

Before Queenstown Lakes District Council

In the matter of The Resource Management Act 1991

And The Queenstown Lakes District proposed District Plan Topic 13
Queenstown Mapping

**JOINT MEMORANDUM REQUESTING LEAVE FOR HEARING TIME AND
AMENDING FURTHER SUBMISSION**

Jacks Point Residents and Owners Association (#1277)

Jacks Point et al (#1275)

Dated 10 July 2017

Solicitors

Anderson Lloyd
M A Baker-Galloway| R E Hill
Level 2, 13 Camp Street, Queenstown 9300
PO Box 201, Queenstown 9348
DX Box ZP95010 Queenstown
p + 64 3 450 0700| f + 64 3 450 0799
maree.baker-galloway@al.nz | rosie.hill@al.nz

**anderson
lloyd.**

MAY IT PLEASE THE PANEL

- 1 This Memorandum is presented on behalf of Jacks Point Residents and Owners Association (**JPROA**) and Jacks Point et al in respect of Hearing Stream 13 Group 2 Rural.
- 2 JPROA (1277) and Jacks Point et al (1275) lodged further submissions on the Submission from Hensman et al (Submitter 361) in respect of the proposal to rezone land Rural General to Industrial Zone.
- 3 This Memorandum addresses the following matters relating to JPROA and Jacks Point's further submissions and Hearing Stream 13:
 - (a) Seeking waiver of directions and leave for late request for hearing time;
 - (b) Seeking leave to amend further submissions.

REQUEST FOR HEARING TIME

- 4 The JPROA and Jacks Point further submissions were in opposition to Submission 361. Matters raised in the JPROA and Jacks Point further submission are, as relevant, set out below:

Extracts from JPROA Submission 1277:

The submitter is a person who has an interest in the proposed district plan provisions in respect of Jacks Point that is greater than the interest the general public has. The JPROA was established by the developer of Jacks Point as a vehicle to administer the private open space, communal infrastructure and the internal road network within Jacks Point.

The reasons for support or opposition of each submission are specified in the table below, however the reasons for such further submission are broadly concerned with:

- (a) *The management of the Jacks Point communal facilities*
- (b) *Maintaining the high quality landscape setting of Jacks Point*
- (c) *Maintaining the character and amenity values of the residential environment for its members through adherence to the building design guidelines and design matters in the District Plan.*

Submission (number/name/address)	Support / oppose	Provision(s)	Reasons	Decision sought from QLDC
361 Grant Hylton Grant Hylton Hensman, Sharyn Hensman & Bruce Herbert Robertson, Scope Resources Limited, Granty Hylton Hensman & Noel Thomas van	Oppose	Chapter 11 Map 13	The rezoning of Rural General to industrial as requested is opposed on the basis that it will have cumulative adverse effects on landscape and visual values, including light spill, and the character of	Disallow the submission

Wichen, Trojan Holdings Ltd Mactodd, PO Box 653, Queenstown, Queen-own,9348, New Zealand (jmacdonald@mactodd.co.nz)			the area.	
---	--	--	-----------	--

Extracts from Jacks Point 1275:

In summary the reason for this further submission is that:

(i) Chapters 41 and Chapter 27 as notified are generally appropriate to give effect to the higher order provisions of the PDP, with minor changes detailed in submissions 762 and 856 in order to improve the efficiency and effectiveness of the methods used to achieve relevant objectives and policies, and to address internal inconsistencies.

(ii) To the extent that the submissions listed below are consistent with submissions 762 and 856 they are supported. To the extent they are inconsistent with submissions 762 and 856 they are opposed on the basis they will not assist the development of the JPZ in an efficient and effective manner.

Submission (number/name/address)	Support / oppose	Provision(s)	Reasons	Decision sought from QLDC
361 Grant Hylton Grant Hylton Hensman, Sharyn Hensman & Bruce Herbert Robertson, Scope Resources Limited, Granty Hylton Hensman & Noel Thomas van Wichen, Trojan Holdings Ltd Mactodd, PO Box 653, Queenstown, Queen-own,9348, New Zealand (jmacdonald@mactodd.co.nz)	Oppose	Chapter 11 Map 13	The rezoning of Rural General to industrial as requested is opposed on the basis that it will have cumulative adverse effects on landscape and visual values, including light spill, and the character of the area.	Disallow the submission

- 5 The JPROA and Jacks Point had expected that the Submission 361 would progress fundamentally on the terms set out in the initial submission, therefore the JPROA did not consider it necessary to request indicative hearing time in February¹, before it was aware of whether Submitter 361 would be pursuing its submission in a fundamentally different form at the Hearing.

¹ Minute requesting indication of hearing time requirements dated 7 February 2017

- 6 The 'fundamentally different' aspect in particular relates to Annexure M 'Access Assessment' which provides an indicative primary road layout and access points onto the State Highway. Counsel notes that the evidence in chief from Mr Bartlett dated 9 June 2017 indicates this access and road layout as has been amended since the original submission, including by removal of the proposed roundabout at the Woolshed Road intersection (at para 15). To further confuse matters, Counsel for Submitter 361 lodged a Memorandum dated 22 June 2017 appending late evidence in the form of visibility maps, which detailed the indicative original roading layout **including** the Woolshed Road roundabout alignment.
- 7 What final form the relief from Submitter 361 will take in respect of road layout and access options is now unclear. However it is clear that the position proposed in evidence in chief is fundamentally different from that proposed in the initial submission in respect of connection to the State Highway and integration with other main connections to the State Highway.
- 8 The immediate consequence of the above is that the JPROA and Jacks Point as further submitters were not aware of a materially different position being proposed until a review of evidence in chief, therefore the JPROA and Jacks Point now formally request hearing time so as to address these matters with the Panel by way of legal submissions.
- 9 The Jacks Point Zone Structure Plan identifies Woolshed Road as a primary access road, and as "State Highway Access". It is now unclear what the effect of the Submission and the proposed altered access points to the State Highway has on the viability of Woolshed Road being upgraded to provide access to the Jacks Point Zone.
- 10 Given the community responsibility of the JPROA within the wider JPZ, and the close proximity of the Industrial rezoning sought and its cumulative effects on traffic and access to the State Highway, it is entirely appropriate that the JPROA and Jacks Point be allocated hearing time in order to assist the Panel to make informed decisions.
- 11 Jacks Point's broad submission clearly stated that all submissions (including 361) were opposed insofar as there are inconsistencies with the JPZ and its own submissions 762 and 856. The proposed roading layout and access option is inconsistent with the intended functioning of a key access points to JPZ, namely Woolshed Road.
- 12 Counsel therefore respectfully requests that the Hearing Panel allocate approximately 30 minutes of hearing time to the JPROA and Jack's Point to be heard jointly, and any associated waiver of directions required. Should leave be granted Counsel will liaise with the hearing manager to confirm a time.

Request for leave to amend further submission

- 13 In the instance that the Panel does find scope for accepting the amended relief sought by Submitter 361 in respect of access to the State Highway, JPROA and Jacks Point would be prejudiced as further submitters, not having raised the particular matter as an additional reason to oppose the rezoning sought in Submission 361.
- 14 Counsel wishes to record that this is a precautionary approach, given that the JPROA and Jacks Point Further Submissions are already broad in nature and oppose the rezoning; it is considered to be prudent and efficient to formally amend those further submissions in order to be transparent, and to avoid any future arguments about scope or standing.
- 15 For the same reasons outlined above in support of the request for hearing time, leave is sought for lodging of amended further submissions, detailing an additional reason opposing the Submission.
- 16 The amendments sought to Further Submissions 1277 and 1275 are as follows (new additions underlined):

Submission (number/name/address)	Support / oppose	Provision(s)	Reasons	Decision sought from QLDC
361 Grant Hylton Grant Hylton Hensman, Sharyn Hensman & Bruce Herbert Robertson, Scope Resources Limited, Granty Hylton Hensman & Noel Thomas van Wichen, Trojan Holdings Ltd Mactodd, PO Box 653, Queenstown, Queen-own,9348, New Zealand (jmacdonald@mactodd.co.nz)	Oppose	Chapter 11 Map 13	The rezoning of Rural General to industrial as requested is opposed on the basis that it will have cumulative adverse effects on landscape and visual values, including light spill, and the character of the area. <u>The rezoning is further opposed on the basis of potential adverse effects on the functioning of the State Highway.</u>	Disallow the submission.

- 17 It is submitted the interests of the original submitter 361 will not be adversely affected by granting leave (given that the overall position of the Further Submitters has not changed from one of general opposition).

- 18 Counsel refers to the Panel's commentary of the case law in respect of section 37 (powers relating to waiving and extending time limits) detailed in its Minute dated 2 February 2017 as follows:

The most apposite guidance is provided in the Court's observation in Omaha Park Ltd v Rodney DC that the Act "encourages participation (in an orderly way, certainly) in the decision-making process, with the general philosophy that the possible inconvenience, delays and costs caused are hopefully outweighed by better informed decision-making and better environmental outcomes".3

- 19 Counsel therefore respectfully requests that the Panel accept this request for leave to formally amend Further Submissions 1277 and 1275
- 20 Amended Further Submissions in accordance with this request are **attached**.

Dated this 10th day of July 2017



Maree Baker-Galloway

Counsel for Jacks Point and JPROA