

Before Queenstown Lakes District Council

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In the matter of            The Resource Management Act 1991

And                            The Queenstown Lakes District proposed District Plan Topic 09  
Resort Zones

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**MEMORANDUM OF COUNSEL FOR**

Jack's Point Residential No.2 Ltd, Jack's Point Village Holdings Ltd, Jack's Point Developments Limited, Jack's Point Land Limited, Jack's Point Land No. 2 Limited, Jack's Point Management Limited, Henley Downs Land Holdings Limited, Henley Downs Farm Holdings Limited, Coneburn Preserve Holdings Limited, Willow Pond Farm Limited (#762, #856 and #1275)

Jack's Point Residents and Owners Association (#765, and #1277)

Dated 2 June 2017

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**anderson  
lloyd.**

## MAY IT PLEASE THE PANEL

- 1 This Memorandum of Counsel is lodged on behalf of the named Submitters (**Jack's Point**) in respect of evidence lodged in Hearing Stream 09 of the Queenstown Lakes District Plan Review (**DPR**).
- 2 This Memorandum seeks to formally withdraw and otherwise amend parts of evidence lodged by Jack's Point in the course of Hearing Stream 09. Amendments to evidence are indicated in the appended extracts where text to be deleted is ~~struck out~~.
- 3 In general terms the amendments to the evidence and the Structure Plan remove comment in respect of proposed provisions that relate to land owned or controlled by RCL, particularly as those comments relate to the status of Visitor Accommodation and the provisions in respect of density for R(HD)E. Jack's Point withdraws evidence as it relates to matters on land owned or controlled by RCL.
- 4 The particular parts of the evidence to be withdrawn / amended are included within the following appendices to this Memorandum:
  - (a) **Appendix A** – Extracts of Mr John Darby's Evidence in Chief dated 03 February 2017 and summary statement of evidence dated 15 February 2017;
  - (b) **Appendix B** – Extracts of Mr Mike Coburn's Evidence in Chief dated 03 February 2017 and summary statement of evidence dated 15 February 2017 ;
  - (c) **Appendix C**– Extracts of Brett Thomson's Evidence in Chief dated 03 February 2017 and summary statement of evidence dated 15 February 2017;
  - (d) **Appendix D** – Extracts of Mr Ferguson's Evidence in Chief dated 03 February 2017;
  - (e) **Appendix E** – Extracts of Legal Submissions of Ms Baker-Galloway dated 10 February 2017
- 5 In addition to the above, a revised Structure Plan advanced by Jack's Point is appended dated 3 May 2017. The Structure Plan submitted as **Appendix G** to this Memorandum which:
  - (a) Corrects a mapping discrepancy in respect of the boundary of R(HD)-E as it abuts V(JP)-A; The boundary between R(HD)E and V(JP)A had been amended from one single line as notified, to a double line boundary

with OSA in between. This has now been corrected back to the boundary as notified;

- (b) Corrects a mapping discrepancy in respect of the OSA notation over R(HD)-E; The location of the OSA within R(HD)E had been moved as compared to the Structure Plan as notified. The version attached corrects the OSA shape and location back to that as notified. The area of the proposed OSA had not altered;
- (c) Changes the boundary of R(HD)B as it relates to R(JP)3; The boundary had been changed to take into account the point, now withdrawn, from Mr Coburn's Summary Statement dated 15 February 2017, as they relate to "the Spur land". JPROA objected to the spur land not being retained as an area of open space (OSA) between R(JP)3 and R(HD)B. That evidence objecting to inclusion of the spur land in R(HD)B is now withdrawn and the Structure Plan supported by Jack's Point amended accordingly.

Dated this 2<sup>nd</sup> day of June 2017



**Maree Baker-Galloway**  
Counsel for Jack's Point

**Appendix A** – Extracts of Mr John Darby's Evidence in Chief dated 03 February 2017 and extracts from Summary Evidence dated 15 February 2017 to be withdrawn from evidence are shown in strike out;

***Withdrawn extract from Evidence in Chief 3 February 2017***

~~19. The CARS 2015 also supports expansion of the Residential (R) activity areas in Hanley Downs valley floor area. The measured areas of the expanded R activity areas is approximately 146ha. The extent of linked open space and maximum number of permitted dwellings however is difficult to predict due to the density of dwellings in R(HD) activity areas being expressed in varying ranges and on a dwellings per net hectare basis (i.e. after deduction of anywhere between 20–40% for roads and open space) as opposed to on a gross hectare basis (before deduction of roads and open space) as used for the Jack's Point Residential and Village activity areas. This has led to considerable confusion on overall residential yield in R(HD) activity areas and concerns from existing residents on infrastructure capacity and possible adverse effects from stormwater run-off into Lake Tewa or the neighbouring wetland known as Willow Pond.~~

~~20. I support the provisions in the Jack's Point Zone providing for a range of residential options from the higher density living within what is now one central pedestrian focused Village precinct, radiating out to increasingly lower density options on the peripheral areas. It is important that adequate areas of green open space, linked pedestrian, cycleway networks, and parking be provided for as residential density increases. Assessing permitted residential density on a dwellings per net hectare basis leaves the developer to determine the extent of open space beyond the minimum required to create functional access and meet minimum parking requirements (assuming that is controlled by subdivision). Therefore to create open space, the developer is having to forego what is otherwise potential residential yield: a decision that I don't believe should be left solely in the hands of a developer.~~

~~21. For several reasons, I believe residential density in greenfield developments should be set on an activity gross area basis (before deduction of areas for roads and open space) or have specific open space performance standards that increase with density. I concur with Council's urban design expert that the minimum permitted residential lot size should be 380m<sup>2</sup>. To develop housing on lots below 350-400m<sup>2</sup> requires a comprehensive development approach and in my experience, increases development costs significantly and therefore doesn't improve home affordability at all. Typically, the 10-12 residential dwellings per hectare in R(JP) activity areas equates on gross basis equates to 12.5-15 dwellings on net basis if 20% is lost to roads only as large open space areas are already provided for in between R(JP) activity areas. Applying a minimum lot size of 380m<sup>2</sup> typically equates to 21 dwellings per hectare on net basis if 30% is lost to roads and open space. Therefore, it is improbable that single family homes in R(HD) activity areas could ever exceed 20-24 dwellings per hectare when measured on a net density basis. The upper permitted density in the R(HD)E activity area at 45 dwellings per hectare is more than double the density arising from the minimum lot size and accordingly has created considerable confusion and concern as to the living quality of those neighbourhoods and their effect on surrounding areas.~~

~~22. Another reason that residential density should be set on an activity gross area basis is the ability to more accurately forecast residential yield, which is a critical outcome for planning and funding infrastructure in any large greenfield development. It is also critical for the Resident and Owners Association or Council charged with maintaining said infrastructure or having to later upgrade capacity to meet the permitted entitlement.~~

~~23. In summary, I believe the Jack's Point Zone can and should provide for a balanced mix of housing types within a permitted net density of up to 24 dwellings per net hectare or 18.5 dwellings per gross hectare. Development beyond such densities is not conducive to creating quality neighbourhoods for family living. Such developments are better located in the Village activity area which is subject to a Comprehensive Development Plan that addresses the many issues typically arising from higher density development. Mr Brett Thomson, a Landscape Architect and master planner that worked on the original Jack's Point Village Master Plan, will address this point in greater detail in his evidence.~~

...

25. An important final component is the development of Jack's Point Village to create a single vibrant and sustainable community hub centrally located to service the surrounding residential neighbourhoods, and meet the needs of the growing numbers of residents and visitors to the Queenstown district. To create a successful village environment, it is essential that commercial activities such as hotels, visitor accommodation and mixed use buildings (those incorporating a mix of retail, restaurants, offices and residential living), should be restricted to the village precinct and not otherwise enabled in the surrounding residential activity areas. This restriction has always been in place in the Jack's Point residential activities area and the same restriction should also apply to the Henley Downs residential activity areas. ~~This eliminates the risk of medium density housing defaulting into hotel use and its adverse effects on the quality of residential neighbourhoods.~~ Visitor accommodation is better located in the central village precinct with its pedestrian character and its easy linkages to both public transport, open space networks and recreational amenities.

**Withdrawn Extract from Summary evidence 15 February 2017:**

~~7. For several reasons, I believe residential density in greenfield developments should be set on an activity gross area basis (before deduction of areas for roads and open space) or have specific open space performance standards that increase with density. I concur with Council's urban design expert that the minimum permitted residential lot size should be 380m<sup>2</sup>. To develop housing on lots below 350-400m<sup>2</sup> requires a comprehensive development approach and in my experience, increases development costs significantly and therefore doesn't improve home affordability at all. On this basis I consider that the upper permitted density in the R(HD)E activity area at 45 dwellings per hectare has created considerable confusion and concern as to the living quality of these neighbourhoods and their effect on surrounding areas. I consider that a more appropriate and relevant range of dwellings per hectare will be between 17 and 24 per hectare, taking into account approximately 35% of land for open space and roading.~~

~~8. Additionally, I consider it is of critical importance that visitor accommodation options are sufficiently controlled in residential areas, including in particular in R(HD)E due to its higher density. This area should not anticipate visitor accommodation occurring under a lesser activity status than other JPZ residential areas as this otherwise potentially undermines or compromises the purpose of the Village.~~

**Appendix B** – Extracts of Mr Mike Coburn's Evidence in Chief dated 03 February 2017 and Summary dated 15 February 2017 to be withdrawn from evidence shown in strike out;

***Withdrawn extract from Evidence in Chief 3 February 2017:***

***The appropriateness of density controls at over Hanley's Farm areas.***

~~50 The JPROA has concerns with the excessive residential density in Hanley's Farm, and this has been raised on a number of occasions by Residents of Jack's Point.~~

~~51 This has been an issue to the point where residents recently proposed that the JPROA construct some form of landscaping segregating from the development because of the density proposed in Hanley's Farm.~~

~~52 The JPROA concern is with the permitted status of the residential dwellings in Hanley's Farm given they are yet to establish a track record for a robust Design Review Board like Jack's Point has. Without a robust Design Review Board process in place, as sought in the JPROA submission, the JPROA view is it would be premature to grant these areas permitted activity status.~~

~~53 Furthermore it is understood that Hanley's Farm are operating their design review board equivalent out of Melbourne which raises questions on limited site base effects that will be considered by their design review board.~~

***Withdrawn extract from Summary of evidence dated 15 February 2017:***

~~7. I also support the removal of the "spur land" from the R(HD)B activity area. This area was 'sold' by JPROA on the basis it would remain open space.~~

**Appendix C** – Extracts of Brett Thomson's Evidence in Chief dated 03 February 2017 and Summary evidence dated 15 February 2017 to be withdrawn shown in strike out, based on the fact the scope of the case presented by Jack's Point no longer relates to the land the subject of the provisions commented on;

***Withdrawn extract from Evidence in Chief 3 February 2017:***

~~38. I understand that the proposed Hanley Farm provisions allow for visitor accommodation in their residential areas, albeit as a restricted discretionary activity. That potential activity compromises the compact Village model, particularly if it became prevalent. We are seeing the effects of that today with the Air B and B phenomenon, which Council is addressing. I am uncertain having given up the Village zone in favour of residential activities, why Hanley Farm would then introduce a Village activity into the residential zone. If a small pod or pods of visitor accommodation is proposed then one would assume that it would be identified in advance and planned for, as is the case with most visitor accommodation zones.~~

~~39. When you then combine a potential VA with the residential densities as proposed of 25-45 du/ha in Hanley Downs Residential – R(HD)E, adjacent to the Jack's Point Village then it starts to look like the R(HD)E is an extension of the Village. As a note, the residential area E of circa 25ha is currently twice what the old HD- V was (13.88ha). It would appear that Hanley Farm have removed the Village Activity Area, doubled the size of the zone and have applied village like densities. Such density requires significant planning and design and it has impacts on infrastructure like roading, parking, waste water and access to openspace and stormwater quality.~~

***Withdrawn extract from Summary evidence dated 15 February 2017***

***Activities: R(HD)E: Visitor Accommodation (VA) in Residential Activities***

~~12. The concern I have here is dilution of VA activities, spreading away from the Village into residential neighbourhoods.~~

~~13. It is a principle of urban design, as articulated in the well-known book A Pattern Language by Christopher Alexander et al, that 'studies of pedestrian behaviour make it clear that people seek out concentrations of other people...to create that concentration of people in a community, facilities must be grouped densely ...which function as nodes' (pg 164)~~

~~14. The reference to community facilities applies equally to any facility, with the emphasis being on the pedestrian. The Jack's Point Village is highly focused on being 'walkable', primarily to enable the above urban condition to be established. I am unsure how you achieve such an outcome in a residential context, with a provision that allows, according to Mr Wells, approximately 1750 dwellings spread well over 100ha to provide visitor accommodation. Whilst I accept that VA is discretionary in all R areas it is restricted discretionary in residential area E and whilst not everybody will take up such an opportunity, particularly given the housing densities, planning based on worst case scenario. And the effects of that provision seems not only detrimental to the premise of the residential activity, but also seem detrimental to creating a dense, compact and vibrant village.~~

**Appendix D** – Based on the withdrawal of the extracts from the above experts Mr Darby and Mr Thomson previously relied on by Mr Ferguson, and the fact the scope of Jack's Point's case no longer relates to the related provisions, parts of the evidence of Mr Ferguson is withdrawn. The extracts of Mr Ferguson's Evidence in Chief dated 03 February 2017 to be withdrawn are shown in strike out;

**Withdrawn extract from Evidence in Chief 3 February 2017:**

~~14.11 The quantum of commercial activity is constrained through the Scale of Commercial Activity Rule 41.5.9.2 to 550m<sup>2</sup> within Activity Areas R(HD) A–E. Visitor accommodation and community activities are not limited in the same way. When coupled with the maximum density 15 dwellings/ha for residential development with R(HD)–E, there is the potential for extremely high densities of housing and visitor activity in particular to establish within an area designed to primarily accommodate housing. I understand from the analysis of the RCL masterplan by Mr Darby that the ultimate yield for the R(HD) areas is more likely to result in an upper limit to density of 24 dwellings/ha.~~

...

14.13 To address these concerns, I proposed to amend **Rule 41.4.79** to exclude Visitor Accommodation, to supplement the matters of discretion to include the vibrancy of the village and the capacity of infrastructure and to amend the density Rule 41.5.8.1 to limit the upper range of density to 24 dwellings per ha. My suggested amendments to these rules are contained within **Appendix 1**.

Appendix 1 changes to Mr Ferguson's evidence:

Rule 41.4.9 – ["visitor accommodation" reinserted]

Commercial activities and, **Community activities** RD  
**and visitor accommodation**, located within the R(HD) and R(SHHD)  
Activity Areas, including the addition, alteration or construction of associated buildings.  
Discretion is restricted to ~~all of the matters listed in clause~~  
~~41.4.76.1 above.~~

- The vibrancy of the Village Activity Area
- Location, scale and external appearance of buildings.
- Setback from roads.
- Setback from internal boundaries.
- Traffic generation.
- Infrastructure capacity
- Vehicle access, street layout and car parking.
- Street scene including landscaping.
- Enhancement of ecological and natural values.

- Provision for walkways, cycle ways and pedestrian linkages.
- Scale of the activity.
- Noise.
- Hours of operation.

State Highway Mitigation in the locations shown on the Structure Plan

Rule 41.5.8.1 Density [Note – the changes to the **highlighted rows** previously tracked by Mr Ferguson have been removed so as to revert this rule to the Notified DPR position]

The average density of residential units within each of the Residential

Activity Areas shall be as follows:

R(JP) – 1 13.83 – ~~48~~19.74 per Ha  
R(JP) – 2A ~~43~~ – ~~33~~ 11.04 – 27.02 per Ha  
R(JP) – 2B 14.25 – 15.07 per Ha  
R(JP) – 3 14.18 per Ha  
R(JP-SH) – 1 ~~40~~11.00 per Ha  
R(JP-SH) – 2 910.20 per Ha  
R(JP-SH) – 3 511.85 per Ha  
R(JP-SH) – 4 ~~5~~ – ~~12~~ 7.24 – 18.10 per Ha  
R(HD-SH) – 1 12 - 22 per Ha  
R(HD-SH) – 2 2 - 10 per Ha  
R(HD-SH) – 3 12 – 22 per Ha  
R(HD) - A 17 – 26 per Ha  
R(HD) – B 17 – 26 per Ha  
R(HD) - C 15 - 22 per Ha  
R(HD) - D 17 – 26 per Ha  
R(HD) - E 25 – 45 per Ha  
R(HD) - FA ~~2~~ – ~~10~~ 17 - 24 per Ha  
R(HD) – FB 2 per Ha  
R(HD) – G 22 - 10 per Ha

**Appendix E** – On the basis of the withdrawal of the above extracts from experts for Jack's Point, and Mike Coburn for JPROA, the below extracts of Legal Submissions of Ms Baker-Galloway dated 10 February 2017 are also withdrawn:

**Withdrawn extracts from Legal Submissions dated 10 February 2017:**

**~~R(HD)E~~**

~~46 The average density of residential units is up to 24 per ha (not); same building controls as above for R(HD)E~~

...

**Visitor Accommodation in all activity areas**

...

~~50 Within all of the other activity areas visitor accommodation a fully discretionary activity, areas (through a breach of the structure plan rule).~~

...

**~~R(HD)E activity area~~**

~~71. Key to the success of the Village is its immediate surroundings, which is primarily R (HD)E. As noted by Mr Thomson at para 37, "a successful commercially viable and compact Village can only be achieved if Village 'activities' are contained in the Village area", including for example visitor accommodation. High density (increased and very high density) R and VA in R (HD) areas generally, and particularly R (HD)E is contrary to key understandings amongst the parties which led to RCL and Jack's Point to agree to Village consolidation to avoid competition.~~

~~72. The evidence of Mr Dan Wells for RCL supports the proposed density of up to 45 dwelling equivalents per hectare and medium density residential development as a controlled activity.~~

~~73. Of primary concern to JPROA and several of the resident submitters, is whether the proposed density is in breach of site coverage agreements, and what design and master planning controls can be prescribed to ensure a high quality outcome is achieved despite this extremely high density area. In response, as addressed by Mr Darby at paragraph 21 and Mr Thomson from paragraph 38 a recommend a maximum density of 24 dwelling equivalents per hectare is now proposed. This is also along the same theme as Council's expert Dave Compton-Moore's recommendation that the minimum lot size be 380m<sup>2</sup>. A density of 45 dwellings per ha is more than double the density that would be achieved with lot sizes of 350m<sup>2</sup>10 On this point, it is noted that Mr Wells table after his page 50 is misleading. It is an attempt to show the average lot size under the "high" density scenario, but contrary to the provisions of the density rule, it has not been calculated on a "net" basis (which requires allowance in the order of for use of 30–35% of land for open space, roading, car parking, infrastructure etc).~~

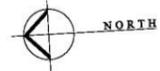
~~74. Jack's Point and JPROA also seek that visitor accommodation be discretionary (rather than restricted discretionary) in R (HD) areas generally, and particularly in R(HD)E. This will in part minimise the risk of medium density housing defaulting to hotel use and the associated adverse effects that has on residential amenity. It also brings the R (HD) areas more in line with the R (JP) areas, to assist with cohesion across the zone.~~

~~75. The evidence of Mr Darby and Mr Thomson in particular is that the permissive controlled status for medium density residential, combined with the even higher anticipated maximum density, could cause significant urban design problems. Similarly Mr Ferguson is of the view that it causes problems in a planning context. The proposed~~

~~density and likely mix of activities that could flow from that is not consistent with a residential neighbourhood.~~

~~76. The controls the Submitters are proposing are considered to be minimum constraints to manage quality control within R (HD) E so that it does not detract from the function of the Village, achieves a quality urban design outcome and does not detract from the views over the activity area to the north west. The proposed maximum density of 24 dwellings per hectare will still enable provision for a significant expanded area of residential living products and diversities of sizes and densities, which is supported. However the densities sought need to be consistent with what is regarded as a residential neighbourhood.~~

77. An additional concern that has arisen through consideration of the potential for high density development in R (HD) E in particular relates to the management of stormwater from what will be a potentially significant area of hard surfaces.<sup>11</sup> The nearby Lake Tewa and Wetland are important community and natural resources, and water quality is to be protected. Currently subdivision (if controlled when in accordance with a Structure Plan, as recommended in Councils right of reply to Chapter 27) reserves as a matter of control "stormwater design and disposal". Also, if a subdivision proposal breaches prescribed densities, or is for lots of 380m<sup>2</sup> or less, subdivision becomes discretionary, enabling full consideration of issues including stormwater. These provisions along with the integrated management by Otago Regional Council through its rules relating to damming, diversion and discharge, are required to give effect to the NPS Freshwater Management, ensuring no reduction in water quality.



**FIGURE 1**  
**Jacks Point Zone**  
**Jacks Point/JPROA Preferred Structure Plan**

scale 1:25,000 (A4), 1:12,500 (A2)

Rev N 03 May 2017

**KEY**

- R(JP) Residential Jacks Point
- R(JP-SH) Residential Jacks Point - State Highway
- V(JP) Village Jacks Point
- R(HD) Residential Hanley Downs
- R(HD-SH) Residential Hanley Downs - State Highway

- L Lodge
- HS Preserve Homesites

- W Wetland
- OSG Open Space Golf
- OSL Open Space Landscape Protection / Farming
- OSA Open Space Residential Amenity

- V(HB) Village Homestead Bay
- OSH Open Space Horticulture
- OSR Open Space Residential
- OSF Open Space Foreshore
- FBA Farm Buildings and Craft Activity Area
- BFA Boating Facilities Area

- Activity Area
- - - Public Access Route (location indicative)
- Secondary Road Access (location indicative)
- Primary Road Access (location indicative)
- ↔ Key Road Connections (location indicative)
- ▨ Open Space

**OVERLAYS**

- ▨ Highway Landscape Protection Area
- ▨ Peninsula Hill Landscape Protection Area
- ▨ Lake Shore Landscape Protection Area
- ~ State Highway Mitigation
- ▨ Tablelands (includes Homesites and Wetlands within Tablelands area)

