

**BEFORE THE HEARING COMMISSIONERS
AT QUEENSTOWN**

IN THE MATTER of the Resource Management Act 1991
(**RMA or the Act**)

AND

IN THE MATTER of the proposed the Queenstown Lakes
District Plan pursuant to Part 1 of the First
Schedule to the Resource Management
Act 1991

ON BEHALF OF RCL Queenstown PTY Ltd

STATEMENT OF EVIDENCE OF DANIEL GARTH WELLS

2 February 2017

INTRODUCTION

Qualifications and experience

1. My name is Dan Wells.
2. My Evidence in chief dated 29 February 2016 gave an overview of my planning experience. In the background section below I outline more recent involvement I have had in regards to aspects covered in this evidence.

Code of Conduct Statement

3. I have read the Code of Conduct for Expert Witnesses contained within the Environment Court Practice Note 2014, and (although this matter is not before the Environment Court) I have complied with it in the preparation of this evidence. This evidence is within my area of expertise and I confirm I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

Purpose of Evidence

4. I have been asked to prepare evidence by RCL Queenstown PTY Ltd ("RCL") in regards to the submission they made on the Jacks Point Zone of the Proposed District Plan. I have read the Section 32 material included at notification. I have read the Section 42a report prepared for the Jacks Point Resort Zone and the relevant accompanying Council evidence.

PART 1 - BACKGROUND

RCL's land interests

5. The land ownership situation in Jacks Point is complex and dynamic and I rely on the advice of my client to understand it. I will provide a high level overview.
6. A large majority of area the shown as R(HD) on the Jacks Point Structure Plan is owned by RCL. RCL intend to acquire the R(HD-SH) areas, although at the time of writing there is ongoing discussion over the terms of that transaction, which I am told is likely to occur in the near future.
7. The areas of interest to RCL in the Hanley Downs part of the zone are the following the following areas shown on the Jacks Point Structure Plan:
 - R(HD)-A
 - R(HD)-B
 - R(HD)-C

- R(HD)-D
- R(HD)-E
- R(HD)-F
- R(HD)-G
- R(HD-SH)-1
- R(HD-SH)-2
- OSA

8. I refer to this area as the RCL Hanley Downs land in this submission¹.
9. At this point RCL have a significant financial stake in the Jacks Point Village, although it appears unlikely that RCL will be an active developer of that land. The exception is that two parcels of land within the Jacks Point Village, toward the eastern side of the Village, are owned by RCL. The company are preparing to subdivide that section into lots for housing under the Operative District Plan.
10. RCL also own a large (41.6 Ha) lot to the south of developed Jacks Point Residential neighbourhoods, legally described as Lot 12 DP 364700 held on CFR 262752. The site is currently mostly used for either farming or wastewater disposal fields.

Plan Change 44

11. RCL began preparing a private plan change for the Hanley Downs part of the site in 2012. I was involved in this process. My understanding is that RCL at the time either owned or intended to own virtually all of the area covered by the plan change.
12. RCL had recognised that the zoning that existed in the Operative District Plan was inefficient in that it limited the nature and scale of residential development that could occur on this large area of land. The zoning configuration contained large "activity areas" of open space on relatively flat or gently sloping land which was not highly visible from public places or particularly sensitive from other perspectives. It also had a very prescriptive density requirement that did not align well with the type of development the company had in mind. RCL saw opportunities in the "affordable" or "entry-level" sector of the local market. Part of the way in which it wished to met demand in this sector of the market was through developing at relatively higher densities than had typically been the case in the Wakatipu at that time.
13. I agreed with RCL's preliminary assessment about the site's suitability to absorb development. Hanley Downs has characteristics that met the tests set out in Section 4 of the Operative District Plan for land suitable for urban

¹ There is a part of R(HD)-E not owned or planned to be owned by RCL. There is one existing developed property in R(HD-SH)-2 which is not owned or planned to be owned by RCL.

development. In my opinion there is no more suitable site in the Wakatipu in this regard (at least one of comparable scale that is not already zoned). To not make efficient use of this land in my opinion would equate to poor resource management, as the knock on effect would likely be to increase pressure to urbanise other, most likely more sensitive parts of the District.

14. What became known as Plan Change 44 was presented to Council's Strategy Committee on 19 March 2013. It was resolved to 'accept' the plan change for processing. It was then publicly notified for submissions on 27 March 2013.
15. The hearing began on 25 November 2013 but, after some concerns were expressed by submitters relating to land ownership circumstances, it was adjourned almost immediately at the request of RCL. A reconvened hearing took place in June 2015.
16. By the time of the reconvened Council hearing the circumstances around Plan Change 44 had evolved. RCL's interest was now confined to a smaller part of the Plan Change 44 area. Other submitters represented their interests with respect to other land covered by the plan change.
17. Council resolved to adopt and notify the commissioner's decision on the plan change on 24 February 2016. RCL was by in large very pleased with the result of that decision. The area primarily owned or planned to be owned by RCL encompassed almost all of the development enabled by the amended zoning. Plan Change 44 required residential development to occur in a manner that achieved a certain density range (by my estimate between 1279 and 2164 dwellings across Hanley Downs). RCL believe that the final number of houses built is likely to be in the range of 1750 residential lots in Hanley Downs.
18. Three appeals were lodged against Plan Change 44, but (accept for one discrete issue²) only one appeal was applicable to the RCL owned land. After discussions with the appellant, that appeal was withdrawn and no other party sought to continue it. The Environment Court recorded on 1 September 2016 that its file on the matter was closed. At the time of writing QLDC had yet to make the RCL part of PC44 formally operative, but this I understand is will occur in the near future.

Subdivisions

19. RCL have pressed on with a first stage of subdivision at Hanley Downs (109 lots) which was approved and is currently being constructed. That consent

² The unresolved matter at the time of writing was regarding rule 12.2.5.1 (iv). This rule dictates vehicular access to all of Jacks Point and therefore also applies to RCL land. This matter also appears to be likely to be resolved by the time of this hearing .

was considered entirely under the Operative District Plan rules. RCL anticipate that titles for that first stage should be issued sometime during the latter half of 2017.

20. In addition, RCL has now applied for a second stage subdivision consent (160 lots). That consent seeks to encroach – in a more substantial way than the first stage consent – into areas that were previous to plan change 44 within an open space activity area.
21. RCL have advised me that they wish to proceed promptly with developing the second stage when consent is granted. There is evidently considerable demand for residential sections and from my observations RCL seem motivated and well-resourced to meet that demand with an ongoing programme of large scale subdivision. I therefore believe that Hanley Downs (or Hanley's Farm as is the name now being used for marketing purposes) will play a significant role in meeting housing needs in the Wakatipu over coming years.

The District Plan Review

22. QLDC resolved to review the entire Jacks Point Zone. With regards to Hanley Downs, the version of provisions was similar to a package of provisions that was agreed by negotiation between RCL (acting under my advice) and the other participants prior to the reconvened Plan Change 44 hearing. I had only participated in discussion on the framework of provisions as it applied to the RCL land (that is to say I did not in Plan Change 44, nor do I at this point, offer an opinion on the suitable planning provisions for land not owned or planned to be owned by RCL).
23. The main concern of RCL when it came to preparing a submission was ensuring that the development capacity they had secured for their land under PC44 not be eroded by the District Plan process. It also provided an opportunity to seek some minor improvements to how some of the rules applied to Hanley Downs and to look at whether the most appropriate zoning was in place for parts of Jacks Point outside of Hanley Downs.

PART 2 – ASSESSMENT OF PLAN CHANGE 44 AGAINST THE REQUIREMENTS OF THE RESOURCE MANAGEMENT ACT

24. In this part of my evidence I analyse how the RCL parts of the Jacks Point Zone, incorporating the changes I recommend, would align with the necessary considerations for preparation of District Plans, as set out in the Resource Management Act.
25. The legal submissions presented in the first hearing by counsel for the Council informed the panel that the most recent case to summarise the requisite tests for a change to / review of a District Plan is *Colonial Vineyard Ltd v*

Marlborough District Council [2014] NZEnvC 55 at [17]. I will use those headings to form the basis for my analysis.

A. *General requirements*

1. *A district plan (change) should be designed to **accord with**¹⁸ – and assist the territorial authority to **carry out** – its functions¹⁹ so as to achieve the purpose of the Act²⁰.*

26. The functions of a territorial authority are set out in Section 31. I believe that the approach of a “special zone” which includes a structure plan setting out where development can occur and providing the opportunity for rules to address the particular circumstances of a place is an appropriate way to achieve the integrated management of effects. And in doing so, I am satisfied that the proposed zone (incorporating my recommended amendments) will assist the Council in achieving the purpose of the Act.

2. *The district plan (change) must also be prepared **in accordance with** any regulation²¹ (there are none at present) and any direction given by the Minister for the Environment²².*

27. To the best of my knowledge there remains no such regulation nor direction of relevance.

3. *When preparing its district plan (change) the territorial authority **must give effect to**²³ any national policy statement or New Zealand Coastal Policy Statement²⁴.*

28. Of the National Policy Statements now in effect, I cannot see any of particular relevance worthy of discussion with regards to this hearing.

4. *When preparing its district plan (change) the territorial authority shall:*

(a) have regard to any proposed regional policy statement²⁵;

(b) give effect to any operative regional policy statement²⁶.

29. The Proposed Otago Regional Policy Statement has been progressing in parallel with the Queenstown Lakes District Plan and is now subject to appeals.

30. To avoid adding greatly to the length of my evidence I will not discuss in detail how the proposed Jacks Point Zone (incorporating my recommended amendments) would align with the operative and proposed Regional Policy Statements. I nevertheless confirm that I have assessed the content of those documents and am satisfied the required tests would be met. This includes with regards to those objectives and policies of the Proposed RPS which direct where new urban development should occur.

5. In relation to regional plans:

(a) a district plan (change) must **not be inconsistent** with an operative regional plan for any matter specified in section 30(1) or a water conservation order²⁷; and

(b) **must have regard to** any proposed regional plan on any matter of regional significance etc²⁸.

31. There are currently no proposed regional plans. The relevant operative Regional Plans are the Waste Plan (which appears to be of little direct relevance to these proceedings), the Water Plan and the Air Plan.
32. With regards to the Regional Plan - Water for Otago, I am confident the proposed Jacks Point Zone (incorporating my recommended amendments) would not be inconsistent with that plan. The proposal would align with the relevant objectives and policies. Significant stormwater and flood mitigation works are underway in the stream that traverses the northern part of Hanley Downs in accordance with the recently approved regional council consent RM16.168.
33. As part of Plan Change 44 I consulted with Otago Regional Council about potential air quality issues arising from large numbers of homes in Hanley's Farm. I was aware that other subdivisions in the Wakatipu had voluntarily prevented the installation of solid fuel burners. Those discussions gave me confidence that the particular circumstances of Hanley's Farm would not necessarily require such preventative measures, but that the regional council can monitor the situation and apply regulatory controls in the future if necessary. I am satisfied the proposal is consistent with the various provisions of the Regional Plan: Air.

6. When preparing its district plan (change) the territorial authority must also:

have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations²⁹ to the extent that their content has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities³⁰;

take in account any relevant planning document recognised by an iwi authority³¹; and

not have regard to trade competition³² or the effects of trade competition;

34. In terms of relevant plans and strategies, probably the most notable strategy is Council's Growth Management Strategy produced under the Local Government Act. That strategy, produced in 2007, set out the Council's intention to manage growth and its effects through planning and other means. I believe PC44 comfortably aligns with this strategy, and it is noteworthy that Jacks Point falls within the growth boundaries identified by that document.
35. I also note the Council's HOPE Strategy, the first version of which was adopted in 2006. That strategy set out Council's intentions for addressing the issue of a shortage of affordable housing in the District. A number of actions were identified. One was the Council's intention to seek contributions of 'community housing' from new developments. The developer of Hanley Downs is to provide such a contribution under pre-existing agreements. More broadly, the type of housing provided for by the proposed zoning in Hanley's Farm has in my opinion the potential to promote housing affordability. I consider that the Jacks Point Resort Zone (amended as I recommend) is consistent with the HOPE Strategy.
36. In the preparation of plan change 44 account was taken of The Kai Tahu ki Otago Natural Resource Management Plan (NRMP). In addition consultation with iwi raised no major concerns with the proposal. This was followed up by more comprehensive engagement between iwi authorities and QLDC in the preparation of the District Plan.
37. I believe regard has not been given to trade competition in the preparation of the Jacks Point Resort Zone.
- 7. The formal requirement that a district plan (change) must³³ also state its objectives, policies and the rules (if any) and may³⁴ state other matters.*
38. Objectives, policies and rules are stated in the proposed Jacks Point Resort Zone.
- B. Objectives [section 32 test for objectives]*
- 8. Each proposed objective in a district plan (change) **is to be evaluated** by the extent to which it is the most appropriate way to achieve the purpose of the Act³⁵.*
39. There was in my opinion an appropriate evaluation of how the proposed objective of the Jacks Point Resort Zone would meet the purpose of the Jacks Point Resort Zone in the section 32 report.
40. There is a reasonable amount of change in wording from the objective in the Operative District Plan. It is briefer and does not include a list of issues for which "appropriate regard" shall be given.

41. This change may be a cause for concern for some of the submitters. For example there is no longer reference to landscape and visual amenity values. I have therefore in preparing this evidence reflected on whether the objective is indeed the most appropriate way to achieve the purpose of the Act. I am satisfied that it is, as it is one of many applicable objectives in the Proposed Plan including several that relate directly to landscape and visual amenity values.

C. Policies and methods (including rules) [the section 32 test for policies and rules]

42. Again there was in the notified material a succinct analysis of how the policies and rules met the tests of Section 32. At this point in the process the commissioners are required to make decisions on submissions, so in order to avoid my evidence becoming unduly lengthy, my evidence will be structured around the submissions made and provide my assessment of those submissions accounting for the requirements of sections 32 and 32AA.

Submissions

Suitability of structure plan and as it applies to RCL's Hanley Downs land

43. By my assessment of the submissions, there are few if any submissions seeking that the nature, scale and extent of development proposed in these areas be reduced³. My opinion is that this reflects a general acceptance that with the Council decisions of Plan Change 44 and the subsequent first stage subdivision application, development along the lines envisaged by RCL for these parts of the site can now be expected to occur. Nevertheless, for completeness, I will set out my reasons for supporting the zoning as it applies to RCL's land.
44. The proposed District Plan included a structure plan and density table that is very similar to what was approved in the final Plan Change 44.
45. In my opinion there are no substantive reasons, accounting either for the objectives of the proposed District Plan or the purpose of the RMA, which would make this area unsuitable for residential development in a manner enabled by the Proposed District Plan. Indeed, because of the lack of such constraints, which is rare for undeveloped land in the Wakatipu, it is my opinion as addressed above that good resource management promotes the efficient development of this land. That view is mirrored in proposed objective 4.2.3, which I consider the Hanley Down zoning gives effect to:

³ There was one submission from Scope Resources which did explicitly raise such concerns but this was withdrawn after discussion and negotiation between RCL and that submitter.

Within Urban Growth Boundaries, provide for a compact and integrated urban form that limits the lateral spread of urban areas, and maximises the efficiency of infrastructure operation and provision.

46. As typically the case in the Queenstown Lakes District, a critical matter to assess in identifying land suitable for urban development is how it meets the tests set out in the overarching objectives and policies of the Proposed Plan relating to effects on visual amenity and landscape values. I support the conclusions of the landscape reports appended to the section 32 report with regards to the RCL Hanley Downs land. In addition, Mr Espie has on behalf of RCL prepared evidence which briefly restates his support for the conclusions reached in the s32 report as it applies to the RCL Hanley Downs land. I rely on this evidence and the findings of Dr Read in this regard.
47. There is one exception to the above assessment. Around the western boundary of the R(HD) area that activity area encroaches somewhat into the ONL area. Dr Read raises some concerns in this regard. It is appropriate in my opinion to change the boundary of R(HD)-F to follow the ONL boundary, providing there is a corresponding increase in density allowed for due to the activity area now being smaller. This is consistent with the PC44 decision which accepted the evidence that was agreed by relevant experts through the course of that hearing.
48. There is also a small "triangle" of land proposed to be added into the area labelled as R(HD)-B, along the edge of the Hanley Downs area. Under the current zoning this falls within the Golf Course, Open Space and Recreational Facilities Activity Area, but it does not appear to be particularly useful for that purpose. I rely on the evidence of Mr Espie in confirming that there is no compelling landscape reason to not have this confirmed as falling within the R(HD)-B activity area. It is relatively close to an adjacent residential activity area, including a developed home, but mounding is in place such that any lost amenity as enjoyed from this area would in my opinion be minimal. I am confident that including this area in an R(HD) activity area will be the most appropriate means to meet the Jacks Point objective, and the other relevant objectives of the Proposed District Plan.

Suitability of density rules

49. Again, few if any submissions actively seek a reduction the density of development provided for in the R(HD) activity area. But because the density range provided is a defining feature of the rules as they apply to RCL's land in Hanley Downs, and an important way in achieving the efficient use of land, and could theoretically be affected by the wide relief sought in some submissions, I will use this opportunity to reiterate my support for the density rules as they apply to the proposed Jacks Point Zone.

50. This evidence should be read in conjunction with the evidence I produced at the subdivision hearing where I sought some changes reflecting my concern that that the provisions were discouraging small lot (sections below 380m²) subdivision. Below I reproduce the required density table from rule 41.5.8.1, to show that in some parts of Hanley Downs it would be very difficult to achieve the required density range without such small lots.

Residential Densities – Rule 41.5.8.1 of the Proposed Plan

Activity Area	Low - du/Ha	High - du/Ha	Average lot size under Low scenario	Average lot size under High scenario
R(HD)-A	17.0	26.0	588 m ²	385 m ²
R(HD)-B	17.0	26.0	588 m ²	385 m ²
R(HD)-D	17.0	26.0	588 m ²	385 m ²
R(HD)-C	15.0	22.0	667 m ²	455 m ²
R(HD)-E	25.0	45.0	400 m ²	222 m ²
R(HD) - F	2.0	10.0	5,000 m ²	1,000 m ²
R(HD) - G	2.0	10.0	5,000 m ²	1,000 m ²
R(HD-SH) - 1	12.0	22.0	833 m ²	455 m ²
R(HD-SH) - 2	2.0	10.0	5,000 m ²	1,000 m ²

51. By my observations there has been a lot of innovation in subdivision designs in recent years that have shown that it is possible to achieve high amenity values on reasonably small lots as envisaged above. By concentrating on matters such as street landscaping, design controls and efficiently shaped sections there has been increasing community acceptance of this type of development. Much of this has tended to occur in more metropolitan areas – such as in the examples from Australia and New Zealand I include in Annex 1 to this submission (note this is the same document I tabled at the subdivision hearing). But there has also been development of this nature in the District, such as the Bridesdale subdivision. Neither I, nor RCL, envisage that Hanley Downs will consist entirely of small lots, but I see it as an important component of the development typology which will help achieve the affordability and efficient use of land Hanley Downs can and should deliver.
52. I believe that the density provisions are the most appropriate method in implementing proposed objective 4.2.3 and the proposed Jacks Point Zone objective.

Suitability of a single zone

53. A theme of many of the submissions received was that Hanley Downs should be separated into a separate zone from Jacks Point. The rationale being that this will help protect the integrity of the developed parts of the Jacks Point Zone.
54. In the original plan change request for Plan Change 44 a separate zone was proposed to be created. Council, via submission and in following discussions with officers, expressed concern at the large number of special zones in the district and requested that the proposed changes to the Hanley Downs part of the Zone be reintegrated back into the Jacks Point Resort Zone. Partly in the interests of reaching common ground with the section 42a reporter, I agreed to do that.
55. I did not at the time of Plan Change 44 (and still do not) have a particularly strong view on this matter. There are arguments for and against separate or combined zonings and it is common to have a mix of adjacent zonings across a settlement.
56. It is true that Hanley Downs will probably have a different character from the rest of Jacks Point, but RCL intend to transition the character as development approaches the boundaries of the existing Jacks Point neighbourhoods (through the likes of landscaping and design controls). In my opinion such integration of design can occur whether there is one zone or multiple zones in Jacks Point.
57. In my opinion, the high amenity achieved throughout Jacks Point is probably more a result of the investments made by the developer and the ownership model which manages landscape and controls design outcomes, as opposed to the District Plan zoning. In my opinion, the maintenance of high standards of amenity can be maintained in the existing Jacks Point Zone, including the protection of landscape and open space values surrounding the existing neighbourhoods, regardless of whether Hanley Downs is in the same zone or not.
58. And, depending on how zones are drafted, a succinct plan can be achieved through the use of one zone or many zones for a given area.
59. In summary, it is my opinion that this is not an especially important resource management issue. I do not see it as necessary to separate Hanley Downs from the Jacks Point Zone. My recollection of trying to amalgamate proposed zones in the Plan Change 44 hearing was that it proved a time consuming task, and it made it difficult to track whether changes made were as a result of submissions. Making this change was thus, in my experience, a rather inefficient process. Given where the District Plan has

progressed to at this point, I do not see separating the Jacks Point Zone into two or more zones as the most appropriate means to achieve the purpose of the Act or the relevant objectives of the Plan.

Native planting – Rule 41.5.2.9

60. In RCL's submission (which I drafted) the company expressed concern about how this rule may apply to RCL's land. RCL is committed to extensive native planting in its first stages of subdivision and is introducing native species into some of the street trees (the latter of which could perhaps be inadvertently captured by this rule).
61. Although I support native planting where practicable and see it as a feature of Jacks Point, it can be an expensive undertaking which if not kept to a manageable scale can affect the affordability or viability of development. My particular concern is with the requirement to achieve an 80% canopy. It is not a matter of my expertise but I am concerned that this may not always be practical or necessary.
62. My experience is that these matters are normally best dealt with via the conditions of consent where the site specific circumstances are better understood. There is control or discretion for subdivision and large land use consents to allow this to occur.
63. The section 42a report appears to indicate that some of the concerns RCL raise are not intended. But I am not yet satisfied that the proposed changes in those reports would alleviate my concern. My suggestion is that this rule can be deleted as sought in the RCL submission. However, it is possible that it is intended to work in tandem with other rules, and that is what is intended by "*any native vegetation required by this zone...*" could be better phrased as "*any native vegetation required by this the standards of this zone...*". This change would also address my concern.

Road access

64. RCL asked via submission to have a road access acknowledged on the structure plan located near the proposed R(HD-SH)-1 activity area. It also asked that the rules provide for this as an alternative or an addition to the Woolshed Road access.
65. The background to this is that throughout the Plan Change 44 process and at the time Proposed District Plan was notified, RCL had anticipated that development in Hanley Downs would be accessed via the proposed Woolshed Road access. This required a realignment to be formed in a safe an efficient manner, which required the use of land that sat outside the current State Highway designation and Council road reserves. My

understanding is there at one point RCL has intended to acquire this land, but this did not eventuate. The necessary land was sold to another party who, for understandable reasons, was reluctant if not unwilling to sell the land necessary for this to occur. In discussing with the new landowner RCL agreed to explore alternatives.

66. There is now a road access consented by Council as part of the Outline Development Plan for the first stage of Hanley Downs (RM160171). That access forms the basis for access to the first and second stages of subdivision. The consent for RM160171 analysed the traffic safety and efficiency of the proposed access and it was concluded that the intersection was fit for such purpose (notably NZTA provided its written approval).
67. As part of the implementation of the stage 1 consent RCL is investing a considerable amount in landscaping to achieve what I believe will be a very high standard of amenity – in my opinion of comparable if not better quality than what may have occurred at Woolshed Road. From a traffic perspective, reporting accepted in RM160171 (see Annex 2) confirmed that with this intersection it is not necessary to open access from Woolshed Road also. I note that traffic evidence commissioned for the s42a report also appears satisfied with the suitability of this access point.
68. It is possible that a future point the Woolshed Road / state highway intersection may also be constructed with access to Hanley Downs, which would further enhance to road connectivity of Jacks Point. But in my opinion, given the practical difficulties in forming this access at this point, it is neither reasonable nor necessary for the rules to require this to occur. And even if the rules remain as they are proposed, with discretion for breaching proposed rule 41.5.6 limited to “the safe and efficient function of the road network” it would seem that RCL would continue to be able to apply to breach the rule at the time relying on the expert reporting undertaken to date. This would be an inefficient means in which to give effect to the proposed Jacks Point objective. I therefore recommend accepting the proposed amendment sought in the RCL submission regarding the identification of an additional intersection on the structure plan. As part of this I would recommend two consequential amendments:
 - (a) References to Woolshed Road in the provisions be amended as appropriate to also make clear that opening the alternative state highway access sought by RCL will meet the requirements of the Plan.
 - (b) A road connecting between the new intersection and the “primary road access” on the structure plan be also shown as “primary road

access" following generally the location of the main road consented as part of RM160171 (shown in Annex 3) and which is currently under construction.

Building controls

69. In the following sections I address some specific issues relating to building controls in the R(HD) area. As a lead in to this, I wish to emphasise what I believe is an important context. There is in my opinion quite appropriately a strong emphasis in the Proposed Plan on making efficient use of the resource that is Hanley Downs for relatively high density housing (I note in particular policy 42.2.1.13 and the aforementioned District wide objective 4.2.3). I also believe that a high standard of amenity should be sought and that this is promoted through the relevant objectives. But I do not believe that the plan requires, or should require, that Hanley Downs be developed in a way that achieves a low intensity outcome on all sites. Rather I believe that a high standard of amenity can be achieved in a more intensive built form environment than may be the case in the existing residential neighbourhoods of Jacks Point, and it is appropriate to allow this to occur to meet the other important objectives of the Proposed Plan around efficient use of land and affordability.
70. During that time I have worked with RCL I have developed a very clear understanding of the model of development they see as being suitable for Hanley Downs. Particularly useful in reaching this understanding has been my involvement in preparing the first two subdivisions, which together seek to create 269 residential lots. Through this experience I have come to consider how effectively and efficiently the rules proposed in Plan Change 44 will work.
71. For the most part the rules seem effective and efficient. But, with the benefit of applying those rules, which for the most part are replicated in the proposed District Plan, I have two main criticisms. These are:
- (a) Some rules are unhelpfully restrictive on built form given the size and dimensions of sections favoured by RCL
 - (b) The rules can be somewhat convoluted in a few instances, particularly with the various references to sites sized below 550m² and 380m².⁴
72. The district plan review presents an opportunity to address these issues.

⁴ To be clear, some of these rules were in fact proposed or supported by me in the plan change 44 process.

73. I attach in Annex 3 an example of a subdivision plan⁵ which was recently approved by Council for Stage 1 at Hanley's Farm. In that document one see the building envelopes approved in that consent (i.e. setting boundary setbacks) and in Annex 4 the basic design controls that were approved. One can see the preference for rectangular lots with a fairly narrow road frontage. One reason for this is approach (as opposed to wide frontages) is that it can reduce the amount of road needed, helping promote efficient use of land. They also provide for quite private rear yards, even on small sites.
74. These dimensions have implications for how they relate to some of the rules controlling building scale and location.
75. I also wish to emphasise the importance in my opinion that, providing some clear design parameters are established at the time of subdivision, there should be a path for a permitted activity house consent on all residential sites in Hanley Downs, including small sites. In my opinion it is significantly more efficient to allow some flexibility in house design for the purchaser without the compliance cost of a resource consent, and I believe the methods set out in the Proposed District Plan will be effective in ensuring that the amenity values promoted in the objectives of the District Plan are achieved.

Building coverage

76. Having reviewed the matters covered in the submissions I had not anticipated that there would be changes recommended to the building coverage rules.⁶ However, the s42a report has, accommodating urban design advice, recommended reducing the allowable building coverage on sites in the R(HD) area. I do not believe this would be the most effective or efficient means in which to achieve the relevant District Plan objectives.
77. The evidence of Mr Compton-Moen suggests that the allowable building coverage should be decreased from the notified Plan. He raises a couple of key justifications. One is that it will increase the amount of private open space. But I see this justification as being beyond what a District Plan ought to address. Rather I believe the size and treatment of private open space should be a choice for individual home owners – many of whom may be unconcerned about such matters given their personal circumstances and the proximity to public open space in Hanley Downs (a point I believe that was supported by Council in removing the minimum outdoor space requirements from other zones of the notified Plan).

⁵ The subdivision was RM160562, which was consistent with the previously approved and aforementioned outline development plan.

78. Also, Mr Compton-Moen suggests that lower site coverage is preferable from a stormwater management perspective. He refers to reducing Council costs, but in my experience costs of constructing stormwater management systems are usually born by the developer in greenfield development. I question whether any increased ongoing public cost of maintaining a larger stormwater system as a result of higher building coverage would outweigh the added cost to housing.
79. On the latter point I agree with Mr Compton-Moen that reducing site building coverage will make it more likely that smaller lots will need to be built as two storey development, and that that will increase the cost of building. I believe this is significant issue that needs particular attention. A rule of thumb explained to me by housing development companies is that building to two storeys tends to add in the order of 15% to the cost of building. As a result, it is usually cheaper for a house builder to spend more on the cost of a larger section. Therefore, if building coverage rules are restrictive, there is likely to be little demand for smaller lots. With limited demand they are less likely to be developed. The knock on effects are therefore less affordable sections and lower, less efficient yield in Hanley Downs.
80. I believe that small lots with high site coverage (as enabled in the proposed plan) have an important role to play in providing for affordable housing and efficient use of land. In my opinion the examples I include in Annex 1 demonstrate how such development can still achieve high standards of amenity. A generous building set back from the road is in my opinion more important for achieving high amenity outcomes than site coverage rules. In reality when developing across flat or gently sloping land, the extent to which a building covers the rear part of the section is difficult to perceive from public places.

Recession plane rules

81. The height limit rule in the Proposed Plan (41.5.12.4) has a recession plane that only applies on sites 550m² or larger, but with the narrow sites this is still quite restrictive. In effect it makes building to two storeys difficult or impossible on small sites.
82. My understanding is that recession planes are primarily created to reduce or prevent shadowing and overlooking effects. With small to medium sized sites I believe many of these issues can be effectively managed with much less restrictive recession planes (if any), additional controls such as on window heights and well-designed street and lot layouts. Even if some shadowing or overlooking issues still arise, I think this needs to be accepted as a consequence of higher density housing.

83. I further note the recession plane rules proposed by Mr Compton-Coen and included in the recommended provisions of the s42a Report. I have some reservations as to whether these would be effective or efficient in implementing the objectives of the Proposed District Plan.
84. One concern is the reference to northern, western boundaries etc – depending on site orientation what is a northern boundary etc may not always be easily determined by users of the Plan. A more efficient approach I believe is that that has been pursued in the Hanley's Farm subdivisions to date (see Annex 3 and 4) where what height to boundary rules apply to which boundary is clearly marked on a consent notice on a title.
85. I also feel the proposed rules are unduly restrictive and are likely to discourage two storey development. To use an example, a common section dimension produced by RCL is a 400m² 12.5m wide x 32m deep section. For such a site it appears to me to be difficult if not implausible to fit a two storey building using the recession plane rules recommended in the S42a report.
86. I recommend that the recession plane rule should be removed. But I recommend that the subdivision rules be strengthened as I suggested in the recommended changes that accompanied my subdivision evidence, to ensure that discretion exists in all subdivision applications to add controls on recession planes (amongst other matters) to be imposed as consent notices. This is a method that has been effective in the Hanley's Farm consents to date and it is in my opinion in this context more efficient than writing rather complex rules that are tailored toward RCL's development model.

Road set backs

87. I also suggest that the road setback and side yard setbacks should be deleted and managed in a similar manner at the time of subdivision. With relatively higher densities I believe substantial road setbacks are important – in Hanley's Farm RCL have applied setbacks of at least 4.5m for buildings and 5.5m for garages. The benefits of such rules include providing a sense of open space from the street, providing for front yard gardens and ensuring off-street parking (given there can be high demand and limited provision for on-street parking at higher densities).
88. However, as I have experienced, the difficulty with the road setback rule as it is proposed to apply is that on corner sections buildings tend to be pushed back from two of their four boundaries. This can dictate where private open space is to be - often in suboptimal parts of a site (e.g. shaded or lacking privacy). On smaller corner sections an impractically small usable building envelope can result.

89. In reality, a substantial road set back is, in my opinion, only required on the side where vehicle access is gained from. This principle was accepted in the first stage consent issued by Council for Hanley's Farm, which was supported by urban design analysis. If the rules were confirmed as proposed it would probably lead to RCL applying for land use consents to enable encroachments into one of the side yard setbacks at the time of subdivision. This to me would be rather inefficient approach.

Internal / side yard setbacks

90. With regards to internal boundary setbacks, sites larger than 550m² currently have a requirement for one 4.5m set back and two 2m setbacks. This 550m² distinction is rather arbitrary, and the instance has already occurred where adjacent sites fall close to but either side of the 550m² threshold. Such sites will have different side yard requirements with the rules as they are proposed, which in practice is illogical.
91. I believe that as density increases it is increasingly difficult to justify large side yard setbacks. These do not tend to be very useful spaces, and it is often better for a home owner to locate more of their building closer to such side yard boundaries and thereby free up more space for useful private open space in other parts of the site (often at the rear). Furthermore, with narrow section such as those favoured for efficiency reasons by RCL, it can become difficult to fit a wide range of houses if there are also large setback rules (something I have ascertained through discussions with building companies). It is my belief that the proposed setback rules would likely disincentivise smaller lots and may well lead to a reduction in the total number of houses built in Hanley Downs.
92. The section 42a report supports retaining the current setback rules and in fact recommends applying them to sites sized between 380m² and 550m² – which believe would compound the issues of inefficient use of land. I believe that more relaxed side yard setback rules are necessary to achieve the type of efficient use of land envisaged in Hanley's Farm and I do not believe that the objectives of the Proposed District Plan should place a higher emphasis on achieving a sense of open space at the edges of buildings (I again reiterate my view that a more important matter is ensuring a generous road setback).
93. Again, my suggestion is that the plan can be simplified be deleted the above rules but ensuring that they are matters of control or discretion at the time of subdivision.⁷ As can be seen in Annex 3, a subdivision in that instance

⁷ I acknowledge my recommendations with regards to set back rules are not exactly what was asked for in the RCL submission, but I believe they are a better solution to the concerns raised in that submission and generally within the realm of what was sought.

which was supported by urban design analysis confirmed smaller side yard setbacks than are recommended in the s42a report.

Front fences

94. One matter sought in the RCL submission is that the control on front fences be removed (proposed rule 41.5.7.2). This is because, like other matters, I suggest that roadside fence heights be a matter of control or discretion at the time of subdivision – which I consider to be a more efficient manner in which to administer this.
95. I consider this to be fairly minor point for RCL as in most cases the company prevent front fences from being formed through non-RMA mechanisms. I am however somewhat concerned at the change recommended in the s42a report which appears – contrary to RCL's submission – to impose a more restrictive fence control. The reason for my concern is that I believe it is reasonable that on part of a road boundary (say 50% of the boundary where vehicle access is not gained from) fences should be allowed to extend to 1.8m in height to ensure sufficient privacy of private open space (there tends in my experience to be a need for a balance between privacy and an attractive street presence on corner sites).

Structure Plan Adherence Rule

96. I believe there to be a flaw in the way the rules are structured which the RCL submission sought to address. Rule 41.4.9 would make all activities aside from residential in the R(HD) area a discretionary activity. This would appear to override other rules, most notably 41.4.7.1 which anticipates the some activities as restricted discretionary activities. I imagine that this can be quite simply resolved through some added wording to 41.4.9.

Proposed Open Space, Community and Recreation Activity Area

97. This is a proposed new activity area which would apply to Lot 12 DP 364700, as sought in RCL's submission.
98. RCL believe that the site could have potential for some kind of community or recreational facilities. There might be a commercial motivation to such development, but also RCL have told me in the past how they have invested in recreational facilities in suburbs where they are developing, given that they can help in establishing a community and help give momentum to their projects. I have also had several conversations with organisations interested in establishing private schools. Such sites with suitable zoning are rare in my experience in the Wakatipu, but I and RCL have been reluctant to progress such propositions for this site without some amendments to the zoning.

99. Landscape advice led RCL to conclude that only the southern portion of the site was suitable to be rezoned for buildings. Based on those discussions a low site coverage was proposed, but it was thought that there was the potential for quite an enabling height limit given the size of the site, potential distance from neighbours and potential for mitigation (some facilities such as halls or sports buildings tend to require generous building heights).
100. The provisions sought in the RCL submission attempted to reasonably provide for such outcomes with appropriate discretion retained by Council to ensure quality built form. Nevertheless, as evidenced in the opposing submissions received, some Jacks Point residents expressed concern.
101. In spite of these submissions, it is my view that the site, being within an urban growth boundary and relatively distant from public views, is suitable for some use in line with what RCL envisaged. To assess the suitability of such a proposal an assessment of effects on views from public places and the nearby residential properties is appropriate. Both, by my assessment of the proposed District Plan objectives are relevant, but more weight should be given to public viewpoints.
102. I believe the site, which would actually be reasonably centrally located within a future Jacks Point settlement (being next to the road which heads south to Homestead Bay and in walking distance from the Jacks Point Village) would under the proposed District Plan likely result in an inefficient use of land. A well designed development on this site could in my opinion be a community asset. I note that the section 42a reporter opposes the zoning as they believe that such activities should be located in the Village Activity Areas. But I am sceptical that this is practical. The development provided for in the Village Activity area is intensive and it is likely to have a very high land value. In my experience there is demand for some lower intensity, lower value sites that can accommodate non-residential activities such as a school, and to me this is a suitable such location within the vicinity of the Jacks Point Village.
103. I think it is important to acknowledge the “baseline” of what is achievable on the site under both the operative and proposed zoning. Under both recreational activities are anticipated and provided for, which according to the definition of both the operative and proposed District Plan would appear to include as a sub-set commercial recreation activities. Buildings are also allowed up to 4m as a controlled activity (with no specific building coverage limit). A 4m height limit would allow some development, but it is difficult to fit any substantial building under such a height limit, unless perhaps with the benefit of excavation. In summary, it appears some of what RCL has contemplated may be able to be built under the zoning, but in my opinion the proposed rules risk neither being effective or efficient in either enabling or controlling the effects of such development.

104. There are some limitations on the site, including a designation proposed by Aurora (which RCL requested in its submission be downsized to a more sensible portion of the site – the proposed coverage appears to have been an error in the Proposed District Plan). There are also easements over a large part of the site in favour of the Jacks Point Residents and Association for treated wastewater disposal – some of which are currently in use with sub-surface drip lines installed. RCL inform me they have agreements in place which allow these easements and infrastructure to be moved if necessary, and given the size of the site it is my understanding that if this is necessary it should not be difficult to find equally suitable locations for this infrastructure within the larger site.
105. There is also a neighbouring air strip used for a sky-dive operation (which has an existing resource consent). It is possible that in the future that activity may relocate but I consider it important to establish it is feasible to locate activities on parts of the site while meeting the proposed noise standards accounting for that operation. RCL engaged the advice of Dr Trevathan and asked him to consider the scenario of a school. I rely on his evidence in concluding there are indeed likely to be places suitable in this regard.
106. I also considered the known natural hazard information held on the Council's hazard register and sought a flood hazard assessment from a suitably qualified expert – Mr Dent. His evidence explains the nature of the flooding hazard and how development can suitably avoid the hazard.
107. And lastly, I received confirmation from engineer Mr White, who has also provided a brief statement of evidence, that there were feasible options to service the site with infrastructure.
108. Having confirmed the above matters, I also sought further advice from Mr Espie. We accepted that some of the concerns raised needed to be addressed, including via the following amendments to our proposed provisions:
- (a) Instead of referring to "community facilities", referring to "education facilities". (The definition of community facilities is wide encompassing some activities which may not be appropriate in this context)
 - (b) Reducing the allowable height to 7m, ensuring residential scale buildings in keeping with the nearby residential neighbourhoods. I believe the height limit can also be made non-complying to breach in order to provide more certainty to nearby residents.
 - (c) Reducing the maximum total building coverage of 5000m² (instead of 10%), which we considered would for example aptly provide for a small primary school,

- (d) Adding more wording to the rules to ensure that appropriate regard is given to ensuring the built form integrates with the surrounding Jacks Point context. This would be achieved by adding an extra matter of discretion to proposed rule 41.4.3.6 in point 18 of RCL's submission, along the lines of "integration of built form with the character of Jacks Point".

109. With this combination of amendments I believe that changes sought would be most appropriate means in which to achieve the Jacks Point objective for this site. In making this assessment, I am conscious of the proposed objective's emphasis on an integrated community and the fact that the range of activities envisaged for the site very much accords with the activities listed in the objective. Mr Espie elaborates in his evidence on the suitability of the proposed provisions from a landscape and visual amenity perspective.

CONCLUSION

110. There is an extensive recent planning history to the Hanley Downs part of the Jacks Point Zone and development is now proceeding to create what I believe will be a high amenity suburb which can contribute significantly to the Wakatipu's supply of land for housing, and thereby the economic and social wellbeing of the community. With a few amendments the provisions for this zone can in my opinion be made more efficient and effective.
111. The other major focus of my evidence has been on the proposed development sought on the land to the south of the existing Jacks Point neighbourhoods. My opinion is that that proposal, as amended through this evidence, will provide the most appropriate provisions to see this site utilised in a way that accords with the proposed objective of the Jacks Point Zone.

Dan Wells
January 2017

Annexures

1. Examples of development on small lots
2. Traffic Report included in application for Hanley Downs Outline Development Plan Stage 1 consent

3. Subdivision plan approved under Hanley Downs Stage 1 consent
4. Building controls approved under Hanley Downs Stage 1 consent