

**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 04 –
Subdivision and
Development chapter

ADDITIONAL INFORMATION

**RESPONSE OF NIGEL ROLAND BRYCE
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

27 SUBDIVISION AND DEVELOPMENT CHAPTER

29 July 2016

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1. INTRODUCTION

1.1 My name is Nigel Roland Bryce. I prepared the section 42A report for the Subdivision and Development chapter of the Proposed District Plan (**PDP**). My qualifications and experience are listed in that section 42A report dated 29 June 2016.

1.2 This information is submitted in response to the following information and redrafting of specific rules sought by the Hearings Panel during the Subdivision hearing on 25 and 26 July 2016:

- (a) reworking of data that was originally referred to in the section 32 evaluation for Chapter 27, my section 42A report and then Council's opening legal submissions, in particular by providing the same data by consent type granted by zone; and
- (b) refinement of the matters of discretion in Redrafted Rule 27.5.5 [notified Rule 27.4.1, pg.10] and Redrafted Rule 27.5.6 [notified Rule 27.4.1, pg.10].

2. REVISED BREAKDOWN OF SUBDIVISION / LAND USE ACTIVITY STATUS BY ZONE

2.1 The legal submissions by Mr Warwick Goldsmith on behalf of a number of submitters¹ questioned the reliance in the section 32 report on certain statistics. Mr Goldsmith submits that this statistical analysis is misleading. In particular, his submissions state:²

- (a) *The analysis is not differentiated by zone.*
- (b) *The analysis does not identify the number of applications where non-CA status is triggered by one minor issue (ie where an earthworks consent triggers consent for a Restricted discretionary Activity resource consent);*

¹ G W Stalker Family Trust Mike Henry Mark Tylden Wayne French Dave Finlin Sam Strain – 535/534, Ashford Trust – 1256, Bill & Jan walker Family Trust - 532/1259/ 1267, Byron Ballan – 530, Crosshill Farms Limited – 531, Robert and Elvena Heywood - 523/ 1273, Roger and Carol Wilkinson – 1292, Slopehill Joint Venture - 537/ 1295, Wakatipu Equities - 515/1298, Ayrburn Farm Estate Limited – 430, F S Mee Developments Limited – 525.

² At paragraph 4.10.

- (c) *The inclusion of boundary adjustment applications, which comprise a significant number and which are not relevant to this issue, potentially confuses the picture.*
- (d) *This issue is (potentially) limited to Residential, RR and RL zones. The statistical analysis just of subdivision applications within those zones, which also identified the reasons for a change in status from CA, would likely paint a very different picture.*

2.2 Consistent with the section 32 report, my section 42A report sets out that 69% of applications processed and granted under the Operative Plan from 2009 – 2015 had an activity status that enabled the Council to decline consent (with the remaining 31% of applications processed and granted with a controlled activity status).

2.3 The Panel then asked me to provide a breakdown of this data to a zone level. I have included within **Appendix 1** a further breakdown of consent data, provided to me by the Council, that was relied upon in the section 32 analysis and within my section 42A report.

2.4 The revised consent data in **Appendix 1** is broken down into zones, however it has not been possible to split the subdivision / land use consent scenario highlighted by Mr Goldsmith. As a consequence, I acknowledge the data is influenced by this interconnection between subdivision and earthworks consents.

2.5 I confirm also that the revised consent data has been filtered to remove those applications that have been declined.

3. FURTHER REVISIONS TO REDRAFTED RULES 27.5.5 AND 27.5.6

3.1 Mr Goldsmith in his legal submissions raised specific concern relating to the proposed restricted discretionary activity (**RDA**) regime (under Redrafted Rule 27.5.5 [notified Rule 27.4.1, pg.10] and Redrafted Rule 27.5.6 [notified Rule 27.4.1, pg.10]).³ Under both of these rules, "*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*" is a listed matter of discretion. Mr Goldsmith submits that the inclusion of "lot size" in the Council's

³ Mr Warwick Goldsmith's submissions, dated 22 July 2016, at paragraph 5.3.

proposed RDP regime "*means that, as well as requiring compliance with the prescribed minimum lot size, the Council has full discretion, through reference to all relevant objectives and policies, to decide what size any or all lots in a proposed subdivision should be, and to effectively impose that discretionary decision on the subdivider*".

3.2 Through Council's opening legal submissions to Chapter 27, in response to the evidence of Mr Ferguson I recommended the following amendment to Redrafted Rule 27.5.5:⁴

- (a) delete "*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*"; and
- (b) replace this with "*The intended purpose of any land use, having regard to the relevant standards of the zone*".

3.3 Further, in response to Mr Vivian's evidence, I also recommended (through the Council's opening submissions)⁵ the deletion of "*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*" from Rule 27.5.6.

3.4 The reason for providing for further changes to these rules was to offer landowners certainty that the Council will not use its discretion to advance a larger lot size than the minimum set for the zone.⁶

3.5 The Panel questioned me about these recommendations, particularly in light of a recent Council decision⁷ where lot size was raised as a specific issue relating to the size of an access lot, and the need for this to be increased in size to accommodate access to adjoining properties.

3.6 The Panel asked me to provide a further re-draft of rules 27.5.5 and 27.5.6 so that the drafting can be considered by the Panel and submitters through the remainder of the Subdivision hearing.

⁴ Council's opening submissions dated 22 July 2016, at paragraph 5.24.

⁵ Council's opening submissions dated 22 July 2016, at paragraph 14.5.

⁶ Council's opening submissions dated 22 July 2016, at paragraph 5.25.

⁷ RM130588, Michael George Swan and Barbara Mary Roney as Executors (formerly G F Swan), 111 Atley Road, Arthurs Point.

3.7 I note that I have considered the discussion between myself and the Panel on this issue, and recognise that there have been instances (such as those identified under subdivision consent RM130588) where there is a need to consider lot size and dimensions in situations where there is a need to provide for access or infrastructure easements. As such, it therefore remains important for Council to retain limited discretion over this matter.

3.8 However, the drafting of the matter of discretion can be more focused so as to provide submitters increased certainty that the discretion over "Lot sizes and dimensions" will be specifically limited to the following:

- (a) any reconfiguration of existing roads for widening, formation or upgrading; and
- (b) any provisions relating to access and service easements for future subdivision on adjoining land, which may necessitate changes to lot size and dimensions.

3.9 I have included this amendment to both Redrafted Rule 27.5.5 and Redrafted Rule 27.5.6 set out in **Appendix 2**. I consider that it is necessary for Council to limit its discretion over "Lot sizes and dimensions" where this is necessary to respond to those matter listed above. However, it is important to reinforce that the intention is that discretion over "Lot sizes and dimensions" would be specifically limited.

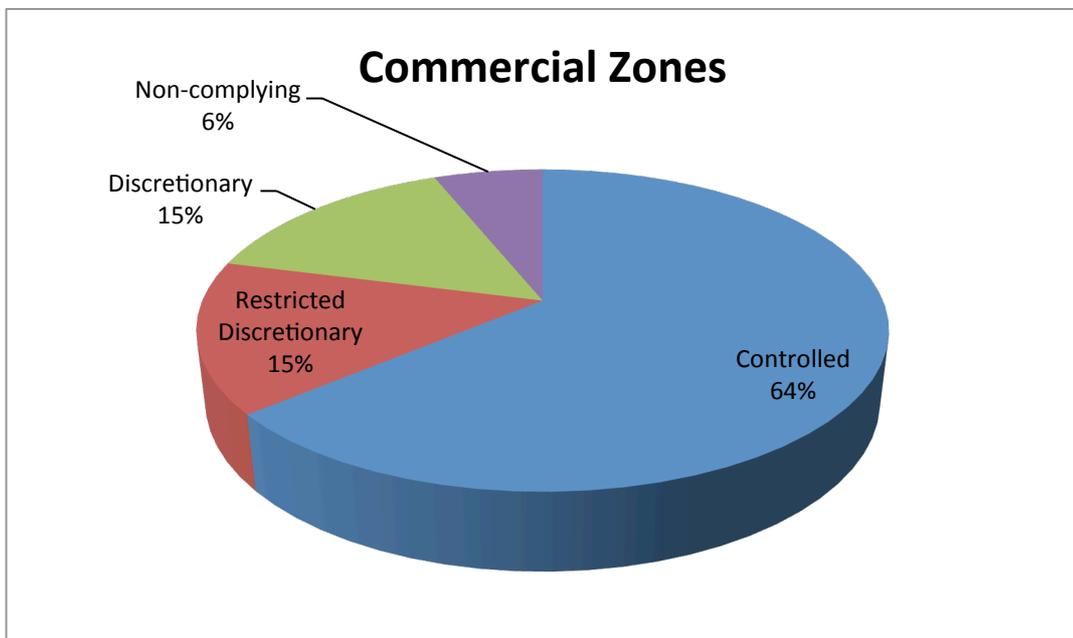


Nigel Roland Bryce
Consultant Planner
29 July 2016

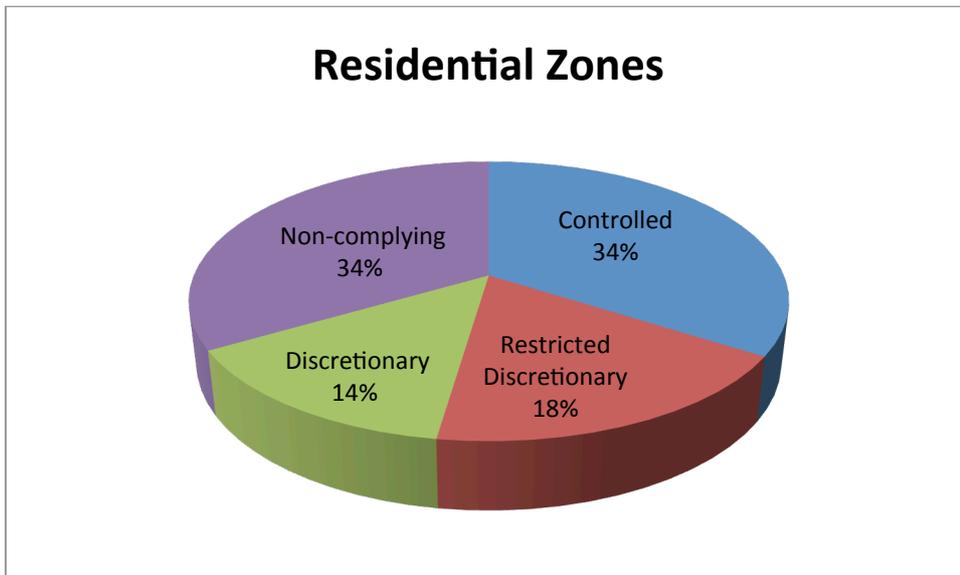
APPENDIX 1

REVISED BREAKDOWN OF SUBDIVISION/LAND USE ACTIVITY STATUS BY ZONE

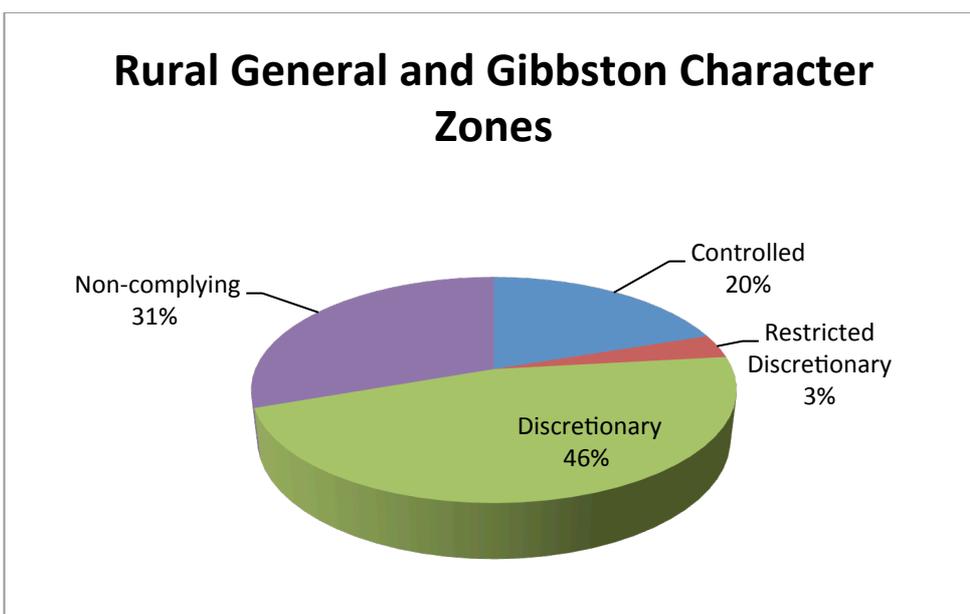
1. The subdivision application data used in the Section 32 report have been split into the respective zone and grouped into commercial zones, residential zones and rural zones, distinguishing between the rural zones that have a minimum allotment size and those that do not with a starting point generally of a discretionary activity status for subdivision (noting that qualifying boundary adjustments could be a controlled activity).
2. The data represents the overall 'bundled' activity status. The data system cannot distinguish between the land use and subdivision activity status separately.
3. The data has been filtered to exclude applications that were declined.
4. Commercial Zones (Airport Mixed use, Business, Corner Shopping, Industrial, Queenstown Town Centre, Wanaka Town Centre, Remarkables Park, Frankton Flats):
 - a. Controlled 60.00%
 - b. Restricted Discretionary 20.00%
 - c. Discretionary 14.29%
 - d. Non-Complying 5.71%



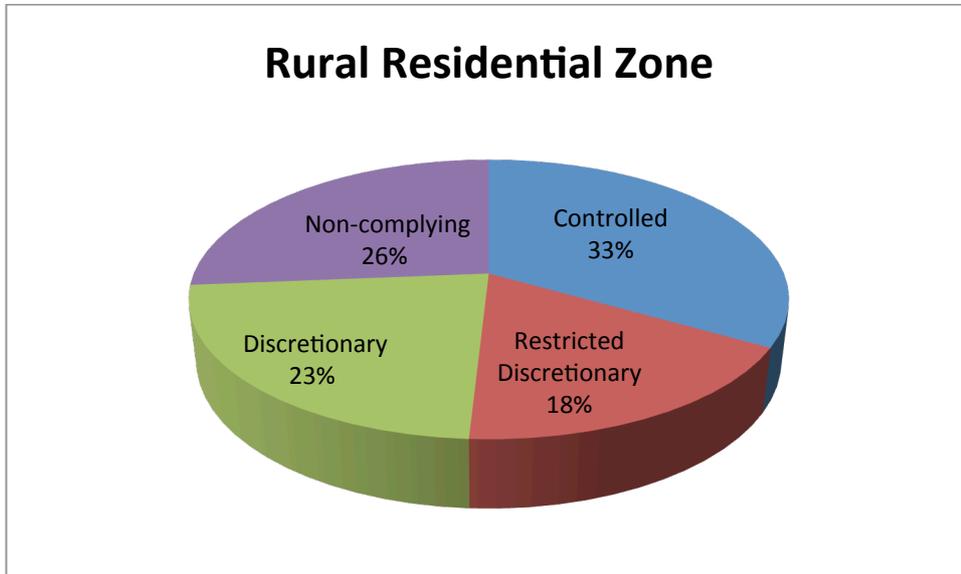
5. Residential Urban Zones (Arrowtown Residential Historic Management, Jacks Point, Low Density Residential, High Density Subzones A, B, C, Millbrook, Quail Rise, Shotover Country, Three Parks):
- | | |
|-----------------------------|--------|
| a. Controlled | 34.11% |
| b. Restricted Discretionary | 18.21% |
| c. Discretionary | 14.24% |
| d. Non-complying | 33.44% |



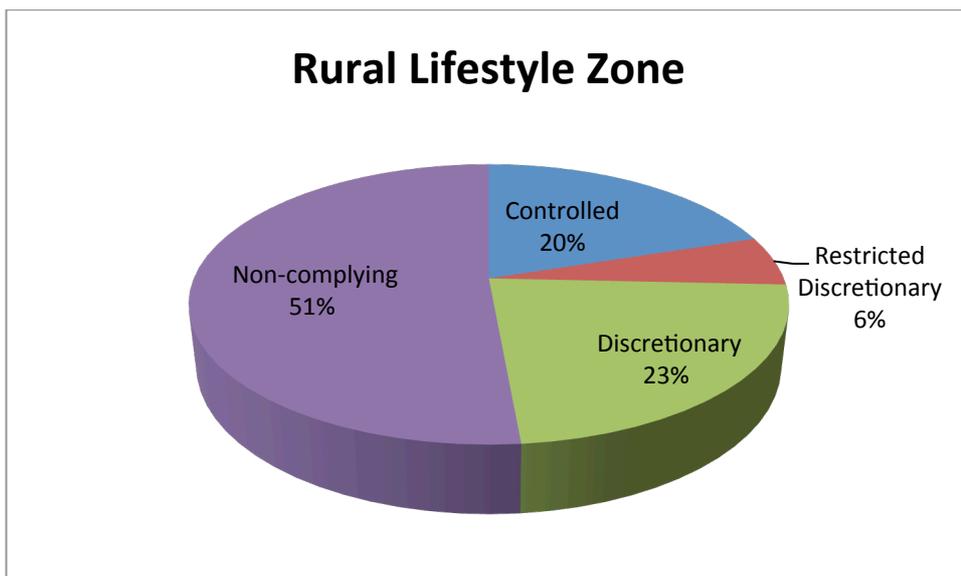
6. Rural General and Gibbston Character Zone (no minimum site size, subdivision a discretionary activity):
- | | |
|-----------------------------|--------|
| a. Controlled | 19.81% |
| b. Restricted Discretionary | 3.38% |
| c. Discretionary | 46.38% |
| d. Non-complying | 30.43% |



7. Rural Residential (4000m² minimum lot size – Controlled Activity):
- a. Controlled 33.33%
 - b. Restricted Discretionary 17.54%
 - c. Discretionary 22.81%
 - d. Non-Complying 26.32%



8. Rural Lifestyle Zone and Deferred Rural Lifestyle Zone (Generally requires a 2ha average with a minimum allotment size of 1 ha – Controlled Activity):
- a. Controlled 20.00%
 - b. Restricted Discretionary 5.71%
 - c. Discretionary 22.86%
 - d. Non-complying 54.43%



APPENDIX 2
REDRAFTED RULES 27.5.5 AND 27.5.6

Key:

Green underlined text for additions and ~~strike through~~ text for deletions, dated 29 July 2016

Black underlined text for additions and ~~strike through~~ text for deletions or relocated, Appendix 1 to Nigel Bryce's s42A report, dated 29 June 2016 / 19 July 2016.

	Subdivision Activities – District Wide	Activity status
27.5.5	<p><u>All subdivision activities contained within urban areas identified within the District's Urban Growth Boundaries and including the following zones:</u></p> <ol style="list-style-type: none"> 1. <u>Low Density Residential Zones;</u> 2. <u>Medium Density Residential Zones;</u> 3. <u>High Density Residential Zones;</u> 4. <u>Town Centre Zones;</u> 5. <u>Arrowtown Residential Historic Management Zone;</u> 6. <u>Large Lot Residential Zones;</u> 7. <u>Local Shopping Centres;</u> 8. <u>Business Mixed Use Zones;</u> 9. <u>Queenstown Airport Mixed Use Zone.</u> <p><u>Discretion is restricted to all of the following:</u></p> <ul style="list-style-type: none"> • <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 where Council would apply its discretion to the following situations:</u> <ol style="list-style-type: none"> <u>(i) any reconfiguration of existing roads for widening, formation or upgrading; and</u> <u>(ii) any provisions relating to access and service easements for future subdivision on adjoining land, which may necessitate changes to lot</u> 	RD

	<p style="text-align: center;"><u>size and dimensions.</u></p> <ul style="list-style-type: none"> • <u>The extent to which the Subdivision design, including whether achieves the subdivision and urban design principles and outcomes set out in QLDC Subdivision Design Guidelines are achieved;</u> • <u>Property access and roading;</u> • <u>Esplanade provision;</u> • <u>On site measures to address the risk of Nnatural and other hazards on land within the subdivision;</u> • <u>Fire fighting water supply;</u> • <u>Water supply;</u> • <u>Stormwater disposal;</u> • <u>Sewage treatment and disposal;</u> • <u>Energy supply and telecommunications;</u> • <u>Open space and recreation;</u> • <u>Easements; and</u> • <u>The safe and efficient operation of aircraft may be compromised by subdivision and its ancillary activities that encourage the congregation of birds within aircraft flight paths.</u> 	
27.5.6	<p><u>All subdivision activities in the District's Rural Residential and Rural Lifestyle Zones</u></p> <p><u>Discretion is restricted to all of the following:</u></p> <ul style="list-style-type: none"> • <u>In the Rural Lifestyle Zone the location of building platforms;</u> • <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 where Council would apply its discretion to the following situations;</u> <ul style="list-style-type: none"> - <u>any reconfiguration of existing roads for widening, formation or upgrading;; and</u> - <u>any provisions relating to access and service</u> 	RD

	<p><u>easements for future subdivision on adjoining land, which may necessitate changes to lot size and dimensions.</u></p> <ul style="list-style-type: none"> • <u>Subdivision design including:</u> <ul style="list-style-type: none"> - <u>the extent to which the design maintains and enhances rural living character, landscape values and visual amenity;</u> - <u>the extent to which the location of building platforms could adversely affect adjoining non residential land uses;</u> - <u>orientation of lots to optimise solar gain for buildings and developments;</u> - <u>the effects of potential development within the subdivision on views from surrounding properties;</u> - <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> - <u>In the Rural Residential Zone at the north end of Lake Hayes, whether and to what extent there is an the opportunity to protect and restore wetland areas in order to assist in reducing the volume of nutrients entering Mill Creek and Lake Hayes;</u> • <u>Property access and roading;</u> • <u>Esplanade provision;</u> • <u>On site measures to address the risk of Nnatural and other hazards on land within the subdivision;</u> • <u>Fire fighting water supply;</u> • <u>Water supply;</u> • <u>Stormwater disposal;</u> • <u>Sewage treatment and disposal;</u> • <u>Energy supply and telecommunications;</u> • <u>Open space and recreation; and</u> • <u>Easements.</u> 	
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