



**QUEENSTOWN LAKES DISTRICT COUNCIL
PLAN CHANGE HEARING COMMITTEE**

S 42A REPORT FOR PLAN CHANGE 44:

Henley Downs Zone

Queenstown

Updated 23 June 2015

FOR HEARING COMMENCING: 1 July 2015
REPORT DATED: 23 June 2015
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District Council

PREPARED ON BEHALF OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

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APPENDICES

A	Legal advice obtained by the Council from Simpson and Grierson regarding potential scope issues
B	Landscape assessments in response to submissions (2013 and 2015)
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A INTRODUCTION

This report has been written in accordance with Section 42A of the Resource Management Act 1991 (RMA). It discusses the various issues raised by submitters and makes recommendations in relation to the issues raised, in order to assist the Commissioners in drafting the Council's decision. This report supersedes the S 42A report dated 14 September 2013, which was circulated prior to the hearing commencing in 2013. You are referred to the background section below for the reasoning behind preparing an updated S 42A report.

The proposed notified plan change seeks to re-zone land from "Jacks Point Resort Zone" (JPRZ) to a new "Henley Downs Zone", which will enable more intense development of an expanded urban area whilst preserving the surrounding land for agricultural, conservation, and recreational purposes. The 2015 version of the plan change circulated in June retains the overarching purpose but now proposes to retain the area within the JPRZ and proposes considerably different provisions.

Although this report is intended as a stand-alone document, you are also advised to read the Section 32 report and associated documentation available on the councils website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/private-plan-change-notification/>) and the material provided by the requestor in June 2015 available on the councils website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>).

It is noted from the outset that this report sometimes refers to the plan change area as "Hanley Downs" and sometimes as "Henley Downs". This is not an error but is simply due to the fact that the Request was for a new Henley Downs Zone (and that is what others submitted on) but that, as a result of one of the submissions, the plan change area has now been re-named Hanley Downs.

The relevant provisions in the Queenstown Lakes District Plan which are affected by the notified plan change are:

- Part 12 (Special Zones) by adding a Henley Downs Zone to this section.
- Part 15 (Subdivision) by adding new rules and assessment matters for the Henley Downs zone.

This report suggests that amendment to Part 14 (Transport) is also necessary.

The plan change was requested by RCL Queenstown Pty Limited and was notified in 2013. The hearing commenced on 25 November 2013 and was then adjourned shortly thereafter at the request of the Requestor. The Requestor then recently approached the Council and asked that the hearing be recommenced.

The Requestor, together with 3 of the submitters, namely Henley Downs Farm Holdings Limited, Henley Downs Farm Limited, and Henley Downs Land Holdings Limited (collectively referred to "Henley Downs Farms" hereafter), have since provided the Council with a set of revised provisions, which represents the relief that they now, collectively, seek. These provisions, along with an explanatory letter, a map comparing the notified and 2015 versions of the proposed Structure Plans and an explanation of the changes are available on council's website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>).

Prior to discussing the submissions issue by issue, this report firstly discusses the scope for the amended provisions suggested in the 2015 version and, secondly, the background to the Requestor's proposal in the 2015 version to remove all reference to the Outline Development Plan process. To assist, attached, as **Appendix A**, is legal advice obtained by the Council in relation to the scope for the amended provisions that are now being sought in the 2015 version of the plan change. The issue of scope is further discussed later in this report and it is expected that counsel for other parties will wish to make legal submissions on this point.

Regardless of potential scope issues in respect of some of the changes between the notified and 2015 version, all submissions are considered in this report from a merits perspective, in the context of both the notified and 2015 versions of the plan change. Importantly, the amendments recommended in this report relate to the 2015 version of the provisions; not the notified version or the earlier 2013 version that was provided by the Requestor and circulated by the Council prior to the commencement of the hearing.

In order to provide a logical and clear relationship between the notified version of the plan change, the submissions received, and the 2015 version, under each issue-based discussion, the submissions are summarised and the relief sought in the submissions is then considered in light of a) what was initially requested in the notified version and b) what is now being proposed in the 2015 version. Recommendations are then made in terms of the most appropriate methods of achieving the purpose of the Act. In all instances, the commissioners will first need to satisfy themselves that there is scope in the submissions for the amended provisions that are being sought/ recommended.

In addition to having revised the planners report to take into consideration the 2015 version of the plan change, a supplementary landscape report has been prepared by Dr Read, which specifically addresses the amended provisions and considers their appropriateness in terms of adequately protecting and maintaining the landscape and visual amenity values associated with the site. Dr Read's primary landscape report (dated 28 July 2013), together with this supplementary report (dated June 2015), are attached as **Appendix B** to this report.

1. EXECUTIVE SUMMARY

Having considered the various issues raised in submissions, in summary it is recommended that the 2015 version of the plan change be accepted as the basis for the Hanley Downs area but that these be amended in the following manner, noting that the following are only the key changes recommended):

- Amend the 2015 version of the **Structure Plan** to:
 - i. Distinguish between the truly urban parts of the Hanley Downs area (i.e. denoted as 'R(HD)-A-E' and 'R(HD)-SH-1' in the 2015 version) and those that will be developed as 'rural living' (RL) environments (i.e. denoted variously as 'R(HD)-F-G', 'R(HD)-SH-2', and part of 'FP-1') in the 2015 version.
 - ii. Remove 'R(HD)-F' and add Areas H and L as Homesites HS37 and HS38 and locate these as shown in the notified version and in RCL's submission.
 - iii. Zone that area shown as FP-1 as a mix of RL and RG(HD).
 - iv. If scope exists, approve the EIC area but apply more detailed and better defined provisions.

- v. Zone all that area shown as FP-2 as RG(HD) and retain the Peninsula Hill Landscape Protection overlay.
 - vi. Zone the areas of open space through the urban area as OSA and show an indicative open space corridor either side of the primary road.
 - vii. Show the intersection of the primary road with the state highway and the JPRZ as key connection points
 - viii. Extend the required state highway planting
 - ix. Show trails through the wetland
 - x. Exclude the proposed extension to the Hanley Downs area to the south-west of the wetland from the Hanley Downs area of the JPRZ.
 - xi. Add a resort services area to the Structure Plan (location and size yet to be determined).
- That the 2015 version of **Part 12 (the JPRZ) and Part 15 (subdivision)** be amended to:
 - i. Make all subdivision a restricted discretionary activity, rather than controlled and add various matters of discretion at the subdivision stage.
 - ii. Require a certain density to be provided within the various R(HD) area, through having density as a zone standard rather than a site standard
 - iii. Impose maximum densities (but no minimum density) in the RL areas (proposed through this report) as a zone standard.
 - iv. Add ‘the identification and location of small lots and medium density residential lots’ as a further matter of discretion/ control at the subdivision stage.
 - v. Add ‘the identification and location of lots intended for non-residential uses’ as a further matter of discretion/ control at the subdivision stage.
 - vi. Replace the FP-1 and FP-2 with a new Area RG(HD) and apply the Rural General provisions in their entirety to this area or, if such cross referencing is ultra vires or not favoured then apply a similar full discretionary regime to the area.
 - vii. Improve control over the clearance of indigenous vegetation through the RG(HD) area provisions
 - viii. Provide more control over screening of areas R(HD-SH) and EIC
 - ix. Provide more control over the biodiversity management and restoration of the wetland.
 - That the 2015 version of the Part 12 (JPRZ) objectives and policies be amended to provide more guidance.

Note: whereas the amendments to the policies have only been suggested in respect of Part 12, the commissioners should satisfy themselves that the part 12 objectives and policies are able to be referred to at the time of subdivision and, if not, whether some or all need to be duplicated in Part 15. This is particularly relevant given the importance of Part 15 under the proposed 2015 provisions.

It is noted that the recommendations are made in the absence of hearing any of the detailed evidence presented on behalf of submitters and that, upon hearing such evidence, it is possible that they may change.

2. THE PROPOSED PLAN CHANGE

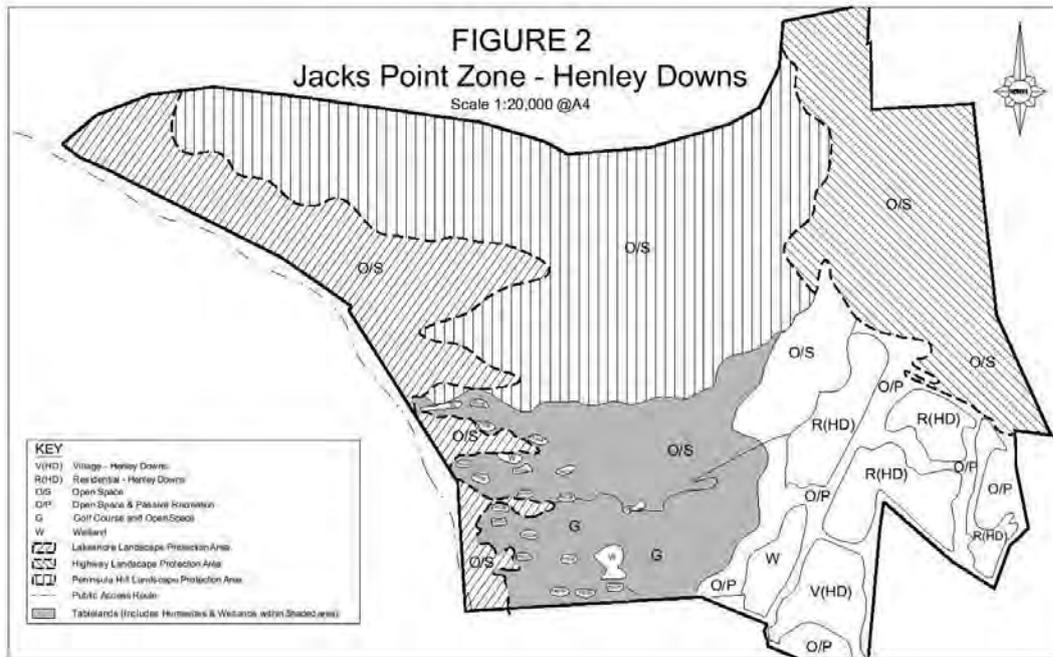
This Plan Change has been privately requested by the owner of much of the plan change land¹ and seeks the re-zoning of approximately 520 hectares from 'JPRZ' to a new 'Henley Downs Zone'.

The general location and extent of the requested zoning is shown on the map below:

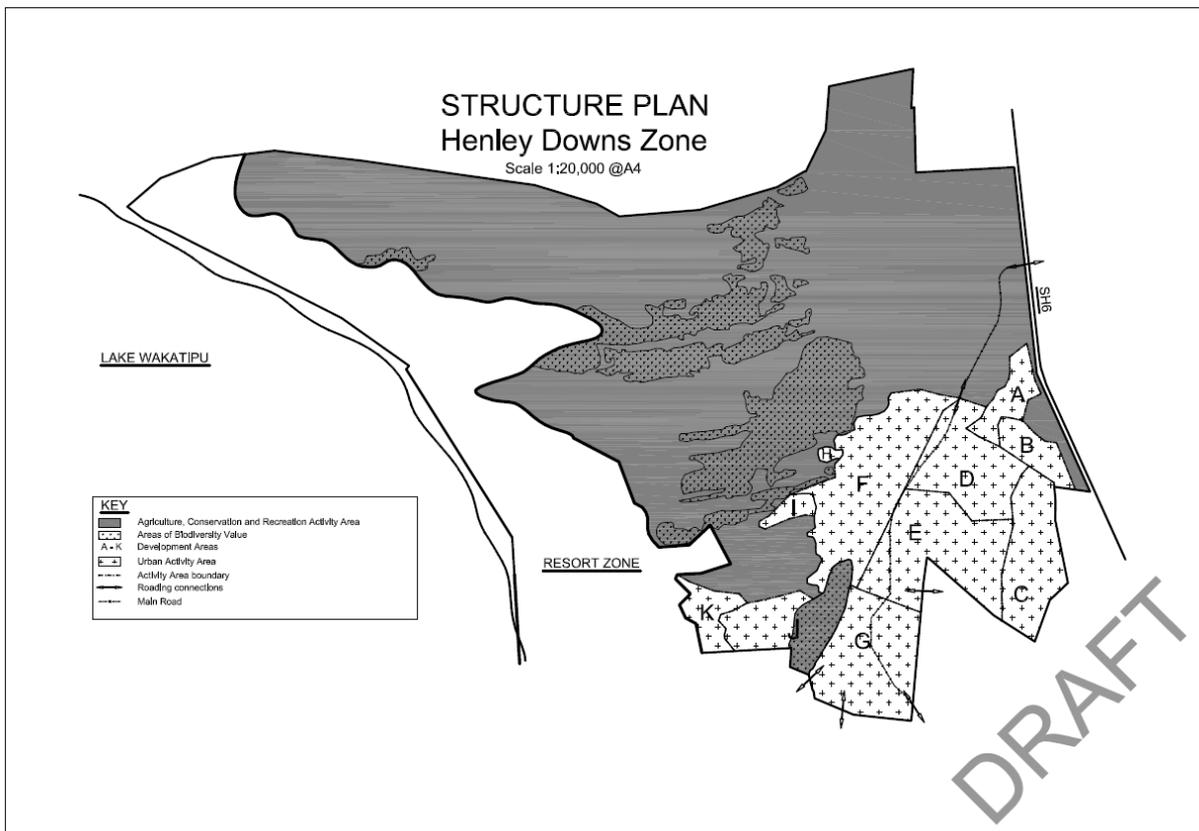


Below is the existing Structure Plan for this area, which is proposed to be deleted:

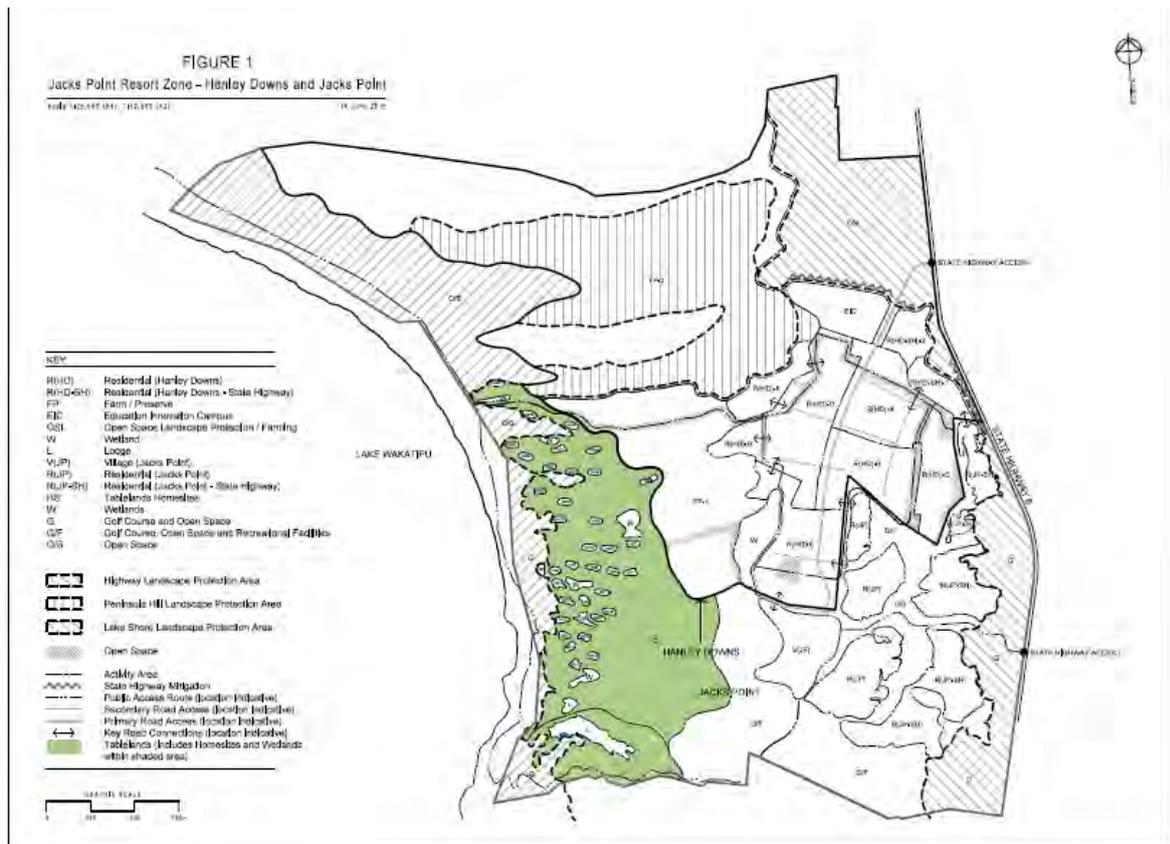
¹ Being RCL Queenstown Pty Ltd and hereafter referred to as the 'Requestor'



Below is the notified Structure Plan for this area (noting that the area adjacent to the lake is intended to be retained within the JPRZ):



Below is the 2015 version of the Structure Plan:



Note: A high resolution version is obtainable from the council's website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>).

The Purpose of notified plan change is well outlined on Pg. i of the S 32 report².

B BACKGROUND

1. RELATIONSHIP TO OTHER DOCUMENTS

The reports and plan changes referred to below can all be viewed on the council's website: <http://www.qldc.govt.nz/planning>.

Council strategies and plans

The following strategies and plans are discussed briefly in chronological order simply to provide an overview of the planning context. In respect of infrastructure, trails, and housing, you are also referred to the comments later in this section, in relation to the Stakeholders Deed.

Tomorrow's Queenstown (2002)

The 'Tomorrow's Queenstown' document resulted from a series of community workshops in order to provide a community vision, strategic goals and priorities for the next ten to twenty years. The key strategic goals developed to achieve the vision of Tomorrow's Queenstown are:

- Managing growth in a way which is sustainable
- Respecting our landscape and natural environments
- Building our community
- Improving access and transport networks
- Creating quality urban environments
- Providing infrastructure for a growing population
- Growing the strength of our economy

The extent to which this Plan Change aligns with/ contributes to these goals is explored through the discussion of the issues in this report.

Asset Management Plans (2003 – 2006)

Asset Management Plans (AMPs) map out the long term management of the physical assets/ services owned and operated by the Council. This Plan Change raises no significant issues with regard to the AMPs relating to water, wastewater, stormwater, parks and reserves, and roading.

Wakatipu Trails Strategy (2004)

The purpose of the Wakatipu Trails Strategy ("Trails Strategy") is to guide development of an integrated network of walking and cycle tracks within the Wakatipu Basin. You are also referred to the S 32 report.

Housing Our People in Our Environment Strategy (2005)

The Housing Our People in Our Environment Strategy ("HOPE Strategy") relates to increasing the supply of affordable and community housing. The HOPE Strategy was revised in 2007 as a result of Plan Change 24: Affordable and Community Housing to incorporate a set of Guidelines. The HOPE Strategy is the Council's primary guiding document in relation to Affordable and Community Housing. The overall goal of this strategy is:

"to increase access to quality, affordable housing that is integrated into the community so as to support the community's outcomes related to the sustainable economic, social and environmental development of the QLDC area".

Growth Management Strategy (2007) (GMS)

The key principles of the GMS direct that growth should be located in appropriate places and that it should provide a range of opportunities to meet current and future needs.

At a high level, the GMS aims to achieve managed growth (rather than no growth or unlimited growth) and, notably, states that growth is:

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

And that:

Greenfields development (should occur) within the defined growth boundaries of the two main urban settlements (Queenstown and Wanaka), such as the Frankton Flats, is to be

carefully managed to ensure that land is to effectively balance the full range of desired community outcomes, and that a mix of activities can be accommodated. This includes encouraging a higher density form of development.

Wakatipu Transportation Strategy (2007)

The Wakatipu Transportation Strategy (WTS) was established to respond to the sustained growth in landuse development and growth in resident and visitor numbers. The WTS seeks to deliver a fully integrated transport system that meets the growth in travel demand.

The WTS includes two key components which are of particular relevance; one being to enhance passenger transport and the other being the introduction of travel demand management measures. Network improvements of relevance to this Plan Change are the Kawarau Bridge upgrade and the establishment of a new/ upgraded access onto State Highway 6.

Long Term Council Community Plan (2012-2022)

The Long Term Council Community Plan (CCP) specifies the key community outcomes and provides a coordinated response to growth issues over a 10 year period. The proposed plan change, if it is adopted, will have an influence on all of the key community outcomes identified in the CCP.

Queenstown Lakes District Urban Design Strategy (2009)

The Queenstown Lakes Urban Design Strategy (2009) (“UDS”) provides guidance for the future of Council’s urban design practice. The UDS identifies 6 key urban design goals that represent the community’s aspirations for its urban environments:

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

Other relevant documents

Variation 16 on the JPRZ

Variation 16 resulted in the JPRZ. The Henley Downs Zone was included in this Zone by way of a submission, at which stage more work was undertaken to provide more S 32 analysis in respect of the Henley Downs land. The variation decision is attached to the S 32 report as Appendix P.

Coneburn Study (2002)

The Coneburn Study is a landscape-based assessment of the wider Coneburn landscape unit, which was developed as part of the Variation 16 Section 32 process. This is attached to the Section 32 report as Appendix E. This Study included detailed visibility analysis which informed the location of the residential areas and various open space

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

Clearly, this Deed provides significant control over development outside of the RMA process. Commissioners should familiarise themselves with the document and consider how well the plan change aligns or conflicts with its content and the relevance of the Deed to this plan change process.

2. THE AMENDED PROVISIONS SUGGESTED IN THE 2015 VERSION AND SCOPE

For added background, you are referred to the document entitled "Summary of changes attachment 2" which was prepared by the Requestor and is available on the Council's website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>)

From my understanding, the key changes in the 2015 version, compared with the notified version are:

- The zone is now incorporated into the Jacks Point Zone, rather than being its own special Hanley Downs Zone
- The restricted discretionary Outline Development Plan process has been replaced by a controlled subdivision consent process
- The policy framework is now less detailed and there are no longer any assessment matters related to landuse and less detailed assessment matters related to the subdivision (which now replaces the Outline Development Plan process). By way of background it is noted that assessment matters relating to a range of issues were proposed extensively in the notified version in recognition that the Requestor intends to dispense with the use of non-statutory guidelines as are used in the rest of Jacks Point, with the possible exception of small lot subdivision development. As such, care should be taken in dispensing entirely with the assessment matters without first ensuring that there is sufficient guidance in the policies. The policies too have been streamlined when compared with the notified version.
- The concept of identifying medium density housing and commercial and community precincts as part of a restricted discretionary activity Outline Development Plan consent has been replaced by making subdivision that creates lots under 550m² controlled and under 400m² restricted discretionary activity and by making commercial, community, and visitor accommodation uses a restricted discretionary activity.
- Medium density residential developments (i.e. housing on lots of less than 550m²) are no longer subject to the bulk and location provisions but, rather, development-specific bulk and location rules are to be determined at the time of subdivision and given effect via consent notices or similar.
- The Agriculture Conservation and Recreation Activity Area (ACRAA) has been replaced by a combination of Farm Preserve land (FP-1 and FP-2), Highway Landscape Protection Area, Peninsula Hill Landscape Protection Area, and various urban areas (Education and Innovation Campus and residential), which now extend into the notified ACRAA.
- The Residential areas that allowed only 1 - 2 homes in a rural setting such as H and I are now consumed into the wider residential areas (which enable more conventional densities) and/ or into a new area FP -1.

- Public access routes and key road connections are now shown on the Structure Plan and there is greater clarity around what is indicative and fixed and to what extent.

Attached as Appendix A is a legal opinion from Simpson Grierson on behalf of the Council. While the opinion from Simpson Grierson was undertaken at a reasonably high level and did not assess the specific rules and submissions point by point, it raises concerns over a lack of scope in regard to whether there is scope for much of what is being sought in the 2015 provisions.

Whilst I do not intend to make any recommendations in regard to scope, I make the following comments to assist the commissioners and parties:

- One of the most significant changes being proposed is the introduction of the Education and Innovation Campus (EIC). In consider this change, the commissioners should be mindful that there are two landowners who will be directly affected by this change. It is understood that both are submitters to the plan change.
- The Coneburn Study is attached to the notified plan change, although the updates to it are not.
- The Remarkables Park Limited submission did not, from my reading of it, support increasing the range of permissible residential activities or increasing density as contended by Anderson Lloyd but, rather, that it supported increased residential density in the manner proposed but that the rules should make it more certain that the area would be primarily residential rather than permitting an unregulated mixture of uses (through, for example, requiring densities to be met and restricting commercial use). It may be useful for RPL to respond to this matter at the hearing.
- Integration with the rest of the Jacks Point Zone (as requested by FPROA) very likely provides scope for retaining the landscape protection areas but that changes such as the introduction of newly formulated FP areas and urban extensions into the ACRAA are not, in my view, consistent with the request for better integration.
- The Henley Downs submissions seeking more enabling provisions are clearly non-specific and wide-spanning. As such, the commissioners need to carefully consider, taking into consideration all relevant case law, whether such submissions provide scope for the various changes proposed.
- The proposed controlled subdivision status is weaker than the restricted discretionary activity proposed in the notified plan change an while it is consistent with the controlled Outline Development Plan process that applies to the Jacks Point Zone, the operative regime is supported by highly detailed design guidance and a density masterplan rule. Similarly, the restricted discretionary activity status of the density standard is weaker than the non complying status proposed in the notified plan change but is relatively consistent with the rule that applies to the rest of the Jacks Point Zone.
- The 2015 provisions do not provide control over the location of medium density residential and visitor accommodation in the manner the notified provisions did.
- Non-notification of buildings and development in the FP-1 and FP-2 areas go beyond either the operative or notified provisions and, while arguably within the scope of submissions seeking a more permissive regime, it is considered that removing the presumption of public notification in relation to consents that could affect the public at large may raise an issue.

3. REMOVAL OF THE OUTLINE DEVELOPMENT PLAN PROCESS FROM THE PROVISIONS

Consistent with other Special Zones in the District Plan, including the JPRZ, the notified version of the plan change proposes that an Outline Development Plan process precede

applications for specific/ individual landuse and subdivision consents. This Outline Development Plan application was proposed to be a restricted discretionary activity.

In 2014 the Environment Court released its Third Interim Decision in relation to plan change 19⁴, which specifically referred to the Outline Development Plan Provisions and held that they are ultra vires. For the same reasons cited in that decision, it is considered that those proposed in the notified Hanley Downs Zone would also likely be ultra vires and therefore ineffective. In order to avoid the same issue from arising, the Requestor has amended the provisions in the 2015 version to remove all references to the Outline Development Plan requirement. These amendments have been made in the absence of any submission seeking the removal of the Outline Development Plan process and arise purely in response to the Environment Court decision cited above. As such, the commissioners will need to satisfy themselves that there is scope for the changes proposed and that the 2015 version does not go beyond the scope of the submissions but, rather, simply achieves the same or similar outcome but without requiring consent to be obtained for an Outline Development Plan prior to subdivision or development.

In place of the restricted discretionary activity Outline Development Plan process, the Requestor proposes to expand the matters of control at the subdivision stage to address the various matters that were to be considered through the Outline Development Plan process.

Firstly the commissioners will need to consider whether the change in status from a restricted discretionary activity Outline Development Plan to a controlled subdivision has a fundamental bearing. It is considered that it is significant from a merits perspective, that the status has weakened and it is recommended that subdivision be a restricted discretionary activity in order to retain the level of control over urban quality that was provided for in the notified version.

The following table summarises how the various effects were to be managed under the notified Outline Development Plan regime and how they are now proposed to be dealt with in the 2015 version. The tick/ cross denotes whether the 2015 version is considered to adequately address the matter in a general sense, although it is noted that further refinement of many of the rules are recommended later in this report.

Notified Hanley Downs plan change	Change proposed in 2015 version	
Outline Development Plan matters of discretion:	Primarily through controlled subdivision:	✘
a. The comprehensiveness of the outline development plan; and	No longer any requirement to consider a particular sized area comprehensively	✓
b. Indicative subdivision design, lot configuration and allotment sizes; and	Subdivision controls on orientation for solar access. Restricted discretionary activity if subdivision does not comply with densities, does not meet the minimum and average lot sizes, or includes curved cu de sacs. No control over the location of smaller lots/ higher density.	✘
c. The locations of building platforms in Development Areas A, H, I and K; and	Building platforms no longer required on the land covered by these areas. Dwellings now permitted except where subdivision of FP-1 has not been approved through conservation lot provision. Minimum and average lot size	✘

	in FP-1 but no control/ discretion over building location.	
d. Roading pattern, proposed road and street designs; and	Control at the subdivision stage over road and street design and through district wide control over 'property access' and over vegetation and landscape, including within the street and open spaces (15.2.17).	✓
e. The appropriateness of proposed activities and their locations, including the locations of activities that may give rise to reverse sensitivity effects, the appropriateness of those effects occurring in the proposed location and any mitigation measures proposed; and f. The location of Medium Density Housing ² s and Commercial and Community Precincts; and	Risk greatly reduced through requirements that total commercial uses in residential areas be capped at 500m ² and any one activity at 200m ² and be located within 120m of the main road. However, there is no control over location of medium density areas or non-residential uses at the subdivision or landuse stage.	✗
g. Measures to address natural hazard risks; and	As a district-wide matter of control at the subdivision stage (15.2.10)	✓
h. The location of and suitability of proposed open space areas, public transport links, pedestrian and cycle links; and	Control is retained at the subdivision stage over consistency with the Structure Plan; location and suitability of open spaces; public transport and trails; and over measures to provide for the establishment and management of open space, including native vegetation. Restricted discretionary activity to undertake subdivision not in accordance with the Structure Plan or to subdivide FP-1 without managing the open spaces shown on the Structure Plan.	
i. Mitigation measures to ensure development is not highly visible when viewed from State Highway 6 and Lake Wakatipu; and	Control is retained at the subdivision stage over mitigation measures to ensure buildings will not be highly visible.	✓
j. The proposed treatment of the interface between the urban and rural area; and	Unclear how this is addressed via subdivision.	✗
k. With regards to Development Area J, a biodiversity management and restoration plan for the wetland shown on the Henley Downs Structure Plan; and	Control is retained at the subdivision stage over measures to provide for the establishment and management of open space, including native vegetation. Restricted discretionary activity to subdivide FP-1 (which includes the notified Area J) without managing the open spaces shown on the Structure Plan. However, the wetland is not defined as open space and as such, no subdivision necessarily triggers its restoration.	✓
l. Evidence that development can be appropriately serviced with water, stormwater, and wastewater infrastructure	Addressed as part of district wide matters of control at the subdivision stage.	✓
m. Compliance with the National Environmental Standard for Assessing and Managing Contaminants in Soil to	As per any other area in the district, compliance with the NES will be considered at the subdivision or land use (change of use or earthworks) stage and a specific rule in	✓

Protect Human Health	the District Plan is not necessary.	
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4. SUMMARY OF THE SUBMISSIONS RECEIVED AND THE ISSUES RAISED

A total of 25 original submissions and 7 further submissions were received (there were no late submissions). The submitters are listed below, noting that those with an 'asterisk' also made further submissions and those with a 'plus sign' made a further submission but not an original submission:

- Hannah and Joshua Clowes
- Jacks Point Residents and Owners Association Incorporated
- Peter Knox and Julie Horwood
- Lakeside Estates Home Owners Assoc. Inc.
- New Zealand Transport Agency (NZTA)
- Otago Regional Council (ORC)*
- John and Susan Pritchard
- Queenstown and District Historical Society Inc.
- Queenstown Lakes District Council (QLDC)
- Schrantz, Alexander and Jane
- Skydive Queenstown Ltd
- The Southern District Health Board/ Public Health South (SDHB)*
- Triumph Trust
- Wakatipu Wilding Conifer Control Group
- Henley Downs Farm Holdings Ltd
- Henley Downs Farm Ltd
- Henley Downs Land Holdings Ltd
- Zante Holdings Ltd
- Remarkables Park Ltd and Shotover Park Ltd (RPL)*
- Grant Hensman
- Pure 1 Ltd
- Scope Resources Ltd*
- Delta Investments Ltd*
- Fong Tablelands Ltd
- RCL Queenstown Pty Ltd (RCL)
- Jacks Point Management Ltd+
- Tom and Justine Bamber+

Over ninety individual decisions have been requested through the original submissions, and generally each of these relates to multiple issues or concerns. The Summary of Decisions Requested is attached as **Appendix C** to this report.

As well as a large number of specific decisions requested, 6 submitters sought that the plan change be rejected or declined in its entirety. Rather than discussing these in a separate section, these are discussed in the context of the various issues that they raise in their submissions. It is understood that the very existence of these general, all-encompassing submissions seeking that the Plan Change be declined provide the scope to amend the Plan Change significantly provided the resultant zoning and what it allows sits somewhere between the operative zoning and that which was requested by the Requestor and by other submissions.

A number of submissions have specifically sought that the area remains in the JPRZ (with or without amendment). As such, this report first considers whether retaining the JPRZ

with amendment would be a better mechanism for achieving an appropriate outcome for the site. Then, the substantive issues raised by submitters are considered and recommendations made as to how the 2015 provisions could be amended in response to those submissions.

The 2015 version of the plan change as amended by the recommendations contained in this report is attached as **Appendix D**. While the recommended amendments contained herein are draft only, as time constraints have not enabled further refinement, they provide a clear direction in terms of what I see the shortfalls in the 2015 plan change being and possible solutions to those. While every effort has been made to keep the recommended changes quoted in the s 42A report and those in Appendix D consistent, should discrepancies between the two arise, those in Appendix D should be taken as accurate.

5. REPORT FORMAT

The Resource Management Act (the Act), as amended in October 2009 no longer requires this report or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions. As such, this report considers the various decisions requested by submitters, grouped under the following issues:

1. The appropriateness of a new Special Zone and the appropriate name for that zone/ sub-zone
2. Consistency with Part II of the RMA and the objectives and policies of the District Plan
3. Efficiency and effectiveness
4. Residential density
5. Integration with the rest of the JPRZ
6. Residential amenity
7. Open space
8. Non-residential activities within the zone
9. The quality/ clarity of the proposed provisions
10. Management of the land beyond the urban area/ within the notified ACRAA
11. Landscape values within the notified urban activity area and the appropriateness of the urban boundaries
12. The protection of ecological values and indigenous vegetation, including wilding control
13. Effects on Infrastructure
14. Natural hazards
15. Reverse sensitivity
16. Transport/ traffic/ walking and cycling
17. Zoning amendments beyond the Henley Downs Zone

For each issue the report is generally structured as follows:

- The Issue and decisions requested in relation to it
- Discussion
- Recommendations and Reasons

In order for this Section 42A report to provide informed recommendations in relation to the points raised in submissions, further urban design advice has been obtained from Council's urban designer, Mr Tim Williams, and landscape advice from Dr Marion Read. These reports are attached as **Appendix E** and Appendix B respectively. Whereas Mr William's report has not been updated since the Council received the 2015 version of the provisions, Dr Read has prepared a supplementary report specifically in response to the

provisions; many of which relate to how development in the more sensitive parts of the site is managed.

C DISCUSSION OF THE ISSUES RAISED BY SUBMITTERS

1. THE APPROPRIATENESS OF A NEW SPECIAL ZONE AND THE APPROPRIATE NAME FOR THAT ZONE/ SUB-ZONE

The Issues and Decisions Requested

The QLDC has submitted that the operative Resort zoning should be retained and altered rather than adding a separate special zone to the District Plan or, that if a separate zone is deemed necessary, it should sit in the Residential section of the District Plan, similar to the Residential Arrowtown Historic Management Zone. This is partly supported by one submitter. It is noted that, as per the 2015 version of the plan change, RCL is no longer seeking a separate Hanley Downs Zone but, rather, accepts that the area should remain as a sub-set of the wider Jacks Point Resort Zone (JPRZ).

As a separate issue, the Queenstown and District Historical Society Inc. submitted that the name Henley Downs is, in fact, incorrect, and that it should be Hanley Downs (emphasis added) to reflect the accurate spelling of the farmer of the area in the 1800's; Mr Jack Hanley. The 2015 version adopts this spelling as requested.

Discussion

As the Requestor is no longer seeking a separate zoning and no other party opposed the Council's submission (44/16/1) opposing the creation of a separate zone, the costs and benefits of the various options will not be discussed in detail.

Recommendations and Reasons

In order to improve efficiency and retain consistency with the already established framework of separate areas within the wider Jacks Point Zone, whilst improving the effectiveness of the provisions relating to the Hanley Downs area it is recommended that:

- The subject land should remain within the JPRZ but that site-specific provisions be added, which relate specifically to the Hanley Downs part of that zone. The recommended provisions are attached to this report as Appendix D.

In order to accurately reflect the history of the land, it is recommended that:

- The name of this part of the JPRZ be changed to "Hanley Downs"; to reflect the accurate spelling of the man who farmed the land in the 19th century.

2. CONSISTENCY WITH PART II OF THE RMA AND THE OBJECTIVES AND POLICIES OF THE DISTRICT PLAN

The issues and Decisions Requested

Five original submitters⁵ seek that the plan change be declined in its entirety on the basis that, amongst other things; it is contrary to Part II/ the Purpose and Principles of the Act;

⁵ I.e. Triumph Trust, and Fong Tablelands Ltd, Grant Hensman, Pure 1 Ltd, Scope Resources Ltd.

will not promote sustainable resource management; and will not avoid, remedy, or mitigate adverse environmental effects.

Fong Tablelands Ltd also submits that the plan change is not supported by the district-wide objectives and policies of the District Plan and that, from a process perspective, it is premature to consider the plan change in isolation of the forthcoming review of the District Plan.

RPL also submits that due to the lack of clarity and precision in the plan change, it is difficult to assess whether the plan change accords with the purpose of the Act or implements the operative objectives and policies of the District Plan.

Discussion

The Act set out that its purpose is to promote the sustainable management of natural and physical resources. It follows that this is also the over-arching purpose of those who are exercising functions under it, such as the Council. The Act goes on to require that in achieving this purpose, such 'persons':

- Must consider various matters of national importance which, relevantly, include the preservation of the natural character of wetlands and protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development and the maintenance and enhancement of public access to and along lakes; and
- Shall have particular regard to other matters which, relevantly, include the efficient use and development of natural and physical resources, the efficiency of the end use of energy, the maintenance and enhancement of amenity values, intrinsic values of ecosystems, and the maintenance and enhancement of the quality of the environment.

The Act defines **sustainable management** as meaning:

Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

It is considered that the purpose of this plan change is not contrary to the purpose of the Act. With the amendments (or similar) that are recommended in this report, a change to the zoning/ provisions of the subject land will enable development within the Hanley Downs area to promote and contribute to the sustainable management of natural and physical resources within the district. The recommendations outlined in this report aim to find a balance between achieving efficient intensification within the urban growth boundary⁶ whilst ensuring that the values associated with the existing wetland, the landscapes, intrinsic values of ecosystems, public access, amenity values, and the quality of the environment are maintained and enhanced.

In summary, it is considered that, on balance, the plan change will generally achieve the operative objectives and policies of the District Plan but that it will be considerably more effective and efficient if amended in the manner recommended in this report.

⁶ Refer QLDC Growth Management Strategy (2006)

With regard to **process**, it has been questioned whether it is premature to consider the plan change in isolation of the forthcoming review of the District Plan. Whilst the timing is not ideal, this plan change was notified in 2013; 2 years before the forthcoming notification of the Proposed District Plan. As such, it is deemed inappropriate to not consider or approve the plan change solely on the basis that it should be considered as part of the District Plan review and notified as part of the Proposed District Plan. That said, the 2015 version of the provisions are as closely aligned as possible with the amendments that are currently being prepared to the Jacks Point Resort Zone.

Recommendations and Reasons

In order to ensure that the provisions are consistent with the purpose and principles of the Act and will better achieve the objectives and policies of the District Plan, it is recommended that the plan change be amended in accordance with recommendations contained in this report

3. EFFICIENCY AND EFFECTIVENESS

The Issues and Decisions Requested

Two identical submissions (received from Henley Downs Farm Ltd and Henley Downs Land Holdings Ltd) raise issues of efficiency. They support the plan change but request that the Structure Plan be refined to enable the most efficient use of the land for the range of activities anticipated by the plan change. The submitters also mention a need for consistency with the Coneburn Study and any subsequent studies but it is unclear what they are specifically seeking in their submission. The Planners Report circulated in 2013 strongly suggested that the submitters provide this further information at the hearing.

Subsequently, the new 2015 version (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>) has been provided to Council which, amongst other things, seeks specific amendments to the provisions in order to satisfy the Henley Downs Farm submissions. In summary, in order to increase the efficient use of land, those provisions:

- Change part of the ACRAA to Education and Innovation campus (EIC), which enables technology-based commercial uses and ancillary activities
- Change 69.5 ha of the ACRAA and Areas J and K to FP-1, which enables dwellings at an average lot size of 1/ 2 ha, ensuring the open spaces are provided for
- Change 244.5 ha of the ACRAA to FP-2 (and apply the Peninsula Hill Landscape Protection Area over part of that), which enables dwellings at an average lot size of 1/ 40 ha, subject to not being visible from the lake or State Highway and some other matters of discretion.
- Change part of the ACRAA to OSL (State Highway Landscape Protection Area)
- Change Areas H and I (comprising 4 ha) to R(HD)-G and R(HD)-F (comprising 14.7ha) and which enables dwellings at an average density of up to 10 units per ha.

You are referred to the useful comparison map which overlays the notified and 2015 Structure Plans, which was provided by the requestor and is on the council's website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>). While the urban and peri-urban areas proposed have expanded the overall yield remains similar and, if anything, very likely slightly less.

As most of these amendments relate to increasing development potential within the more sensitive parts of the site (i.e. the ACRAA and the Areas J, K, L, H, and I of the notified

Structure Plan) in order to improve the efficient use of that land, the merits of those suggestions are discussed later in detail in the ACRAA and landscape sections of this report.

A submission from Peter Knox and Julie Harwood also raises the efficiency-related issue of whether there is any need for the additional housing being provided.

Discussion

With regard to the issue of whether there is a need for the further housing supply being proposed, it is concluded that there is no housing/ land shortage that necessarily needs to be rectified through, for example, increasing supply at Jacks Point. Pg. 19 of the S 32 report accepts this but this needs to be seen in context of the efficiencies of consolidating development within urban growth boundaries (i.e. in those areas of the district that can be serviced efficiently and can absorb development without significant adverse effects and, ultimately, with some positive effects). So, whilst the submission certainly raises a valid point, it is noted that the Act does not require a plan change to be tested against whether it is, in fact, 'necessary' but, rather, whether it is efficient and effective. In this case, it appears that the additional dwelling capacity proposed can be efficiently serviced and that, as an existing urban area, it is not necessarily opening up development on yet another 'front', which is often where over-supply issues do raise inefficiency issues. If the commissioners felt it was warranted, staging of the development could be regulated through District Plan provisions in order to ensure a logical pattern of development.

Recommendations and Reasons

It is recommended that it is not necessary to reduce allowable densities within the zone due to a lack of any 'need' for the additional housing. However, it is noted that the density enabled through the plan change in areas R(HD-SH)-2, R(HD)-G, R(HD)-F, and FP-1 and FP-2 is recommended to be reduced for other resource management reasons, as outlined in subsequent sections of this report. This obviously, in turn, reduces the overall yield.

4. RESIDENTIAL DENSITY

The Issues and Decisions Requested

The issues raised in submissions relate to:

- Whether the maximum density for Area J⁷ should be reduced given its visual prominence, to a density more akin to Area K⁸. Some submitters request that its density be reduced (or that it be included in the open space area) whilst RCL requests that the capacity of Area J remain at 100 dwellings but that less dense development is enabled on the more prominent slopes. This would essentially consolidate development (at an average of 1 dwelling per 642m²) on the lower land, adjacent to the wetland.
- Whether the proposed density will change the existing small town, high quality character of Jacks Point and have an adverse effect on the visual amenity of land within the JPRZ.
- Whether the notified density and urban footprint should be retained, decreased, or increased beyond that which was notified.

⁷ Referred to as 'Area 7' in Ben Espie's landscape assessment attached to the notified Plan Change

⁸ Which generally aligns to Area 8 in Ben Espie's landscape assessment attached to the notified Plan Change

- Whether greater clarity should be provided in the objectives and policies around densities and where it is located, with densities expressed as dwellings per hectare that shall be achieved +/- x%.
- Whether the Density Master Plan step should be retained in the resource consent process, as per the Resort Zone for Jacks Point.

Discussion

Discussion of the above submissions is somewhat complicated by the changes to the Structure Plan and provisions that have occurred in the 2015 version and the fact that the requestor is no longer seeking the density rules or Activity Area boundaries from the notified version or those that were requested in its submission on the plan change.

In an attempt to simplify the changes that have occurred, a table is attached as **Appendix F**, which compares the areas, density, and total maximum number of units enabled by the notified plan change with the 2015 version.

You will note that this differs from that provided by the Requestor, on the website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>). While the comparison provided by the requestor indicates a reduction in achievable density, this is based on an assumption that only 47% of the land in Areas A, B, D and only 55% of the land in C will be developable for residential purposes. This is opposed to an industry standard which usually sits around the 30-35% mark. While this lower yield may well occur, there is nothing compelling it and, given the indicative nature of the open spaces (with not rules pertaining to them) and the lack of any strong direction over block sizes etc. which may otherwise require significant land to be consumed by roading, it is considered inappropriate to assume this lower developable area. As such, the yield shown in the attached table are considered to more accurately reflect what may eventuate under the proposed 2015 provisions.

The appropriateness of the densities proposed in the notified and 2015 provisions

The QLDC has submitted in support of allowing a higher density than is enabled by the JPRZ provisions; RCL requests that densities be increased slightly beyond that notified; and others request that the density remain as per the operative rules, citing, amongst other things, concerns relating to the preservation of quality, visual amenity, and character and the provision of quality landscaping.

Whilst the comparisons between the **densities** enabled by this plan change and those elsewhere in NZ (as outlined in Appendix N of the S 32 report) are helpful, you are alerted to the concern raised by Mr Williams in paragraph 4.6 of his report. One notable difference between the proposed Henley Downs Zone and those developments is the fact that the Hobsonville and Stonefield developments propose slightly higher densities and that they *require* that these densities to be achieved, thus providing considerable certainty. The amendments proposed in this report, namely to require certain densities to be met and to require areas of open space be provided within the urban area will result in greater certainty of outcome.

Regarding the specific densities proposed, you are referred to Mr. William's report, which concludes that the densities are generally appropriate but that minimum and maximum/target densities should be required; there should be a framework to guide the distribution of density; density should be a matter of discretion at the Outline Development Plan stage; site coverage limits should be added and that recession planes be relaxed or dispensed with in order to improve the quality of the outcomes; at least at the higher densities. Dr.

Read no longer holds concerns regarding the proposed density/ small lot sizes as expressed in her July 2013 report and her concerns are now limited to area R(HD-SH)-2, and newly proposed (2015) areas R(HD)-G, R(HD)-F, and FP-1.

The 2015 version addresses some of these concerns in that the provisions now:

- Impose an average net density range that must be met. The effectiveness of this is reduced however by the fact that the 2015 version now proposes this as a site standard rather than a zone standard. Whilst no submitter sought that the rule be weakened in this manner, some did request better efficiency and integration with the JPRZ. In the JPRZ, the density masterplan is a restricted discretionary activity, so that is one possible link.
- Impose a maximum site/ building coverage rule ranging from 50% on sites over 550m², to 70% in approved medium density areas, to 100% on sites less than 550m².
- Recession planes have been relaxed and dispensed of for higher density, smaller lot developments in order to enable higher quality outcomes and more efficient landuse.

Importantly, the 2015 version still does not propose that density or that the location of higher density be a matter of control or discretion at the time of subdivision housing so this remains a significant shortfall.

In response to these concerns, it is concluded that:

- The density range or at least the maximum density should be a zone standard.
- The site coverage limits should apply to all sites in order to encourage on-site landscaping, which will help integrate the area with the rest of Jacks Point.
- With the exception of Area J (now within FP-1 in the 2015 version), the densities proposed in RCL's submission for notified areas I, J, K and the two areas that Dr Read suggest should be homesites, being H and L (variously referred to as FP-1, FP-2, and R(HD)-F and R(HD)-G in the 2015 version) are generally appropriate with the exception that L should enable just one dwelling. These should be expressed as a maximum density with no minimum requirement.
- The open spaces shown on the Structure Plan should be zoned as open space (OSA), rather than shown as indicative open spaces, thus providing relief to the density proposed, more certainty, and better integration with greater Jacks Point. By implication this will reduce the overall yield achievable under the proposed rules and if the commissioners consider this inappropriate then the net densities could be increased by the commensurate amount.

The appropriate density of Area J, as specifically raised in submissions.

The Clowes' submission specifically refers to Mr Espie's landscape assessment as follows:

"We support the recommendation of Mr Espie at paragraph 49 (pg. 24) of his report, namely that Area 7(J)⁹ be restricted to a lower density of development akin to that proposed by Area 8. We request that the QLDC seek a modification to the proposal in line with the recommendation of Mr Espie referred to above."

The only issue here is that Mr Espie, in fact, recommends the following:

"I recommend a lower density of development for Development Area J, similar to that which is proposed for Development area I."

⁹ Area 7 in Ben Espie's report generally aligns with Area J and Area 8 with Area K.

As such, Mr Espie recommends that, from a landscape perspective, the density in Area J would more appropriately be 2.3 dwellings/ ha (as per Area I) as opposed to the 11/ ha provided for in the notified Plan Change. Mr Espie does not go as far in his recommendation to say that the density should be reduced to as low as 1 dwelling/ ha, as provided for in Area K.

Whilst it is questionable whether the submission seeks that density be amended to be something akin to I or to K, this is considered a non-issue in that other submissions seeking that the Plan Change be declined/ rejected in its entirety on the basis of adverse effects and the fact Delta request it be retained as open space provide adequate scope to lower the density to the degree deemed necessarily to meet concerns.

In Dr Read's opinion, Area J is able to be developed but only at a density akin to Area K; being 1 dwelling per hectare. Dr Read's conclusion is based on her concerns a) relating to the significant adverse effects of urban density in this area on the amenity of residents within Jacks Point and b) the adverse effect on the amenity of the wetland from allowing such urban development at its edge.

The 2015 version absorbs J (and K) into a much larger FP-1 area with a minimum lot size of 4,000m² and an average of 2 ha, via a controlled subdivision process (provided the open space shown on the Structure Plan is provided for) with the subsequent dwellings being permitted subject to height and reflectivity rules.

Dr Read is of the view that no more than 14 units (i.e. 1 unit per hectare) are appropriate in this area and that they should be contained to the notified J/ K area.

Whether the objectives and policies will provide sufficient direction/ guidance in respect of density and the appropriateness of the density rules(s)

The QLDC has sought that:

- The objectives and policies should provide greater clarity and direction with regard to densities and where it is located;
- Densities should be expressed as dwellings per hectare (within a range or +/- x%);
- Further consideration is given to whether the density master plan step is appropriate and should be retained.

Each of these matters is taken in turn below, using the 2015 version as the basis for assessing the appropriateness of the provisions. Given that the objectives and policies proposed in the notified version are no longer being sought by the Requestor, the submitter's concerns will instead be considered in light of the amended 2015 provisions. The following proposed objectives and policies (from the 2015 version) relate to density and character in the Hanley Downs part of the JPRZ:

Objective 3 - Jacks Point Resort Zone

To enable development of an integrated community, incorporating residential activities, visitor accommodation, small-scale commercial activities and outdoor recreation - with appropriate regard for landscape and visual amenity values, integrated servicing, provision and management of open space and public access issues.

Policies:

...

Hanley Downs

- 3.16 To use a Structure Plan for the Hanley Downs area to establish the spatial layout of development within the zone and diversity of living and complementary activities, taking into account:
- Integration of activities and servicing and other parts of the Jacks Point Zone
 - Landscape and amenity values
 - Road, open space and trail networks
 - Visibility from State Highway 6 and Lake Wakatipu
- 3.22 To provide a diversity of living accommodation, including opportunities for a transition between urban densities and farm and rural living at low densities within Hanley Downs.
- 3.23 To recognise the Residential (Hanley Downs) Activity Area as being appropriate to accommodate residential development at a greater scale and intensity than elsewhere in the zone.
- 3.26 To use residential development controls to protect privacy, provide access to sunlight, achieve design cohesion and to provide appropriate opportunities for outdoor living.
- 3.27 To provide for medium density and small lot housing subject to ensuring the scale and form of built development provides a high standard of amenity and design.

The objective is very broad and the policies are considered weak, relative to the notified version which the Council had concerns with. The 2015 policies provide for, but do not require a range of residential densities to be achieved, recognise greater density is appropriate but do not encourage or require the densest residential development to be appropriately located or designed with affordability in mind. As such, they are enabling but not directive or certain. In addition, Policy 3.16 regarding consistency with the Structure Plan is weaker than the equivalent policy that relates to the rest of the JPRZ (policy 3.4) and those of other special zones in that development is not required to be in accordance with the Structure Plan (at a policy level) and that there is no mention of density in the policy or the rule. This consistency with the Structure Plan is all the more important in the absence of any requirement for an Outline Development Plan or a density masterplan and particularly so if density remains a site standard.

The policies are not considered sufficiently strong and do not reflect the rules recommended in this report or the concerns raised by Mr Williams regarding the lack of any clear direction over the location and layout of higher density housing.

The policies are therefore recommended to be amended in order to better reflect the objectives. As such, the policies should:

- Require development (and by implication; the densities of the various areas) to be in accordance with the Structure Plan by applying the existing Policy 3.4 to the Hanley Downs area.
- Ensure that a range of densities will be achieved
- Require small lot subdivision, medium density areas and visitor accommodation development to locate in a consolidated manner in areas identified at the time of subdivision and within the EIC area.

The JPRZ controls density through requiring a **density masterplan**, which must illustrate how an average density of 10-12 dwellings per hectare¹⁰ will be achieved across all the

¹⁰ The Jacks Point density is currently 11.2 units/ ha and if RM130152 is approved it will reach permitted max of 12/ ha.

(R) areas and identify the staging of this. This must be approved prior to any residential development and failure to do so will render residential development a restricted discretionary activity. The problems with this approach are that it a) adds another step to the consenting process, b) is zone-wide yet there is little useful guidance as to where the most dense development should logically be located and c) once the zone is in multiple ownerships, it is a case of 'first in-best dressed' in relation to where the higher density is located.

Both the notified and 2015 Henley Downs plan change versions dispense with the density masterplan requirement and, instead, specify a maximum number of dwellings/ density range (respectively) that can be established in each Development Area/ plan of subdivision (respectively).

The 2015 version now expresses density as a range of dwellings per hectare that shall be achieved within the residential areas (as recommended in Mr Williams' report), which has the benefits of added certainty and superior urban design outcomes for those urban areas.

Whereas failure to meet this standard triggers a non complying consent in the notified version, it triggers a restricted discretionary activity consent in the 2015 version. So, whilst similar in its effect to the density masterplan requirement, the 2015 version is considered less effective than the notified version; particularly given the weak objectives and policies regarding density and character. Whether scope exists for weakening the level of control over density is a matter for the commissioners to consider. Regardless of any scope issues, from a merits perspective, density is more appropriately expressed as a zone standard. Provided the density rule remains a zone standard, as in the notified version, then requiring such ranges to be achieved and identifying density as a matter of discretion at the subdivision stage is considered more efficient than requiring a density masterplan and at least if not more effective.

Also of relevance, the 2015 version replaces the concept of identifying medium density precincts as part of any Outline Development Plan with a suite of new subdivision rules, which impose a minimum lot size of 400m² as a site standard and provide council with specific control over the design and quality of lots under 550m² and those under 400m². It is also noted that the link requiring subdivision to comply with the average density rule will provide some limit on the number of small lots that can be created in most development areas.

Recommendations and Reasons

In response to submissions and in order to ensure the allowable density is appropriate to maintain amenity and landscape values, it is recommended that:

- Site standard 12.2.5.1(x)(e) Density (Jacks Point Resort Zone) be changed to a zone standard (i.e. 12.2.5.2(xviii)) and amended as follows (strike outs and double underline indicates amendments):

Xviii Zone standard - Density Hanley Downs area of the Jacks Point Resort Zone

- (i) *The average density of residential units within each of the Residential Activity Areas shall be as follows:*

Activity Area	Net density (dwellings per Ha)
<i>R(HD-SH) – 1</i>	<i>12 - 22</i>

R(HD) - A	17 - 26
R(HD) - B	17 - 26
R(HD) - C	15 - 22
R(HD) - D	17 - 26
R(HD) - E	25 - 45

- a. Density shall be calculated on the net area of land available for development and excludes land vested or held as reserve, open space, access or roading and excludes sites used for non-residential activities. If part of an Activity Area is to be developed or subdivided, compliance must be achieved within that part and measured cumulatively with any preceding subdivision or development which has occurred with that Activity Area.
- b. **Except** that this rule shall not apply to a single residential unit on any site contained within a separate certificate of title.
- c. The Council's discretion is restricted to the effects on residential amenity values, traffic, access, parking, and adequacy of infrastructure.

(ii) All Outline Development Plans lodged for Development Areas A, I, and J shall show the number of residential units proposed and the maximum number permitted in each Development Area shall not exceed the following:

<u>Development Area</u>	<u>Max. no. of Residential Units</u>
R(HD-SH)-2 (RL)	<u>4</u>
R(HD)-G (RL)	<u>8</u>
FP-1/ RL(HD)/ J/K	<u>14</u>

ix More than one residential unit on a site

In the Hanley Downs area of the Jacks Point Resort Zone, there shall be no more than one residential unit on a site unless the site is identified for this purpose as part of an approved Outline Development Plan.

X Size of building platforms

In the Hanley Downs area of the Jacks Point Resort Zone, there shall be no building platforms shall be smaller than 70m² or greater than 1000m².

Xi Residential units in approved building platforms

In the Hanley Downs area of the Jacks Point Resort Zone, there shall be no more than one residential unit shall be constructed within an approved building platform.

- A new site standard be inserted in Part 15, as follows in order to enable some development of these areas while managing effects on the landscape:

ii) Building platforms

...

c) in the Hanley Downs area of the Jacks Point Zone

Every allotment created in Areas R(HD)-G, R(HD-SH)- 2, FP- 1/ RL (J) shall identify one residential building platform approved at the time of subdivision of not less than 70 m² in area and not greater than 1000 m² in area.

- The 2015 objectives and policies, as they relate to density, be amended in order to ensure that density is appropriately distributed and that the diversity is achieved :
- That density, diversity, and distribution of lot sizes are matters of discretion at the subdivision stage.
- For greater clarity, the 400m² minimum lot size rule be replaced with a listed restricted discretionary activity rule that any subdivision of lot(s) under 400m² be a restricted discretionary activity with clearly defined matters of discretion, as follows:

Within the residential area of Hanley Downs area of the Jacks Point Resort Zone, any subdivision which creates lots of less than 400m², with the Council's discretion is restricted to:

- (a) *The matters in respect to which the Council has limited discretion listed in respect to restricted discretionary activity subdivision activity in 15.2.3.3(ix) above, and*
- (b) *Any appropriate legal mechanism required to secure control over future built outcomes; and*
- (c) *The assessment matters listed under 15.2.6.4(i)(i).*

The reasons for the above recommendations are that the amendments will:

- Provide greater certainty that a particular density will be achieved, rather than leaving it up to the market, which may well result in homogenous 1000m² sites, for example¹¹;
- Provide certainty around character, density, lot size, traffic movements/ volume and hence street design, and servicing at the subdivision stage;
- Discourage infill subdivision.
- Provide certainty in terms of the ultimate 'capacity' of the zone
- Provide more control and direction over where density should locate through increasing the control/ discretion at the subdivision stage.
- Better protect the landscape and visual amenity values of the slopes of Areas I, J and K and H (now within FP-1, R(HD)-F and R(HD)-F), particularly as viewed from the balance Jacks Point area.

5. ENSURING INTEGRATION WITH THE REST OF THE JPRZ

The Issues and Decisions Requested

A number of submitters are concerned that, given the proposed provisions, the Jacks Point Resort and Henley Downs zones will not be well integrated or consistent. These concerns relate particularly to:

- Having regard to the Coneburn Resource Study (or any refinement thereof);
- Having regard to the proposed objectives and policies of the Henley Downs Zone;
- The density that is enabled (which may result in a 'sea of house roofs');

¹¹ It is noted that homogenous low density development would affect the ability to achieve the policies for the zone and likely have a significant adverse effect on its character, and, equally, could adversely affect the character and purpose of the Jacks Point zone.

- Consistency with the ethos/ standards/ guidelines of the JPRZ, particularly in relation to building materials and design guidelines, land coverage, and respect for the environment;
- Consistency of the landscape and streetscape treatment between the two developments, including the type of mounding and planting undertaken along the State Highway.

In its submission, the QLDC notes that consistency with building guidelines should not prevent expanding the palette of allowable building materials to reduce construction costs but should ensure that buildings adhere to consistent principles and colour palettes, etc.

Discussion

The notified version of the Hanley Downs Zone addressed the issue of integration through a specific objective (1) and the associated policies (1.4 and 1.5 in particular). The 2015 version no longer seeks that the Hanley Downs area be a separate zone but, rather, proposes that it be subject to the overarching Jacks Point objective (12.1.4.3). As such, all of the Jacks Point policies other than, critically, that which requires development to be in accordance with Structure Plan now apply to the Hanley Downs area. The requestor's specific request that this policy does not apply to Hanley Downs threatens successful high level integration and certainty of outcome and is considered inappropriate. Assuming that it is rectified then we can assume that the policies strive for an integrated/ consistent outcome leaving the test being whether the rules will, in fact, deliver on these policies and result in appropriate integration.

In particular, it seems doubtful that the 2015 version of the provisions will effectively achieve:

- Policy 3.1 and 3.10 (views from the state highway) in that to meet these will require extensive screening (of Areas EIC and SH-2) and there is no requirement for this to be done prior to development;
- Policy 3.3 (requiring building's external appearance bulk and location to have regard to the landscape values of the site) in that other than reflectivity there is no control over conventional housing or housing in the more sensitive parts of the area and the building heights allowed in EIC and FP are considerably higher than in the equivalent parts of JPRZ outside of Hanley Downs;
- Policy 3.4 as development in the Hanley Downs area is not required to be in accordance with the Structure Plan and the Structure Plan does not place any limits on landuses in the R(HD) area other than that commercial must be within 120m of the main road and not exceed 500m² GFA in total.
- Policy 3.8 (regarding providing for biodiversity) in that there are no provisions limiting indigenous vegetation clearance, as there were in the notified version.
- Policy 3.14 (regarding providing for farming activity while ensuring against over-domestication) in that subdivision into relatively small lots is allowed as a controlled activity in the FP areas and farm buildings are allowed as a controlled activity without limitations on their elevation, re-use as residential units, or in relation to them not forming part of the permitted baseline once granted.

You are referred to Dr Read's report for her opinion on many of these aspects.

The issue of **density** and whether this can, in fact, be increased to the extent proposed whilst still achieving the above objectives of integration and character and not adversely affecting views from Jacks Point is discussed in full in the previous section of this report and in the attached landscape report. That discussion concludes that, overall, density is appropriate although it should be reduced in specific areas and the open space network

within the urban area zoning should be zoned as such. Provided this occurs¹² then the proposed increase in density per se will not prevent Hanley Downs from integrating well with Jacks Point.

The Pritchards seek consistency with the **ethos/ standards/ guidelines** of the JPRZ, particularly in relation to building materials and design guidelines, land coverage, and respect for the environment. It would be helpful if the submitter could clarify what is meant by the terms “ethos”, “standards, and “guidelines” but, for the time being, it is assumed that this refers to both the Resort Zone provisions of the District Plan and the design guidelines that are administered by the Jacks Point Urban Design Review Board¹³. These design guidelines replicate some controls from the District Plan and include various additional controls.

A comparison between how **building design and materials** are managed in the urban (R) areas of Hanley Downs and the rest of Jacks Point is summarised in the table included as **Appendix G**.

The notified version of the Hanley Downs plan change included a restricted discretionary activity **Outline Development Plan** process which, on balance, offered superior control to the operative JPRZ. You are referred to Section B of this report, which outlines the reasons as to why the Requestor has proposed to replace the Outline Development Plan process in the 2015 version with new subdivision rules and how well those provisions reflect those of the notified version.

A comparison between how the respective provisions of the operative zone and the 2015 plan change manage the overall layout and streetscape/ public realm of the Jacks Point and Hanley Downs area (be it though an Outline Development Plan or subdivision process) is also relevant. Specifically, various submissions request consistent landscape and streetscape treatment between the two zones, including the type of planting undertaken along the State Highway. You are also referred to Dr Read’s report for more detail. A comparison between how the Jacks Point and Hanley Downs zones manage such issues is summarised in the following table, along with comments about how this might influence the ability to successfully integrate the two areas:

Activity	JPRZ	Hanley Downs 2015 provisions
Landscaping in the open space/ ACRAA/ FP areas and private space on more sensitive residential sites.	<p>Landscaping in open space protection areas (Peninsula Hill and Highway areas are relevant to Hanley Downs) and the provision of lake access is a controlled activity; in respect of landscaping, species, long term management, views, integration and access mode.</p> <p>Discretionary to plant certain species or undertake planting that will block views in the Highway and Peninsula Hill areas and to develop a golf course beyond the one already anticipated.</p>	<p>The Structure Plan apply the Peninsula Hill and Highway areas except the rules applying to them are weaker than elsewhere.</p> <p>The notified version includes restrictions within the ‘Areas of Biodiversity Value’ on the Structure Plan but no such rules exist for any area in the 2015 version.</p> <p>The policies raise an expectation there will be living opportunities in the FP areas.</p>

¹² And other refinements to the provisions are made, as recommended in other sections of this report

¹³ Refer <http://www.jackspoint.com/assets/PDF/Society/DG-Residential-V3-Sept09.pdf> , <http://www.jackspoint.com/assets/PDF/Society/DG-Residential-V3-Sept09.pdf> and <http://www.jackspoint.com/assets/PDF/Society/Building-Your-Home/Preserves-DG-V2.0-March-2009.pdf>.

Activity	JPRZ	Hanley Downs 2015 provisions
	<p>No rules re indigenous vegetation clearance.</p> <p>The homesites are restricted to a 5 m high building height and control over landscaping including significant native re-vegetation requirements.</p>	
Landscaping of private space in the urban (R/MU/EIC) areas	<p>All residential buildings and education facilities are controlled in respect of landscaping (and other matters).</p> <p><i>At least 75% of planted areas in residential lots shall be from the prescribed Jacks Point plant list, of which 50% shall be native species.</i></p>	<p>Resource Consent for 3+ residential units, small lot housing, and education facilities are controlled in respect of landscaping (and other matters) at both the subdivision and landuse stage.</p> <p>NB - In the notified version the above residential uses were discretionary (and included landscaping) and landscaping also matter of discretion in respect of all non-residential development.</p>
Landscaping at the Outline Development Plan stage/ streetscape	Proposed landscaping of the road reserve and other publicly accessible land is required at the Outline Development Plan stage. It is a matter of control that Mitigation measures ensure that no building will be readily visible from State Highway 6.	<p>Streetscape design, pedestrian links, and provision of open space (including the indicative open spaces shown in the Structure Plan) are matters of control at subdivision stage but the design of open spaces is not.</p> <p>The notified version also includes ‘the proposed treatment of the interface between the urban and rural area’. This is missing from the 2015 version. Both the notified and 2015 versions include control at the Outline Development Plan/ subdivision stage over ‘mitigation to ensure development is not highly visible from the State Highway’. The fact this has gone from a matter of discretion to a matter of control in the 2015 version weakens its effectiveness.</p> <p>In terms of integration and consistency of approach between the 2015 version and JPRZ, The extent of control is similar.</p>

Changes proposed in the 2015 provisions, relating to setbacks, garages, coverage, density, and recession planes will all likely improve the integration with between the 2 parts of the Jacks Point zone.

However, on balance, there is still a risk that with the loss of the Outline Development Plan, design guidelines, and assessment matters relating to landuse, there will be less control over the look and feel of the Hanley Downs area and less integration than might be desirable. For this reason it is considered important that the subdivision become restricted discretionary activity and that care is taken to ensure sufficiently wide discretion over design, layout, and landscaping at that stage. More consistent controls and guidelines between Jacks Point and Hanley Downs are required in relation to

development and landscaping in order to achieve better integration. It is considered that the greater density proposed, larger urban footprint, and the more connected settlement pattern proposed for Hanley Downs are all achievable and, indeed, desirable, without adversely affecting the character of the wider area provided the following amendments are made to the 2015 provisions.

Recommendations and Reasons

That, the 2015 provisions are amended as follows in order to improve the extent of integration between Hanley Downs and the rest of Jacks Point:

- Make subdivision a restricted discretionary activity and extend the extent of discretion
- Extend the control/ discretion at the time of subdivision to include the landscaping of public spaces, density, and diversity
- Add the indicative open spaces within the urban area shown on the Structure Plan in order to a) reflect the landscape features of zone and b) break up the built form in a manner that has some parallels with the open space corridors that exist through the rest of Jacks Point whilst still enabling a far more connected and more legible street network
- Ensure development does not occur in R(HD-SH) areas (i.e. notified Areas A and B) until screening is sufficiently established.
- Amend some of the building height and coverage rules as they relate to some areas and add more design control over building in the more sensitive parts of the Hanley Downs area.

Note The different approaches taken in the two zones in relation to building height and the distribution of non-residential activities are dealt with in following sections of this report.

6. RESIDENTIAL AMENITY

This section deals with issues relating to built form; built environment; visual amenity; and visibility.

The Issues and Decisions Requested

The submissions raise the following issues and, variously, request that the plan change either be declined entirely or amended to address the concerns:

- Restrict the height of buildings in Area E to 8 m in accordance with the current provisions for this area.
- Introduce a 3 storey limit to compliment the 10m height limit proposed for commercial and medium density precincts.
- Add an internal setback rule for buildings in commercial and community precincts that adjoin a Low or Medium Density Residential Area.
- Amend Zone Standard 12.30.4.2 (ii) (lighting and glare) to remove part (c): "There should be no upward light spill" or alternative amendments to reflect pragmatic best practice.
- Amend Site Standard 12.30.4.1(ix) (Garages) such that the rule only applies where the front façade extends within the minimum road setback and provide for exceptions to this site standard.
- Amend Site Standard 12.30.4.1(xi) (Building and fence colours) to clarify that either a) or b) shall be met (not both) and to remove the reference to 'natural' wood.

The issues of residential density and integration with Jacks Point (discussed above) are inevitably closely tied to the issue of residential amenity.

Discussion

The 2015 provisions respond to the above submissions as follows:

- A maximum height of 8 m, consistent with the other residential areas of Jacks Point, is proposed but with an allowance for non-residential development and medium density and multi-unit residential development to reach up to 10m and 3 storeys in height. Given the central location of Area E (being the area of concern to Delta) and its accessibility to the Jacks Point village and the primary road, it is likely that such higher density and non-residential development may well occur within this area. It is noted that whilst scale is a matter of discretion at the design stage, it is questionable whether imposing a height limit less than the permitted 10 m could be imposed at subdivision stage.
- Where a maximum 10 m height is proposed this is also now capped at no more than 3 storeys
- Internal setbacks are now proposed for all buildings other than in medium density areas or on small lots, where such matters are expected to be dealt with at subdivision.
- The reference to 'no upward light spill' has been removed
- There is no longer any exemption within rule 12.2.5.1(iii)(d) for garages to encroach into the front yard, other than on small lots (less than 550m²). The issue is a matter of control where a subdivision results in lots between 400m² and 550m² but there is not specific discretion for those under 400m²
- The rule now focuses on reflectance values and removes reference to natural materials

Delta seeks that **Building height** within Area E (now R(HD)-B) remains as per the operative rules, which specify a maximum height of 8 metres. It would be helpful to have Delta clarify the reasons behind this submission at the hearing. Whilst Delta's submission relates only to Area E, the issue of height for non-residential and medium density and multi-unit residential development (which is assumed to be Delta's key concern) is considered in this report in relation to the entire Zone, on the basis that there is scope to do so in the submissions that seek consistency with the Jacks Point.

Also in relation to height, the QLDC has requested that a 3 storey limit be added to the 10m height limit proposed for commercial/ community and medium density precincts; the reason being that this will encourage articulated roof design etc. and discourage attempts to try and squeeze 4 floors within the 10 m height.

RCL has also submitted that the rule relating to height in the precincts be simplified through minor typographical improvements, which seem appropriate.

Mr Williams seems comfortable with the 10 m height allowance provided greater guidance is provided regarding the location and design of these precincts, so that inappropriate proposals can be declined. The lack of any specific assessment matters or policy relating to the importance of roof articulation and architectural expression further supports the introduction of a 3 storey maximum along with improvement of the policy framework.

It is considered appropriate to reduce the permitted height non-residential and medium density and multi-unit buildings in the residential areas housing to 8 m and enable them between 8 and 10 m as restricted discretionary activity and for them to be non complying beyond that, in order to:

- a) Reinforce the lower order nature of such precincts relative to Jacks Point Village and the EIC; to
- b) Retain a strong residential character within the residential areas; and to
- c) Avoid potential conflicts and the consequent need for recession plane rules where such uses adjoin lower density housing.

Due to the potential adverse effects on residential amenity that can arise from adjoining non-residential activities (such as traffic movements, noise¹⁴, etc.), it is considered appropriate to increase the **internal setback** rule for buildings within commercial and community precincts, where those precincts directly adjoin a residential area outside of a precinct. The 2015 version does not rectify that.

RCL has submitted that the **lighting and glare** rules are outdated and difficult/ impossible to comply with and requests that, as a minimum, part c) of Zone Standard 12.30.4.2 (ii) relating to lighting and glare, which states that "*there should be no upward light spill*", should be removed or amended to reflect pragmatic best practice. This is understood to be practically unachievable as there will always be some upward light spill. Knox and Horwood also raise a concern regarding the effects of lighting and these have been considered in the report from Dr Read and so, are reflected in her conclusions.

As notified, the site standard relating to **garages** (12.30.4.1(ix)) states:

In Development Areas B, D, E and F garages and carports must be setback at least level to the front façade (i.e. the façade facing the street) of the residential unit.

RCL has requested, in its submission the following amendment to this:

Site standard 12.30.4.1(ix) - Garages

In Development Areas B, D, E and F garages and carports must be setback at least level to the front façade (i.e. the façade facing the street) of the residential unit, if the front façade extends within the minimum road setback, except where:

- i) The legal vehicle access is from the south side of the site*
- ii) The garage or carport is located outside any road setback,*
- iii) The garage or carport is orientated with the vehicle entrance at right angles to the street providing legal vehicle access.*

This rule is confusing and, in turn, inefficient as it only applies when buildings are within the setback, it will also be largely ineffective.

The following 2015 provisions include a road setback rule, which does not provide for any exemptions for garages, as follows:

- a. *In the Residential (Hanley Downs) Activity Area of the Jacks Point Resort Zone:*
 - (a) *For commercial activities, community activities and visitor accommodation buildings shall be set back at least 3 m from a road boundary.*
 - (b) *For all other activities, except for residential activities on sites smaller than 550 m² created pursuant to subdivision Rules 15.2.3.2(vi) and 15.2.6.2(i)(b) buildings shall be set back 4.5m from the road boundary.*

Where sites are between 400m² and 550m², control is retained over the location and heights of garages and other accessory buildings and for those below 400m² there is discretion over the extent to which parking, access and landscaping are configured in a manner which minimises the dominance of driveways at the street edge. If this discretion

¹⁴ Noting that higher noise levels are permitted in such precincts

extends also to minimising the dominance of garages at the street edge, then the above suite of rules proposed in the 2015 version is considered appropriate.

Alternatively, the guideline for the JPRZ could be included as a rule in the District Plan. This states that unless the garage entrance is at right angles to/ not directly facing the street, stand alone, and no more than 3.5 m high, then it shall be setback 1 metre from the front façade. This would create more certainty and greater consistency with the rest of Jacks Point but potentially less efficient landuse. On balance, the proposed 2015 version with the minor amendment outlined above is likely to be sufficient.

RCL has requested that Site Standard 12.30.4.1(xi) relating to **building and fence colours** is amended to clarify that either a) or b) shall be met (not both) and to remove the reference to 'natural' wood. The above relief requested by RCL also needs to be considered in light of those submissions that seek considerably more control over building materials and greater consistency with the balance Jacks Point (the guidelines for which deal with this issue). The 2015 provisions now remove the reference to particular materials and rely solely on a reflectance value. This is considered to be an acceptable approach however it is recommended that, having taken consideration of the advice provided by Dr Read, that no more than 10% of the surface area of a building should be exempt from the reflectance rule.

Reasons and Recommendations

It is recommended that in order to address concerns relating to height, setbacks, potential conflicts between uses, and residential amenity and character, the 2015 provisions be amended as follows:

- Include an explanation in the Structure Plan site standard (12.2.5.1(i)) confirming that the residential area is to be almost exclusively for residential purposes with strictly limited commercial and community uses which serve the local community and that a policy is added to ensure that the Hanley Downs residential areas have a strong residential character
- Add a site standard making buildings on sites that have been identified for non-residential or medium density residential use (at the time of subdivision) discretionary in relation to height if they are between 8 m and 10 m in height and a zone standard making buildings higher than 10 m non-complying, as follows:

Site standard 12.2.5.1 (xvii) Building Height

In the Hanley Downs part of the Jacks Point Resort Zone, the maximum height of non-residential and medium density residential buildings on lots approved pursuant to Rules 15.2.3.3(ix) and 15.2.6.2(i)(b) shall be 8 m.

Zone standard 12.2.5.2(ii) Height

Residential (R, and R(HD) Activity Areas,	8m
<u>Except:</u>	
<u>Non-residential and medium density residential buildings on lots approved pursuant to Rules 15.2.3.3(ix) and 15.2.6.2(i)(b)</u>	<u>10 m</u>

- Amend the following rule in order to assist in protecting residential amenity, where it directly adjoins non-residential uses:

12.2.5.1(iii) Setback from Roads and Internal Boundaries

(c) *In the Hanley Downs area of the Jacks Point Resort zone buildings for all activities, except for buildings located on sites smaller than 550 m2 created pursuant to*

subdivision Rules 15.2.3.2 (vi) and 15.2.6.2 (i) (b), shall be subject to the following internal setback rules:

- *Two setbacks of 4.5m, with all remaining setbacks of 2m; or*
- *One setback of 6m, one setback of 3.5m and all other setbacks of 2m.*

Except that:

...

Any non-residential building shall be setback at least 4.5 m along any internal boundary that adjoins a site that is not identified for non-residential purposes or for medium density development under Rules 15.2.3.2(vi) and 15.2.6.2(i)(b), or 15.2.7.2(a) or public open space.

- To ensure against adverse effects of garages on small sites, include discretion over garages within (new) site standard 15.2.7.2(c) and amend the existing associated assessment matter 15.2.6.4.

7. OPEN SPACE

The Issues and Decisions Requested

Three submitters (Delta, QLDC, and RCL) raise issues relating to open space. The submissions variously seek to:

- Retain the open space within the urban areas, as shown on the operative Henley Downs Structure Plan;
- Further refine the assessment matters relating to the provision of parks and public spaces to ensure quality outcomes that benefit the greater Jacks Point area; and
- To show open space and trails on a Structure Plan or through an overlay.

It is noted that:

- Delta's submission that the hill slope spaces in proposed Areas F, I, J, and K should be protected as open spaces and development of those prevented is discussed in the landscape section.
- The submissions relating to the ACRAA/ open space area surrounding the urban activity areas is also discussed in the landscape section of this report.

Indirectly, many of the submitters who stress the importance of integration and consistency with Jacks Point are also concerned with the provision of open space.

Discussion

Delta requests that the plan change be declined unless, amongst other things:

- The open spaces between the pod-like residential developments and between those pods and the Jacks Point boundary are retained, including the open space area between the two villages (in the operative Structure Plans)
- The area between the operative Henley Downs and Jacks Point villages is acknowledged as a stormwater retention area.

In the Section 32 report (at page 68), the Requestor states that the operative **pod-like form** of the Henley Downs residential areas is not justified by topography; is an inefficient and potentially impractical use of the land; and prevent a well-connected street pattern. These points are generally accepted. Whilst the neighbourhood pods of the operative zone are not considered to create an appropriate settlement pattern for Hanley Downs, four key open spaces should be provided as outlined in Dr. Read's report. In response to submissions, the 2015 Structure Plan shows these as indicative open spaces. This is supported; however the areas should be zoned as OSA in order to provide greater control

over development within them. The indicative space shown on the boundary of area R(HD)-C is also positive but need not be zoned.

It is also considered appropriate that the primary road be developed as a high amenity, green corridor in order to reflect the existing landscaped entrance into Jacks Point, albeit that this will obviously be through a more built up environment and less spacious and open. Together, this mix of zoned and indicative open space areas will provide additional open space through the urban area; better connections; and more effective integration with the JPRZ.

In respect of Delta’s submission that **open space between the Henley Downs and balance JPRZ** be retained, this is not considered necessary. Provided the policy, rules, and assessment matters provide the Council with the ability to influence the proposed landscaping, density, and character elements (e.g. the streetscape designs, fencing/ planting at the boundary, etc.) at the subdivision stage, then there should be sufficient integration between the two parts of the zone. In order for this to be achieved, matters of discretion regarding densities and landscaping are recommended at the time of subdivision, with a view to ensuring that areas R(HD)-C, R(HD)-B, and R(HD)-E integrate well with the adjoining residential areas of the Jacks Point Structure Plan.

The background to the **open space between the two village nodes** in the operative Structure Plans is unclear from the literature provided with the plan change and there is no mention made of the stormwater function of this area. However, the Jacks Point Stakeholders Deed includes a plan¹⁵ which identifies this land as part of the public domain and requires that it be provided in this general vicinity. It is considered appropriate that the plan change reflect this, albeit that the open space would need to be relocated slightly to encompass the hillock¹⁶. It would be useful if Delta could provide information at the hearing in relation to any stormwater function that this area fulfils in order for the commissioners to consider its importance and whether amendments are required.

The QLDC seeks that Assessment Matter 12.30.5.1(a)a.x (relating to the **location** of proposed parks and other public open spaces), be amended as follows:

12.30.5 Resource Consent Assessment Matters

12.30.5.1 Restricted discretionary activities - Outline development plan:

...
In regard to the comprehensiveness of the outline development plan:

An Outline Development Plan must include sufficient information to enable all matters of discretion to be adequately assessed. At a minimum an Outline Development Plan would normally be expected to include:

- a) *A plan showing:*
 - ...
 - (x) locations of proposed parks and other public open spaces in terms of their proximity to residential areas.*

In the 2015 version, this assessment matter has been replaced with control at the subdivision stage over the location and suitability of proposed open spaces. It is considered that this amendment is adequate (with minor amendment) to ensure that the

¹⁵ Included in the Background section of this report

¹⁶ Dr Read strongly supports retaining the prominent hillock that exists within Area G as one of the few legible landscape features that exists within the urban activity area and Mr Williams wholly supports this recommendation from an urban design perspective.

location is suitable for the purpose proposed and will hopefully avoid a repeat of what occurred at Jacks Point whereby the playground has not been developed in a central location.

Key trails are shown on the 2015 version of the Structure Plan, as requested by the Council. This is positive, particularly now that there is not proposed to be an Outline Development Plan process.

In its submission, RCL request that the term **'open space' be replaced with 'parks and reserves'** in Assessment Matter (f) (In regard to indicative subdivision design) in order to a) clarify that the farmed area surrounding Hanley Downs is not expected to be subject to passive surveillance, and b) simplify the assessment matters. RCL also seeks that Assessment matter 12.30.5.1(b) in regard to open space areas, public transport links, pedestrian and cycle links be amended it risks confusion over what may be considered 'public open space'; and not all development areas will require public open spaces. There and the other detailed assessment matters have all been removed from the 2015 version and therefore such concerns regarding interpretation and terminology raised in submissions are now irrelevant. The issue then remains as to whether, without these assessment matters, there is sufficient guidance toward providing high quality, safe open spaces. It is considered that provided such assessment matters are replaced by discretion over crime prevention at the time of subdivision and at the landuse stage in relation to non-residential uses, medium density areas, and small lot subdivision, then the assessment matter can be dispensed with.

Recommendations and Reasons

It is recommended that, in in order to ensure a high quality open space network and residential areas that integrate well with the balance of the Jacks Point area:

- Amend the Structure Plan to show the open space as a zoned open space area (OSA), with rules attaching to that area, rather than simply 'Open Space (location indicative)' as proposed in the 2015 Structure Plan. NB: the boundaries of these to be more accurately defined, particularly in relation to the hillock within proposed Area R(HD)-E.
- Add Assessment Matter 15.2.7.3 (xix) in relation to subdivision design in order to provide greater guidance in regard to the expected quality of open spaces and networks:

15.2.7.3 Assessment Matters for Resource Consents

(xix) In regard to the provision of open space areas, public transport links, pedestrian and cycle links in the Hanley Downs (Residential) Activity Area:

- a) Whether proposed public parks and reserves¹⁷ are located such that they are highly accessible to the proposed residential neighbourhood(s) that they intend to serve and maximise the number of residential properties that are within a 10 minute walk of the park/ reserve.
- b) Whether, in the context of the open space areas identified on the Structure Plan and any public parks and reserves provided through previous subdivision consents, there is a need to provide any public parks and reserves within this subdivision being applied for and, if so, what specific purpose that reserve

¹⁷ NB - this wording reflects RCL's request to remove the use of the words open space to avoid the confusion between public open spaces for recreational purposes, etc. with the tracts of open space that will surround the urban activity area (i.e. the ACRAA).

should serve in order to contribute to the overall provision of such space—in Greater Jacks Point.

- Amend the following provisions in order to ensure crime prevention techniques (such as passive surveillance) are integral to the subdivision and building design:

15.2.3.2(vi): *In the Hanley Downs (Residential) Activity Area, the creation of sites sized between 400m² and 550m² (inclusive) with the exercise of Council's control (in addition to any other matters of control which apply to subdivision for that site generally) limited to imposition by appropriate legal mechanism of controls over:*

- ...
- Landscaping and streetscape design
- Crime prevention in terms of the design and configuration of lots, off road trails, and open spaces, relative to one another.

15.2.6.4(i)(ii)

In the Hanley Downs area of the Jacks Point Zone with respect to lots smaller than 400m²:

The extent to which such sites are configured:

...
In accordance with CPTED principles (crime prevention best practice) in terms of the design and configuration of lots, off road trails, and open spaces, relative to one another.

...

The extent to which:

...
design parameters, secured through an appropriate legal mechanism control outcomes such as:

...

- Crime prevention

12.2.3.3(d)

Commercial activities, community activities and visitor and residential accommodation, located within the Education Innovation Campus of the Hanley Downs part of the Jacks Point Resort zone, including the addition, alteration or construction of associated buildings, with the Councils discretion restricted to:

...

(n) Crime prevention

- Amend 15.2.3.3 - Discretionary Subdivision Activities (ix) in order to ensure good integration with the Jacks Point Structure Plan, as follows:

(ix) Within the Hanley Downs area of the Jacks Point Resort Zone, any subdivision shall be a Restricted Discretionary Activity with the Council's discretion restricted to:

...

Road and street layout, design, and landscaping, including the timing and design of intersections at key road connections and the landscaping of the primary road

...

The densities proposed and the provision of open space and/ or landscaping at the boundary of the Hanley Downs and Jacks Point areas of the Jacks Point Resort Zone.

...

The location and suitability of proposed open spaces, in terms of its proximity to the residential population, size, design, topography, solar access.

8. NON-RESIDENTIAL ACTIVITIES WITHIN THE ZONE

The Issues and Decisions Requested

Remarkables Park Ltd and Shotover Park Ltd (hereafter referred to as RPL) request that the Plan Change be accepted provided it is amended to:

- More clearly provide for increased residential, service, and industrial activities and
- Expressly limit non-residential activity, including applying the 200m² maximum GFA to all commercial; not only retail.

The QLDC requests that:

- The GFA of commercial activity within an ODP should be limited to that which is appropriate to support the local neighbourhood; and
- If larger areas are proposed, then an analysis of how that scale of commercial activity and its location will positively contribute to the wider Jacks Point area and village centre within the existing JPRZ should be required; and
- Assessment matters consider the proximity of proposed developments to the existing JPRZ and how the design has drawn on the existing character, scale and pattern of development (existing or provided for).
- Visitor accommodation precincts be shown on the Outline Development Plan.

Both these submissions are supported in part by Jacks Point Management Ltd.

The RPL submission quite correctly points out that due to the **permissive/ non prescriptive** nature of the notified provisions (which enable a wide range of activities anywhere within the Urban Activity Area, subject to assessment matters) it is difficult to discern the intended outcome and whether the plan change will help achieve the purpose of the RMA, the District Plan objectives, or whether it is the most appropriate method. In RPL's submission, non-residential uses are not constrained, no primacy is afforded to residential uses within the residential areas, and the provisions need to be strengthened to ensure that medium density residential is delivered as this is clearly the focus of much of the supporting Section 32 analysis.

Both the notified and 2015 policies and provisions¹⁸ specifically enable or encourage a wide range of uses (i.e. visitor accommodation, retirement, commercial, community, and residential activities). However, the proposed 2015 provisions usefully retain the limit on commercial tenancies of 200m², introduce a 500m² cap on all commercial activity within the residential (R) areas, and restrict any retail spatially to within 120m of the primary road. These proposed amendments are supported and will significantly reduce the uncertainty and the risk of the residential component being significantly diluted by other uses (as compared to the notified version). That said, the enabling nature of the proposed 2015 policies make it all the more important that strong policy is added to clarify that the residential areas are primarily for residential purposes, are of a residential character, and are to be developed as mixed density areas that provide for an overall density that is higher than convention subdivision and the full range of housing choice. You are also referred to the earlier discussion on residential density which records submitters' concerns that the notified version did not require a range of density to be achieved and that, whilst the 2015 version does, it is only a site standard and is not supported by strong policy around housing diversity and choice.

RPL also state that the provisions do not reflect a clear priority toward residential activity in the residential areas in that residential and non-residential buildings are both restricted discretionary activities. In the notified version that is true for multi-unit developments (comprising more than 3 units) but overall it is incorrect in that that detached dwellings on

¹⁸ Refer 2.1.4(3.24) and 2.4.1 (3.25)

conventional size sections and developments comprising up to 3 units are permitted, provided standards are met.

Whilst the 2015 rules generally provide better protection of the residential areas, they are weakened by the fact that the Structure Plan rule (12.2.5.1) which provides no explanation at all for the R(HD) areas and that the notified Objective, which states that “The Henley Downs Urban Activity Area develops with a predominantly residential character...” has been removed. It is considered important that this objective (or similar) and a clear purpose for the R-(HD) areas be reinstated in the provisions.

Specifically with respect to **commercial activity**, the issues raised in submissions relate to:

- a) Whether there should be a cumulative ‘cap’ on the amount of commercial provided either at the subdivision or landuse stage (assuming the Outline Development Plan mechanism is no longer an option);
- b) The location of such commercial areas relative to the Jacks Point Village; and
- c) Whether the maximum 200m² NFA should relate to all commercial activity as per the operative JPRZ; not only to retail.

The operative zone provides for a large amount of commercial activity within the Henley Downs Village, which adjoins the Jacks Point Village. The notified plan change then proposed to allow commercial throughout the zone with no indication of where or how much might occur. The 2015 version now strictly limits commercial development within the residential areas to something akin to a corner shopping centre along the primary road but enables unlimited commercial and retail activity within the EIC area, which is located at the edge of the zone and at the opposite end of the zone from the Jacks Point Village. It is noted that RCL do not seek to establish a village of any description within the Hanley Downs area.

The 2015 provisions change how commercial uses are enabled/ managed and address some of the issues raised in submissions, to the extent outlined below:

- All commercial uses are a restricted discretionary activity throughout the residential and EIC areas, in respect of design and amenity-related matters.
- The 200m² NFA maximum now applies to all commercial tenancies (as per the rest of the JPRZ) except that in the proposed EIC there is no limit on commercial use and it is only retail tenancies that are restricted to 200m². If commercial tenancies (or retail in the EIC) are larger than 200m² then the status remains restricted discretionary activity but the discretion also extends to the effects from having exceeded the 200m². Policy 3.24 now clarifies that commercial uses are to serve the local community needs. It is considered prudent to impose a 200m² cap on all commercial tenancies, as is now proposed in the 2015 version.
- The amount of commercial activity is now strictly limited (to 500m²) in the residential parts of Hanley Downs, which is appropriate.
- Whilst the description of the EIC in Rule 12.2.5.1(i)¹⁹ limits the uses that can occur, these terms are different to those used in the enabling policy 3.21²⁰; many of the

¹⁹ The use of this area is restricted to technology based activities including commercial and medical research, laboratories, training, educational facilities, specialist health care and associated administrative, office, accommodation, retailing and recreation facilities.

terms are not defined; and the scale of activity is not limited. Furthermore, there is nothing in the policy to direct that only technology based activity can occur here and given that it is only a restricted discretionary activity to undertake other types of commercial activity that do not fall within the purpose of the EIC, there is little incentive from a consenting perspective for a developer to restrict the uses that occur and little teeth to decline such uses, from an effects base or in terms of the enabling objective and policies. As such, particularly once the EIC gains momentum and some critical mass it is difficult to see how other uses could be declined in the context of an innovation campus. To be effective, the provisions in relation to the EIC need to provide more certainty as to what type of uses can and cannot be located there. It is also considered inappropriate that residential (e.g. student) accommodation is permitted in the EIC in the manner that is in the proposed provisions but to provide greater clarity of use and control over design it is recommended that residential accommodation is captured within rule 12.3.2.2(d).

The only threat to the viability and vibrancy of the Jacks Point village and other centres is from the EIC, where commercial activity is uncapped. If the EIC is approved, then the following options should be considered in order to control its nature and scale:

- Cap the amount of retail in order to prevent the possibility of a relatively large node of commercial and retail activity establishing in an area remote from the Jacks Point Village; and/ or
- Add “the effect proposed retail within the EIC may have on the viability and vibrancy of the Jacks Point Village” as a matter of discretion at the time of development (Rule 12.3.2.2(d)); and/ or
- Re-locate the EIC to an area adjacent to the Jacks Point village such that it can benefit from the synergies between the two and be in a more central location within the wider Jacks Point Zone.

The QLDC requests that a specific area is set aside for service activities and RPL seeks that **service and industrial uses** have the same activity status. Both the notified and 2015 versions of the plan change provide for service activities²¹ as a discretionary activity and industrial activities as non-complying²².

In both the notified and proposed 2015 versions of the plan change, the objectives and policies are weak/ silent on service activities; the Structure Plan does not identify a service area as is done in other resort zones; and the rules do not require the location of such activities to be determined at the time of subdivision. Rather, the provisions enable them to be approved on a case-by-case basis after subdivision has occurred. Given the potential effects of such service activities on residential amenity and the lack of clear policy or assessment matters in relation to reverse sensitivity and conflicting uses, it is considered inappropriate for the location of service activities to be determined in this manner. You are also referred to Issue 7 for a discussion on where service activities

²⁰ “3.21 To enable the development of technology-based activities education, business innovation and associated activities within the Education Innovation Campus, subject to achieving high standard of urban design”

²¹ Means the use of land and buildings for the primary purpose of the transport, storage, maintenance or repair of goods (Definitions: Operative District Plan).

²² The ACRAA policies anticipate service and infrastructure for the greater Jacks Point area (and buildings that provide such infrastructure) occurring in the ACRAA but it is unclear what is meant by infrastructure and whether this might be captured by industrial activities or service activities.

should be located (i.e. within the ACRAA or the urban area). That section concludes that a specific service area should be provided for in the urban area.

It is considered appropriate that a service area be identified within the Structure Plan or, failing that, at the subdivision stage. Identifying a service area²³ in the Structure Plan means that activities within that area could then be a permitted or controlled activity (subject to standards). This is more efficient and provides greater certainty for all parties; and that the rules could be far simpler (e.g. make all service activity non-complying outside the Service Activity Area and include a policy to avoid service activities outside of that area). This approach is also consistent with other special zones in the district, which clearly identify in the Structure Plan where most if not all non-residential uses will occur (E.g. the Resort Services (S) area in Millbrook Resort Zone).

RPL supports providing for service activities but considers that service and industrial uses should have the same activity status as the two definitions overlap and could cause problems. The only overlap in the definitions is, in fact, the 'storage of goods', which appears in both. As it is generally unusual for an activity to be only for storage, normally the applicant would look to the other activities that were proposed (e.g. transport or manufacturing) to determine what kind of activity it is and hence, the consent status. If the activity involved some service activity and some industrial activity then the application would be non-complying. If the activity only involved storage then the applicant would logically apply for a service activity. As such, having different activity statuses for the two activities is not considered to raise any significant issues and, while it need not necessarily be changed, the two activities would both become non-complying in the event that a resort services zone were shown on the Structure Plan, as recommended.

In the notified version, the policies enable **visitor accommodation** where residential amenity is not undermined and encourage it to locate within MDH Precincts. The expectation was that visitor accommodation locations would be shown as part of the Outline Development Plan and there would be discretion over the location of visitor accommodation at that stage. However, as there was no *requirement* to locate it within a MDH precinct or visitor accommodation precinct, the rules essentially allowed visitor accommodation anywhere in the zone and provided no incentive for a developer to identify such precincts or locate such activity within those. The proposed 2015 provisions make visitor accommodation a restricted discretionary activity throughout the residential, EIC, and FP areas; enable visitor accommodation provided residential amenity is protected; and provide no discretion either at the subdivision or landuse stage over its location, in the context of the overall development pattern, traffic effects, or effects on residential cohesion.

By comparison, in the rest of the JPRZ, visitor accommodation is required to be shown at the Outline Development Plan stage and is discretionary (for the activity) and non-complying (for the building) to locate anywhere other than in the village and lodge areas.

Experience in the district has shown it is difficult to decline visitor accommodation on the basis of adverse effects on residential amenity and cohesion, especially in relation to the cumulative effects of small visitor accommodation. Whilst the risk of a lot of visitor accommodation establishing at Hanley Downs may be small, given the Queenstown Lakes experience of residential areas being diluted by visitor accommodation, it is appropriate to provide more control over it. This could be done at the subdivision stage or

²³ E.g. In the Millbrook Resort Zone, the Structure Plan shows an area called resort services (S), which is specifically for service and maintenance facilities for other activities in the zone. No evidence has been provided in the S 32 report to suggest any service activities unrelated to the establishment of the zone(s) is appropriate in this location.

by adding 'location' as a matter of discretion at the landuse stage, supported by policy or assessment matters. The latter is reflected in the recommendations below.

Recommendations and Reasons

In order to provide greater certainty over the extent and location of non-residential activities, it is recommended that the proposed 2015 be amended by:

- Adding to and amending the 2015 policies in order to avoid the dispersal of commercial (including retail) activity throughout the residential (R) areas (refer Appendix D).
- Amending the 2015 policies relating to the EIC area in order to avoid commercial, community, and accommodation uses, which are unrelated to its technology based purpose (refer Appendix D).
- Amending Rule 12.3.2.2(d) in order to also capture residential accommodation:

12.2.3.3(d) Commercial Activities, Community Activities, and Visitor Accommodation, and residential activity within Hanley Downs.

Commercial activities, community activities and visitor and residential accommodation, located within the Education Innovation Campus of the Hanley Downs part of the Jacks Point Resort zone, including the addition, alteration or construction of associated buildings, with the Councils discretion restricted to:

...

Scale of the activity, including the density of any proposed ancillary residential accommodation.

- Adding the following to the Structure Plan rule, in order to clarify the activities that are allowed within the residential areas of the Hanley Downs area:

12.2.5.1 - Site standards - Structure Plan

Residential Activities Area (R(HD)) - the use of this area is restricted to residential, community and visitor accommodation activities in appropriate locations and of an appropriate scale, and up to 500m² of commercial activity.

- Amending Zone standard 12.2.5.2(xv) to strengthen control over the Location and Scale of Commercial Activities:

xv Location and Scale of Commercial Activities (Hanley Downs area)

a) *The total floor space of all commercial activities in the R(HD) A to E Activity Areas shall not exceed 500m².*

b) *~~Retail~~ All Commercial activities shall be located within 120 metres of the Primary Road shown on the Structure Plan or within 120 metres of its final formed location.*

c) *The total floor space of all retail activities in the EIC Activity Area shall not exceed 500m².*

d) *Any visitor accommodation and community activity that is not located on a site approved pursuant to Rule 15.2.3.3 (ix)*

- Amending Rule 12.2.3.3(d) to add a further matter of discretion as follows:

d) Commercial Activities, Community Activities and Visitor Accommodation within Hanley Downs.

Commercial activities, community activities and visitor accommodation, located within the Education Innovation Campus of the Hanley Downs part of the Jacks Point Resort zone, including the addition, alteration or construction of associated buildings, with the Councils discretion restricted to:

...
The effect from retail and commercial activity within the EIC on the viability and vibrancy of the Jacks Point Village

- Amending Policy 3.16 to better outline the key components/ outcomes sought through the Structure Plan (refer Appendix D).

Note: As the Hanley Downs area is now included within the Jacks Point Structure Plan (i.e. not a separate Hanley Downs Structure Plan), the following policy applies to the Hanley Downs area; providing strong policy direction that the Structure Plan shall be adhered to (this policy is important to the effectiveness of this plan change):

3.4 *To require development to be located in accordance with ~~a~~ the Jacks Point and Homestead Bay Structure Plans to ensure the compatibility of activities and to mitigate the impact on neighbouring activities, the road network and landscape values.*

- Showing a “Resort Services” (S) Activity Area (of around 3 hectares²⁴) area on the Structure Plan to provide for activities related to the establishment of the greater Jacks Point area²⁵, and amending the provisions in order to make service activities outside of this area non-complying, as follows:

12.2.3.4 Discretionary Activities

~~Xiv Service Activities in the Residential (Hanley Downs) Activity Area~~

12.2.3.5 Non-Complying Activities

v Industrial and Service Activities

With the exception of:

- *Service activities in the Jacks Point Zone outside of the Hanley Downs area shown on the Structure Plan.*
- *Service activities within the Resort Services (Hanley Downs) Activity Area shown on the Structure Plan*

- Amending the following rule to ensure that non-residential uses are well located:

12.2.3.3(d) *Commercial Activities, Community Activities, ~~and~~ Visitor Accommodation, and residential activity within Hanley Downs.*

....
(ii) Commercial activities, community activities and visitor accommodation, located within the R(HD) and R(SH-HD) Activity Areas, including the addition, alteration or

²⁴ Or as proposed at the hearing by the Requestor. NB This suggested area is based the area set aside at Millbrook, which is 4.27 ha in size, with approximately 3.5 ha of this currently being used and the area of the maintenance compound at Jacks Point (as described in RM090332), which sits on a site of approximately 6 ha, with the formed area and buildings taking up 2,400m² plus access.

²⁵ This is the option reflected in Appendix D (recommended provisions)

construction of associated buildings, with the Council's discretion restricted to the matters listed within Clause i above, and, in addition:

- a) *The location of Commercial activities, community activities and visitor accommodation, relative to compatibility with adjoining landuses, public amenities, the primary road, and public transport.*

9. THE QUALITY/ CLARITY OF THE PROPOSED PROVISIONS

The Issues and Decisions Requested

The ORC, QLDC, and RCL have submitted on the clarity of/ possible improvements to the Outline Development Plan provisions and other miscellaneous provisions²⁶.

These submissions relate to the following provisions/ issues:

- The Outline Development Plan process and adherence to the Structure Plan
- Non-residential activities
- Building height
- Earthworks
- Hazardous substances
- Notification
- Phrasing particular assessment matters in the positive rather than the negative and amending the assessment matter relating to cul de sacs to make it less specific.

The ORC's submission and one of RCL's submission points request that any consequential amendments are made to give effect to those submissions and, as such, these are not specifically discussed below.

Discussion

The Outline Development Plan process and adherence to the Structure Plan

The QLDC requests that:

- Proposed Objective 2 and Policies 2.1 and 2.2 are strengthened to enable council to decline significant deviations from an Outline Development Plan.
- Any activity inconsistent with an Outline Development Plan or with the Structure Plan be non-complying.
- An assessment matter be added, requiring that a suitably qualified designer submit analysis diagrams illustrating how the site and context have been considered and have informed the proposed Outline Development Plan.

As the Outline Development Plan process no longer forms part of the plan change in the 2015 version, these submissions are considered below in the context of the proposed subdivision provisions (introduced in place of the Outline Development Plan requirement) and the Structure Plan provisions.

As amended in 2015, any subdivision or development that is inconsistent with the Structure Plan is a restricted discretionary activity, pursuant to Rules 12.2.5.1, 15.2.6.2(vii). Of note, in the rest of the Jacks Point Zone, any building that is not in accordance with the Structure Plan is a non complying activity but the 2015 version exempts Hanley Downs from this rule.

²⁶ Others have also commented generally on the lack of clarity of some of the provisions and the uncertainty as to what will actually result from the Plan provisions, although they have not requested specific improvements.

In the 2015 version, while development can occur in the absence of any approved subdivision plan, a development of 3 or more units will require a controlled activity consent. That said, it is considered unlikely that substantial development would occur prior to subdivision.

To ensure that all subdivision and development is in accordance with the Structure Plan and that the subdivision plans provide sufficient certainty over the subdivision design and distribution of density and non-residential uses, it is considered that the policies and rules should be strengthened in the manner outlined in the recommendations below.

In response to the Council's request that an assessment matter be added signalling the need for an urban design assessment to be provided as part of an Outline Development Plan application, it is noted that there is no detailed master planning or urban design assessment provided with the plan change request, as would often be case. Therefore, it is appropriate that such an assessment matter is added, along the lines of the submission.

Non-residential activities

The QLDC seeks an amendment to 12.30.2.2(iii) clarifying that it relates to both activities and buildings and the removal of duplication within that rule. The equivalent rule in the 2015 version is Rule 12.2.3.3(d). This rule is clear that it relates to both the activity itself and the built form and therefore no amendment is required in order to satisfy the submission.

Building Height

RCL request the clarification of Site Standard 12.30.4.1(v). This rule has been amended in the 2015 version and the submission is no longer relevant and no change is required.

Earthworks

The QLDC seeks that the permitted volume of earthworks be increased from 100m³ to 200m³ and the area from 200m² to 400m². The 2015 version of the provision includes these increased thresholds and no further amendment is required in order to satisfy the submission.

Hazardous Substances

The QLDC seeks that the Henley Downs Zone (if accepted) should be specifically included within Table 1 of Part 16 so that the limitations and regulations on hazardous substances can be applied to it (noting that, as notified, none would apply). As the 2015 version proposes that the Hanley Downs area remain within the Jacks Point Zone, which is already subject to Part 16 no further amendment is required in order to satisfy the submission.

Notification

The QLDC seeks that the non-notification rule apply only to restricted discretionary activities resulting from a breach of a site standard, and not to all 'listed' restricted discretionary activities such as 'non-residential activities' and the 'sale of liquor'.

As notified, the listed restricted discretionary activities are:

- Outline Development Plans;
- Residential buildings that include over 3 units;

- Non-residential activities/ buildings (in areas approved in an Outline Development Plan);
- The sale of liquor.

The 2015 version of the provision is as follows:

12.2.4 Non-notification

...

(c) Other than provided for by the Act, the following restricted discretionary activities will be considered without public notification but notice may be served on those persons considered to be adversely affected if those persons have not given their written approval:

- i. Rule 12.2.3.3(c) Residential Units in FP-2 and Visitor Accommodation within FP-1 and FP - 2*
- ii. Rule 12.2.3.3(d) Commercial activities, community and visitor accommodation within Hanley Downs*
- iii. The Sale of Liquor, pursuant to 12.2.3.3(ei)*
- iv. Rule 12.2.5.1(iii) Setbacks from Roads and Internal Boundaries*
- v. Rule 12.2.5.1 (iv) Access (Jacks Point Zone), only in respect of the New Zealand Transport Agency*

As the Outline Development Plan process has been replaced with a subdivision process it is relevant that the District Plan includes a presumption that controlled and restricted discretionary activity subdivision applications will not normally be notified. It is also noted that small lot residential developments undertaken prior to subdivision are now controlled rather than restricted discretionary and therefore, by implication, will not normally be notified or have notice served, pursuant to 12.2.4(b)(i).

It is common practice throughout the District Plan to specifically enable Outline Development Plans to be processed on a non notified basis in order to provide a degree of efficiency/ certainty (regarding timing at least) to the developer whilst providing council with the added level of control that it gains from the restricted discretionary activity status. In this respect it therefore follows that it is likely appropriate that the subdivision process (which replaces it) is also processed on a non-notified basis unless there are special circumstances. In saying this it is noted that controlled status for subdivision within the FP-1 and FP-2 areas is considered too weak (refer section 10 of this report) and, as such, if these areas are approved, subdivision within those would not be subject to the non-notification clause.

Whether it is appropriate that small lot residential development are processed on a non notified basis and without neighbour's approvals depends on whether people can be certain from the subdivision plan as to where such developments will locate. While it is somewhat unclear whether the 2015 version provides this certainty, it is considered likely that the requestor does anticipate this level of clarity at the initial subdivision stage. Therefore it is recommended that rule 15.2.6.2(iv)(c) be amended to provide this certainty and to compliment rule 12. 2.5.1(x)(x) regarding density and an additional zone standard be added limiting residential development to 1 per lot unless otherwise approved by subdivision. Similarly, it is recommended that lots for non-residential uses need to be approved at the subdivision stage, in order to avoid them potentially being notified at the detailed resource consent stage.

Phrasing assessment matters in the positive rather than the negative and the assessment matter relating to cul de sacs

The notified plan change includes detailed assessment matters in relation to urban design matters. However, after drafting the Plan Change, RCL submitted that the assessment

matters be re-phrased to encourage desirable outcomes rather than to avoid undesirable outcomes and raised concern that the assessment matters may be interpreted too literally.

While the 2015 provisions include specific assessment matters relating to subdivision, particularly in relation to subdivision creating small lots, it does not include any specific assessment matters in relation to landuse. This may be in part due to the fact that the pending District Plan review proposes to limit the use of assessment matters; and that the detailed layout, bulk, location, and potentially design guidelines for the development of small lots are intended to be 'locked down' through consent notices at the time of subdivision, leaving little flexibility at the landuse stage. It would be useful to hear from the requestor on this matter at the hearing.

Given the earlier recommendation that an assessment matter be included requiring that an urban design assessment is lodged with and informs all subdivision plans, then this considerably lesser level of design guidance in the District Plan detail is probably sufficient.

Recommendations and Reasons

In order to ensure that the Structure Plan and subsequent subdivision plans are adhered to and to improve the quality of the provisions, it is recommended that:

- The operative non complying rule be applied to Hanley Downs in the same manner it applies to the rest of the Jacks Point Resort Zone in order to better ensure adherence to the Structure Plan

12.2.3.5 Non-Complying Activities

vii Buildings

(a)...

(a) ~~In the Jacks Point area of the Jacks Point Resort Zone, excluding Hanley Downs, all buildings which do not comply with the relevant Structure Plan.~~

Except any building authorised pursuant to Rule 12.2.3.4(i) (d)

- Policy 3.16 be amended in order to add weight to the above rule and Rule 12.2.5.1(i) (refer Appendix D).
- An assessment matter be added, requiring that an urban design assessment illustrating how the site and context have been considered and have informed the proposed Outline Development Plan.
- Site Standard 15.2.6.2(iv)(c) be amended as follows in order to ensure the location of non-residential uses and residential density are established at the subdivision stage, thus avoiding reverse sensitivity and conflict issues at the landuse consent stage and enabling more efficient and effective resource management:

15.2.6.2 Site Subdivision Standards

In the Hanley Downs area of the Jacks Point Resort Zone, subdivisions shall comply with the residential density requirements set-out in Rule 12.2.5.1(x) and clearly identify the number of residential units enabled on each lot created at the time of subdivision and those lots where non-residential uses are enabled, subject to obtaining landuse consent pursuant to Rule 12.2.3.3(d).

- Section 12.2.4 regarding non notification be amended as follows, in order to ensure full and/ or limited notification can occur where appropriate on a case-by-case basis:

Non-Notification of Applications

....
 (c) *Other than provided for by the Act, the following restricted discretionary activities will be considered without public notification but notice may be served on those persons considered to be adversely affected if those persons have not given their written approval:*

- ~~i. Rule 12.2.3.3(c) Residential Units in FP-2 and Visitor Accommodation within FP-1 and FP-2~~
- ii. Rule 12.2.3.3(d) Commercial activities, community and visitor accommodation within Hanley Downs provided such uses are located on lots which have been specifically identified for such use through subdivision, pursuant to Rule 15.2.6.2(iv)(c).
- iii. *The Sale of Liquor, pursuant to 12.2.3.3(ei)*
- iv. *Rule 12.2.5.1(iii) Setbacks from Roads and Internal Boundaries*
- v. *Rule 12.2.5.1 (iv) Access (Jacks Point Zone), only in respect of the New Zealand Transport Agency*

- The following rule proposed in the 2015 version be moved as it has inadvertently been inserted in the assessment matters

15.2.7.2 Site Subdivision Standards – Subdivision Design

...
 (a) *In Residential (Hanley Downs) Activity Areas A, B, C, D and E, cul-de-sacs shall be straight (+/- 15 degrees)*

10. MANAGEMENT OF THE LAND BEYOND THE URBAN AREA/ WITHIN THE NOTIFIED ACRAA

The plan change proposes to expand the urban areas beyond those enabled under the operative Structure Plan, meaning that:

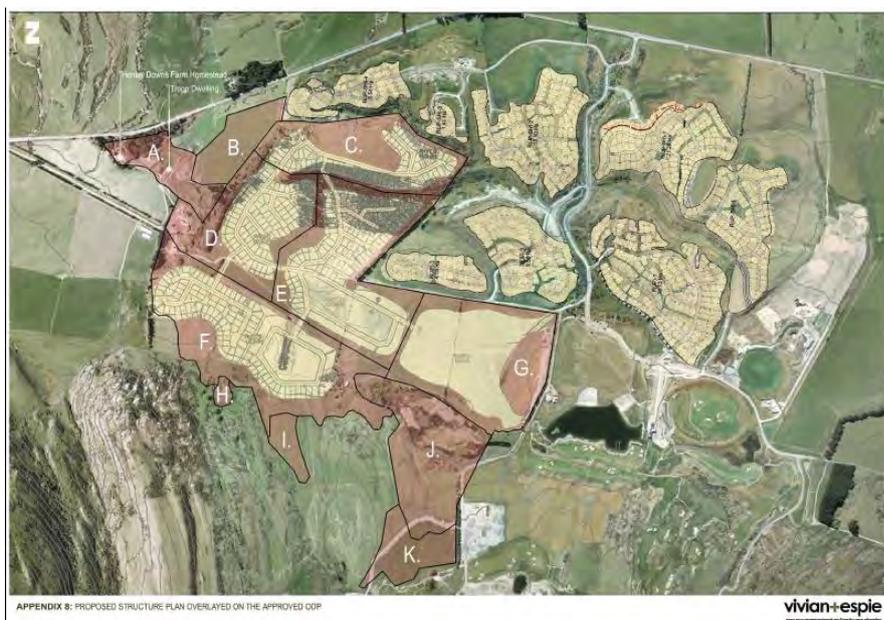
- a) There are no longer proposed to be swaths of land between each urban / residential development area;
- b) The urban areas extend into the area that is currently zoned as open space; and
- c) The urban area as a whole is considerably larger than under the site's operative zoning.

The below plan²⁷ compares the extent of the notified urban areas²⁸ (being all those areas shown in yellow and orange) as compared to the urban areas identified in the operative Structure Plan (shown in yellow)²⁹:

²⁷ Included as an Appendix to the landscape assessment included with the notified plan change material

²⁸ RCL has submitted that the urban activity area be expanded further than those that were notified but no update of the above plan is available at this time.

²⁹ As recently approved through an Outline Development Plan



The notified plan change proposes to re-zone the land beyond the orange areas above from a mixture of 'Open Space' and various landscape protection areas to a new 'Agricultural, Conservation, and Recreation Activity Area' (ACRAA) and to introduce a suite of new provisions.

The 2015 version of the plan change requests a vastly different management regime for this land. Dr Marion Read's report dated 19 June 2015 and attached to this report as Appendix B does an excellent job of explaining the how the zoning that applies to the different areas within what was the ACRAA has changed. You are referred specifically to sections 2.2.11, 2.2.12, 3.0, 4.0, and 5.0. In these sections she compares what is enabled under the operative provisions as opposed to the notified plan change and the 2015 plan change. She goes on to provide her opinion as to what she considers to be a suitable level of development in the respective areas and/ or a suitable management regime in order to ensure that landscape and amenity values are protected. Usefully, the material provided by the requestor in June 2015 included a map overlaying the notified and 2015 versions of the Structure Plan so that a simple comparison can be made. This is available on the Council's website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>).

The Issues and Decisions Requested

With regard to the ACRAA, submitters sought vastly different relief, as follows:

- Three submitters request that the operative (Jacks Point) open space areas be retained (in preference to the new ACRAA);
- RCL Queenstown requests that the activity status of development in the ACRAA not be increased to non-complying yet accepted that amendments to the provisions or the application of the Rural General Zone provisions to this area may provide greater assurance that only appropriate development should occur.
- Henley Downs Farm Holdings Ltd requests that the provisions be further relaxed to a) enable education, rural-based tourism, community, visitor accommodation and service activities/ buildings (whilst maintaining its landscape, environmental, and open space values; and b) clarify that agricultural buildings include a residential dwelling for the farm owner. Of note, this submission has resulted in the 2015 version of the plan change including an Education and Innovation Campus upon

land that was within the ACRAA in the notified plan change. As such, this matter is dealt with in this section of the S 42A report.

- The QLDC's submission requests that:
- The more sensitive urban areas (A H, I, J and K) be included in the ACRAA;
- The ACRAA be divided into three sub-areas; each with its own objectives and policies to better reflect their varying values;
- The rules protect the ACRAA from subdivision and development, with subdivision being discretionary or non-complying rather than controlled;
- An area for infrastructure and servicing be identified on the Structure Plan rather than explicitly providing for it in the ACRAA
- That Policy 3.5 be amended to delete any reference to servicing buildings; to provide greater certainty in terms of what buildings are anticipated; and to accurately and clearly reflect the values that are to be maintained in the ACRAA.

Discussion

As the ACRAA concept is no longer being sought by the requestor or any other party (and is not considered by either myself to Dr Read to have merit), this option is not further considered. Rather, the following discussion focuses on the following key options:

- Retaining the operative Jacks Point open space area(s)
- Retaining the operative Jacks Point open space zoning, with amendments specific to the Hanley Downs part of the JPRZ.
- Applying Rural General zoning to all that land outside of the Hanley Downs urban (i.e. A new (RG(HD)) area, with or without the landscape protection overlays
- Accepting the FP-1 and FP-2 areas, the landscape protection overlays, and EIC as proposed in the 2015 provisions and Structure Plan (in whole or in part).
- Applying the landscape protection overlays over those areas proposed in the 2015 version but with a single FP area but applying the JPRZ rules to the landscape protection overlays unaltered.

Notably, a further option which would likely be both efficient and effective at enabling some development while ensuring the landscape values are protected is the identification of homesites throughout the farm preserve area, as part of the plan change/ Structure Plan. This would provide certainty and efficiency in terms of subsequent resource consent processes. Unfortunately however, this option is not realistically available to us as it is understood the sort of fine-grained analysis that is required for this approach has not been undertaken at this point in time.

The appropriateness of the various zoning regimes is considered in terms of how well and how efficiently the zoning and its provisions will achieve the objectives of the operative District Plan and the respective objectives of the notified and 2015 versions of the plan change. The relevant objectives are as follows:

Operative Objectives:

4.2.5. District-wide Objectives:

Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values³⁰.

12.1.4 Objectives and Policies:

³⁰ The ACRAA includes both areas of VAL and ONL.

Objective 3 - Jacks Point Resort Zone

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

Proposed Objectives, as notified:

As above plus:

12.1.4 Objectives and Policies - JPRZ:

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

12.30. Proposed Henley Downs Zone Objectives

Objective 3: The Agriculture, Conservation and Recreation Activity Area supports and contains the Henley Downs urban area, maintaining and enhancing the landscape, recreational and natural values that surround it.

Proposed objectives (as per the 2015 version)

No specific objectives are proposed in the 2015 version.

The whole of the FP-2 and part of FP-1 are within the landscape category ONL-WB, which is the highest category of landscape in the district. The balance is located within the foreground to the ONL. In simple terms, in my opinion, controlled subdivision and restricted discretionary landuse for the subsequent built form in the FP-2 and controlled subdivision and permitted landuse in the FP-1 area cannot effectively achieve Objective 4.2.5 of the District Plan. The risks of accepting such a regime are, in my opinion, significant, and all the more concerning in that both the subdivision and landuse are to be processed on a non notified basis unless special circumstances exist. In my opinion, a comprehensive and compelling S 32 assessment will be required in order for such a regime to be accepted.

In considering the various zoning options, you are referred to Sections 3, 4, and 6 of Dr Read's report dated 28 July 2013 and Sections 2.2.11, 2.2.12, 3.0, 4.0, and 5.0 of her report dated 19 June 2015, attached as Appendix B. Together, the reports provide an understanding of the landscapes involved, a comprehensive account of the optional zoning regimes, and Dr Read's opinion in respect of the merits of each. Sections 2.2.3 and 7.0 of the June 2015 report also provide opinion on the appropriateness of the proposed EIC that is now being proposed on land which was notified as being within the ACRAA.

In summary, Dr Read considers that:

- The ACRAA provisions are considerably more permissive than those of the Jacks Point (open space) areas or the Rural General Zone and pose a real risk to landscape and amenity values
- The Farm Preserve and amended provisions relating to the landscape protection areas are considerably more permissive than those of the Jacks Point (open space) areas or the Rural General Zone and pose a real risk to landscape and amenity values
- The landscape would be better protected by imposing the subdivision and development regimes of the Rural General zone (a fully discretionary regime), which

would provide appropriate protection while liberalising development rights over the operative Plan provisions.

- The proposed rules enabling farm buildings as a controlled activity within the Farm Preserve activity areas without the rigour of the equivalent Rural General rule is inappropriate and the regime for farm buildings within the Rural General zone would better ensure both the ability to construct buildings necessary for farming and the protection of this landscape.
- Controls over building location, colour, design, and scale, especially in the FP-1 where building is permitted once subdivision is granted, are inadequate to ensure development within the Farm Preserve will protect the important landscape qualities of the area and the visual amenity of existing development in Jacks Point.
- The land identified as Education Innovation Campus is to be located on the northern edge of the development area has the ability to absorb 'a collection of buildings within a spacious landscaped setting' however the height and coverage rules would enable something more akin to an urban centre, which is likely to have adverse effects. In either case, the alteration to the character of the landscape in the vicinity would have a significant adverse effect on the amenity of the existing neighbours.

For completeness it is noted that since circulating the 2015 provisions, Henley Downs Farms has amended the proposed rules relating to the EIC to limit building coverage to 20-30% (as opposed to 70%) and building height to 10 m (as opposed to 15 m). This is considered to be demonstrably more appropriate and in keeping with the stated purpose of the area. These changes have been incorporated into the recommendations and the recommended amended provisions.

Recommendations and Reasons

In order to better protect that land beyond the residential activity areas from inappropriate development, it is recommended that the 2015 Structure Plan is amended as follows:

- Zone the areas shown as J and K in the notified plan as Rural Living (RL) or retain as FP-1 but not extend it beyond the J/K area, in the way that is proposed in the 2015 version and enable 14 dwellings within the area.
- Apply a single RG(HD) area over the balance of those areas identified as FP-1 and FP-2 and apply the Rural General landuse and subdivision regime to this area
- Exclude the area to the south of the J and K areas (noted as area 1 on the map included in section 17 of this report) from the plan change and retain it as G/F (Jacks Point), accepting that this may change through the District Plan review.
- Include areas L and H (now part of R(HD)-F) as Homesites 37 and 38 and enable 1 dwelling on each, pursuant to the operative rules of the JPRZ.
- Zone the indicative open spaces which run through the part of proposed FP-1 that is recommended to be within the RL area O/S or similar.
- Show an indicative open space on either side of the primary road

In order to better protect that land beyond the residential activity areas from inappropriate development, it is recommended that the 2015 provisions are amended as follows:

- Apply the JPRZ provisions to the landscape protection overlays within the Hanley Downs area, unaltered.
- Amend the height, coverage, and planting rules relating to the EIC area in order to mitigate effects on the landscape.
- Add a policy clarifying that the primary road be a high amenity, relatively low speed green corridor.

11. LANDSCAPE VALUES WITHIN THE NOTIFIED URBAN ACTIVITY AREA AND THE APPROPRIATENESS OF THE URBAN BOUNDARIES

The Issues and the Decisions Requested

Submissions were received from the QLDC and RCL in relation to these matters.

The QLDC requests that:

- Rules be strengthened to ensure ridgelines and landscape features (such as the mound within Area G) be retained/ potentially left un-built;
- Where landscaping needs to reach a certain height to achieve good screening of development, rules require this to occur before development commences.
- Buildings outside building platforms in Areas A, H, I and K should be a non-complying activity. This point is essentially a sub-set of the Council's submission that any proposal that is inconsistent with an Outline Development Plan should be non complying.

RCL requests that:

- A new urban Activity Area (L) be added to the Structure Plan within the ACRAA and an Assessment Matter (pg. x-15) (in regard to the location of building platforms) be included in relation to the visibility of buildings within the newly proposed Area L from Lake Wakatipu.
- The notified Structure Plan be amended to (amongst other things) alter various development area boundaries.

Discussion

You are specifically referred to the landscape reports which are attached as Appendix B, which consider these matters in some detail.

The following discussion is split into the following sub-issues:

- a) Landscape values within the urban Activity Areas
- b) Mitigation planting in relation to the State Highway
- c) Expansions to the Urban Activity Areas (in comparison to the operative zoning and then in relation to those requested in RCL's submission)

Landscape values within the Urban Activity Areas (UAA)

The notified assessment matters relating to earthworks (Pg. x-21), roading (Pg. x-15), open space (Pg. x-17), and stormwater (Pg. x-18) consider the extent to which ridges and prominent slopes are to be modified. They specifically encourage consideration of whether it is appropriate to allow curved roading so it can better respond to the landform; whether the south face of the mound in Area G will be retained and undeveloped; and whether stormwater systems are included in the public realm. Whilst there is a genuine attempt to alert planners to this issue there is no certainty that key features will be protected from earthworks and development. The 2015 version addresses this shortcoming by showing the areas as indicative open space. However as the Structure Plan doesn't apply an actual open space activity area to these areas (e.g. OSA), no actual rules apply to them.

To the contrary, the JPRZ protects such features through including such topographical features in the open space area(s). In turn, buildings in such areas are non-complying (or controlled if ancillary to golf, open space or outdoor recreation). In the JPRZ the landscaping of such public space is a specific matter of discretion.

It is considered that the four landscape features identified in Dr Read's July 2013 report (and reiterated in her 2015 report) should be included within the open space area (e.g. OSA) and shown as such on the Structure Plan. This is considered the most effective and efficient way of ensuring that these areas will not be modified or built on and will be appropriately landscaped and connected. That said, if they cannot be surveyed as part of the plan change process, then rules 12.2.5.1(ii) and 15.2.6.2(vii) should be amended to clarify the extent which the boundaries of these areas can change.

Mitigation planting in relation to the State Highway

Proposed Activity Areas R(HD-SH)-1, R(HD-SH)-2, and EIC are relatively prominent, when viewed from the State Highway and if not well screened, development in those areas could significantly adversely affect views from the State Highway.

While the notified provisions provide specific discretion over mitigating visibility from the State Highway and through assessment matters, there are no rules relating to landscaping within the ACRAA. Whilst there is no rule regarding the preservation of the expansive mountain views from the State Highway, Dr Read has advised that this is not particularly relevant in relation to the Hanley Downs site.

In the 2015 version, mitigation planting is shown on the Structure Plan and the Council retains control over the matter. However there is no rule requiring it to be undertaken in accordance with the Structure Plan and, notably, the extent of development now proposed at the northern end of the zone is far greater.

In comparison, in the operative zoning, a) development is not enabled on these more prominent areas (B and C) and b) landscaping is controlled and it is discretionary to plant/grow any tree may or does obscure views from the State Highway to the mountain peaks beyond the zone.

You are referred to Dr Marion's June 2015 report for her assessment of the visibility and proposed mitigation methods, in the context of the recent development that has occurred in the JPRZ.

Given the sensitivity of these areas³¹, it is recommended that the extent of required planting be extended to provide for the replacement of existing trees to the east of R(HD-SH)-2 and that a standard be added requiring such planting to be completed before any development within activity areas R(HD-SH)-1, R(HD-SH)-2, and the Education Innovation Campus occurs. This will help to mitigate the risk of what is happening at Jacks Point from occurring where, where dwellings are intended to be screened by re-contouring and vegetation, but is, thus far, proving ineffective.

Expansions to the Urban Activity Areas

The notified Plan Change proposes significant expansions to the operative residential and village areas. Then, in its submission, RCL requests the following amendments to the notified urban areas:

- A new Area L within the ACRAA
- Shifting the upper boundary of Area J down to below the ridge line
- Extending Area K down the slope to meet the new, lowered boundary of Area J and an extension of Area K, wrapping around the northern boundary of K

³¹ As expressed in both the attached report from Dr Read and in the Landscape Assessment by Ben Espie, included with the plan change

- A continuation of Area I a short distance further up the slope
- A small western movement of the boundary of Area F (just below Area I)
- An expansion of Area B.

Then, the 2015 provisions seek further expansion again. The expansions sought in the 2015 version are well explained earlier in this report and in Section 2 of Dr Read's June 2015 report. She also assesses, in her 2013 report, the appropriateness of Area (L), as requested by RCL in its submission. In the 2015 report she reaches conclusions as to the appropriateness of the various residential and EIC area (and the densities within each) from a landscape perspective. In summary, Dr Read is of the opinion that:

- The expanded and intensified development areas R(HD)SH-1; R(HD)-A; R(HD)-B; R(HD)-C; R(HD)-D and R(HD)-E are all able to absorb the level of proposed development with no more than slight adverse effects on the landscape and internal amenity of Jacks Point.
- The expanded Area R(HD)SH-2 has the potential to absorb two further dwellings as proposed in the notified plan change but not the sort of density enabled by the 2015 version.
- The area proposed for the Education Innovation Campus has the ability to absorb the type of development described as a collection of buildings within a spacious landscaped setting, however the proposed height limits (of up to 15m) and site coverage (of up to 70%) may cause significant adverse effect and development of the EIC area and will significantly affect the amenity of the existing neighbours.
- The most westerly portion of Area R(HD)-F, which encompasses the area previously requested to be Area H, does not have the ability to absorb the development proposed and, instead, Area H (of the notified version) should be included as a Homesite, and subject to the JPRZ rules.
- Area R(HD)-G does not have the ability to absorb the development proposed and, while it is appropriate to extend the area as proposed, a limit of 8 dwellings, as proposed in RCL's submission, should be imposed.
- Area L (of the notified version) should be included as a Homesite, and subject to the JPRZ rules.
- Areas J and K (of the notified version) should be merged and, whilst they can be included in the developed area, only 14 dwellings should be allowed (subject to controlled activity status rather than permitted) as opposed to the 104 proposed in the notified version and in RCL's submission (i.e. 1 unit/ ha). This is further discussed in the previous section relating to FP-1.
- Residential building platforms should be required and buildings within the platforms in Areas A, I, and J/K (of the notified version) should be controlled.

Given the above comments it seems logical that the areas (of the 2015 version) should be split into the following sub categories:

Annotation	Area to be applied
Residential (R(HD))	R(HD)SH-1; R(HD)-A; R(HD)-B; R(HD)-C; R(HD)-D and R(HD)-E
Rural Living (RL(HD))	R(HD)SH-2, R(HD)-G and that part of FP-1 which was previously identified as Area J/K
Homesites HS37 and HS3	That part of R(HD)-F which was previously identified as Area H and Area L (as requested in the RCL submission).

Recommendations and Reasons

It is recommended that, in order to enable development in a manner that protects and enhances landscape and amenity values, the following amendments are made to the 2015 version of the plan change:

- The following landscape features be included in the open space activity area (OSA) in the Structure Plan in order to ensure they are protected from earthworks and development and are appropriately landscaped and established as part of the trail network³²
- The mound/ hillock within area R(HD)-E;
- Woolshed Creek between Areas R(HD)SH-1 and R(HD)SH-2 on the one side and Areas R(HD)-C and R(HD)-A on the other;
- The wetland between Areas J/ FP-1/ RL and R(HD)-E;
- The gully between Areas R(HD)-C on one side and R(HD)-A and R(HD)-B on the other
- That Rules 12.2.5.1(ii) and 15.2.6.2(vii) be amended to enable some movement of the open space boundaries shown on the Structure Plan but only if the requestor can convince the commission that it is not possible or practical to survey these spaces as part of the plan change:

Structure Plan – Hanley Downs

...

A variance of the open spaces shown as OSA of up to 50 m from the location and alignment shown on the Structure Plan shall be acceptable provided the area provided in the subdivision plan includes the stormwater path(s) and/ or topographical feature and that size of the area shown on the Structure Plan remains unchanged

Note: The importance of the interface between with the urban areas and those spaces is already a matter of discretion in the JPRZ.

- That areas shown as L and H in the notified/ RCL submission versions of the Structure Plan be identified as Homesites HS37 and HS38. Preferably the potential visibility of L (i.e. HS38) should be dealt with in the Plan Change by specifying a maximum building height based on an RL as a rule in the District Plan³³.
- That the state highway mitigation planting shown on the Structure Plan be extended right around area R(HD-SH)-2 so that mitigation will still be provided in the event that existing trees are removed.
- That a rule be added requiring that the state highway mitigation planting adjacent to areas EIC, R(HD-SH)-2 and R(HD-SH)-1 be undertaken prior to development, noting that operative rule 12.2.3.2(x) 'Landscaping and public access (Jacks Point Zone)' requires the design of the Highway Landscape Protection Areas as a controlled activity:

12.2.5.1(xvii) State highway mitigation planting - Hanley Downs

The state highway mitigation planting shown on the Structure Plan be undertaken pursuant to Rule 12.2.3.2(v) and be completed prior to any development occurring on the adjacent areas EIC, R(HD-SH)-2 and R(HD-SH)-1.

³² Whilst all these things have occurred through the Outline Development Plan process at Jacks Point, amendments maybe necessary to ensure that they are actually 'required'.

³³ Evidence on this matter from RCL would be useful.

- Amend the height, coverage, and planting rules relating to the EIC area in order to mitigate effects on the landscape.

12. THE PROTECTION OF ECOLOGICAL VALUES AND INDIGENOUS VEGETATION, INCLUDING WILDING CONTROL

The Issues and Decisions Requested

Submissions were received on this issue from QLDC and RCL. QLDC requests that:

- The significant wetland is shown on the structure plan; is protected; and public access to it and through it assured.
- A new rule be added that, prior to any development occurring in Activity Area G (R(HD-F), all recommendations of the Henley Downs Ecological Assessment are implemented.
- The rules for “Areas of Biodiversity Value” (ABV’s) be modified if necessary in order to adequately implement the policies, and to promote the re-establishment of indigenous vegetation.

The first 3 points are supported by a further submission from the ORC.

RCL, partly supported by Scope Resources, requests that:

- The ABV’s not be shown on the notified Structure Plan and the wetland be clearly labelled.
- Any reference to ABV’s be removed from Site Standard 12.30.4.1 (iv); Policy 12.30.1.1(iv); and Assessment Matter 12.30.5.1 (vii)(a) (relating to 'the protection of indigenous vegetation') (Page X-22);
- The following requirements be removed from Site standard (iv):

b) There shall be no exotic tree or shrub planting

c) No buildings shall be constructed aside from those identified in an approved Outline Development Plan.

The Wakatipu Wilding Conifer Control Group (WWCG) and the QLDC request that:

- The list of prohibited trees with wilding potential be amended to reflect the updated list of trees for inclusion as part of the District Plan review;
- Rules be inserted to clarify that wilding trees are not to be permanently retained in order to mitigate visual sensitivity from the State Highway, etc.
- A zone standard be added requiring all existing trees with wilding potential to be removed prior to development commencing.

Discussion

The following points from the ecological assessment are noted to assist the commissioners:

References to the Henley Downs plan change - ecological assessment (31/1/2013)	Comment
<i>The 7.6 ha swamp... Is fed by surface run-off and ground water. (Pg. 5)</i>	It will be important to ensure that stormwater runoff is uncontaminated and continues to flow to the wetland
<i>...Common waterfowl and pukeko were observed on the open water and margins (Pg. 5).</i>	

References to the Henley Downs plan change - ecological assessment (31/1/2013)	Comment
The Henley swamp is an “ <i>acutely threatened land environment</i> ” (Pg. 12).	
<i>The connectivity of this network of swamps for waterfowl is good</i> (pg. 12)	Swamp (B) within the ACRAA should also be managed.
<i>Ephemeral streams... the underlying hydrological network continues to (sic) the potential for the reinstatement of healthy ecological processes within them</i> (pg. 12). <i>“...much of their value rests in their potential to be enhanced and improve the contribution to wetland ecosystem diversity”</i> . Pg. 14.	
<i>The Henley Downs swamp is considered to be of low value in terms of... the District Plan or Regional Plan: Water.</i> (Pg. 13)	
<i>Threats</i> (Pg. 14)	The assessment concludes that waterfowl will adapt to the presence of humans. Passive recreation around the wetland will very likely stop hunting, which is positive. Residential development and the introduction of pets should be managed through signage. The risk of sediments entering the wetland should be managed through buffer planting and stormwater treatment prior to being discharged.
The recommendations included on pages 14-15	These should be included in the plan change itself as assessment matters at the Outline Development Plan stage or zone standards (or policies) or a mixture of these.
Most of the grey shrubland is within the ACRAA and “ <i>would only be vulnerable if clearance was proposed (for) agriculture or recreation</i> ”. Such loss could be mitigated by “ <i>planting to increase diversity and the exclusion of cattle</i> ” (pg.17).	Rules should avoid such clearance and grazing or at least require the effects to be mitigated.
The recommendations re shrublands. (Pg. 17).	These should be included in the plan change itself as assessment matters at the Outline Development Plan stage or zone standards (or policies) or a mixture of these. E.g. Weed removal should be required at the Outline Development Plan stage.

In conclusion, whilst all of the above could be dealt with through the District Plan it is considered that some matters (e.g. the exclusion of cattle from certain areas) may be better dealt with through a volunteered stakeholders deed/ commitments enforced through covenants on titles) rather than further complicating the District Plan.

Identification of the wetland on the Structure Plan

Both the Council and RCL request the wetland be specifically shown on the Structure Plan and RCL has requests that it sit within the ACRAA, rather than within the urban area (as notified). In the 2015 version, the wetland is shown on the Structure Plan and described as follows in 12.2.5.1 (k)

Wetland (W) –Structures are restricted to those necessary to develop pedestrian access (e.g. boardwalks), fences, or other structures relating to the protection and enhance of biodiversity and ecological values.

The 2015 version is considered appropriate and no further amendment is required.

Protection of the wetland

In response to the notified version, the QLDC and others raises concerns regarding the proposed density in close proximity to the wetland. On this matter you are referred to Dr Read's report, which expresses concerns regarding density within Area J, as a whole, and particularly in regard to the higher ground and on land adjacent to the wetland. Under the scenario promoted in RCL's submission, the wetland would sit within the ACRAA and therefore would be protected through:

- Policies relating to the protection and enhancement of biodiversity values; the protection and re-establishment of natural vegetation and habitat; the use, enhancement, and connection of existing watercourses for stormwater management; and to provision of biodiversity corridors (2.19, 3.3 and 3.4); and
- Rules, which would require a full or restricted discretionary consent to undertake earthworks within 7 m of a wetland, build within the wetland area; clear indigenous vegetation; plant exotic species, and consideration of the need for a biodiversity management and restoration plan for the wetland and for integration of stormwater management into biodiversity corridors. Notably, RCL's submission (44/17/4) requested removing the rule preventing exotic plantings within the wetland

In the 2015 version, 34 dwellings are allowed in an expanded FP-1 area (which includes Area J) with a minimum lot size of 4,000m². On the other area that is adjacent to the wetland, Area R(HD-E), an average minimum lot size of around 222m² is enabled. The rules relating to the wetland in the 2015 version are as follows:

- It is non-complying to undertake development, landscaping and/or earthworks within 7 m of the wetland
- A district-wide assessment matter at the time of subdivision relating to natural and other hazards, requires consideration of any effect of filling or boundary drainage on the natural character or hydrological functions of wetlands;
- A proposed Assessment Matter (15.2.17.4) requires the following consideration:

Within the FP-1 and FP-2 Activity Areas of the Jacks Point Resort Zone, whether and the extent to which subdivision:

- *Restricts grazing within and around wetlands with remnant indigenous communities and schist outcrops containing grey shrubland habitats*
- *Prevents the loss of grey shrubland habitats*
- *Removes woody pest plants*
- *Improves connectivity between the network of ephemeral wetlands and swamps and adjacent Jacks Point and Lakeside public conservation land.*

In summary, both versions provide some protection of the wetland but both could be improved to better meet the operative objectives of the District Plan and recommendations are provided at the end of this section in this regard. Notably, it is somewhat ambiguous as to how the assessment matters are triggered through subdivision of the adjoining land

and, whether the proposed or recommended rules are preferred this is something that will need to be determined.

Public access to and through the wetland

The notified plan change addresses this issue through a matter of discretion at the Outline Development Plan stage relating to 'proposed open space areas, public transport links, pedestrian and cycle links'. However, the Assessment Matters (30.5.1(i)) make no specific mention of access to and through the wetland or other biodiversity nodes or corridors³⁴. It is also noted that the Jacks Point Stakeholders Deed requires that a public access and recreation plan shall be agreed with the council prior to development and that a concept plan be prepared for this area as part of any Outline Development Plan for the village.

The 2015 Structure Plan shows trails around but not through the wetland. Neither the village or the Outline Development Plan process are promoted in the 2015 version of the plan change and, as such, it is suggested it is appropriate to, instead, achieve this outcome through adding a rule requiring that a public access and recreation plan for the wetland be provided as part of any subdivision of Areas R(HD-E) and FP-1/ J/ RL and by showing indicative trails through it.

Proximity of urban activity to the wetland

In this regard, the ecological report concludes that effects on wildlife within the wetland from passive recreation, residential development, and contaminated stormwater discharge can be mitigated (pages 14 and 21). The ecological assessment does not suggest that a buffer is required between the urban activity and the wetland in order to mitigate effects on the wildlife but, rather, that it will simply adapt. Rather, the assessment only refers to the use of buffer planting in order to mitigate against stormwater contamination. Given this advice and the fact that a 7 m setback is proposed in the 2015 version, it would be useful if the QLDC could provide further explanation as to the particular effects that it is concerned with in regard to urban development in close proximity to the wetland. In the absence of any further evidence from the Council to the contrary, it appears there is no need for an additional buffer.

The removal of specific 'Areas of Biodiversity Value' (ABV's)

RCL's request to remove the specific 'ABV's from the Structure Plan is appropriate, for the reasons set out in Dr Read's report. These areas have been superseded by the reintroduction of the Wetland activity area and Peninsula Hill Landscape protection area overlay in the 2015 version.

The re-establishment of indigenous vegetation and ensuring implementation of the Henley Downs Ecological Assessment recommendations

Removing the specific 'ABV's from the Structure Plan will assist in encouraging the re-establishment of indigenous vegetation across the whole zone rather than indicating that only those specific areas are of interest. However, the assessment matters proposed in the notified version requiring a Restoration Plan for the wetland as part of any Outline Development Plan (now subdivision) relating to Areas R(HD-E) or FP-1/ J/ RL should be re-cast as a rule to elevate its importance.

³⁴ If the JPRZ (open space) zoning is retained then the existing provisions provide a sound basis and the improvements proposed in this report can still be applied to the Henley Downs zone in order to provide further control

The other recommendations included in the ecological assessment relate to how ecological benefits can be achieved in relation to other undefined areas of biodiversity value that are not contained within the Peninsula Hill landscape protection area or the wetland.

Whereas the notified version included rules limiting the clearance of indigenous vegetation (which RCL then sought to remove via submission), the 2015 version removes this rule. While it proposes to address this issue through the conservation lot rule in the FP-1 area (15.2.17.2(ii)) and through reinstatement of the landscape protection area there is no mechanism to consider the matter of biodiversity or vegetation clearance elsewhere. If the FP-2 regime is to be accepted, then Rule 12.2.3.3(c) may need to be amended to include biodiversity and the provision of a biodiversity plan as a matter of discretion in FP-2. If the recommendation to replace the FP area with a new RG(HD) area is accepted then clearance will be governed by rules and ecological enhancement will be an integral part of the consent process. This still however, does not regulate the clearance of vegetation elsewhere and potentially it may be appropriate to impose the Rural General rule to make it a restricted discretionary activity to clear indigenous vegetation less than 20 metres from a water body unless it is for the construction of public walkways up to 1.5 metres in width provided that it is not listed as a threatened species in Appendix 9 of the District Plan. This would effectively avoid such clearance within 20 of the wetland, should such vegetation exist beyond the 7 m buffer provided by the proposed rules.

Wilding trees

It is appropriate that the list of wilding trees be updated to reflect that which was recently approved as part of the District Plan review. The 2015 version makes the planting of this list of species prohibited and makes retaining them as part of a landscape plan non-complying and, as such, addresses this issue well.

Recommendations and Reasons

In order to better protect and restore the **wetland and improve public access** it is recommended that the 2015 provisions and Structure Plan are amended as follows:

- Add the following rule requiring a Biodiversity Management and Restoration Plan for the wetland in respect of any subdivision of Areas R(HD-E) or FP-1/ J/ RL:

15.2.17.3 Zone Subdivision Standard – Vegetation

b) Any subdivision within Areas R(HD-E) and FP-1/ J/ RL of the Hanley Downs area of the Jacks Point Resort Zone shall be accompanied by a Biodiversity Management and Restoration and Recreation Plan for the wetland shown on the Structure Plan, which specifically proposes:

- 1. Methods to control the further spread of willows within the wetland;*
- 2. A programme of progressive limbing and potentially the removal of crack and grey willows from the margins, particularly from the shallow northern end;*
- 3. A programme to kill in-situ willows within the shallow open water to facilitate the natural expansion of Carex sedgeland and Raupo beds and maintenance of open water;*
- 4. Methods to protect the wetland from further unmitigated loss or drainage if disturbed by development under the proposed plan change.*
- 5. Reinstating indigenous diversity along the margins of the wetland in order to:*
 - a) Bolster feeding and breeding habitats through ensuring and securing in perpetuity an appropriately designed buffer (of at least 20 metres) around the wetland; providing for small clearings enabling a view of the water; providing screening of residential activity; providing a variation in wetland habitat and open roosting and foraging areas;*

b) Reinstate diversity lost from the terrestrial and aquatic communities associated with the wetland

c) Avoid or minimise the discharge of contaminants into the wetland through appropriately designed storm water treatment and buffer planting.

6. A public access and recreation plan

- Add the following site standard to add further protection at the edge of the wetland

There shall be no clearance of indigenous vegetation that is less than 20 metres from a water body/a wetland unless it is for the construction of public walkways up to 1.5 metres in width provided that it is not listed as a threatened species in Appendix 9.

- Add indicative trails through the wetland area on the Structure Plan In order to ensure public access to and through the wetland
- Replace the FP-1 and FP-2 areas with RG(HD) and in so doing apply the Rural General indigenous vegetation clearance provisions.

13. EFFECTS ON INFRASTRUCTURE

The Issues and Decisions Requested

Four submitters have raised concerns in relation to infrastructure. The submissions (variously) request that the plan change be declined unless:

- It includes design controls relating to infrastructure similar to those within Jacks Point
- Provision is made to ensure that the cost of extending and maintaining any infrastructure and utilities to service the Henley Downs Zone is borne by the developers and residents in that zone and not the residents of Jacks Point.
- The rules and assessment matters (including those from the Subdivision chapter of the District Plan such as 15.2.11.2 and 15.2.11.3) are improved, if necessary, to ensure Council can require the development to be appropriately and efficiently serviced with the necessary infrastructure, at both the Outline Development Plan and subdivision stages.

Discussion

Specific Design Controls

Whilst there are no specific design controls relating to infrastructure within the JPRZ or the design guidelines, page 4 of the Jacks Point Stakeholders Deed binds the parties³⁵ to comply with various controls, including controls in relation to infrastructure design. These include soft engineering design principles for roading and stormwater, onsite wastewater and water schemes, and the provision of parking in an environmental manner. These can only be amended through unanimous agreement of all parties and reference to adherence to these controls must, according to the Deed, be registered on all titles. As such, unless the Hanley Downs area is somehow divorced from the Deed in due course, then all development in the Hanley Downs area must be undertaken in accordance with those, regardless of whether it is a new zone or retained as part of the JPRZ.

³⁵ And their successors

In addition, policies within the notified Plan Change include ensuring that roads and walkways integrate with the character of greater Jacks Point and that existing watercourses are used, enhanced and interconnected for the purposes of stormwater management. Furthermore, the notified assessment matters consider whether the proposed road designs make a positive contribution to the amenity of the settlement; whether low impact design solutions have been employed to minimise or prevent adverse effects on the environment (in relation to the 3 waters); and whether stormwater management facilities can be integrated into the public realm. These are quite critical character elements of a place and if the Hanley Downs area is to integrate with the rest of Jacks Point then they should be carefully considered at the subdivision design stage.

In the 2015 version, there no longer appears to be any policies relating to the integration of watercourses in the overall layout or any control, discretion or assessment matters relating to the matters raised above, other than the engineering-related assessment matters relating to servicing in the subdivision section. In this respect the commissioners should consider whether the proposed provisions provide sufficient certainty that existing watercourses are used, enhanced and interconnected for the purposes of stormwater management; whether the proposed road designs make a positive contribution to the amenity of the settlement; whether low impact design solutions have been employed to minimise or prevent adverse effects on the environment (in relation to the 3 waters); and whether stormwater management facilities can be integrated into the public realm. If not, then it is recommended that such matters of discretion and/ or assessment matters be reintroduced.

The cost of infrastructure

Who will pay for the new/ upgraded infrastructure required by the additional development (and the maintenance thereof) is governed by the Council in accordance with the Council's Development Contributions Policy where the infrastructure is owned by Council and by the respective landowners/ developers³⁶ themselves, where the infrastructure is privately owned. Assuming the 3 waters and roading infrastructure is provided for onsite and privately-owned and maintained (as is intended according to the S. 32 report and the Stakeholders Deed) then the matter of 'who pays' is beyond Council's control. In this instance (as is the case with the existing Jacks Point area), the Council will only collect contributions toward the district-wide provision of roading and reserves. In this situation, concerns relating to the equitable cost distribution between existing and new residents should be clarified by private agreement outside of the Plan Change process. If the Hanley Downs area does connect to a council system (e.g. council's waste water system) then contributions will be levied on all new subdivision and development that is required to connect to that system, noting that if such a system runs through existing development it is council policy to require those properties to also connect to the system. Development contributions are levied under the LGA and not the RMA and this matter is not considered to be a relevant consideration for this Plan Change, at this stage.

Stormwater

In relation to stormwater, the notified plan change includes "evidence that development can be appropriately serviced with water, stormwater, and wastewater infrastructure" as an assessment matter at the Outline Development Plan stage (12.30.2.2(i)) and there is a requirement to provide an indicative Stormwater Management Plan as part of the Outline Development Plan application. Whilst fairly comprehensive, the relevant assessment matters (12.30.5.1(1)) in regard to stormwater infrastructure are not quantitative or measurable.

³⁶ I.e. Presumably those signatories to the Stakeholders Deed and their successors

The ORC supports the requirement for a Stormwater Management Plan at the Outline Development Plan stage but requests that measurable and outcome-based rules and/ or assessment matters be included in order to better specify what is to be achieved through the Management Plan. In addition to those recommendations relating to stormwater disposal in the vicinity of the wetland (previously made in this report), more prescriptive assessment matters should be added in line with ORC submission.

The Outline Development Plan and associated assessment matters have been removed from the 2015 and no similar detailed assessment matters have been added to the subdivision section. However, it is understood that the open spaces shown on the Structure Plan follow the various stormwater flow paths, which should encourage their preservation and enhancement. It would be helpful if the requestor could confirm this, or otherwise, at the hearing.

As the Outline Development Plan process is proposed to be replaced by a conventional subdivision process, it is recommended that these assessment matters are included in Part 15 in order to satisfy ORC's concerns.

Water supply

The SDHB's submission states that, ideally, all residential housing should connect to the Queenstown reticulation system (Project Shotover) and to the reticulated water supply if/ when available and practicable or, failing that, that Option B/ Option 3 as outlined in the plan change should be pursued. Presumably these are still 'live' concerns under the 2015 version. The SDHB is asked to provide more detailed information at the hearing in regard to its concerns that aspects of the proposed drinking water supply may not be sufficient to ensure that public health is protected.

In respect of water supply, the notified plan change includes "evidence that development can be appropriately serviced with water, stormwater, and wastewater infrastructure" as an assessment matter at the Outline Development Plan stage (12.30.2.2(i)) and there is an assessment matter relating to the feasibility, quality, and quantity of any proposed water supply.

While this assessment matter is removed from the 2015 version, the JPRZ policy relating to water supply now applies to Hanley Downs and under both versions, the Council retains control over water supply in relation to all controlled subdivisions. Furthermore, there is also a Zone Standard (15.2.11.3) making it non complying to create a lot that is not connected to a council or community-owned reticulated water supply (or failing that, be provided with a potable water supply of at least 1000 litres per day per lot). Whilst this zone standard is rarely, if ever, relied on (as such matters are ordinarily resolved through controlled subdivisions or Outline Development Plans), it does provide a strong 'safety net' if ever a developer were to try to subdivide without an acceptable water supply. These provisions, together with ORC consenting requirements, are considered to provide adequate controls over water supply and no amendments are recommended.

Wastewater

The SDHB has submitted that the local sewage reticulation and treatment option proposed as Option B in the notified plan change material is supported, as is the proposal to include both disinfection and nutrient removal (option 3). The SDHB is asked to provide more detailed information at the hearing in regard to its specific public health concerns relating to the proposed wastewater treatment and use of treated wastewater for irrigation.

In respect of wastewater, the notified plan change includes “evidence that development can be appropriately serviced with water, stormwater, and wastewater infrastructure” as an assessment matter at the Outline Development Plan stage (12.30.2.2(i)) and there is an assessment matter (g) relating to feasibility and the appropriate treatment and disposal of wastewater. As with water supply, while this assessment matter has been removed from the 2015 version, the JPRZ policy relating to sewage disposal now applies to Hanley Downs and, under both versions, the Council retains control over wastewater in relation to all controlled subdivisions. These provisions, together with the ORC consenting requirements, are considered to adequately manage effects and, as such, no amendments are recommended.

Recommendations and Reasons

It is therefore recommended that:

- The following site standard and assessment matter be added in order to provide more detailed direction regarding stormwater management:

Site standard 15.2.7.2

(b) In the Hanley Downs Areas of the Jacks Point Resort Zone:

Stormwater management plans shall specifically ensure that stormwater and sediment management minimises the impact of stormwater generation and containment loadings through low impact design or sustainable urban drainage techniques and shall ensure that:

- a) the rate of stormwater discharge remains equal to, or less than that of pre-development up to the 1 in 100 year average recurrence interval event; and*
- b) the quality of water in any discharge remains equal to or better than that of pre-development; and*
- c) stormwater management systems are designed to cater for the 1 in 100 year average recurrence interval event.*

Assessment matter 15.2.7.3(xiii)

(xiii) In regard to stormwater management, the extent to which:

- a) natural flow paths have been used in the design of stormwater management systems;*
- b) techniques have been adopted to ensure that:*
 - (i) the rate of stormwater discharge remains equal to, or less than that of pre-development up to the 1 in 100 year average recurrence interval event; and*
 - (ii) the quality of water in any discharge remains equal to or better than that of pre-development; and*
 - (iii) stormwater management systems are designed to cater for the 1 in 100 year average recurrence interval event.*

14. NATURAL HAZARDS

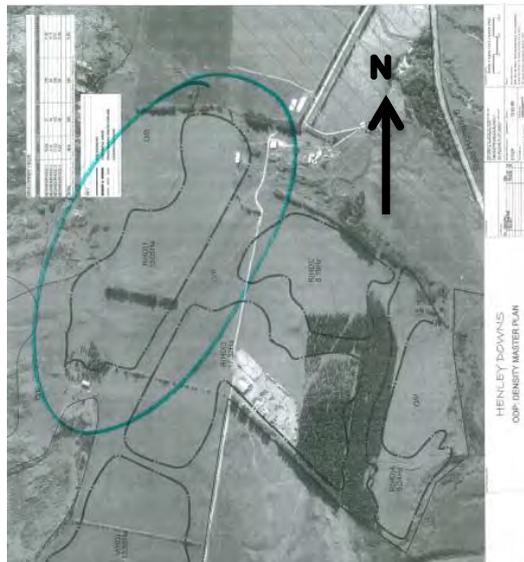
The Issues and Decisions Requested

Two submissions relate to natural hazards. These submissions, variously, request:

- That the Plan Change be declined unless the QLDC is satisfied that the risks from liquefaction and alluvial fan/ flooding are sufficiently understood and addressed through avoidance or mitigation, and that any area re-zoned is fit for the proposed use.
- That Commissioners be satisfied that the risk of flooding in Activity Area B can be effectively avoided, remedied, or mitigated.

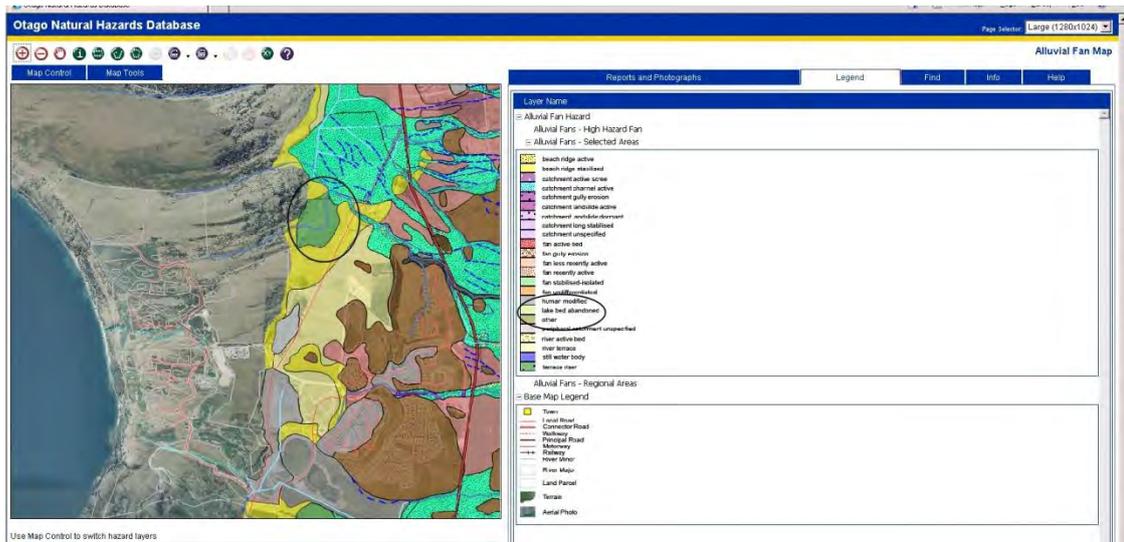
The submitters make the following comments in support of their submissions:

- The plan change Request acknowledges that Area B (RHD-SH)-1) is at risk of flooding but that any effects can be appropriately managed through the Outline Development Plan process.
- The ORC is concerned that the natural hazards have not been quantified, and that a greater understanding of the extent and characteristics of the hazards (particularly alluvial fan and flood hazards) is required in order to understand the appropriateness of development within certain areas. The submission goes on to say that once the extent of risk is more fully known *then* if mitigation of the risk is appropriate (i.e. as opposed to entirely avoiding it) the details of such mitigation can be determined through the Outline Development Plan consenting process. In particular, the ORC is concerned that:
 - There is no certainty as to the magnitude of risk from the alluvial fan processes at the site, particularly in relation to the proposed development area (F) (R(HD)-D), as shown on the below map³⁷



- There is no research into the flood catchment history of the Development Area's northern extent (proposed Urban Area F), noting that part of it is shown as an 'abandoned lake bed' on the below hazard database:

³⁷ Provided by the ORC following lodging its submission, in order to clarify what it meant by the 'the proposed development area at its north east extent'.



- There is no information as to the likely characteristics of in-stream and overland flow during extreme rainfall; and
- There is a need for further on-site investigations and a study of existing data in relation to liquefaction, and that detailed mitigation will need to be outlined at the Outline Development Plan stage. I.e. the level of detail provided is sufficient for the rezoning to proceed and the ORC is satisfied that mitigation (rather than avoidance) is realistic and appropriate and that the detail of this can occur at the Outline Development Plan stage.

Discussion

It is important that the Requestor provides further detailed information about the alluvial fans and flood risks within the zone, particularly in respect of Areas F and B of the notified plan change³⁸ in order to enable the commissioners to decide whether mitigation of these risks is realistic/ appropriate or whether the risks are sufficiently great to justify avoiding the risk by excluding certain areas from the urban activity area.

Depending on the information presented, the commissioners will need to decide whether the urban activity areas need to be amended and/ or additional rules imposed to provide clear direction relating to the method(s) of mitigation that will be required in order to enable development.

Recommendation and Reasons

Given the comments above, no recommendation is able to be made at this time.

15. REVERSE SENSITIVITY

The Issues and Decisions Requested

NZTA, Skydive Queenstown Ltd, and Grant Hensman, Scope Resources Ltd, and Pure 1 Ltd have raised concerns with regard to the reverse sensitivity of residential development in relation to:

- Traffic noise;
- The skydiving activities within the JPRZ; and

³⁸ As specifically raised in the QLDC's submission.

- The established contracting and commercial operations that exist on the eastern side of the state highway.

Discussion

NZTA request that plan change 44 be accepted in its entirety subject to inserting a rule that requires the following (or similar):

New residential buildings located within 80 m of the seal edge of the state highway shall be designed and constructed to meet the noise performance standards for noise from traffic on SH6 that will not exceed 35 dBA Leq (24 hr) in bedrooms and 40 dBA Leq (24hr) for other habitable rooms in accordance with the satisfactory sound levels recommended by Australian and NZ standard AS/ NZ2107:2000 Acoustics - Recommended design sound levels and reverberation times for building interiors. This shall take account of any increases in noise from projected traffic growth during a period of not less than 10 years from the commencement of construction of the development.

The 2015 version of the plan change now introduces a Zone Standard to this effect and therefore, no further amendments are recommended.

Skydive Queenstown has sought an acknowledgement from QLDC that Skydive Queenstown has a valid resource consent to operate its airstrip without any noise controls, but subject to a present maximum of 35 flights per day (which is subject to a new application). Notably (and to the contrary), the JPRZ does not include such a policy but, rather, includes Policy 3.5 to “to control the take-off and landing of aircraft within the zone”). In the 2015 version, this policy now applies to the Hanley Downs area.

It is considered that, given the following points, considerable evidence will need to be provided by the submitter to justify amendments such as requiring noise insulation:

- The only other area where such noise insulation is mandated in this district (although not operative at the time of writing) is within the Outer Control Boundary (OCB) of the Queenstown airport, which is a whole different scale of noise to the skydive situation.
- There is no such requirement in the operative JPRZ, which includes land that is significantly closer to the take-off and landing of aircraft and the relevant policy of the JPRZ is clearly to control (rather than acknowledge and accept) the take-off and landing within the zone.

Skydive Queenstown has also sought an acknowledgement from the QLDC that the Council and/or any party associated with Hanley Downs cannot control and does not seek to control the number of aircraft or tandem parachutists using the airspace in the Henley Downs/Jack’s Point area. It is not considered appropriate for the Council to acknowledge in its District Plan that it will not seek to control the number of aircraft or tandem parachutists using the airspace in the Hanley Downs/Jack’s Point area. Whilst the developer or other parties associated with the Hanley Downs Zone and plan change may agree to enter into some form of private agreement with Skydive Queenstown in relation to this matter, this is a matter for those parties and for them to advise the commissioners of this at the hearing, should such an agreement be reached.

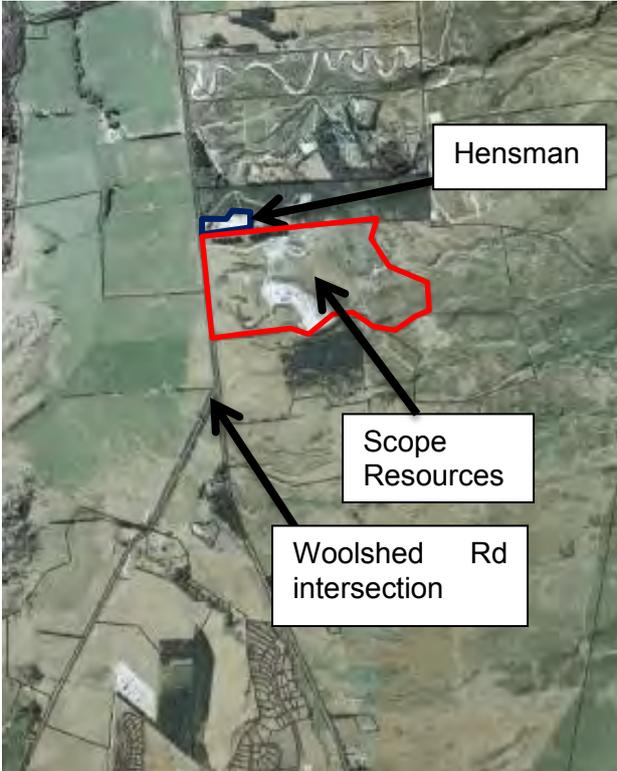
Skydive Queenstown has also sought a requirement that consent holders, developers, and owners at Hanley Downs be required to ensure that all buildings constructed comply with the noise admission (sic) standards of the District Plan. Skydive Queenstown is asked to confirm what it is referring to by “the noise admission standards of the District Plan”. For the time being, it is assumed that Skydive Queenstown is seeking a policy and

rules along the lines of those that apply to sensitive uses within the OCB of the Queenstown Airport³⁹.

Skydive Queenstown will need to provide evidence to show that the additional cost to home owners of achieving this level of noise insulation is effective and efficient and is justified by the existing use rights held by skydive Queenstown and the noise effects that are enabled by those rights.

Grant Hensman, Scope Resource, and Pure 1 submit that there will be reverse sensitivity effects on **existing contracting operations** as a result of foreseeable complaints relating to visual amenity, dust, noise, vibrations, and traffic safety and that for this, and other reasons, the Plan Change should be declined.

The below map shows the location of those properties that are owned by the submitters and which have consents to enable industrial activity to be undertaken on them. It is noted a) that Scope Resources also owns the land to the immediate south of the property shown below but that it is not consented for any sort of industrial activity; b) that Pure 1 Ltd do not appear to own land in the vicinity; and c) that the submitters' properties are zoned Rural General; not Industrial.



The Scope Resources property is located some 710 m north of proposed development Area A (R(HD-SH)-2) (which proposes up to 44 houses) and the EIC area 9 (which proposes intensive technology based activity and ancillary uses). It is approximately 1 - 1.4 km north of the areas proposed for larger and denser residential development. Given these distances and the fact that the prevailing winds are southerly and south-westerly this is not expected to give rise to any significant reverse sensitivity effects. The same can be said for the Hensman property which is much smaller and further away.

³⁹ Refer Objectives and Policies (7.2.3) and Zone Standard (7.5.5.3) – Residential Activities and Visitor Accommodation

Regarding traffic concerns and complaints that may arise from that, the nearest access used by Scope is some 240 m north of the proposed Woolshed Road intersection and, provided NZTA is comfortable that these intersections will operate efficiently and safely, then it is considered appropriate and unlikely to result in complaints. You are also alerted to the fact that later in this report, rules are recommended that require the closure of the 2 accesses that are closest (and opposite to) the Scope Resources access.

It is also noted that the presence of a busy state highway between these properties and the Hanley Downs area is a relevant consideration as is the fact that, pursuant to the 2015 provisions, any dwellings within 80 m of the state highway must be insulated for noise.

Recommendations and Reasons

No amendments to the 2015 version of the plan change are recommended.

16. TRANSPORT/ TRAFFIC/ WALKING AND CYCLING

The Issues and Decisions Requested

Five submitters (Lakeside Estates Home Owners Association (Lakeside Estates), NZTA, ORC, QLDC, and the SDHB) seek specific decisions in relation to transport, traffic, walking, and cycling issues. Others mention transport-related issues within the body of their submission (e.g. RPL raises concerns that the traffic assessment does not address the impacts of the development on the Kawarau Bridge) but do not seek specific relief.

The submissions are concerned with the following matters (and request relief that addresses these concerns):

- The additional pressure this plan change will put on the Kawarau Falls Bridge and at other key "bottlenecks".
- The number of direct state highway accesses from the greater Jacks Point area;
- Ensuring that the new proposed access is of an acceptable standard; and
- The need for financial contributions or requirements to ensure and that the developer undertakes/ funds intersection upgrades, as appropriate.
- The weaknesses of the structure plan and the Outline Development Plan process to ensure that connectivity (via the main road) between Jacks Point and Henley Downs and between these areas and the State Highway will be achieved in a timely manner, and that walking, cycling, and public transport will be given due consideration through the Structure Plan and Outline Development Plan process.
- That some rules in Part 14 of the District Plan will not apply to the Henley Downs Zone.
- That the 'main road' should be more direct and be annotated differently to the activity area boundaries on the structure plan to avoid confusion.
- Whether the connection points on the State Highway and adjoining Jacks Point should be shown as 'fixed' on the Structure Plan.

Discussion

Lakeside Estates, along with RPL, seek relief that will recognise and provide for any increased pressure this plan change will put on traffic congestion at the **Kawarau Falls Bridge** and at any other key "bottlenecks". It would be useful if Lakeside Estates and/ or RPL could elaborate at the hearing on what sort of relief might satisfy their concerns or whether their concerns are now alleviated/ addressed by the government and council's commitment to a new bridge over the Kawarau.

Given the uncertainty as to what is specifically being sought by the submitters and the fact that the new bridge is scheduled to proceed regardless of this plan change, no firm recommendation is provided in this report..

In response to the various concerns raised by NZTA regarding **access onto the State Highway** and the quality of the new intersection, it is considered appropriate that rule(s) be included that a) make it non complying to apply for landuse or subdivision consent that creates any additional access onto the State Highway and that any consent that proposes to upgrade the Woolshed Road intersection shall also propose the permanent and physical closure of the existing authorised crossing places CPs 60, 62, and 63. These crossings are shown on the map below and it is understood that neither the Requestor nor any other third party would be adversely affected by the closure provided Woolshed Road is upgraded and access enabled via that road prior to the closure.



Source: NZTA

NZTA’s request that the Woolshed Road/ SH 6 intersection is upgraded to an acceptable standard prior to any vehicles using it to access the Henley Downs area is arguably already dealt with through the fact that “roading pattern, proposed road and street designs” are a matter of discretion at the Outline Development Plan. However, this should be amended to specifically include “intersection design and timing” in order to make it clearer. Given the NZTA’s extensive powers in relation to the design etc. of intersections on Limited Access Roads (LAR’s) it is not considered necessary to provide further detailed policy or assessment matters in the District Plan. You are also referred to the previous section on non notification, which specifically ensures that NZTA may be deemed an affected party in terms of any landuse consent that proposes to connect (or specifically proposes *not* to connect) to the State Highway. This same certainty is not expressly provided for in the subdivision non notification clause of the 2015 version of the plan change but should be added.

NZTA request that the plan change include provisions that address the need for on-going improvements to the Woolshed Road/ SH 6 intersection as development progresses, either by establishing:

- a) The need for appropriate financial contributions to construct the agreed necessary improvements; or
- b) Thresholds, at which time the proponent/ developer is required to carry out the agreed necessary improvements.

With regard to point a) it is understood that the Council is unwilling to collect financial contributions on behalf of third parties such as NZTA and, in any case, the Council collects development contributions under the LGA as opposed to financial contributions under the RMA. With regard to point b) the 2015 version proposes a trigger of 500 houses; at which point the intersection must be completed. While the mechanism is

considered appropriate, it is suggested that the requestor may need to provide evidence to substantiate this figure. This leaves the only outstanding issue in this regard being that the threshold of 500 households does not factor in the non-residential uses that could occur, which could be quite substantial if the EIC proceeds. The requestor is encouraged to also address this issue in evidence with a view to incorporating this eventuality into the rule by adding words such as “500 households or the equivalent traffic generation from other non-residential uses”.

The QLDC’s submission in relation to transport matters requests:

- Clarification of the form and function of the primary road and how adjacent landuses should relate to this (through an objective, policies and potentially also assessment matters);
- Ensuring that the primary road shown on the Structure Plan will connect with Jacks Point in a timely manner.
- That the primary road may need to be more clearly annotated (RCL also raise this issue)
- Consideration of whether the connections to the State Highway and into the JPRZ should be indicative or fixed
- Consideration of whether those Part 14 rules that specify the particular zones to which they relate should be applied to this Zone.

The first two points relating to the **primary road** are considered important to the success of this zone and it is recommended that both points be accepted and that changes to the Structure Plan, assessment matters, and objectives and policies are made, as recommended below.

As notified, the all-important primary road through the middle of the zone is unclear and meandering and it is unclear whether it and the connections are fixed or indicative. In the 2015 version, the primary road is clearly shown on the Structure Plan and the rules clarify a) that it is indicative and may be moved up to 120 m in either direction without triggering further consent requirements and b) that the intersection with the state highway must be completed before a certain threshold is met. These provisions are considered appropriate and improvements to the notified version. However, while the rule requires key road connections to be made, the connections of the primary road with the State Highway and with the JPRZ are not shown. Neither does the 2015 version include any policy or assessment matters to clarify the function and likely form of this road (for example; as a landscaped, high amenity multi-modal collector road.

The third point relates to whether the following **Part 14 rules**, which currently do not apply to the Henley Downs Zone, should, in fact, apply:

Rule	Assessment of whether necessary to apply to the Henley Downs Zone
14.2.2.2(i) - The design of carparking areas (e.g. currently applies in zones such as the Town Centre and corner shopping centres). 14.2.4.1(xiii) - Landscaping of carpark areas	Not necessary as this matter is considered at Outline Development Plan stage and in respect of multi-unit and non-residential developments.
14.2.4.1(iv) - Parking and access design (iv) - Standards relating to the design of rear lanes in the Three Parks Zone.	Appropriate to apply this rule to Henley Downs as the zone intends to make use of rear lane forms of development.
14.2.4.1(xi) - Loading (e.g. currently applies in zones such as the Town Centre).	Likely to be unnecessary given the low priority given to commercial activity in the Plan Change. However,

14.2.4.3 - Bike park requirements/ standards for Three Parks.	commissioners may wish to consider the merit of applying this if they accept the EIC as part of the plan change
14.2.4.2 (viii) - Minimum distance between vehicle crossings onto state highways where they pass through certain zones, including Resort Zones.	Whilst unlikely to be strictly necessary given NZTA's powers in relation to LAR's it is simple to add the zone and makes it consistent with other zones in the district.

The ORC has made a general submission that the Plan Change be declined unless transport matters, (including access, connectivity between developments and the State Highway, **walking and cycling networks**, and public transport) are given due consideration during structure planning and development of the Outline Development Plan. In response to ORC's general submission, you are referred to the above discussions in relation to 'transport matters', 'access' and roading 'connectivity between developments and the State Highway'. The SDHB also requests a greater emphasis be placed on cycling and walking, including requiring the development of a suitable means for commuters to walk/ cycle to Frankton/ Queenstown, potentially within the State Highway corridor.

In relation to walking, cycling, and public transport, while the notified Structure Plan does not show a trail network, the 2015 Structure Plan does and the associated rule clarifies the extent to which they can shift. These amendments are considered appropriate. Whereas the notified version included specific policies (2.12 and 2.13) stating that the desired outcome is a well-connected urban structure (including road layout, cycle and walking networks, landuse densities, and block sizes) which reduces travel distance; is logical and legible; provides high quality walking and cycling routes, and public transport, the 2015 version does not. The notified Outline Development Plan rule also included extensive assessment matters regarding these matters and it appears these no longer exist in the 2015 version.

Usefully, the matters of control at the time of subdivision (recommended to be matters of discretion in this report) include the following:

"The development and suitability of public transport routes, pedestrian and cycle trail connections within and beyond the Activity Area."

This should be supported by the addition of policy to ensure that the desired outcome is achieved. Provided a further policy statement is added and the over-arching assessment matter included ensuring an urban design assessment is provided as part of a subdivision application, then it is likely acceptable to dispense with the detailed assessment matters.

In respect of whether assessment matters are necessary to require some consideration of cycle parking/ storage, it is recommended that this issue is re-introduced as a matter of discretion in respect of multi-unit and non-residential developments, particularly within the EIC where non-residential use is predominant.

In regard to the SDHB's request that cycling and walking infrastructure be provided beyond the zone for commuter use, it is considered impractical to impose such a requirement on the developer to undertake such works. However, control/ discretion over public transport routes, pedestrian and cycle trail connections at the subdivision stage provides an opportunity for the developer to explore such options with NZTA and to propose such a cycle lane, for example, as a method of reducing private vehicle use and encouraging other modes of transport.

It is noted that, outside the District Plan process, the Jacks Point Stakeholders Deed requires that public access routes be formed generally as shown on the Structure Plan attached to the Deed and be formed prior to any residential or commercial activity occurring on that party's land. It also requires that a plan for the public domain be prepared when the Village Outline Development Plan is prepared.

Recommendations and Reasons

In order to improve controls over transportation matters and the form and function of the main road, it is recommended that the 2015 provisions are amended as follows:

- Amend Site Standard 12.2.5.1(iv) as follows in order to ensure that non-residential traffic generation is part of the threshold and to require that all other accesses are closed at the time the Woolshed Road intersection is completed:

12.2.5.1 Site Standards

iv Access (Jacks Point Resort Zone)

No more than 500 residential units, or non-residential activity that is projected to generate the equivalent traffic volumes, may be built within the R(HD) and R(SH-HD) Activity Areas-Hanley Downs area of the Jacks Point Resort Zone without prior to the Woolshed Road intersection being completed and available for use; and

At that time, any landuse or subdivision consent that proposes to upgrade the Woolshed Road intersection or to close it and create an alternative in the vicinity shall also propose the permanent and physical closure of the existing authorised crossing places CPs 60, 62, and 63.

The Council's discretion is restricted to the safe and efficient functioning of the road network.

- Potentially amend the above to be a zone standard rather than a site standard (change not included in the recommended provisions at this stage).
- Amend Rule 15.2.2.6 - non-notification as follows:

15.2.2.6 Non-Notification of Applications

...
Prior to any application for subdivision pursuant to Rule 15.2.3.3(ix) where the subdivision proposes creating or upgrading a connection to the state highway the written approval of the New Zealand Transport Agency must be provided to the Queenstown Lakes District Council.

- Amend the following a matter of discretion under the restricted discretionary activity subdivision rule (which is recommended to replace rule 15.2.7.1 Controlled Subdivision Activities - Subdivision Design of the 2015 version) to read:

15.2.3.3(ix) Within the residential and EIC areas of the Hanley Downs area of the Jacks Point Resort Zone, any subdivision shall be a Restricted Discretionary Activity with the Council's discretion restricted to:

e) Road and street layout, design, and landscaping, including the timing and design of intersections at key road connections and the landscaping of the primary road

- Amended the Structure Plan to show an indicative open space either side of the primary road, and add specific policy to provide direction as to the form, function, and character of this road.
- Amend the Part 14 rules as follows:

14.2.4.1(iv) *Parking And Access Design*

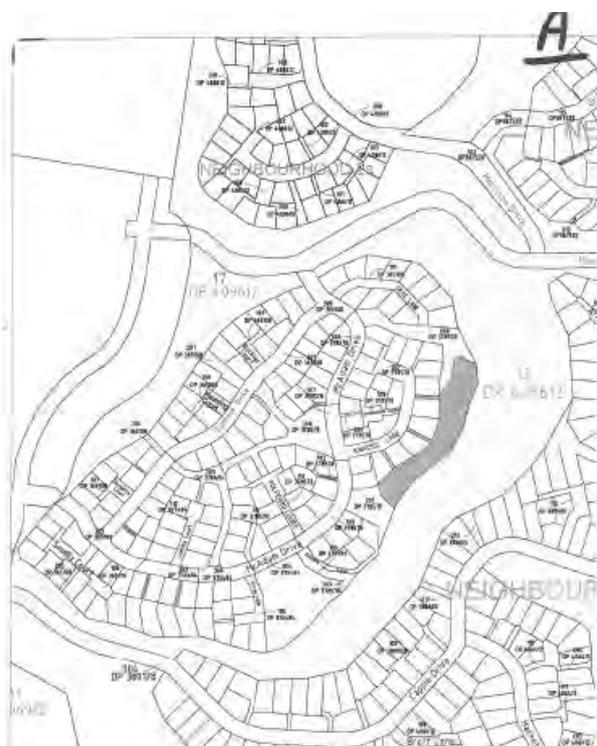
In the LDR and MDR subzones of the Three Parks Zone and in the Hanley Downs area of the Jacks Point Resort Zone, all back lanes serving residential units shall be in accordance with the standards set out in NZS4404:2004 except as identified in the table below:

The actual number of units serviced or the potential number of units serviced by the back lane as a permitted or restricted discretionary activity, whichever is the greater.	Minimum legal width	Maximum legal width
Back lanes servicing 1 to 16 residential units	5 metres	6 metres

17. ZONING AMENDMENTS BEYOND THE HENLEY DOWNS ZONE

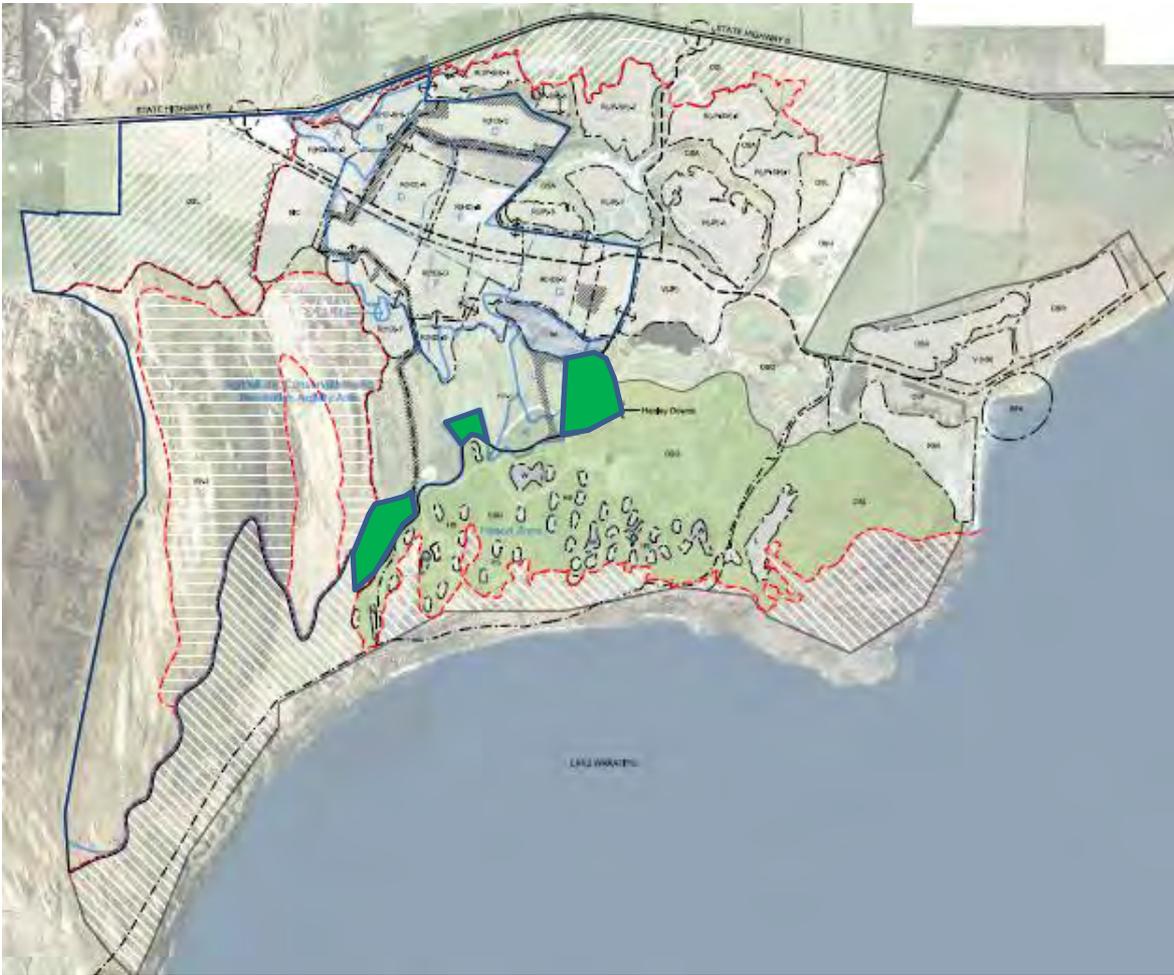
The Issues and Decisions Requested

A submission has been lodged by **Zante Holdings Ltd** requesting that the submitter's land, (being the 7630m² parcel of that land coloured grey on the below plan and legally described as Lot 400 DP378578), be rezoned from open space to residential, so that it becomes part of the adjoining residential activity area (neighbourhood 1). One opposing further submission has been received from a neighbour. This land is located on Kinross Lane and is in the centre of the developed part of the JPRZ (i.e. it is not in close proximity to the Hanley Downs area):



By way of background, a resource consent (RM090252) for a 7 lot subdivision and development of the site was declined by the Council in June 2010, appealed by the applicant, and it is understood, was recently approved by the Environment Court. In light of this, it would be useful for the submitter to confirm whether it is still pursuing its submission to the plan change.

Other than the western-most area (area 3) shown on the below map, which RCL requested be included as a homesite (L), no other submissions sought the other specific extensions to the Hanley Downs Zone, which are included in the 2015 version of the Structure Plan. These are shown in bright green in the plan below:



Discussion

The issues in relation to this submission are:

- Whether this submission is within the scope of the plan change; and
- If the submission is on the plan change, then whether such rezoning is appropriate.

Zante Holdings Limited

When considering the jurisdictional matter in November 2013, I relied on a High Court case 'Palmerston North City Council v Motor Machinists Ltd' (HC, 31/05/13). In summary, that decision endorsed the bipartite approach taken by William Young J in Clearwater Christchurch City Council; namely whether the submission addresses the change to the status quo advanced by the proposed plan change and, secondly, whether there is a real risk that persons potentially affected by such a change have been denied an effective opportunity to participate in the plan change process.

In my opinion, the Zante submission does not:

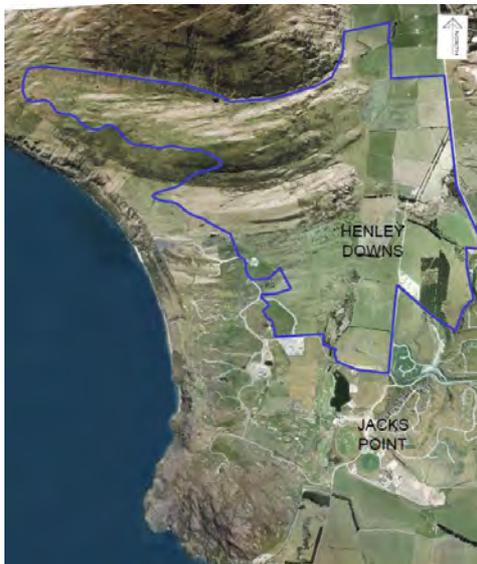
- a) Discuss whether the submission addresses the specific change to the District Plan that is proposed by the plan change;
- b) Provide any Section 32 analysis of the re-zoning sought; or
- c) Include records of any consultation with neighbours other than the statutory processes relating to the resource consent application.
- d)
- e) Rather, in support of its request, the submitter simply states that:
 - a) The plan change makes significant changes to the existing JPRZ and that those changes include amendments to or removal of existing identified boundaries between residential areas and open space areas, thereby enabling more extensive and more efficient use of land suitable for residential activities; and
 - b) The zoning of its land as open space instead of residential was a mapping error and that, regardless of the zoning, it has been fully serviced for subdivision.

Based on the case law referred to above, the following comments are made:

- a) This land does not adjoin the proposed Hanley Downs Zone but, rather, is at least some 470m away.
- b) The plan change does not seek to change the zoning of Zante's land in any way and, as such, the submission is unlikely to be 'on' the plan change.
- c) The S. 32 report does not address the zoning of the Zante land (or any other land beyond the Hanley Downs part of the JPRZ but, to the contrary, pages 5 and 6 of the S. 32 report/ Request report clarifies the scope and purpose of the plan change as follows (emphasis added):

1.3 Scope of the Plan Change

This Plan Change applies to that land identified on Figure 1 below.



Consequential changes are also made to the Resort Zone (which applies to Jacks Point, Homestead Bay, Millbrook and Waterfall Park) so as to remove Henley Downs from that zone.

1.4 Purpose of the Plan Change

This Plan Change Request seeks to amend the Queenstown Lakes District Plan as it applies to the area known as Henley Downs to create a new Henley Downs Special Zone which will enable a range of urban uses while protecting important natural and landscape values. In addition, to enable the rezoning, changes are proposed to Section 12 (Special Zones - Resort Zone), Section 15 (Subdivision) and Section 18 (Signs) of the District Plan.

- d) With regard to whether there is a risk that affected parties have been denied the opportunity to be involved, whilst the Council took the proactive step of advising those in the vicinity of the Zante site that the submission had been lodged (at the further submission stage), this needs to be considered in light of the fact that private agreements (arguably) prevent or at least strongly discourage landowners from submitting. Furthermore, it does not address the possibility that others from further afield/ not directly affected may have concerns about the re-zoning yet have been denied the ability to submit.

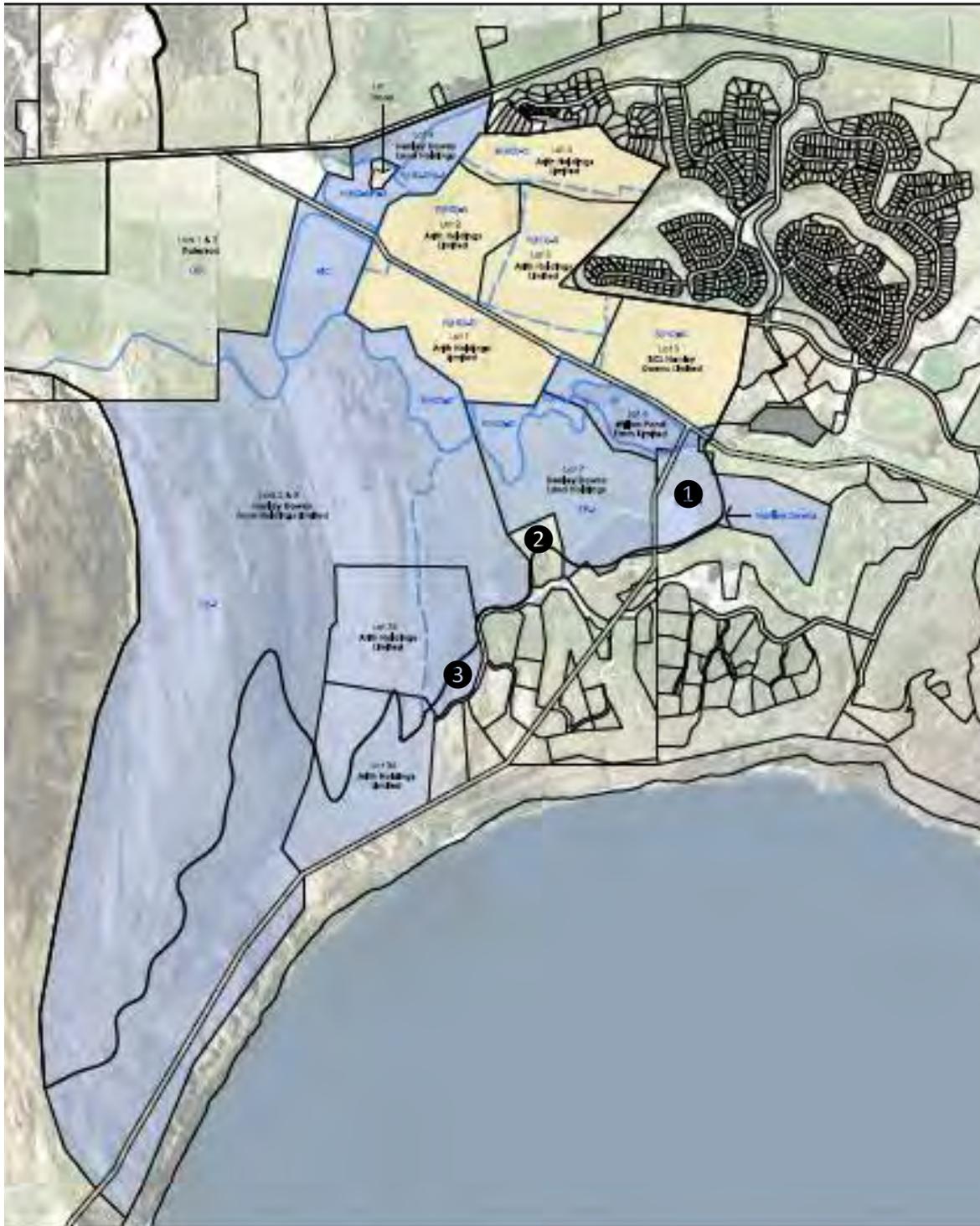
In conclusion, this submission is not considered to be 'on' the plan change. As such, the issue of whether the rezoning sought is appropriate has not been considered in this report. If the commissioners decide that the submission is 'on' the plan change then issues to consider in terms of appropriateness will include any S. 32 analysis provided at the hearing, the findings of the Coneburn Study in respect of that land relative to the area around it, and the matters raised in the Bambers' further submission.

Extensions to the Hanley Downs area shown in the 2015 Structure Plan

You are referred to the opinion of Simpson Grierson attached as Appendix A for reference to the various legal tests and case law that are to be applied when considering such matters of scope. It is noted that Simpson Grierson did not have the benefit of this level of detail when they provided their opinion on this matter.

Rather than make any conclusion on scope in relation to these extensions, some background is provided below, which, together with the legal opinion in Appendix A and any legal submissions you may receive at the hearing, is intended to assist you in your decision-making.

The below land ownership plan (also available on councils website (<http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-44-henley-downs/june-2015-revised-provisions-from-applicant-ahead-of-reconvened-hearing/>)) shows that Jacks Point owns areas 1 and 3 but not Area 2 and, according to that plan, owns some of the land adjoining those extensions.



In terms of the change in development rights resulting from the extensions:

- Area 1 would change from G to FP-1, which allows subdivision to an average lot size of 2 ha and permitted development thereafter, as compared to no residential development and only very little built development in Area G
- Area 2 would change from O/S to FP-1, which allows subdivision to an average lot size of 2 ha and permitted development thereafter, as compared to no residential development and only very little built development in Area O/S
- Part of Area 3 would change from OS (Landscape Protection Area) to FP-2 (Peninsula Hill Landscape Protection Area); neither of which allow little if any development and part would change to FP-2 which could feasibly allow some low density development where it would otherwise not be allowed. Under the RCL

submission, this area would encompass one homesite. Enabling one dwelling on such a homesite was generally agreed to be appropriate in Dr Read's 2013 report.

From the above assessment, it is my opinion that the development rights will increase markedly for Area 1, and very likely for both Areas 2 and 3 and certainly for Area 3, albeit that only 1 house will be enabled in Area 3 under the recommended provisions.

Dr Read makes some comments in section 10 of her June 2015 report in relation to the landscape effects of the extended zonings, concluding at paragraph 9.15, that:

"All three areas over which it is proposed to extend the plan change area from that notified could give rise to adverse landscape effects on persons who would not anticipate them from the notified plan change"

Recommendations and Reasons

It is recommended that:

- The Zante site (Lot 400 DP378578) remain within the open space Activity Area as there is considered to be no jurisdiction to grant the relief.
- Setting scope issues aside, in order to protect landscape values the extensions 1 and 2 sought in the 2015 version of the plan change should be declined and the land not be included within the HD(FP-1) areas and Area 3 should only be allowed to the extent recommended earlier in this report (i.e. top enable a single Homesite with a specific height limit).