efficiency:

Benefits	Costs
<ul style="list-style-type: none"> <li>- The proposal will achieve greater alignment between the land use rules within Chapter 21 and the subdivision rules, and in doing so reinforce the expected outcomes for these areas.</li> <li>- In economic terms the proposal will enable greater choices for investment and the growth and consolidation of ski areas.</li> <li>- The least administration and transaction costs, avoiding debates about notification</li> </ul>	<ul style="list-style-type: none"> <li>- Subdivision has the potential to create arbitrary lines in these sensitive landscape settings</li> <li>- Creation of lots with dimensions unsuitable for intended Ski Area Activities and/or non-Ski Area Activities.</li> </ul>

147 The framework of rules within the Rural Zone rules will provide protection against the potential of lots being created by subdivision within the SASZ for ulterior purposes, including for non-Ski Area Activities. These provisions comprehensively address the effects of building, as well as earthworks and indigenous vegetation removal. Enabling subdivision as a controlled activity under the framework of proposed New Rule 27.5.5 is an effective outcome that will reinforce the objectives relating to ski areas. The administration costs of this approach are much lower than the alternatives and therefore efficient.



**Chris Ferguson**

15 July 2016



## APPENDIX 1 – SUMMARY OF RELIEF SOUGHT

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
<b>Chapter 27 Subdivision</b>				
All of Chapter 27	Darby Planning LP	Delete Chapter 27 and replace with the Queenstown Lakes District Council Operative District Plan - Chapter 15.	Rejects submissions	No change
27.4 Rules - Subdivision 27.4.1 All subdivision activities are discretionary activities, except as otherwise stated	Darby Planning LP, Jacks Point, Soho Ski Area Ltd, Treble Cone, Lake Hayes Ltd, Glendhu Bay Trustees Ltd	<p>Amend Rule 27.4.1, as follows:</p> <p><i>All subdivision activities are discretionary <b>controlled</b> activities, except <b>as</b> otherwise stated:</i></p> <p><i>Council's control is limited to:</i></p> <p>(i) <u>Lot sizes, averages and dimensions</u></p> <p>(ii) <u>Subdivision design</u></p> <p>(iii) <u>Property access</u></p> <p>(iv) <u>Esplanade provision</u></p> <p>(v) <u>Natural hazards</u></p> <p>(vi) <u>Fire fighting water supply</u></p> <p>(vii) <u>Water supply</u></p> <p>(viii) <u>Stormwater disposal</u></p> <p>(ix) <u>Sewage treatment and disposal</u></p> <p>(x) <u>Energy supply and telecommunications</u></p> <p>(xi) <u>Open space and recreation</u></p> <p>(xii) <u>Easements</u></p> <p>(xiii) <u>The nature, scale and adequacy of environmental protection measures associated with earthworks</u></p>	<p>1. New Rule 27.5.5 listing the following as a restricted discretionary activity:</p> <p><b><u>All subdivision activities contained within urban areas identified within the District's Urban Growth Boundaries and including the following zones:</u></b></p> <ol style="list-style-type: none"> <li>1. <u>Low Density Residential Zones;</u></li> <li>2. <u>Medium Density Residential Zones;</u></li> <li>3. <u>High Density Residential Zones;</u></li> <li>4. <u>Town Centre Zones;</u></li> <li>5. <u>Arrowtown Residential Historic Management Zone;</u></li> <li>6. <u>Large Lot Residential Zones;</u></li> <li>7. <u>Local Shopping Centres;</u></li> <li>8. <u>Business Mixed Use Zones;</u></li> <li>9. <u>Queenstown Airport Mixed Use Zone.</u></li> </ol> <p><i>Discretion is restricted to all of the following:</i></p> <ul style="list-style-type: none"> <li>• <u>Lot sizes, averages and dimensions, including whether the lot is of sufficient size and dimensions to effectively fulfil the intended purpose of the land use;</u></li> </ul>	<p>1. Replace revised Rule 27.5.5 with the follow controlled activity rule:</p> <p><u>All subdivision activities, except as otherwise stated.</u></p> <p><u>Council's control is limited to:</u></p> <ol style="list-style-type: none"> <li>a. <u>The intended purpose of any future land use, having regard to the relevant standards of the zone;</u></li> <li>b. <u>Subdivision design and the urban design principles set out in the QLDC Subdivision Design Guidelines;</u></li> <li>c. <u>Property access and roading;</u></li> <li>d. <u>Esplanade provision;</u></li> <li>e. <u>Natural hazards;</u></li> <li>f. <u>Fire fighting water supply;</u></li> <li>g. <u>Water supply;</u></li> <li>h. <u>Stormwater disposal;</u></li> <li>i. <u>Sewage treatment and disposal;</u></li> <li>j. <u>Energy supply and telecommunications;</u></li> </ol>

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
		<p><u>All subdivision activities in the Rural Zone are Discretionary activities.</u></p> <p>(refer to alternate relief for Soho Ski Area Ltd and Treble Cone under new Rule 27.4.4 (below))</p>	<ul style="list-style-type: none"> <li>• <u>The extent to which the subdivision design achieves the subdivision and urban design principles and outcomes set out in QLDC Subdivision Design Guidelines;</u></li> <li>• <u>Property access and roading;</u></li> <li>• <u>Esplanade provision;</u></li> <li>• <u>Natural hazards;</u></li> <li>• <u>Fire fighting water supply;</u></li> <li>• <u>Water supply;</u></li> <li>• <u>Stormwater disposal;</u></li> <li>• <u>Sewage treatment and disposal;</u></li> <li>• <u>Energy supply and telecommunications;</u></li> <li>• <u>Open space and recreation; and</u></li> <li>• <u>Easements.</u></li> </ul> <p>2. New Rule 27.5.6 listing the following as a restricted discretionary activity:</p> <p><b><u>All subdivision activities in the District's Rural Residential and Rural Lifestyle Zones</u></b></p> <p><u>Discretion is restricted to all of the following:</u></p> <ul style="list-style-type: none"> <li>• <u>In the Rural Lifestyle Zone the location of building platforms;</u></li> <li>• <u>Lot sizes, averages and dimensions, including whether the lot is of sufficient size and dimensions to effectively fulfil the intended purpose of the land use;</u></li> </ul>	<ul style="list-style-type: none"> <li>k. <u>Open space and recreation; and</u></li> <li>l. <u>Easements</u></li> </ul> <p>2. Replace revised Rule 27.5.6 with the follow controlled activity rule:</p> <p><u>All subdivision activities within any Rural Lifestyle Zone or Rural Residential Zone Council's control is limited to:</u></p> <ul style="list-style-type: none"> <li>a. <u>The matters of control listed within Rule 27.5.5;</u></li> <li>b. <u>The location of building platforms in any rural lifestyle zone;</u></li> <li>c. <u>Orientation of lots to optimise solar gain</u></li> </ul> <p><u>Within the Makarora Rural Lifestyle Zone</u></p> <ul style="list-style-type: none"> <li>d. <u>The concentration or clustering of built form to areas with high potential to absorb development, while retaining areas which are more sensitive in their natural state;</u></li> </ul> <p><u>Within the Rural Residential Zone at the north end of Lakes Hayes</u></p> <ul style="list-style-type: none"> <li>e. <u>Opportunity to protect and restore wetland areas in order to assist in reducing the volume of nutrients entering Mill Creek and Lake Hayes</u></li> </ul>

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<ul style="list-style-type: none"> <li>• <u>Subdivision design including:</u> <ul style="list-style-type: none"> <li>- <u>the extent to which the design maintains and enhances rural living character, landscape values and visual amenity;</u></li> <li>- <u>the extent to which the location of building platforms could adversely affect adjoining non residential land uses;</u></li> <li>- <u>orientation of lots to optimise solar gain for buildings and developments;</u></li> <li>- <u>the effects of potential development within the subdivision on views from surrounding properties;</u></li> <li>- <u>In the case of the Makarora Rural Lifestyle Zone, the concentration or clustering of built form to areas with high potential to absorb development, while retaining areas which are more sensitive in their natural state;</u></li> <li>- <u>In the Rural Residential Zone at the north end of Lake Hayes, whether and to what extent there is an opportunity to protect and restore wetland areas in order to assist in reducing the volume of nutrients entering Mill Creek and Lake Hayes;</u></li> </ul> </li> <li>• <u>Property access and roading;</u></li> <li>• <u>Esplanade provision;</u></li> <li>• <u>Natural hazards;</u></li> </ul>	

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<ul style="list-style-type: none"> <li>• <u>Fire fighting water supply;</u></li> <li>• <u>Water supply;</u></li> <li>• <u>Stormwater disposal;</u></li> <li>• <u>Sewage treatment and disposal;</u></li> <li>• <u>Energy supply and telecommunications;</u></li> <li>• <u>Open space and recreation; and</u></li> <li>• <u>Easements.</u></li> </ul>	
Rule 27.4.2 a The following shall be non-complying activities	Jacks Point	<p>Amend Rule 27.4.2,as follows:</p> <p><i>The following shall be non-complying activities:</i></p> <p>a <i>Subdivision that does not comply with the standards in Part 27.5 and location specific standards in part 27.8. Except within the following zone where any non-compliance shall be a <u>restricted discretionary or discretionary activity.</u></i></p> <ul style="list-style-type: none"> <li>• <i>Jacks Point Zone</i></li> </ul>	<p>Notified Rule 27.4.2 a has been carried through with changes to cross reference other revised rules within the new Rule 27.5.13, as follows:</p> <p><i>Within the Jacks Point Zone, subdivision that does not comply with the standards in Part 27.5 and location specific standards in part 27.8.</i></p>	<p>Amend revised Rule 27.5.13, as follows:</p> <p><i>Within the Jacks Point Zone, subdivision that does not comply with the standards in <del>Part Rule 27.65</del> and location specific standards in part 27.8</i></p>
New Rule 27.4.4	Soho Ski Area, Treble Cone	<p>Insert new Rule 27.4.4, as follows:</p> <p><i>The following shall be Controlled activities:</i></p> <p>a. <u>Subdivision within the Ski Area Sub Zones.</u></p> <p><i>Council's control is limited to:</i></p> <p>(i) <u>Lot sizes, averages and dimensions</u></p> <p>(ii) <u>Subdivision design</u></p>	No change	<p>Recommend enabling subdivision as a controlled activity through new Rule 27.5.5 (revised proposal), together with an exemption to Rule 27.5.8, as follows:</p> <p><i>All subdivision activities in the Rural General and Gibbston Character Zones, <u>excluding subdivision within any Ski Area Sub Zone.</u></i></p>

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence															
		(iii) <u>Property access</u> (iv) <u>Esplanade provision</u> (v) <u>Natural hazards</u> (vi) <u>Fire fighting water supply</u> (vii) <u>Water supply</u> (viii) <u>Stormwater disposal</u> (ix) <u>Sewage treatment and disposal</u> (x) <u>Energy supply and telecommunications</u> (xi) <u>Open space and recreation</u> (xii) <u>Easements</u> (xiii) <u>The nature, scale and adequacy of environmental protection measures associated with earthworks</u>																	
Rule 27.5.1 Lot Size table	Jacks Point	Amend Rule 27.5.1 Lot Size Table for the Jacks Point Zone, as follows: <table border="1" data-bbox="504 863 1019 1331"> <thead> <tr> <th data-bbox="504 863 602 952">Zone</th> <th data-bbox="602 863 831 952"></th> <th data-bbox="831 863 1019 952">Minimum Lot Area</th> </tr> </thead> <tbody> <tr> <td data-bbox="504 952 602 1331"><b>Jacks Point</b></td> <td data-bbox="602 952 831 1018"><i>Residential Activity Areas</i></td> <td data-bbox="831 952 1019 1018">380m<sup>2</sup></td> </tr> <tr> <td></td> <td data-bbox="602 1018 831 1083"><i>FP-1 Activity Area</i></td> <td data-bbox="831 1018 1019 1083">4000m<sup>2</sup>, Average 2ha</td> </tr> <tr> <td></td> <td data-bbox="602 1083 831 1149"><i>FP-2 Activity Area</i></td> <td data-bbox="831 1083 1019 1149">2 hectares, Average 40ha</td> </tr> <tr> <td></td> <td data-bbox="602 1149 831 1331"><u>All other Activity Areas</u></td> <td data-bbox="831 1149 1019 1331">Subdivision shall comply with the average density requirements set out in Rule 41.5.8.</td> </tr> </tbody> </table>	Zone		Minimum Lot Area	<b>Jacks Point</b>	<i>Residential Activity Areas</i>	380m <sup>2</sup>		<i>FP-1 Activity Area</i>	4000m <sup>2</sup> , Average 2ha		<i>FP-2 Activity Area</i>	2 hectares, Average 40ha		<u>All other Activity Areas</u>	Subdivision shall comply with the average density requirements set out in Rule 41.5.8.	Relief accepted through new lot size table under Rule 27.6.1	No further changes from submission and as recommended in s.42A report
Zone		Minimum Lot Area																	
<b>Jacks Point</b>	<i>Residential Activity Areas</i>	380m <sup>2</sup>																	
	<i>FP-1 Activity Area</i>	4000m <sup>2</sup> , Average 2ha																	
	<i>FP-2 Activity Area</i>	2 hectares, Average 40ha																	
	<u>All other Activity Areas</u>	Subdivision shall comply with the average density requirements set out in Rule 41.5.8.																	

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence				
Rule 27.5.1 Lot Size table	Lakes Hayes Ltd	<p>Amend Rule 27.5.1 Lot Zone Table in relation to the Rural Lifestyle Zone, as follows:</p> <table border="1" data-bbox="504 440 1016 799"> <thead> <tr> <th data-bbox="504 440 645 520"></th> <th data-bbox="645 440 1016 520">Minimum Lot Area</th> </tr> </thead> <tbody> <tr> <td data-bbox="504 520 645 799">Rural Lifestyle</td> <td data-bbox="645 520 1016 799"> <p><del>One hectare providing the average lot size is not less than 2 hectares.</del></p> <p><del>For the purposes of calculating any average, any allotment greater than 4 hectares, including the balance is deemed to be 4 hectares.</del></p> </td> </tr> </tbody> </table>		Minimum Lot Area	Rural Lifestyle	<p><del>One hectare providing the average lot size is not less than 2 hectares.</del></p> <p><del>For the purposes of calculating any average, any allotment greater than 4 hectares, including the balance is deemed to be 4 hectares.</del></p>	Topic deferred	Topic deferred
	Minimum Lot Area							
Rural Lifestyle	<p><del>One hectare providing the average lot size is not less than 2 hectares.</del></p> <p><del>For the purposes of calculating any average, any allotment greater than 4 hectares, including the balance is deemed to be 4 hectares.</del></p>							
New Rule 27.5.5 Boundary Adjustments	Jacks Point, Lake Hayes Ltd	<p>Insert new Rule 27.5.5 Boundary adjustments, as follows:</p> <p><u>Where there are two or more existing lots which have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided:</u></p> <p><u>(i) the building platform is retained.</u></p> <p><u>(ii) no additional separately saleable lots are created.</u></p> <p><u>(iii) the areas of the resultant lots comply with the minimum lot size requirement for the zone.</u></p>	<p>Relief accepted through the creation of controlled activity Rule 27.5.3 (District Wide boundary adjustment) and 27.5.4 (Arrowtown and heritage sites boundary adjustment)</p> <p><u>Rule 27.5.3 For boundary adjustment subdivision activities where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided:</u></p> <p><u>(iii) In the case of the Rural, Gibbston Character and Rural Lifestyle Zones the building platform is retained in its approved location;</u></p>	Accept s.42A recommendation				

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<p>(iv) <u>No additional separately saleable lots are created.</u></p> <p>(iii) <u>the areas of the resultant lots comply with the minimum lot size requirement for the zone (where applicable).</u></p> <p><u>The matters over which the Council reserves control are:</u></p> <ul style="list-style-type: none"> <li>• <u>The location of the proposed boundaries, including their relationship to approved residential building platforms, existing buildings and vegetation patterns and existing or proposed accesses;</u></li> <li>• <u>Boundary treatment;</u></li> <li>• <u>Easements for existing and proposed access and services.</u></li> </ul>	
<p>27.7 Location Specific objectives, policies and provisions</p> <p>27.7.14 Jacks Point</p>	<p>Jacks Point</p>	<p>Insert a heading below Policy 27.7.14.1, as follows:</p> <p><u>27.14.2 Matters of discretion for subdivision within the Jacks Point Zone</u></p> <p>Renumber subsequent rules and provisions</p>	<p>The s.42A report recommends shifting the location specific objectives into Part 27.3.13 and separating out the matters of control to a new Rule 27.7.4.</p> <p>The revised objectives and policies under Part 27.3.13 are as follows:</p> <p><b>27.3.13 Objective - Jacks Point Zone - Subdivision shall have regard to identified location specific opportunities and constraints.</b></p> <p><b>Policies</b></p>	<p>I support the recommendation from the s.42A report to relocate the location specific objectives and policies for Jacks Point to Part 27.3.13.</p> <p>I do not support the recommendation from the s.42A report to add two new Policies 27.3.13.2 and 27.3.13.3 for subdivision within Jacks Point.</p> <p>I support the recommendation of the s.42A report to create a new Rule 27.7.4 containing the additional matters of control for subdivision within the Jacks Point Zone.</p>

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<p>27.3.13.1 <i>Ensure that subdivision and development achieves the objectives and policies located within Chapter 41.</i></p> <p>27.3.13.2 <i><u>Enable subdivision which provides for appropriate, integrated and orderly development in accordance with the Jacks Point Structure Plan located within Chapter 41.</u></i></p> <p>27.3.13.3 <i><u>The extent to which the subdivision achieves the matters of control listed under Rule 27.7.1 and as they relate to the Jacks Point Structure Plan located within Chapter 41.</u></i></p> <p>The new location specific Rule 27.7.4 proposed for Jacks Point is as follows:</p> <p><b><i>In addition to those matters of control listed under Rule 27.7.1 when assessing any subdivision in accordance with the Jacks Point Zone Structure Plan identified in 41.7, the following additional matters of control shall be had regard to:</i></b></p> <ul style="list-style-type: none"> <li>• <i>The provision of public access routes, primary, secondary and key road connections.</i></li> <li>• <i>Within the R(HD) Activity Areas, the extent to which the structure plan provides for the following matters:</i> <ul style="list-style-type: none"> <li>(i) <i>The development and suitability of public transport routes, pedestrian</i></li> </ul> </li> </ul>	



Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<p><i>and cycle trail connections within and beyond the Activity Area.</i></p> <p>(ii) <i>Mitigation measures to ensure that no building will be highly visible from State Highway 6 or Lake Wakatipu.</i></p> <p>(iii) <i>Road and street designs.</i></p> <p>(iv) <i>The location and suitability of proposed open spaces.</i></p> <p>(v) <i>Management responses to remove wilding trees.</i></p> <ul style="list-style-type: none"> <li>• <i>Within the R(HD-SH) Activity Areas, the visual effects of subdivision and future development on landscape and amenity values as viewed from State Highway 6.</i></li> <li>• <i>Within the R(HD) Activity Area, the creation of sites sized between 380m<sup>2</sup> and 550m<sup>2</sup>, without limiting any other matters of control that apply to subdivision for that site, particular regard shall be had to the following matters and whether they shall be given effect to by imposing appropriate legal mechanism of controls over:</i> <ul style="list-style-type: none"> <li>(i) <i>Building setbacks from boundaries.</i></li> <li>(ii) <i>Location and heights of garages and other accessory buildings.</i></li> </ul> </li> </ul>	

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<p>(iii) <i>Height limitations for parts of buildings, including recession plane requirements.</i></p> <p>(iv) <i>Window locations.</i></p> <p>(v) <i>Building coverage.</i></p> <p>(vi) <i>Roadside fence heights.</i></p> <ul style="list-style-type: none"> <li>• <i>Within the OS Activity Areas shown on the Jacks Point Zone Structure Plan, measures to provide for the establishment and management of open space, including native vegetation.</i></li> <li>• <i>Within the R(HD) A - E Activity Areas, ensure cul-de-sacs are straight (+/- 15 degrees).</i></li> <li>• <i>In the Hanley Downs areas where subdivision of land within any Residential Activity Area results in allotments less than 550m<sup>2</sup> in area:</i> <ul style="list-style-type: none"> <li>a. <i>The extent to which such sites are configured:</i> <ul style="list-style-type: none"> <li>i. <i>with good street frontage.</i></li> <li>ii. <i>to enable sunlight to existing and future residential units.</i></li> <li>iii. <i>To achieve an appropriate level of privacy between homes.</i></li> </ul> </li> <li>b. <i>The extent to which parking, access and landscaping are configured in a manner which:</i></li> </ul> </li> </ul>	

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<ul style="list-style-type: none"> <li><i>i. minimises the dominance of driveways at the street edge.</i></li> <li><i>ii. provides for efficient use of the land.</i></li> <li><i>iii. maximises pedestrian and vehicular safety.</i></li> <li><i>iv. addresses nuisance effects such as from vehicle lights.</i></li> <li><i>c. The extent to which subdivision design satisfies:</i> <ul style="list-style-type: none"> <li><i>i. public and private spaces are clearly demarcated, and ownership and management arrangements are proposed to appropriately manage spaces in common ownership.</i></li> <li><i>ii. Whether design parameters are required to be secured through an appropriate legal mechanism. These are height, building mass, window sizes and locations, building setbacks, fence heights, locations and transparency, building materials and landscaping.</i></li> </ul> </li> </ul>	
Rule 27.7.14.3 R(HD) Activity Areas, matters of discretion	Jacks Point	Amend Rule 27.7.14.3, as follows:  <i>In addition to above (provisions 27.7.14.42) within the R(HD) Activity Areas ....</i>	Incorporated into new Rule 27.7.4 (as above)	No further changes to s.42A recommendation

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
Rule 27.8.9.2 Jacks Point Zone Conservation Lots	Jacks Point	<p>Amend Rule 27.8.9.2, as follows:</p> <p><i>Jacks Point Zone Conservation Lots - Subdivision failing to comply with <u>this</u> rule shall be a restricted discretionary activity.</i></p> <p>...</p> <p><i>Discretion is restricted to <del>all of the following</del>:</i></p> <ul style="list-style-type: none"> <li>• <i>The visibility of future development from State Highway 6 and Lake Wakatipu.</i></li> <li>• <i>Traffic, access.</i></li> <li>• <i>Maintenance or enhancement of nature conservation values.</i></li> <li>• <i>Creation of open space and infrastructure.</i></li> </ul>	<p>Incorporated into Zone and Location Specific Standards (table) under new restricted discretionary activity Rule 27.7.11.2, as follows:</p> <p><i>Subdivision failing to comply with standards for the Jacks Point Zone Conservation Lots.</i></p> <p><i>Within the Farm Preserve 1 (FP-1) Activity Area, any subdivision shall:</i></p> <p>a. <i>Provide for the creation and management of open space, which may include native re-vegetation, within the “open space” areas shown on the Structure Plan, through the following:</i></p> <p>(i) <i>The creation of a separate lot that can be transferred into the ownership of the body responsible for the management of the open space land within the zone; or</i></p> <p>(ii) <i>Held within private ownership and protected by way of a covenant registered on the relevant title protecting that part of the site from any future building development.</i></p> <p><i>Discretion is restricted to <del>all of the following</del>:</i></p> <p>(i) <i>The visibility of future development from State Highway 6 and Lake Wakatipu.</i></p>	No further changes to s.42A recommendation

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<p>(ii) <i>Traffic, access.</i></p> <p>(iii) <i>Maintenance or enhancement of nature conservation values.</i></p> <p>(iv) <i>Creation of open space and infrastructure.</i></p>	
27.9.1 Non-notification of applications	Soho Ski Area Ltd, Treble Cone	<p>Amend 27.9.1, as follows:</p> <p><i>Except where as specified in RULE 27.9.2, applications for resource consent for the following activities shall not require the written consent of other persons and shall not be notified or limited-notified;</i></p> <p><i>a Boundary adjustments.</i></p> <p><i>b All restricted discretionary and discretionary activities, except within the Rural Zone.</i></p> <p><u><i>c Subdivision within the Ski Area Sub-Zones.</i></u></p>	<p>Replaced by new Rules 27.11.1 and 27.11.2</p> <p>27.11.1 <i>Except where as specified in Rule 27.9.11.2, applications for resource consent for the following activities shall not require the written consent of other persons and shall not be notified or limited-notified;</i></p> <p><i>a. <u>Controlled Activity</u> Boundary adjustments.</i></p> <p><i>b. All <u>controlled and restricted discretionary and discretionary activities, except within the Rural Zone.</u></i></p> <p>27.11.2 <i>Rule 27.9.11.1 does not apply to the following. The provisions of the <u>RMA Act</u> apply in determining whether an application needs to be processed on a notified basis.</i></p> <p><i>Where the application site or activity:</i></p> <p><i>a. Adjoins or has access onto a State highway;</i></p>	<p>Unnecessary if proposed relief to enable subdivision as a controlled activity under proposed new Rule 27.5.5 is accepted.</p> <p>In the event the Panel decides not to grant relief for controlled activity status, I consider the amendments as sought in the submission appropriate.</p>

Provision	Submitter	Submission	S.42A Recommendation	CF Evidence
			<ul style="list-style-type: none"> <li data-bbox="1151 311 1574 427">b. <i>Contains an archaeological site or any item listed under the Heritage New Zealand Pouhere Taonga Act 2014;</i></li> <li data-bbox="1151 448 1574 536">c. <i>Requires the Council to undertake statutory consultation with iwi;</i></li> <li data-bbox="1151 557 1574 767">d. <i>Is in the Makarora Rural Lifestyle Zone and within an area subject to any natural hazards including erosion, flooding and inundation, landslip, rockfall, alluvion, avulsion or subsidence.</i></li> <li data-bbox="1151 788 1574 1121">e. <i>Prior to any application for subdivision within 32m of the centreline of the Frankton – Cromwell A 110kV high voltage transmission line traversing the Shotover Country Special Zone being processed on a non-notified basis the written approval as an affected party is required from Transpower New Zealand Limited;</i></li> <li data-bbox="1151 1142 1574 1198">f. <i>Discretionary activities within the Jacks Point Zone.</i></li> </ul>	

## APPENDIX 2 – RELEVANT RPS OBJECTIVES AND POLICIES

### Chapter 5 Land

**Objective 5.4.1** *To promote the sustainable management of Otago’s land resources in order:*

- (a) *To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and*
- (b) *To meet the present and reasonably foreseeable needs of Otago’s people and communities.*

**Objective 5.4.2** *To avoid, remedy or mitigate degradation of Otago’s natural and physical resources resulting from activities utilising the land resource.*

**Objective 5.4.3** *To protect Otago’s outstanding natural features and landscapes from inappropriate subdivision, use and development.*

**Policy 5.5.1** *To recognise and provide for the relationship Kai Tahu have with Otago’s land resource through:*

- (a) *Establishing processes that allow the existence of heritage sites, waahi tapu and waahi taoka to be taken into account when considering the subdivision, use and development of Otago’s land resources; and*
- (b) *Protecting, where practicable, archaeological sites from disturbance; and*
- (c) *Notifying the appropriate runanga of the disturbance of any archaeological site and avoiding, remedying, or mitigating any effect of further disturbance until consultation with the kaitiaki runanga has occurred.*

**Policy 5.5.6** *To recognise and provide for the protection of Otago’s outstanding natural features and landscapes which:*

- (a) *Are unique to or characteristic of the region; or*
- (b) *Are representative of a particular landform or land cover occurring in the Otago region or of the collective characteristics which give Otago its particular character; or*
- (c) *Represent areas of cultural or historic significance in Otago; or*
- (d) *Contain visually or scientifically significant geological features; or*
- (e) *Have characteristics of cultural, historical and spiritual value that are regionally significant for Tangata Whenua and have been identified in accordance with Tikanga Maori.*

**Policy 5.5.7** *To promote the provision of public access opportunities to natural and physical land features throughout the Otago region except where restriction is necessary:*

- (i) *To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna; or*
- (ii) *To protect Maori cultural values; or*
- (iii) *To protect public health or safety; or*
- (iv) *To ensure a level of security consistent with the purpose of a resource consent or in circumstances where safety and security concerns require exclusive occupation; or*
- (v) *In other exceptional circumstances sufficient to justify the restriction notwithstanding the importance of maintaining that access.*

## **Chapter 9 Built Environment**

**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.*

**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.*

**Objective 9.4.3** *To avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources.*

**Policy 9.5.2** *To promote and encourage efficiency in the development and use of Otago's infrastructure through:*

- (a) *Encouraging development that maximises the use of existing infrastructure while recognising the need for more appropriate technology; and*
- (b) *Promoting co-ordination amongst network utility operators in the provision and maintenance of infrastructure; and*
- (c) *Encouraging a reduction in the use of non-renewable resources while promoting the use of renewable resources in the construction, development and use of infrastructure; and*
- (d) *Avoiding or mitigating the adverse effects of subdivision, use and development of land on the safety and efficiency of regional infrastructure.*

**Policy 9.5.4** *To minimise the adverse effects of urban development and settlement, including structures, on Otago's environment through avoiding, remedying or mitigating:*

- (a) *Discharges of contaminants to Otago's air, water or land; and*
- (b) *The creation of noise, vibration and dust; and*
- (c) *Visual intrusion and a reduction in landscape qualities; and*
- (d) *Significant irreversible effects on:*
  - (i) *Otago community values; or*
  - (ii) *Kai Tahu cultural and spiritual values; or*
  - (iii) *The natural character of water bodies and the coastal environment; or*
  - (iv) *Habitats of indigenous fauna; or*
  - (v) *Heritage values; or*
  - (vi) *Amenity values; or*
  - (vii) *Intrinsic values of ecosystems; or*
  - (viii) *Salmon or trout habitat.*

**Policy 9.5.5** *To maintain and, where practicable, enhance the quality of life for people and communities within Otago's built environment through:*



- (a) *Promoting the identification and provision of a level of amenity which is acceptable to the community; and*
- (b) *Avoiding, remedying or mitigating the adverse effects on community health and safety resulting from the use, development and protection of Otago's natural and physical resources; and*
- (c) *Avoiding, remedying or mitigating the adverse effects of subdivision, landuse and development on landscape values.*

**Policy 9.5.6** *To recognise and protect Otago's regionally significant heritage sites through:*

- (a) *Identifying Otago's regionally significant heritage sites in consultation with Otago's communities; and*
- (b) *Developing means to ensure those sites are protected from inappropriate subdivision, use and development.*

## **APPENDIX 3 RELEVANT PROVISIONS OF THE PROPOSED OTAGO REGIONAL POLICY STATEMENT (NOTIFIED VERSION MAY 2015)**

### **Chapter 2 Otago has high quality natural resources and ecosystems**

***Objective 2.2 Otago's significant and highly-valued natural resources are identified, and protected or enhanced***

#### ***Policy 2.2.3***

##### ***Identifying outstanding natural features, landscapes and seascapes***

*Identify areas and values of outstanding natural features, landscapes and seascapes, using the attributes as detailed in Schedule 4.*

#### ***Policy 2.2.4***

##### ***Managing outstanding natural features, landscapes, and seascapes***

*Protect, enhance and restore the values of outstanding natural features, landscapes and seascapes, by:*

- a) *Avoiding adverse effects on those values which contribute to the significance of the natural feature, landscape or seascape; and*
- b) *Avoiding, remedying or mitigating other adverse effects on other values; and*
- c) *Assessing the significance of adverse effects on values, as detailed in Schedule 3; and*
- d) *Recognising and providing for positive contributions of existing introduced species to those values; and*
- e) *Controlling the adverse effects of pest species, preventing their introduction and reducing their spread; and*
- f) *Encouraging enhancement of those areas and values.*

#### ***Policy 2.2.5***

##### ***Identifying special amenity landscapes and highly valued natural features***

*Identify areas and values of special amenity landscape or natural features which are highly valued for their contribution to the amenity or quality of the environment, but which are not outstanding, using the attributes detailed in Schedule 4.*

#### ***Policy 2.2.6***

##### ***Managing special amenity landscapes and highly valued natural features***

*Protect or enhance the values of special amenity landscapes and highly valued natural features, by:*

- a) *Avoiding significant adverse effects on those values which contribute to the special amenity of the landscape or high value of the natural feature; and*
- b) *Avoiding, remedying or mitigating other adverse effects on other values; and*
- c) *Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and*
- d) *Recognising and providing for positive contributions of existing introduced species to those values; and*

- e) *Controlling the adverse effects of pest species, preventing their introduction and reducing their spread; and*
- f) *Encouraging enhancement of those values.*

### **Part B Chapter 3 – Communities in Otago are resilient, safe and healthy**

***Objective 3.2 Risk that natural hazards pose to Otago’s communities are minimised***

***Objective 3.7 Urban areas are well designed, sustainable and reflect local character***

#### ***Policy 3.7.1***

##### ***Using the principles of good urban design***

*Encourage the use of good urban design principles in subdivision and development in urban areas, as detailed in Schedule 6, to:*

- a) *Provide a resilient, safe and healthy community, including through use of crime prevention through environmental design principles; and*
- b) *Ensure that the built form relates well to its natural environment, including by:*
  - i. *Reflecting natural features such as rivers, lakes, wetlands and topography; and*
  - ii. *Providing for ecological corridors in urban areas; and*
  - iii. *Protecting areas of indigenous biodiversity and habitat for indigenous fauna; and*
  - iv. *Encouraging use of low impact design techniques; and*
  - v. *Encouraging construction of warmer buildings; and*
- c) *Reduce risk from natural hazards, including by avoiding areas of significant risk; and*
- d) *Ensure good access and connectivity within and between communities; and*
- e) *Create a sense of identity, including by recognising features of heritage and cultural importance; and*
- f) *Create areas where people can live, work and play, including by:*
  - i. *Enabling a diverse range of housing, commercial, industrial and service activities; and*
  - ii. *Enabling a diverse range of social and cultural opportunities.*

#### ***Policy 3.7.2***

##### ***Encouraging use of low impact design techniques***

*Encourage the use of low impact design techniques in subdivision and development, to:*

- a) *Reduce potential adverse environmental effects, including on water and air quality; or*
- b) *Mitigate the effects of natural hazards and climate change; or*
- c) *Enhance amenity; or*
- d) *Enhance habitat for indigenous species and biodiversity values*

#### ***Policy 3.7.3***

##### ***Designing for warmer buildings***

*Encourage the design of subdivision and development to reduce the adverse effects of*

Otago's colder climate, and higher demand and costs for energy, including by:

- a) Maximising passive solar gain; and
- b) Insulating to warmer standards than those set under building legislation.

**Objective 3.8 Urban growth is well designed and integrates effectively with adjoining urban and rural environments**

**Policy 3.8.3**

**Managing fragmentation of rural land**

Manage subdivision, use and development of rural land, to:

- a) Avoid development or fragmentation of land which undermines or forecloses the potential of rural land:
  - i. For primary production; or
  - ii. In areas identified for future urban uses; or
  - iii. In areas having the potential for future comprehensive residential development; and
- b) Have particular regard to whether the proposal will result in a loss of the productive potential of highly versatile soil, unless:
  - i. The land adjoins an existing urban area and there is no other land suitable for urban expansion; and
  - ii. These highly versatile soils are needed for urban expansion, any change of land use from rural activities achieves an appropriate and highly efficient form of urban development; and
  - iii. reverse sensitivity effects on rural productive activities can be avoided; and
- c) Avoid unplanned demand for provision of infrastructure, including domestic water supply and waste disposal; and
- d) Avoid creating competing demand for water or other resources.

**Policy 3.9.4**

**Managing the use of contaminated land**

Manage the use of contaminated land, to protect people and the environment from adverse effects, by:

- a) Prior to subdivision or development of potentially contaminated land, requiring a site investigation is undertaken to determine the nature or extent of any contamination; and
- b) Where there is contamination:
  - i. Requiring an assessment of associated environmental risks; and
  - ii. Remediating land; and
- c) Considering the need for ongoing monitoring of contaminant levels and associated risks.

**Objective 4.3 Sufficient land is managed and protected for economic production**

**Policy 4.3.1****Managing for rural activities**

*Manage activities in rural areas, to support the region's economy and communities, by:*

- a) Enabling farming and other rural activities that support the rural economy; and*
- b) Minimising the loss of soils highly valued for their versatility for primary production; and*
- c) Restricting the establishment of activities in rural areas that may lead to reverse sensitivity effects; and*
- d) Minimising the subdivision of productive rural land into smaller lots that may result in rural residential activities; and*
- e) Providing for other activities that have a functional need to locate in rural areas, including tourism and recreational activities that are of a nature and scale compatible with rural activities.*

## **APPENDIX 4 RELEVANT OBJECTIVES FROM STRATEGIC DIRECTIONS CHAPTERS, PROPOSED QUEENSTOWN LAKES DISTRICT PLAN**

(As amended by evidence of Chris Ferguson, dated 29 February 2016)

### **Chapter 3 Strategic Directions**

**Objective 3.2.2.1** *Urban development; ~~occurs in a logical manner:~~*

- ~~to promote a~~ has a well designed and integrated urban form;
- ~~to manages~~ the cost of Council infrastructure; and
- ~~to protects~~ the District's rural landscapes from ~~sporadic and sprawling~~ urban sprawl development

**Objective 3.2.2.2** *Manage development in areas affected by natural hazards.*

**Objective 3.2.3.1** *Achieve a built environment that ensures our urban areas are desirable and safe places to live, work and play.*

**Objective 3.2.5.1** *Protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development.*

**Objective 3.2.5.2** *Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.*

**Objective 3.2.5.3** *Direct new subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values.*

**Objective 3.2.6.2** *Ensure a mix of housing opportunities*

**Objective 3.2.6.4** *Ensure planning and development maximises opportunities to create safe and healthy communities through subdivision and building design.*

### **Chapter 4 Urban Development**

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

**4.2.3 Objective** – *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.*

**Objective 4.2.4** - *Manage the scale and location of urban growth in the Queenstown Urban Growth Boundary.*

**Objective 4.2.6** - *Manage the scale and location of urban growth in the Wanaka Urban Growth Boundary*

### **Chapter 6 Landscapes**

**Objective 6.3.1** - *The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision and development.*

**Objective 6.3.2** *Avoid remedy or mitigate adverse cumulative effects on landscape character and visual amenity values caused by ~~incremental~~ inappropriate subdivision and development*

**6.3.3 Objective** - Protect, maintain or enhance the district's Outstanding Natural Features (ONF)

**6.3.4 Objective** - Protect, maintain or enhance the District's Outstanding Natural Landscapes (ONL)

**Objective 6.3.5** ~~Ensure~~ Enable subdivision and development ~~does not degrade~~ which will avoid, remedy, or mitigate any adverse effects on landscape character and diminish visual amenity values of the Rural Landscapes (RLC).

**6.3.8 Objective** - Recognise the dependence of tourism on the District's landscapes.

**Policy 6.3.8.1** Acknowledge the contribution tourism infrastructure makes to the economic and recreational values of the District.

**Policy 6.3.8.2** Recognise that commercial recreation and tourism related activities locating within the rural zones may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values.

**Policy 6.3.8.3** Exclude identified Ski Area Sub Zones from the landscape categories and full assessment of the landscape provisions while controlling the impact of the ski field structures and activities on the wider environment.