Commentary from Blair Devlin on behalf of the QLDC as submitter

Provided at Hearing on 3 July 2015

1. Introduction

1.1 My full name is Blair Jeffrey Devlin. I hold the qualifications of Bachelor of Arts (Geography) and Masters of Regional and Resource Planning (Distinction), both from the University of Otago. I have been a Full Member of the New Zealand Planning Institute since March 2006.

1.2 I have 15 years' experience as a planner. I have worked for local government in New Zealand (Dunedin City and the Queenstown Lakes District) and the United Kingdom for approximately eight years. I have worked in central government for approximately two years as a policy analyst at the Ministry for the Environment. I have worked in private practice as a senior consultant planner for over four years for Brown & Pemberton Planning Group Limited and Southern Planning Group Limited, both based in Queenstown.

1.3 I have practised in the Queenstown Lakes District since 2007 and am currently employed by the Queenstown Lakes District Council as Resource Consent Manager. I reside in Queenstown.

1.4 Of relevance is that in 2012 I authored a monitoring report on the Resort Zone provisions for the District Plan review.

1.5 My involvement with Plan Change 44 – Hanley Downs (PC44) commenced in 2013 when I worked in the Council's Planning Policy team. I prepared the submission authorised by the Council's Strategy Committee on 23 April 2013.

1.6 My responsibility for PC44 has been to review the plan change request, prepare the QLDC submission (approved by the Council's Strategy Committee) and now to review subsequent changes (dated 9 June 2015 and yesterday at the hearing) proposed by the plan change requestor and other submitters, and present evidence at this hearing.

1.7 Due to time constraints with completing this statement, I have not been able to seek comment from the Council in it is corporate capacity on the revisions made since it's submission on PC44 was lodged.

1.8 I am familiar with the site and the surrounding area and have visited the site on numerous occasions.

2. Comments of QLDC submission and Statement of Evidence on the revised PC44

2.1 The original QLDC submission on PC44 as notified is now largely irrelevant due to changes – I can run through the submission but it has been overtaken by revisions. I would like to emphasise support for inclusion of the PC44 provisions into the Resort Zone rather than another special zone to a special zone, and a greater range of housing types / styles / densities.

2.2 There are currently 471 pages of special zones in the District Plan. The unnecessary proliferation of special zones makes the Council's district plan very large, cumbersome and difficult to administer. Each special zone has an array of activity areas and drafting of provisions needs to be done extremely well or problems arise. Building on the operative Resort zone provisions is therefore supported.

2.3 Council's submission recognises that the majority of the area subject to PC44 is already zoned for development, and supports the provision of a range of different housing types at a range of densities, including smaller sections and multi-unit development. The style of residential development to date at Jacks Point has been large detached houses on separate sections, and Council supports a greater range of section sizes and housing types including more affordable housing options.

2.4 I am happy to answer any questions with regard to the Council's submission on these technical points to the notified PC44, although as will be discussed, this has now been overtaken by the revised PC44 provisions. Therefore my evidence is on the revised provisions.

2.5 Naturally the QLDC original submission does not specifically refer to the revised provisions as they were not what were notified, however the QLDC submission relates to *"the whole of Plan Change 44"*. If the Commissioners come to determine that the revised plan change is within scope of what was notified, I believe this general statement at the front of the QLDC submission would also enable QLDC to speak on the proposed PC44 changes.

2.6 Evidence that I provided on Monday has now also largely irrelevant as many of the matters raised have been addressed through the altered provisions provided by Mr Wells and Mr Ferguson. This statement is more a commentary than evidence, as the final provisions were only really available following Mr Ferguson's evidence yesterday. This puts submitters in a very difficult position.

Points of Order

2.7 Right of reply – All the Henley Downs companies represented by Ms Baker Galloway (all of whom were submitters) were yesterday granted a right of reply – I have not heard of a submitter being granted a right of reply before. This is unusual. Are all submitters to have a right of reply?

2.8 Scope – I remain of the view that much of what is proposed is outside the scope of what was notified. Ms Baker-Galloway did mention this in her opening statement and I wanted to highlight one matter that is in fact quoted in her evidence:

> [11] *Motor Machinists Ltd v Palmerston North CC* [2012] NZEnvC 231 overturn *Naturally Best NZ Ltd v Queenstown Lakes DC* C049/04. While incidental or consequential extensions of zoning changes proposed in the plan change were permissible, this came with the proviso that such changes did not raise matters which should be addressed in a further evaluation under s 32, to inform affected persons and to ensure that they were not "left out in the cold". See [45]–[46], [69]–[83], [88]–[89] and [91], *Palmerston North CC v Motor Machinists Ltd* [2013] NZHC 1290.
> [12] *Re Palmerston North Industrial and Residential Developments Ltd* [2014] NZEnvC 17
> [13] Schedule 1, cl 10 - For an assessment of the degree to which a proposal may be amended "the paramount test applied was whether or not the amendments are ones which are raised by and within the ambit of the submissions". It will usually be a question of degree to be judged by the terms of the proposed change and of the content of the submissions. See *Countdown Properties (Northlands) Ltd v Dunedin CC* (1994) 1B ELRNZ 150, [1994] NZRMA 145. Schedule 1, cl 10 - As part of the ultimate question as to whether an amendment to a proposed plan is fairly and reasonably within the submissions filed, the local authority must consider whether interested parties would reasonably have appreciated that such an amendment could have resulted from the decisions sought by the submitter summarised by the local authority. See [15], *Christchurch International Airport Ltd v Christchurch CC* C077/99.

2.9 With reference to Ms Baker-Galloways quote "*as part of the ultimate question as to whether an amendment to a proposed plan is fairly and reasonably within the submissions filed, the local authority must consider whether interested parties would reasonably have appreciated that such an amendment could have resulted from the decisions sought by the submitter summarised by the local authority".*

2.10 The focus in the case law quoted by Ms Baker-Galloway is on the summary of submissions, as that is what is publicly notified, and from which an interested party might look to decide whether to lodge a further submission. I have copied below from the summary of submissions for PC44:

Name *Henley Downs Farm Limited*

Position	***Plan Provision***	***Decision Requested***	***SubNo.***
Partly Support		That PC 44 be confirmed subject to refinement of the proposed Structure Plan to better achieve efficient use and development of the land resource for the range of activities anticipated by PC 44.	44/5/1

Name	*Henley Downs Land Holdings Limited*		
Position	***Plan Provision***	***Decision Requested***	***SubNo.***
Partly Support		That PC 44 be confirmed subject to refinement of the proposed Structure Plan to better achieve efficient use and development of the land resource for the range of activities anticipated by PC 44.	44/6/1

Name	*Henley Downs Farm Holdings Limited*		
Position	***Plan Provision***	***Decision Requested***	***SubNo.***
Partly Support		That the objective, policies, and rules relevant to the ACRAA are amended to enable education, rural-based tourism, community, visitor accommodation and service activities (all including buildings) in areas where such activities and buildings can reasonably be located without significantly adversely affecting the landscape and environmental values of the ACRAA, while ensuring that the majority of the ACRAA retains its current open space values	44/4/1
Partly Support		That the provisions of the ACRAA are amended to clarify that buildings supportive of agricultural include a residential dwelling to provide accommodation for the farm owner	44/4/2

2.11 Focusing on the Education Innovation Campus (EIC) – I do not consider that an *'interested party'* could '*reasonably'* have *'appreciated that such an amendment could have resulted from the decisions sought by the submitter summarised by the local authority'*. For example there is no mention in that summary of the creation of a new Education Innovation Campus, or the supporting objectives, policies rules and amendments to the structure plan. Indeed none of summaries of submissions above mention altering the structure plan, or creating new activity areas.

2.12 Mr Ferguson's evidence has now stated that it is in fact now a *"mixed use node"*, which is my opinion is different again to an Education Innovation Campus. Again, in the notified version of PC44, there is no mention of creating a mixed use node.

2.14 The summary of the Henley Downs Farm Holdings Ltd summary requests that the ACRAA is "amended" yet it has been replaced completely.

2.15 In my opinion, it was not possible for submitters to have anticipated the significantly revised provisions from the submissions that were lodged, due to the very general nature of the submissions. If these provisions (for example the creation of a new EIC) had formed part of an original submission, I would have briefed the Council's then Strategy Committee and sought their direction on whether they wanted to lodge a further submission. Council may well have lodged a further submission.

2.16 Paragraph 12 of the Simpson Grierson advice provided with the s.42A report stated:

> 12. In this case, it appears that the changes that are now being proposed by Henley Downs and the Requestor extend beyond the changes that were sought to the operative Queenstown Lakes District Plan through PC44. Furthermore, we consider that there is a real risk of natural justice issues arising given the lack of detail provided in the submissions that were made by Henley Downs and the scope of the changes now being proposed.

2.17 I am not a lawyer but I have read the legal advice of Simpson Grierson attached to the reporting officers evidence. Ms Baker –Galloway has dismissed this as out of date – can I suggest the Commissioners get their own legal advice on the scope issue.

District Plan Review

2.18 Mr Holm said the District Plan review was some way off – I can advise the Commission that is going to an extraordinary meeting of Full Council on 23 July and if accepted will be notified by the end of July / early August. The review is imminent.

2.19 I have no knowledge of the revised Jacks Point provisions that went to Council this week as part of the District Plan Review.

Regulatory Burden

2.20 Evidence of Mr Whiteman – The RCL area is zoned for development. In my opinion he can provide that 'middle' housing i.e. a more affordable option than Jacks Point today. An ODP has already been approved for this area (RM071131) and could be approved again tomorrow. RM071131 has now lapsed but was granted non-notified. Refer **Attachment A** for the approved ODP overlaid on PC44 as notified. I do agree the residential pods on the flatter parts of Hanley Downs do not seem logical and support a more efficient use of the flat land in this srea.

2.21 I believe there has been an over-emphasis on the regulatory burden of operative provisions – yes you need an ODP, a subdivision consent and a landuse consent for each dwelling – I agree it's not perfect. The need for a consent for each dwelling is expensive (approx. $1300) and in my opinion could easily be written out to a rule that could be complied with. However the ODP and subdivision consent can be lodged together, and QLDC has approved consents for 10 or more dwellings at a time. While this is an area outside of my expertise, I am not convinced regulatory cost of consents would be more than the usual 1% of development cost.

2.22 The issues with having to get an ODP, subdivision consent and then an individual consent for each dwelling is being used to justify a complete overhaul of the Resort Zone provisions. PC44 could have made much smaller, more discrete changes to achieve reduction of regulatory burden without the entirety of what PC44 has now become.

2.23 I note that I have been actively involved in the consenting of development of Shotover Country and they manage fine with having to get an ODP and use this as a marketing tool to sell the sections off.

2.24 I would emphasise the requirement to go through a design review board process (and charge everyone for it) is entirely at Jacks Points discretion. Requirement is registered on the title by the developer and the developer could choose to simply not require that on the new titles created. This would immediately reduce costs for applicants by not requiring the Jacks Point Design Review Board process (which Jacks Point charge for).

ODP versus Spatial Development Plan

2.25 We have the rather unusual situation where the initiator of the PC44 is saying an ODP is ultra vires, and Mr Ferguson referred to his experience where he found the regulatory burden of an ODP is too great in the Jacks Point part of the Resort zone, yet he then effectively replicates the ODP mechanism in his provisions through a spatial development plan. Mr Ferguson did say the difficulties with the ODP were with regard to more dense development, however I note the spatial layout plan could be for 34 residential units.

3. Comments on Proposed Changes to the 'Resort Zone' objectives and policies

3.1 With regard to new 'issue' on page 12-3 of Mr Fergusons annotated set of provisions – I just note that I do not think this is a genuine resource management issue:

> viii **Ability to absorb change (Hanley Downs)**
> The characteristics of the Hanley Downs area lend many parts of it to a greater intensity and scale of residential development, without compromising landscape and natural values.

3.2 When you look at the other resource management issues, provision of services, visual amenities, traffic safety and access, pollution, historic character, natural character and public access, it reads more like a policy.

3.3 With regard to Mr Fergusons amendments to Policy 3.16, I would agree with Mr Wells that the words Mr Ferguson has added, *"and diversity of living and complementary activities"*, serve to confuse the policy which otherwise relates to the use of a structure plan.

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:*

a. *Integration of activities and servicing and other parts of the Jacks Point Zone*

b. *Landscape and amenity values*

c. *Road, open space and trail networks*

d. *Visibility from State Highway 6 and Lake Wakatipu*

3.4 I have concerns with Mr Fergusons Policy 3.18:

3.18 *To provide a diversity of living accommodation, including opportunities for farm and rural living at low densities.*

3.5 Policy 3.18 refers to providing for "farm and rural living", a term that is very open to interpretation. I do not know what "farm…living" refers to. If it means rural residential development it should say so. If it is suggesting that this area is productively farmed such that it requires accommodation for the farm owner and farm workers, I would find that surprising. I therefore feel this policy adds little value and clarity and could be deleted. The policy could be used to justify any type of non-complying rural residential style development in the more sensitive areas of FP-1 and FP-2.

5.1 With regard to Mr Fergusons Policy 3.20, as noted earlier, what was an Education Innovation Campus has now become a mixed use node, and I wonder whether the two things are the same. I comment further in the rules about what a 'technology based activity' actually is. I also share the concern of Commissioner Munro raised yesterday with regard to how locating the EIC as far as possible away from the Jacks Point Village achieves integrated management or Policy 3.20(a) with regard to complementing the function of the Jacks Point village.

3.20 *To enable the development of education, business innovation and associated activities withinensure thethat the Education Innovation*

Campus is developed as a high quality mixed use node that ~~, subject to achieving high standard of urban design.~~

(a) Complements the function of the Jacks Point Village

(b) Avoids large format retail and a scale of retail activity conflicting with the function of other commercial centres within Queenstown and Frankton

(c) Enables technology based activities, including any related activities including commercial and medical research, laboratories, training, educational facilities, specialist health care activities

(d) Achieves a layout, scale and appearance of built form with a high standard of urban design

(e) Mitigates the visual impacts of building development through appropriate landscape mitigation and provision of open space.

3.6 With regard to Policies 3.26 and 3.27:

3.26 To enable commercial activities within the Residential (Hanley Downs) Activity Area, designed to service the needs of the local community, where they can locate along or near primary roads.

3.27 To enable commercial and community activities and visitor accommodation, provided residential amenity, health and safety are protected or enhanced through:

a. Compatible hours of operation and noise;

b. A high standard of building design;

c. The location and provision of open space, buffers and setbacks;

d. Appropriate landscape mitigation;

e. The design of vehicle access and car parking; and

f. An appropriate scale of activity and form of building development.

3.7 I note Policy 3.26 is limited to the Residential (Henley Downs) activity area, whereas Policy 3.27 seems to apply zone wide. My concern is that Policy 3.27 is not similarly limited to the residential activity areas and could be used to justify visitor

accommodation and other commercial activities in the more sensitive parts of the zone.

3.8 With regard to Policy 3.3.2, this should state "servicing" infrastructure not "serving".

3.32 To ensure provision of integrated serving infrastructure, roading and vehicle access-.

4. Comments on Proposed Changes to the 'Resort Zone' rules

4.1 I refer to the track changed version of the Resort Zone provisions provided by Mr Ferguson yesterday.

Proposed Rule 12.2.3.3(b) Restricted Discretionary Activities – residential and Visitor accommodation activities (all excluding buildings) in FP(1)

~~b) Within the FP(1) Activity Area of the Jacks Point Resort Zone the construction of any residential unit which has not been created in accordance with Rule 15.2.17.2(ii) Hanley Downs Conservation Lots, with the Council's discretion restricted to the creation of open space, creation of conservation benefits and effects on landscape and amenity values.~~(b) **Residential and Visitor Accommodation Activities (all excluding buildings) in Activity Area FP-1**

Information Requirements:

Any applications for resource consent under this rule shall include a Spatial Layout Plan in respect of the whole FP-1 Activity Area and landscape analysis identifying areas of the Activity Area with capacity to absorb change.

Matters of Discretion:

The Council's discretion is restricted to:

i. Effects on landscape and amenity values through the location of sites for all building development

ii. Subdivision layout

iii. The protection of areas of open space

iv. Effects on significant rock outcrops, streams, ephemeral wetlands, swamps and grey shrubland habitats

4.2 I do have a concern about the number of buildings proposed in the FP-1 Activity area. This area is currently in the O/S part of the Structure Plan, and new buildings are non-complying. We seem to have moved very rapidly to a position whereby a potentially large number of buildings in this area are now anticipated. I was not able to attend all of the hearing yesterday to hear the evidence of Ms Fluger and Dr Read,

however I do have concerns at how this area could now have a yield of up to 34 lots (page 8 of Ferguson evidence). I'm not sure how this 'better' achieves the purpose of the Act, or maintains and enhances the amenity values of the area, than the operative provisions.

4.3 I do not understand why discretion is restricted to the creation of open space. The area is already open space, so how could Council possibly exercise its discretion? Any resource consent application for a residential unit would inevitably reduce the amount of open space. I am sure the rule is talking about private open space rather public open space so seems completely redundant. The open space is already protected through the operative non-complying activity status, as the O/S annotation on the operative structure plan.

4.4 With regard to the proposed addition made by Mr Ferguson for visitor accommodation in the FP-1 activity area, Mr Ferguson proposed:

> iii. Visitor accommodation activities located within Activity Area FP-1, with the Council discretion restricted to:
>
> a) Traffic generation, vehicle access, street layout and car parking
>
> b) Scale of the activity
>
> c) Noise
>
> d) Hours of operation

4.5 I am unclear how you can have discretion over the hours of operation for visitor accommodation – it is a 24 hour a day activity. If you book a place for three nights you expect to be able to stay there the whole time.

4.6 I share the concerns of Commissioner Whitney that the rules for visitor accommodation are spread in a variety of different areas and the potential for errors is high.

4.7 With regard to full discretionary activity below:

xiii **Building within the ~~Peninsula Hill Landscape Protection Area,~~ Lake Shore Landscape Protection Area or Highway Landscape Protection Area identified within the ~~on the~~ Hanley Downs area of the Jacks Point Structure Plan.**

xiv **Building within Activity Area FP-2**

Building within Activity Area FP-2, outside of the identified Farm Preserve Home Sites and the Peninsula Hill Landscape Protection Area

xv **The use or development of land within Activity Area FP-1 in the absence of resource consent granted under Rule 12.2.3.3(b)**

~~X~~xivi **Service Activities in the Residential (Hanley Downs) Activity Area**

4.8 In my opinion, providing for the ability to have more buildings outside of the FP-2 homesites as a discretionary activity does not 'better' promote sustainable management of the ONL than the operative provisions. The structure plan identifies just two possible homesites, and as noted earlier with the very enabling policies for "farming…living" whatever that might be, this rule sets up future applications in the ONL. I note it is the landscape itself that is to be protected under section 6(b) of the RMA, not views of the ONL. Any decision makers under the RMA shall recognise and provide for the protection of ONLs from inappropriate subdivision, use and development.

4.9 While it could be argued building in the Rural General ONL is a fully discretionary activity as well, in this case we have an incredibly detailed structure plan that is not the case in the RG zone. In my opinion rules should require adherence to the structure plan, otherwise all the effort that went in to preparing it is undermined.

4.10 I do not understand why buildings within the Peninsula Hill Landscape Protection area have been made non-complying, but buildings within the Lake Shore Landscape Protection Area remain discretionary. I would have thought the two areas should both be non-complying.

4.11 The Peninsula Hill Landscape Protection Area, the Lakeshore Landscape Protection Area and the Highway Landscape Protection Area are all currently covered by an O/S or G activity area under the operative district plan, where new buildings are non-complying.

4.12 These areas are all generally quite visible from public places (as defined in the District Plan). With regard to visibility from the State Highway, to date development at

Jacks Point has sought to avoid it becoming the entrance to Queenstown, and sought to ensure development is not readily visible from the State Highway.

4.13 I do not believe the submitter has given any explanation as to how lowering the activity status to discretionary better promotes sustainable management than the operative provisions

Proposed Rule 12.2.4 Non-notification rule

(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(~~cb~~) Residential and Visitor Accommodation Activity (all excluding buildings) ~~Units Activity Area in FP-2 and Visitor Accommodation within~~ FP-1 ~~and FP-2~~

(ii) Rule 12.2.3.3(c) Residential, Visitor Accommodation and Rural Activities within FP-2 Homesites

(iii) Rule 12.2.3.3(d) Commercial activities, community and visitor accommodation within Hanley Downs.

~~12.2.3.3(e) Woolshed Road / State Highway 6 intersection design, only in respect of the New Zealand Transport Agency~~

~~(ii)~~(iv) The Sale of Liquor, pursuant to 12.2.3.3(ei)

~~(iii)~~(v) Rule 12.2.5.1(iii) Setbacks from Roads and Internal Boundaries

(vi) Rule 12.2.5.1 (iv) Access (Jacks Point Zone), only in respect of the New Zealand Transport Agency

4.14 In my opinion it is not appropriate to have a non-notification or limited notification only rule for matters (c)(ii) (iii) or (iv).

4.15 With regard to (c)(ii), given the District wide objectives and policies, and the Part 2 matters of national importance at play in the FP-2 areas, non-notification or limited notification may not always be appropriate. I do recognise the Council could use special circumstances to notify any application. Under the proposed provisions, the wider community would not have the opportunity to be heard on the effect of the development on areas of Outstanding Natural Landscape – which is an issue of wider public interest in this district.

4.16 With regard to c(ii), the definition of commercial activities is so broad that notification may be required.

4.17 With regard to c(iv), licensed premises can be very controversial.

4.18 With regard to the Education, Innovation Campus, of note is that Site Standard 12.2.5.1(c) below seeks to restrict the use to "technology based activities".

(c) Education Innovation Campus (EIC) – 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.

4.19 I have concerns with this site standard. The term 'technology based activities' is vague. What is a 'technology based activities'? Any type of tool or machinery is 'technology' (defined by the online Oxford Dictionary as *"the application of scientific knowledge for practical purposes, especially in industry".* The term 'ancillary' is usually used in the District Plan rather than 'associated', to ensure retailing is secondary to the primary use.

4.20 Replacing the word "including" with "limited to" would also provide greater certainty, as any activity that utilises technology of some sort would be a 'technology based activity':

> *(c) Education Innovation Campus (EIC) – The use of this area is restricted to technology based activities ~~including~~* ***limited to*** *commercial and medical research, laboratories, training, educational facilities, specialist health care and ~~associated~~* ***ancillary*** *administrative, office, accommodation, retailing and recreation facilities.*

4.21 Due to the broad definitions of 'commercial activity' and 'technology based activities' there is little actually requiring commercial activity in the Education Innovation Campus to be related to either education or innovation.

4.22 In my mind things like 3D printing or micro chip making spring to mind. However the District Plan already has a definition for those types of activities – industrial activity:

INDUSTRIAL ACTIVITY	Means the use of land and buildings for the primary purpose of manufacturing, fabricating, processing, packing, or associated storage of goods

4.23 In the Resort Zone industrial activities are a non-complying activity. The proponents of PC44 even added a Policy 3.30 *"To avoid industrial activities".*

4.24 So the unlucky resource consent planner gets landed with a 3D printing resource consent application. It is a 'technology based activity' but would also fall within the definition of a non-complying industrial activity, which has a policy to avoid, therefore notification with a decline recommendation?

4.25 So I can see much confusion arising when someone comes to apply these provisions. The concern I have is that by creating a new undefined activity 'technology based activities' you could potentially permit this in every other zone in the District. Our plan is written on the basis of "any activity not listed as controlled, discretionary, non-complying or prohibited is a permitted activity". By adding a new type of activity, how can you know you are not permitting it in all other zones. There is no definition of technology based activities, and even if there was, would it exclude industrial activities? Would you change their status to permitted and change policy 3.30?

Site standard 12.2.5.1 xvi – Building Colours

> **xvi Building Colours – Hanley Downs**
>
> In the Hanley Downs area of the Jacks Point Resort zone any building shall result in:
>
> (a) At least 70% of the total painted or galvanised external surface of buildings (excluding roofs and windows) with a reflectance value of between 0 and 35%;
>
> (b) Roof colours shall have a light reflectance value of 20% or less, and in the range of browns, greys and black.

4.26 I concur with the concerns of Dr Read with regard to this rule. Specifically, that if residential development is to be allowed within the ONL(WB) portions of the site that it should be managed in a similar way to the Home Sites under the operative plan provisions.

4.27 Under the rule as proposed, 30% of the walls could be white, which is contrary to the practice established over the last decade in the Rural General zone of the District. While this is not the rural General zone, there seems to me no strong reason to enable 30% of a dwelling to be particularly prominent or to stand out in the landscape, and the District Wide objectives and policies seek to ensure buildings and structures are "reasonably difficult to see" (District Wide policy 3(a)(iii)):

3. Outstanding Natural Landscapes (Wakatipu Basin)

(a) To avoid subdivision and development on the outstanding natural landscapes and features of the Wakatipu Basin unless the subdivision and/or development will not result in adverse effects which will be more than minor on:

(i) Landscape values and natural character; and

(ii) Visual amenity values

- recognising and providing for:

(iii) The desirability of ensuring that buildings and structures and associated roading plans and boundary developments have a visual impact which will be no more than minor, which in the context of the landscapes of the Wakatipu basin means reasonably difficult to see;

(iv) The need to avoid further cumulative deterioration of the Wakatipu basin's outstanding natural landscapes;

(v) The importance of protecting the naturalness and enhancing the amenity values of views from public places and public roads.

(vi) The essential importance in this area of protecting and enhancing the naturalness of the landscape.

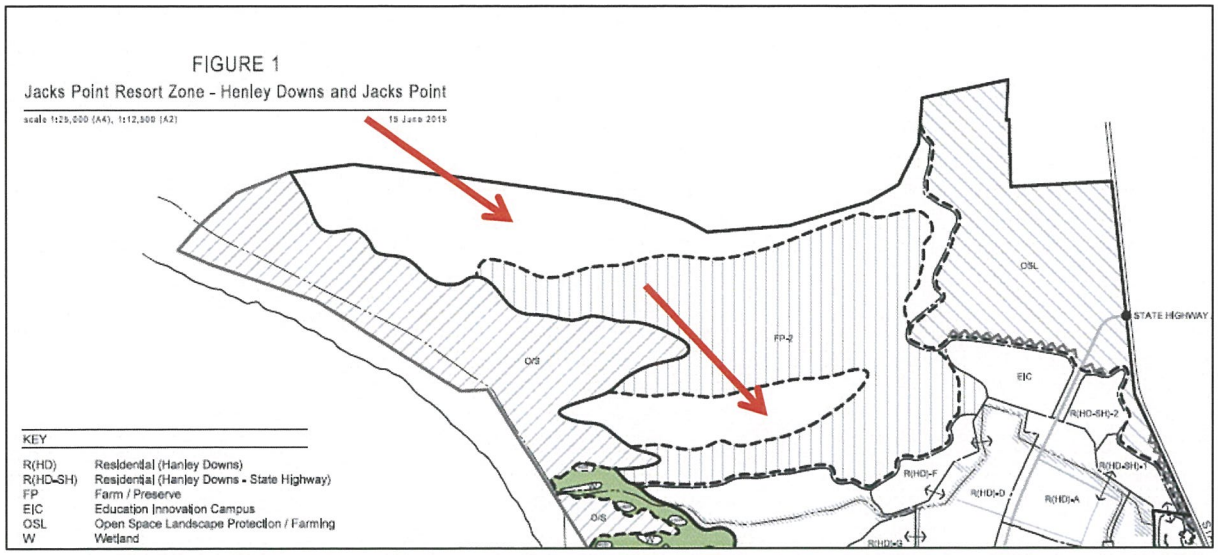
4.28 The operative Resort Zone provisions permit residential flats. The Commissioners should bear in mind that they are therefore a permitted activity when considering the density provisions for the residential activity areas which will also allow a residential flat with every residential unit as a permitted activity.

4.29 I agree with the reporting officer (and the applicant and some of Mr Fergusons changes) on the following points:

a) Make all subdivision a restricted discretionary activity, rather than controlled and add various matters of discretion at the subdivision stage.
b) Require a certain density to be provided within the various R(HD) areas, through having density as a zone standard rather than a site standard
c) Impose maximum densities (but no minimum density) in the RL areas (proposed through this report) as a zone standard.
d) Add 'the identification and location of small lots and medium density residential lots' as a further matter of discretion/ control at the subdivision stage.
e) Improve control over the clearance of indigenous vegetation through the RG(HD) area provisions
f) Provide more control over screening of areas R(HD-SH) and EIC
g) Provide more control over the biodiversity management and restoration of the wetland. This is a matter of national importance.

5. Comments on Proposed Changes to the 'Structure Plan

5.1 The proposed structure plan has two areas that seem to have no annotation. It is unclear what provisions would apply to these areas, if any. This needs to be clarified:

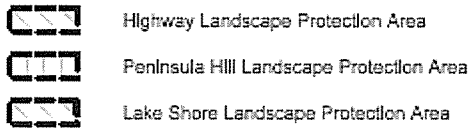


5.2 In the 'summary of changes' document provided by applicant, it refers to the Henley Downs Activity Area moving to incorporate the quarry. A 'Q' Activity Area is listed on the legend for the 'combined structure plan' but does not seem to appear on either the 'combined' or the actual Figure 1 the actual structure plan. There was no 'Q – Quarry' activity rea in the notified provisions. It is therefore unclear whether there is meant to be an Activity Area Q:

R(HD)	Residential Hanley Downs
R(HD-SH)	Residential Hanley Downs - State Highway
EIC	Education Innovation Campus
Q	Quarry
L	Lodge
HS	Preserve Homesites
FP	Farm / Preserve
W	Wetland
OSG	Open Space Golf
OSL	Open Space Landscape Protection / Farmin
OSA	Open Space Residential Amenity

5.3 The Structure plan annotation for the 'Highway Landscape Protection Area' and the 'Lake Shore Landscape Protection Area' is identical – it is not clear if this is deliberate or accidental given the Peninsula Hill Landscape Protection Area is given a different horizontal hatching. It would be clearer if a different type of hatching was used for the two different areas. i.e. at the moment the area adjacent to the State

Highway has the same hatching the Legend uses for the 'Lake Shore Landscape Protection Area'.



6. Other comments

Film Studio

6.1 Reference was made by Mr Ferguson to a film studio going into the EIC. There was previously a film studio approved in the vicinity of where the EIC is proposed under a resource consent. It was a fixed term consent that required the studio to be removed following completion of filming of the movie The Leading Edge. A further notified resource consent (RM020247) was granted to retain the film studio but the consent was not given effect to and the studio was removed.

6.2 If the intention of the EIC is to enable a film studio as Mr Ferguson suggested, I know the notified consent to permanently retain it had submissions in opposition, and this relates to my questions of scope raised earlier.

Service Activity Area

6.3 When I met with Jacks Point in preparing the monitoring report on the Resort zone provision, they emphasised to me the need for a 'service activity area' for building out the development of the whole zone. The reporting officer notes this in her s.42A report. This does not now seem to be an issue for Jacks Point.

6.4 Mr Wells referred to the temporary activity rule in chapter 19 of the District plan for 'temporary activities ancillary to building and construction work' – however this rule is clear that that it is for the various permitted matters associated with an individual site construction and has a limit of 50m2 for buildings:

> *'temporary building, office, storage shed, workshop, scaffolding, safety fences, and other similar buildings and activities that are ancillary to a building or construction project and located on the same site; and do not exceed 50m2 in gross floor area and are limited to the duration of the construction project, or a period of 12 months, whichever is lesser'.*

6.5 So with the statement of Mr Whiteman that they wish to proceed with development, once the site is subdivided there will be the need for a service area to build the whole development. The operative plan has industrial activity as non-complying, and the

proposed changes to PC44 include a policy to avoid them, so I am not sure thought has been given to how the zone will be built out.

Cascade of Objectives, Policies and Rules

6.6 Due to the myriad changes made to the provisions, I have not had an opportunity to ensure the rules give effect to the policies and the policies give effect to the objectives. I would ask the Commissioners ensure the zone provisions work well as a whole given the significant changes to them made over the course of the hearing.

7. Conclusion

7.1 Given the extent of changes made to the notified version of PC44, it was not worthwhile to take the Commissioners through the largely technical points made in the QLDC submission on the PC44 provisions as notified, as those provisions have been replaced with a new set of provisions. Similarly my evidence circulate don Monday has been overtaken by revisions by the requestor and another submitter.

7.2 My commentary has tended to focus on the provisions of concern, and I have not mentioned those provisions that QLDC is largely comfortable with.

7.3 I have not had as much time as I would have liked to prepare this commentary, as the provisions were still being amended by Mr Wells and Mr Ferguson as they were being presented to the Commission. However I hope it is of some assistance to the Commissioners in making their decision. QLDC ultimately has to administer these provisions and seeks provisions that are clear, concise, unambiguous, well drafted and achieve the objectives of the zone.

7.4 I am happy to answer any questions.

Blair Devlin

APPENDIX 8: PROPOSED STRUCTURE PLAN OVERLAYED ON THE APPROVED ODP

vivian+espie
resource management and landscape planning