

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 09
– Resort Zones

**REPLY OF VICTORIA SIAN JONES
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

41 JACKS POINT CHAPTER

24 February 2017

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1. INTRODUCTION

- 1.1 My name is Victoria (Vicki) Sian Jones. I prepared the section 42A report for the Jacks Point chapter of the Proposed District Plan (**PDP**). My qualifications and experience are listed in that s42A report dated 2 November 2016.
- 1.2 I have reviewed the evidence filed by other expert witnesses on behalf of submitters, attended part of the hearing held on the 14 - 17 February 2017 and have been provided with information from submitters and counsel at the hearing, including reports of what has taken place at the hearing each day when I was not in attendance.
- 1.3 This reply evidence covers the following issues:
- (a) further information / clarification to assist the Hearing Panel (**Panel**) in relation to specific issues raised by the Panel and / or submitters during the hearing;
 - (b) general drafting improvements to the objectives, policies, and rules, and correction of formatting errors;
 - (c) amendments to the Structure Plan and the provisions in relation to the Open Space Areas;
 - (d) amendments to the Village Area provisions and a slight change to the area shown on the Structure Plan;
 - (e) amendments to the HD(R) and JP(R) area provisions;
 - (f) amendments to the HD(G) and HD(F) areas in line with the joint witness statement of the Landscape Architects; and
 - (g) an amendment to the Education (**E**) activity area shown on the Structure Plan.
- 1.4 Where I am recommending changes to the provisions as a consequence of the hearing of evidence and submissions, I have included these in my recommended chapter 41 in **Appendix 1 (Revised Chapter)** and also in chapter 27, Subdivision, in **Appendix 2**. The changes recommended in my evidence summary are also included in the Revised Chapters and you are referred to my summary of evidence (dated 13 February 2017) for the explanation behind those changes. I have attached a section 32AA (**S 32AA**)

evaluation in **Appendix 3** for any significant changes that are being recommended.

1.5 In this Reply:

- (a) If I refer to a provision number without any qualification, it is to the notified provision number and has not changed through my recommendations;
- (b) if I refer to a 'redraft' provision number, I am referring to the s 42A recommended provision number; and
- (c) if I refer to a 'reply' provision number, I am referring to the recommended provision number in Appendix 1 to this Reply

1.6 Attached as **Appendix 4** is an additional Structure Plan for information purposes only, providing the following additional information requested by the Panel:

- (a) aerial photography;
- (b) Lake Tewa;
- (c) Jacks Point hill;
- (d) the underlying cadastre that exists as of this date, noting that this is ever-changing; and
- (e) GPS coordinates for the Homesites (shown on a separate page of **Appendix 4**).

1.7 I do not support this additional information being included on the Structure Plan that forms part of the chapter/ rules. However, if the Panel wished it could be included as a non-statutory plan for information purposes only (as a new Clause 41.8). In my opinion the statutory Structure Plan should only show those elements that rules and policies apply to. Even then, I would not support the inclusion of the underlying cadastre on such a Plan, as that is ever changing, and such updates would be entirely impractical on the sealed version of the district plan, which I understand the RMA still requires to be in hard copy.

1.8 I take this opportunity to also note in response to the various improvements to the Structure Plan that the Panel suggested during the course of the hearing that:

- (a) regrettably, time constraints have prevented the inclusion of enlarged maps of certain areas (e.g. Homesites) in this reply evidence; and
- (b) a cross-reference to the primary rule (reply Rule 41.5.9) that needs to be considered in relation to development and subdivision being in accordance with the Structure Plan is now shown on the Structure Plan and a further general rule added (reply Rule 41.3.2.7).

2. FURTHER INFORMATION / CLARITY TO ASSIST THE PANEL

2.1 In this section I provide further information and clarification around various issues raised by the Panel during the hearing, with the express purpose of assisting it in its deliberations rather than to make any firm recommendations.

2.2 In this section I address:

- (a) density issues and queries;
- (b) the lux spill rule(s) applied to this zone and to others in the PDP;
- (c) Design Guidelines at Jacks Point, and the PDP.

Density issues

S42A Report Density Calculations

2.3 The first sentence in paragraph 10 of my Evidence Summary dated 13 February 2017 (in relation to the density calculations) contains an error and should be amended as follows:

Compared to the notified PDP, my current recommendations will increase the estimated potential maximum residential and visitor accommodation yield by 220,219 units (from 5,221 to 5,441 units).

Density sought in Homestead Bay

2.4 The Panel requested an estimate of the additional yield/ development capacity that would be enabled by accepting the Jardine Family Trust and Remarkables Station Limited's (715) rezoning submission at Homestead Bay, where they seek to expand the notified Jacks Point zone and intensify use within the notified Open Space Residential (**OSR**) and the area sought to be rezoned.

2.5 This submission point is to be heard in the rezoning hearings, but to assist the Panel I have prepared an estimate as requested in **Table 1** below. Approximately 541 further units would be enabled through rezoning of the additional area to Jacks Point Zone, in addition to the maximum 243 residential and visitor accommodation that are estimated to be enabled by the S42A version of the provisions (in the Homestead Bay portion of the zone). This is based on the net areas (ha) of the new Homestead Bay Residential activity areas sought in the submission (removing 30% for roading etc.) multiplied by the maximum density sought in the submission plus the increased total residential unit cap sought in the OSR area sought in the submission (which is proposed to increase from 12 to 41 units per hectare), together with one residence in the OSL as also sought in the submission.

Table 1: Estimate of potential additional yield at Homestead Bay

Activity Areas	Area(ha)	Net area (70% of gross)	Max under submission 715 (15 units/ha in R(HB))	Notified PDP	Difference
R(HB-SH)A	4.35	3.05	46	0	
R(HB-SH)B	7.21	5.05	76	0	
R(HB-SH)C	2.4	1.68	25	0	
R(HB-SH)D	32.7	22.89	343	0	
R(HB-SH)E	3.48	2.44	37	0	
FBA			1	1	
OSR (West)	14.4	10.08	41	12	
OSR (East)	36.7	25.69	0	0	
OSL			1	0	
OSH			0	15	
Village (S 42A version)			215	215	
Totals			784	243	541

2.6 I also note that the Farm Buildings and Craft Activity Area (**FBA**) is sought to be fully subsumed into the OSR and, as such, I understand the Panel's concerns about the unclear wording of Rule 41.4.9.16 will be further considered at the time it is determined whether the FBA remain at all. I also note that with regard to the Panel's other query regarding what 'low level' means in Rule 41.4.9.15, this wording will be considered as part of the mapping hearing when determining whether it is appropriate to increase the

allowable height to 7 m or whether it should remain at 4 m (hence the current reference to 'low scale').¹

The PDP vs ODP densities for the Jacks Point Residential Activity Area

- 2.7** I note that, at the hearing, Mr Brabant² sought that the ODP density rule (allowing 10-12 dwellings per gross hectare) should be retained for the Jacks Point residential areas in preference to the notified density rule (41.5.8). To assist the Panel in considering this matter, I note that, including the minor amendment recommended in the S42A report, the notified density rule (41.5.8) enables a gross density of 11.8 units per hectare and results in an estimated increase of 10 dwellings overall (resulting from the slight increase in average density and the addition of a further 2.2 ha of land to the Jacks Point residential area). I do not consider the increase in average density enabled by the PDP to be significant, as compared to the ODP.

The relationship between the permitted density and the minimum lot size in the Hanley Downs residential areas

- 2.8** Paragraph 21 of Mr John Darby's evidence dated 3 February 2017 and paragraph 21 of Mr Ferguson's supplementary evidence dated 15 February 2017 discuss the relationship and apparent inconsistency between the permitted density and the minimum lot size in the Hanley Downs residential areas and seem to suggest that the permitted density should be more closely aligned with the minimum lot size. In my opinion, the rationale for this is somewhat flawed.
- 2.9** Subdivision Rules 27.5.15 and 27.7.11.3 expressly provide for a breach of the minimum lot size in the R(HD) areas as a restricted discretionary activity whereas such a breach triggers a fully discretionary activity elsewhere in the Jacks Point area and is non-complying elsewhere in the PDP. The assessment matters included in the Chapter 27 right of reply version of the provisions and the policy recommended to be added to Chapter 27 through my S42A report support this. In this respect, the minimum lot size has simply been used as a somewhat crude and indirect way of triggering a design-based

1 See the Memorandum of Counsel on behalf of QLDC Regarding Transfer of Submission Points to Rezoning Hearing, dated 22 December 2016.

2 Submissions of Richard Brabant dated 17 February 2017 at paragraph 43.

restricted discretionary activity process but with every intention that well designed subdivision which includes sites less than 380m² in size will be acceptable. I have not made this amendment in the provisions simply because it is somewhat of a departure from the standard format but I do think it would be worth further consideration; particularly in respect of the way the 380m² is applied to the Hanley Downs residential areas.

- 2.10** I also note that Rule 27.5.5 specifies that any unit title of a completed multi-unit development is a controlled activity and reply Rules 27.7.13 and 27.7.3.14 clarify that infill subdivision in the Medium Density, Low Density, and High Density Residential Zones shall not be subject to the minimum lot size standards. While there is currently no rule confirming that this is also the case in respect of the Jacks Point Zone, the S42A report³ for the upcoming definitions hearing stream recommends the following change to the definition of 'site' but acknowledges that there is no scope for the change and that it would need to be undertaken via a Variation:

Except in relation to each description that in the case of land subdivided under the Unit Titles Act 1972, the cross lease system or stratum subdivision, 'site' must be deemed to be the whole of the land subject to the unit development, cross lease or stratum subdivision."

- 2.11** This would have the effect of exempting unit titles etc from having to meet the minimum lot size. If such a Variation were undertaken, this amendment would achieve the intent of the Jacks Point Zone, as reflected by the policies in chapters 41 and 27. If it is not, then I suggest that Rule 27.7.13 would need to be amended by including an exemption for Jacks Point, to improve the efficiency of the subdivision consent process. The exemption would be more efficient because it would remove the requirement that currently exists, for a restricted or fully discretionary activity consent to be obtained for a unit title subdivision in a medium density residential area of Jacks Point.

3 <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Hearing-Stream-10/Section-42A-Reports-and-Council-Expert-Evidence/QLDC-10-Definitions-Section-42A-report.pdf>

5% site coverage across the Jacks Point Zone

- 2.12** Mr Brabant⁴ remains concerned that the PDP will undermine the 5% site coverage rule of the ODP (and 2.5% in the Homestead Bay portion) and the similarly phrased outcomes identified in the Jacks Point Stakeholders Deed.
- 2.13** I recommended in my S42A report not to reinstate the ODP 5% and 2.5% rules (12.2.5.2(vi)) in the PDP but to, instead, impose conventional (45% - 55%) maximum building coverage rules in the residential and education areas (noting that such rules do not explicitly exist in the PDP), to retain the coverage rules in the Jacks Point village area, and impose a consistent rule in the Homestead Bay Village. I consider this to be more appropriate and more efficient from an enforcement perspective than the ODP rule.
- 2.14** In response to submissions I have estimated in **Table 2** below the maximum percentage of building coverage enabled by the notified PDP Structure Plan and this equates to 5.23% of the whole zone (assuming the 40-55% coverage rules in the residential areas as proposed in my S42A report and an assumption that buildings in the Homestead Bay, Homesites, FP-1, and FP-2 will be 1000m²).

Table 2: Maximum percentage of building coverage enabled in PDP

Coverage of built form in the whole zone	Ha
Area of Jacks Point Zone	12,590,000.00
Jacks Point res areas	252,440.00
Henley downs res areas	106,960.00
Homesites (@1000m2 footprint)	36,000.00
FP-1 (@1000m2 footprint)	34,000.00
FP-2 (@1000m2 footprint)	8,000.00
EIC	66,200.00
E	22,500.00
Village Jacks Point	78,540.00
Dwellings in HB beyond the village (@1000m2 footprint)	28,000.00
Village HB	26,040.00
Total building coverage	658,680.00
Total as a % of the zoned area	5.23%

- 2.15** I note that the amendments now promoted by Jacks Point and those recommended in my Reply evidence would reduce this overall coverage considerably (by, for example, removing the EIC and the FP-1 and FP-2 areas).

4 Submissions of Richard Brabant dated 17 February 2017 at paragraphs 11 and 20.

Lighting

- 2.16** In response to a query from the Panel, I can confirm that the following rule exists in Chapter 41 of the PDP and that this is consistent with the wording of such rules that apply to other zones and is supplemented in Jacks Point by Rule 41.4.3.1 and reply Rule 41.5.22:

41.5.14	Glare	NC
	41.5.14.1 All fixed lighting shall be directed away from adjacent roads and properties.	
	41.5.14.2 No activity shall result in a greater than 3.0 lux spill, horizontal and vertical, of light onto any property located outside of the Zone, measured at any point inside the boundary of the adjoining property.	

The role of Guidelines in the Jacks Point Zone and how these will interface with the PDP

- 2.17** Further to the discussion the Panel had with Ms Scott in relation to the relationship between the various Guidelines that exist for different parts of the Jacks Point Zone, and the Jacks Point Zone provisions contained within the chapter, it is my understanding that the Council is comfortable that the guidelines being administered by the Design Review Board and that process be entirely non-statutory. It should sit outside the PDP and there is no need for any direction in the PDP that the non-statutory process needs to remain in force.
- 2.18** It is my view (which is consistent with the Council's opening legal submissions)⁵ that while such guidelines may be effective at achieving a particular design aesthetic, the revised Jacks Point chapter provides additional standards and design controls, where justified, to ensure that appropriate development will result, even in the unlikely event that the guidelines are amended or 'watered down', ineffectively administered, or are not required to be adhered to as part of future subdivisions. The existence of the non-statutory process is therefore not determinative of my recommendation that Guidelines not be mentioned in the Jacks Point chapter.

5 Legal Submissions for QLDC, Hearing Stream 9, dated 13 February 2017, at paragraphs 6.26-6.27.

3. GENERAL DRAFTING IMPROVEMENTS TO THE OBJECTIVES, POLICIES, RULES, STRUCTURE PLAN, AND CORRECTING FORMATTING ERRORS

3.1 The following general amendments/ comments are recommended in response to questions and comments made by the Panel:

- (a) all the changes to the S42A version of Chapters 27 and 41 and the Structure Plan that I outlined in my Evidence Summary dated 13 February 2017 are included in the Revised Chapters in Appendices 1 and 2, except where they have since been superseded, as specifically outlined below;
- (b) Rule 41.4.9 (Structure Plan) has been re-drafted as a standard (reply Standard 41.5.1). This is consistent with the drafting of the equivalent Resort Zone rule in the ODP and is appropriate in that the alternative option of listing all the activities as permitted would mean that, under the structure of this chapter, any activities that are not listed would default to permitted, pursuant to Rule 41.4.1, unless their status was further clarified elsewhere;
- (c) the Structure Plan has been amended to include a reference to reply Standard 41.5.1 (notified Rule 41.4.9), which will make those provisions) that refer to compliance with the Structure Plan (i.e. Policy 41.2.1.1, Rule 41.5.4, Objective 27.3.13 and policies, and rules 27.5.6, 27.7.1, 27.7.4, and 27.7.11.1) clearer;
- (d) the word "small" has been deleted from Policy 41.2.1.19 (which referred to a small local shopping centre) and the policy now refers to the Jacks Point village as "the" vibrant mixed use hub of the Zone rather than "a". The use of the word "a" could infer that is one of a number of hubs;
- (e) the term "existing forestry" has been amended in Rule 41.4.11 to read "forestry existing as at the date of notification of this District Plan..." for added clarity;
- (f) reply Rule 41.5.22 regarding noise mitigation has been added from chapter 36 and I concur with the reasoning for this as provided in Mr Ferguson's evidence⁶;
- (g) reply rule 41.5.1.9 has been amended to remove the reference to mining as its inclusion conflicts with Rule 41.4.5, which determines

6 Paragraph 14.1, Evidence of Mr Ferguson, dated 3 February 2017.

that mining is a discretionary activity. I note that there is no scope in the submissions to limit discretionary mining only to the existing quarry (as was suggested may be more appropriate by the Panel), as mining of aggregate for use within the Zone is already a discretionary activity throughout the zone in the ODP;

- (h) rule 41.5.3.8 has been removed to avoid duplication with chapter 34 - Wilding Trees, where these species are also listed and the same activity status applied;
- (i) Rule 41.5.13.2(l) - maximum building height has been amended to remove the reference in brackets to temporary film towers. I can confirm that filming activity is already appropriately managed through Chapter 35 and that, in my opinion, retaining reference to it in rule 41.5.13.2 is confusing and potentially inconsistent with chapter 35. Rather than specifying heights, chapter 35 manages the issue by virtue of the fact that the event is permitted unless it exceeds 50 people and thereafter consent is required in respect of the scale and possible amenity effects. I note for completeness that while reference to film towers in Rule 41.5.19 (Temporary and Permanent Storage of Vehicles) arguably conflicts with chapter 35, which allows temporary storage of anything for up to 3 months, I recommend retaining the more restrictive rule in the Jacks Point Zone. I also note that this rule exists in the ODP and so there is no scope to remove it in my view;
- (j) Rule 41.5.17 (outside storage) has been amended in a very similar manner to that proposed in Mr Ferguson's supplementary evidence (20 February 2017) in order to ensure it only applies to non-residential activity; and
- (k) Rule 41.6.2 has been amended to enable restricted discretionary resource consent applications within the Lodge Activity Area to be processed without public notification.

3.2 I now turn to particular questions raised by the Panel which have not resulted in an amendment to the attached provisions but which require a response.

3.3 I note for completeness that no amendments are recommended to better clarify reply rules 41.5.1.13 - 41.5.1.16 as these relate to the Homestead Bay Activity Areas and the wording will be further considered in light of the evidence in the mapping hearing.

- 3.4 The Panel suggested that Chapter 41 might be more legible if it were re-structured such that all the policies and provisions relating to each Activity Area were grouped into separate sub-parts to the chapter much in the same way as the District Plan document is structured. In response, this has not been possible in the time available as it involves considerable work and would need to be undertaken consistently across all the special zones in the PDP. However, if the Panel decide that they are interested in pursuing this amended structure as a possible option then this can be undertaken on the Panel's behalf for its consideration.

4. THE OPEN SPACE AREAS

- 4.1 In this section I discuss the appropriateness of the structure plan and the provisions in relation to the open space areas.
- 4.2 In terms of specific queries raised by the Panel in relation to the open space areas, I can advise that:
- (a) farm buildings in the Outstanding Natural Landscape (**ONL**) of the Rural Zone are a permitted activity subject to meeting strict criteria⁷ and restricted discretionary thereafter. As outlined below, I recommend replicating this and the associated policy for the OSL area of the Jacks Point Zone, which directly adjoins the Rural Zone to the north. Of relevance to the application of recommended rule 41.5.21, I note that the largest existing land parcel within the OSL is 332ha in area;
 - (b) recreational buildings are treated like any other building (other than farm buildings) in the recommended revised Rural chapter and are therefore a fully discretionary activity;
 - (c) in the operative Jacks Point Resort Zone, recreational buildings are a discretionary activity in the O/S area (i.e. the Peninsula Hill Landscape Protection Area (**PHLPA**) and the northernmost parts of the lakeshore and Highway Landscape Protection Areas (**HLPA**) and controlled in other open space areas provided they are no more than 4m in height; and

7 Rules 21.5.18 and 21.5.19, Appendix 1: Right of Reply recommended revised rural chapter 03/06/16

- (d) both the notified PDP and the S42A version of the chapter are more lenient than the rules of the proposed Rural Zone in terms of recreational buildings and farm buildings.

4.3 In summary, I have recommended:

- (a) amending Objective 41.2.1 to provide greater direction in relation to the protection of the part of the land which is an outstanding natural landscape in terms of section 6b of the RMA;
- (b) amending policies 41.2.1.1 and 41.2.1.10 and adding various policies (reply Policies 41.2.1.30 - 41.2.1.33) to provide better policy direction in relation to:
 - (i) the important contribution that the open spaces make to the amenity of the urban development areas within the zone;
 - (ii) ensuring farming activity does not affect residential amenity; and
 - (iii) protecting the PHLPA (which aligns with the ONL boundary in the Council's Structure Plan) from inappropriate subdivision and development;
- (c) narrowing the activities allowed within the Open Space Landscape (**OSL**) Activity Area to align with those allowed by the O/S area in the ODP⁸ plus the addition of recreational trails and applying it generally to those areas where the O/S applies in the PDP. This addresses the concerns raised by the Panel in relation to the effects of enabling recreational buildings within the PHLPA (even if limited to a 4 m height), by:
 - (i) making recreational activity beyond trail development and any associated buildings a fully discretionary activity (rules 41.5.1.10 and 41,7); and
 - (ii) achieving greater consistency between the provisions and those of the adjoining rural zoned land (in respect of farm buildings and all other buildings) albeit that the PHLPA rules impose more restrictions on the type of farming that can occur in the Rural zone (rules 41.4.3.5, 41.4.3.6, and 41.4.3.7);

8 Operative District Plan Standard 12.2.5.1 restricts use to pastoral and arable farming and endemic revegetation.

- (d) replacing the remaining areas classified as OSL in the Structure Plan (being the remainder of the Highway Landscape Protection Area (**HLP**A), the remainder of the Lakeshore Landscape Protection Area (**LSL**PA) and Lot 12 DP 364700 (i.e. the land upon which the Open Space Community and Recreation Area (**OS**CRA) is sought) with Open Space Golf Activity Area (**OS**G). This effectively narrows the permitted uses to recreational activity and indigenous revegetation and making farming and farm buildings in those areas fully discretionary. This amendment, along with the vegetation mitigation requirements imposed in relation to the R(HD-SH) areas, will more effectively protect the amenity values of the adjoining residential areas;
- (e) replacing the farm building rules that relate to the OSL with the relevant rules (including the general permitted baseline-rule) from the recommended revised version of the Rural chapter (rule 41.4.1 and reply rule 41.5.21).
- (f) adding Homesites 35-56 to the Structure Plan;
- (g) amending the subdivision rules (rule 27.5.10) such that all subdivision is discretionary within the Homesites and in the Open Space Residential Amenity Landscape (**OS**A) and OSL Activity Areas) and any lots created for residential purposes in the OSG are discretionary unless they contain a Homesite. I note that the risk of a lot which contains a Homesite being further subdivided would be minimised by the fact it would be discretionary to subdivide the Homesite itself;
- (h) amending the Peninsula Hill Landscape Protection Area (**PH**LPA) boundary in the Structure Plan, which was aligned with the ONL boundary in the S42A report version of the Structure Plan, to follow the slightly revised ONL that Dr Read has recommended after undertaking a site visit at the request of the Panel. My understanding is that the location of ONLs on the planning maps is a matter for the rezoning hearings (if they have been challenged through submissions), and therefore they may need to be revisited in the relevant rezoning hearing. In my view however, it would be sensible that the ONL boundary on the planning map be changed to align with Dr Read's recommendations (and as now shown on the Structure Plan);
- (i) retaining the Open Space Amenity Activity Area (**OS**A) which is shown bisecting areas R(HD)-A, R(HD)-C, and R(HD)-D in the S42A

report Structure Plan but widening this to 60m (centred on the creek) where it passes through R(HD)-A, R(HD)-C, and reducing to 20m centred on the creek, where it passes through R(HD)-D. These widths have been determined in consultation with Dr Read and Mr Compton-Moen and are shown accurately in the amended Structure Plan in **Appendix 1**. Furthermore, the risk of the OSA being somehow privatised or developed is further reduced by recommending that subdivision of the OSA becomes a discretionary activity (rule 27.5.10) as opposed to controlled as recommended in the Chapter 27 right of reply). In response to queries from the Panel directed at various witnesses, the reason for recommending that the area be included as an OSA (as opposed to simply showing it as indicative but part of the adjacent residential activity areas) is that unless it is included as an OSA activity area then, other than potentially requiring the public access path, there are no other rules preventing it from being privatised and even built on as part of the subdivision of the residential activity areas within which the space is located;

- (j) removing the two areas of Lodge Activity Area that are shown as being within the Lakeshore Landscape Protection Area (**LSLPA**), noting that this is consistent with the S42A recommendations but was not reflected in the S42A Structure Plan; and
- (k) identifying the Lodge Activity Areas on the Structure Plan as L1 - L3 so that it is clear and easily to identify what rules apply to them.

4.4 I remain of the opinion that Rule 41.5.4.2(a) (earthworks in relation to the Open Space, Homesite, Education, and Lodge Activity Areas), which requires a restricted discretionary resource consent for any road, track, or access that involves a cut of greater than 1m, is appropriate in the more sensitive areas. This is on the basis of Dr Read's view that 2.4 m (rule 41.5.5.2(iii)) is too permissive for such earthworks and that:

- (a) although earthworks is able to be considered at the time of building and is a matter of discretion in the Lodge and Open Space Areas, it is only a matter of control in the, Education and Homesite Areas (and therefore is unable to be declined); and
- (b) where tracks are proposed in the absence of building or subdivision, there would be no control on such earthworks if this rule is removed.

5. THE HD(R)-G AND HD(R)-F ACTIVITY AREAS

- 5.1** In this section I discuss the appropriateness of the Structure Plan and the provisions in relation to the notified HD(R)-G and HD(R)-F Activity Areas.
- 5.2** Firstly, I can confirm that development of the R(HD)-F Area as shown on the attached recommended revised Structure Plan (which generally aligns with R(HD)-F(a) in Mr Te Paa's Structure Plan dated 15 February 2017) at a net density of 10-15 units per ha is appropriate. This is in line with Dr Read's opinion (and Ms Pfluger's statement that she is comfortable with that) as outlined in the Joint Witness Statement dated 14 February 2017.
- 5.3** With regard to the balance of the notified HD(R)-G and HD(R)-F Activity Areas, having carefully considered the options of applying R(HD) to these areas with addition of rules requiring planting and the identification of building platforms; identifying Homesites within these areas; or creating a new Activity Area, I have recommended that a new Rural Living (RL) Activity Area is the most appropriate way of enabling appropriate development within these areas. For clarity, new the RL area comprises the areas that have previously been referred to during the hearing as F(HD)-Fb and R(HD)-G.
- 5.4** In **Table 3** below I summarise the key differences between the two existing Activity Areas that could possibly be applied, neither of which are a 'perfect fit', hence the recommendation of a new Area:

Table 3: Key differences between R(HD) and Tablelands/Open Space Golf

Building platforms within the R(HD)	HS's within Tablelands/ OSG (as recommended in the Right of Reply)
Policies aimed at enabling sites smaller than 380m ² ; recognising the R(HD) can be developed at a greater scale and intensity than elsewhere, and anticipates commercial, community, and visitor accommodation	Policies aimed at sensitive development and revegetation
2 dwellings per ha	2 dwellings per ha
Controlled subdivision subject to providing	Discretionary subdivision (as per the

Building platforms within the R(HD)	HS's within Tablelands/ OSG (as recommended in the Right of Reply)
a comprehensive vegetation plan at the time of subdivision (as proposed by Mr Ferguson)	right of reply) to create a site without a homesite or to subdivide within the HS itself. No requirement for a comprehensive vegetation plan but site specific revegetation instead, which would be overly onerous on the G and F areas
Controlled subdivision subject to identifying building platforms on each site at the time of subdivision	HS's would need to be located in the Structure Plan
8 m height	5 m height
Must be reticulated	Need not necessarily be reticulated
Zoned wide reflectance rule	Additional maximum 30% reflectance rule
1,000m ² footprint	1,000m ² footprint
Building is permitted	Building is controlled (ROR version)
Recession plane and setback rules apply (very permissive in a RR setting though)	No recession plane or setback rules but control over bulk and location
No rules re fencing, pools, and tennis courts as it would not be in the tablelands - policies would also not apply	Fencing, pools, and tennis courts rules would apply as it would be in the tablelands - policies would also apply
Commercial, community, and visitor accommodation are RDIS and anticipated to occur in a manner that protects/enhances res amenity	Commercial, community, and visitor accommodation would be discretionary under recommended revised provisions as not in accordance with the Structure Plan
Medium density development restricted discretionary activity (controlled activity as notified) and a minimum lot size of 380m ²	No more than 1 dwelling per Homesite.

5.5 In terms of the specific rules that will apply to the Rural Living (RL) Activity Area, I have recommended:

- (a) amending Policies 41.2.1.13 to acknowledge rural living will be provided for within a new RL Activity Area (which has been added to

the Structure Plan). I also acknowledge that reply Policy 27.2.1.9 relating to avoiding subdivision of building platforms also becomes relevant; and

- (b) amending the rules and Structure Plan to provide for sensitive rural living development through:
- (i) requiring a comprehensive vegetation plan to be provided at the time of subdivision;
 - (ii) requiring the identification of a building platform of no more than 1000m² at the time of subdivision;
 - (iii) rules that impose a 5 m height limit (reply Rule 41.5.13);
 - (iv) requiring all buildings to be located within an approved building platform (reply Rule 41.5.2.3);
 - (v) applying the Tablelands overlay to the areas; thereby requiring adherence to the fencing rules (reply Rule 41.5.8);
 - (vi) making all residential buildings located within the RL Activity Area a controlled activity (reply Rule 41.4.3.2);
 - (vii) enabling only residential activity within the RL Activity Area (reply Rule 41.5.1.3);
 - (viii) making the creation of lots for residential purposes that do not contain a building platform a non-complying activity by applying the notified Rule 27.7.12.1,⁹ which applies to subdivision in the rural lifestyle zones of the District Plan; and
 - (ix) making subdivision of land resulting in the division of a building platform a non-complying activity, by virtue of the fact that the existing Rule 27.5.15 (reply Rule 27.5.18) would apply.

5.6 I consider this better achieves the desired outcomes outlined in the joint witness statement of the Landscape Architects¹⁰ and will provide a more appropriate outcome.

9 I note for completeness that a rule is missing in the right of reply recommended revised chapter 27, in that notified Rule 27.4.2, which clarified that a breach of this and other standards was non-complying, has been deleted and not replaced. An equivalent rule has been reinstated in the recommended revised version.

10 Joint Witness Statement of Dr Read and Ms Pfluger, dated 14 February 2017.

6. THE VILLAGE ACTIVITY AREA

6.1 In this section I discuss the appropriateness of the structure plan and the provisions in relation to the Village areas.

6.2 In summary, I have recommended:

- (a) increasing the area of land included within the notified Jacks Point Village area on the Structure Plan by a very minor amount to include the site (currently in the process of obtaining title as I understand it) containing the clubhouse and its associated car parking;
- (b) amending reply Policy 41.2.1.19 and adding reply Policy 41.2.1.31 to provide clearer direction;
- (c) amending the Comprehensive Development Plan (**CDP**) rule (reply Rule 41.4.7.1) to make the initial application for commercial, community, residential or visitor accommodation activity a controlled activity subject to the matters of control proposed in the S42A report and those proposed by Mr Ferguson. Any subsequent commercial, community, residential or visitor accommodation activity is recommended to be a restricted discretionary activity (reply Rule 41.4.7.2) if it is not in accordance with the initial CDP. This approach has the benefit of encouraging subsequent development to comply with the original approved CPD (as the application would be controlled rather than a restricted discretionary activity) and enables poor outcomes that are contrary to the initial CDP to be declined. I have applied this rule to both the Jacks Point and Homestead Bay Village Activity Areas on the basis that the same scope exists for both and the same rigorous assessment is justified in the V(HB) Area due to the scale of mixed use that can occur there and the importance of having a comprehensively determined spatial layout. While there is no scope to make all CDP a restricted discretionary activity, including the initial one, this would be my preference if scope existed as this provides the Council with the ability to decline a poorly designed initial CDP;
- (d) amending the CDP rule to clarify that such a plan needs to cover the whole Activity Area within which the building(s) or activities being applied for sit (i.e. either the Jacks Point or Homestead Bay village areas);

- (e) amending the wording of reply Rules 41.5.13.2(a) and 41.5.13.2(b) regarding height in the villages to clarify that all buildings (not only commercial buildings) must comply with the maximum 3 storeys in the Jacks Point Village and 2 storeys in the Homestead Bay Village. This is on the basis that while the issue of encouraging higher floor to ceiling heights is not relevant for residential buildings, the other benefits of avoiding 4 storeys being squeezed into 12 m such as achieving more articulated roofscapes and facades and greater diversity in heights are considered to outweigh any reduced landuse efficiencies. The rule is also simpler and more certain than was recommended in the S42A version;
- (f) amending the Jacks Point Village (**JP(V)**) commercial caps to include an aggregate cap of 2.12 ha of a limited range of commercial activity, including space for carparking; maintaining the 200m² GFA cap on all individual commercial tenancies, including offices (noting that there is no scope to increase the limit for retail to 300m² or to allow for a supermarket despite evidence in support of this). I am comfortable dispensing of the need for the 9.9 ha aggregate commercial cap as Mr Heath is satisfied that, provided the 200m² cap is retained on offices and the other caps are imposed, then there is no risk of commercial uses expanding in a manner that causes him concern. While I accept the evidence of Mr Heath regarding the long term need to provide for a supermarket in this location, I do not consider there is scope to make this significant change to the provisions at this stage, and note this does not mean that provision cannot be made in the CDP layout for such a store to be included at a later stage; and
- (g) continuing to recommend the aggregate commercial cap (rule 41.5.10.4) as per the S42A version of the provisions for the Homestead Bay Village (**HB(V)**), albeit expressing it in hectares rather than GFA to be consistent with the Jacks Point Village. I note that no submitter provided evidence in opposition to this cap.

7. RESIDENTIAL AREA PROVISIONS

- 7.1** In this section I discuss the appropriateness of the structure plan and the provisions in relation to the HD(R), HD(R-SH), JP(R) and JP(R-SH) Activity Areas.

7.2 In summary, I have recommended:

- (a) amending policies 41.2.1.13 and adding reply Policies 42.2.1.16, 42.2.1.36 and 42.2.1.37 (the latter being similar to those proposed by Mr Ferguson) to better articulate the rationale behind specifying a range of densities across and within each of the various residential areas; key reasons being to achieve a diversity of living accommodation in order to achieve a range of affordability, greater housing choice that appeals to a wider demographic, to avoid inefficient landuse by developers opting to undertake standard relatively large lot (e.g. 10/ ha) subdivision across entire areas; and to discourage homogeneity in subdivision design and in the consequent layout and form of dwellings;
- (b) adding the need for CDPs to be submitted in relation to all commercial activities, residential, community activities, and visitor accommodation within R(HD)-E (reply Rule 41.4.7.5). This does not change the activity status but recognises that development will be of a medium to high density nature and that comprehensive planning at the outset is appropriate, particularly in the event that landuse precedes subdivision;
- (c) adding the State Highway mitigation vegetation rule (reply Rule 41.4.12) as proposed by Mr Ferguson. This rule is generally consistent with the rules included in the Plan Change 44 decision. In my view the scope for this addition derives from those submissions that seek the reinstatement of the ODP open space areas, because the open spaces are being replaced by the R(HD-SH) areas in this location but the effects of this are mitigated by the planting rules;
- (d) amending subdivision Rule 27.6.1 9 to require density to be shown at the time of subdivision, thereby triggering restricted discretionary status if the resultant density is higher than 1 unit per 380m²; and
- (e) amending subdivision Rule 27.7.1 (Zone and Location Specific Standards) to require subdivision to be in accordance with a CDP in order to be deemed a controlled activity and, if it is not in accordance with a CDP then the subdivision becomes a restricted discretionary activity.

7.3 Regarding redraft Rule 41.5.16 (Building coverage), the Panel questioned the administrative difficulties arising from having a matter of discretion in relation

to "effects on... the character of an activity area". I have considered removing it, but I would prefer it be retained because limiting building coverage is a significant determinant in encouraging the development of a two storey character and treed environment with private open space as well as public spaces.

8. EDUCATION (E) ACTIVITY AREA

- 8.1** I have recommended increasing the area of land included within the notified E area to directly adjoin the Village Area, rather than have an open space strip between the two areas, to extend to the boundary of Maori Jack Road, and to slightly extend slightly to the west. This is shown on the Structure Plan.
- 8.2** To reaffirm, I do not recommend combining the Education and Jacks Point Village Activity Areas into a single enlarged Village Activity Area

9. RESPONSE TO EVIDENCE

- 9.1** In light of the extent of evidence that was presented on behalf of RCL (652) and the Jacks Point entities (referred to as Jacks Point Residential No. 2 et al in my S42A Report), for the assistance of the Panel, below I have summarised the extent to which that evidence has caused me to amend my recommendations.

RCL

- 9.2** I have carefully considered the evidence of Mr Wells, Mr Espie, Mr Trevathan, Mr White, and Mr Whiteman.
- 9.3** As a result, I have not changed my position on the reclassification of Lot 12 DP 364700 (the requested OSCRA) or in respect of the need to retain bulk and location standards for developments of a density less than 1/ 380m² or on sites greater than 380m². In respect of those standards the only one I recommend amending slightly, although not to the extent promoted by Mr Wells, is to clarify that only one internal setback of 4.5m and all others of 2m are required in the Hanley Downs residential areas, noting that the notified wording could be misconstrued as requiring 2 setbacks of 4.5m.

- 9.4 I consider this still provides adequate flexibility in design and discourages relatively large detached dwellings on small lots (e.g. 380m² - 450m²) and, conversely, encourages more dense typologies with connected garages/ accessory buildings or greater use of the medium density residential provisions, which provided it is required to be well executed through the restricted discretionary status, should result in higher quality development.

Jacks Point entities

- 9.5 I have carefully considered the evidence of Mr Ferguson, Mr Copeland, Mr Darby, Mr Te Paa, Mr Gousmett, Ms Pfluger, Mr Rider, Mr Thomson, and Mr Coburn. The following summary is limited to the key issues only.

- 9.6 The evidence has not caused me to change my position on the following matters, which is that:

- (a) Homesites 58 and 59 within the notified FP-2 area are inappropriate;
- (b) the whole of the area within the area identified as ONL through the joint witness statement dated 14 February 2017 and further determined by Dr Read following the hearing, should be classified as PHLPA;
- (c) with the exception of R(HD)-F and R(HD)-G, the notified densities enabled in the Hanley Downs residential areas are appropriate; and
- (d) the education area should remain as its own activity area and not be merged with the Jacks Point village.

- 9.7 I have changed my position, in that I now recommend:

- (a) Homesites 36 to 56 within the notified FP-1 area are appropriate;
- (b) the CDP required within the Village Area should be related to a consent for activities as well as buildings and that subsequent CDPs should be a restricted discretionary activity;
- (c) a CDP should also be a requirement of development in the R(HD)-E area;
- (d) subdivision should need to be in accordance with any approved CDP;
- (e) visitor accommodation in the Hanley Downs residential areas outside of R(HD)-E should be a full discretionary activity and it should remain a restricted discretionary activity in R(HD)-E;

- (f) the addition of R(HD-SH)-3 is appropriate in place of the notified EIC; and
- (g) a Rural Living Activity Area should replace the (HD)-Fb and R(HD)-G areas shown in the map tabled by Mr Te Paa presented at the hearing on 15 February 2017.

10. CONCLUSION

10.1 Overall, I consider that the revised chapter 41 as set out in **Appendix 1** (together with the revised chapter 27 as set out in **Appendix 2**) is the most appropriate way to meet the purpose of the RMA for the reasons variously set out above; the S 42A report; my evidence summary, and in the attached section 32AA evaluation.

A handwritten signature in black ink, appearing to read 'V Jones', with a horizontal line underneath.

Vicki Jones
Consultant Planner
24 February 2017