

**BEFORE THE HEARINGS PANEL
FOR THE PROPOSED QUEENSTOWN LAKES DISTRICT PLAN**

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of Resort Zone Hearing
Stream 14 – Millbrook
Zone

**SYNOPSIS OF SUBMISSIONS ON BEHALF OF MILLBROOK COUNTRY
CLUB LIMITED – Stage 2, Hearing Stream 14**

9 July 2018

Ian Gordon
Barrister
Stout Street Chambers
Wellington

Telephone: 04-472 9026
PO Box 117, Wellington 6140
Email: ian.gordon@stoutstreet.co.nz

MAY IT PLEASE THE PANEL

Introduction

1. This synopsis of submissions is on behalf of submitter #2295 and #2605, Millbrook Country Club Limited (Millbrook).
2. Millbrook's aspirations for expansion of the Millbrook Resort Zone (MRZ) have been met by the Council's acceptance of the Panel's recommendations for re-zoning the land known as the Dalgleish Farm. Millbrook has no wish to see the MRZ extended further for the life of the plan (at least the next 15 years).
3. For the reasons set out in these submissions and in the evidence of its witnesses, Millbrook resists any additional extensions of the MRZ, with two, possibly three, exceptions.
4. The submitters seeking to have their parcels of land included in the MRZ approach the issue as if the MRZ is a generic zone enabling a suite of activities from which they can select residential only for the future use of their properties.
5. Against that, Millbrook recognises and seeks to uphold the special qualities of the MRZ which is named for its international trading brand.
6. Millbrook takes the view that the MRZ will be inexorably changed if it is extended to the north – Spruce Grove, Malaghans Road or to the east - Spruce Grove, Lake Hayes – Arrowtown Rd., and others.
7. Mr Edmonds opines that the MRZ will be rendered obsolete. He is justified in that view because the submitters seeking to have their land included in the MRZ are asking for little more than a free-for-all residential lolly scramble.
8. The MRZ purpose, "...to provide for a visitor resort of high quality..." and single objective are best achieved by not extending the zone boundary to include would-be-developers with the solitary aim of building comparatively high density residential dwellings overlooking the resort.
9. Urban development on the zone boundaries will achieve nothing more than degrading the context of the present resort and its aesthetic coherence.
10. The present environment of the MRZ justifies protection.

Millbrook Resort Zone Purpose - Operative District Plan ('ODP')

11. The ODP describes the purpose of the Millbrook Resort Zone as follows:

The purpose of the Millbrook Resort Zone is to provide for a visitor resort of high quality covering approximately 200ha of land near Arrowtown. Millbrook provides for recreational, commercial, residential and visitor activities and the general amenity of the Zone is one of higher density development enclaves located in the open rural countryside with well landscaped grounds. The Zone provides for golf courses and a range of other outdoor and indoor sporting and recreational activities. Hotel and residential accommodation are provided for, together with support facilities and services.

Millbrook Resort Zone Objective - ODP

12. The ODP describes the objective of the Millbrook Resort Zone as being:

Visitor, residential and recreation activities developed in an integrated manner with regard for landscape, heritage, ecological, water and air quality values and minimal impact on adjoining neighbours and roads.

The Law

13. The law as to Plan Change/Review is well settled and is set out at Appendix A to these submissions. The task is to identify the most appropriate provisions, sometimes described as the optimal conditions.
14. Millbrook accepts that if a submitter made a submission in the Stage 1 process seeking a mapping adjustment to include their land in the MRZ, or a submitter has made a submission on the Variation seeking the same, it is a submission on the plan in a *Motor Machinists* sense. In this regard, Millbrook agrees with the legal submissions of Ms Scott and Mr Winchester for the Council.
15. The *King Salmon* judgment referred to in Appendix A as the 'last word' helpfully reiterates how the RMA is set up and at paragraph [23] the Court reminds us of two critical definitions of words used in s 5(2):

[23] ... First, the word "effect" is broadly defined to include any positive or adverse effect, any temporary or permanent effect, any past, present or future effect and any cumulative effect. Second, the word "environment" is defined, also broadly, to include:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) amenity values; and
- (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters ...

The term "amenity values" in (c) of this definition is itself widely defined to mean "those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes". Accordingly, aesthetic considerations constitutes an element of the environment.

16. At [24] the Supreme Court makes four points about the definition of "sustainable management", including:

(d) Fourth, the use of the word "protection" in the phrase "use, development and protection of natural and physical resources" and the use of the word "avoiding" in sub-para (c) indicate that s 5(2) contemplates that particular environments may need to be protected from the adverse effects of activities in order to implement the policy of sustainable management; that is, sustainable management of natural and physical resources involves protection of the environment as well as its use and development. The definition indicates that environmental protection is a core element of sustainable management, so that a policy of preventing the adverse effects of development on particular areas is consistent with sustainable management. This accords with what was said in the explanatory note when the Resource Management Bill was introduced:

The central concept of sustainable management in this Bill encompasses the themes of use, development and protection.

(Emphasis added)

17. The underlined passages remind decision-makers that aesthetic considerations are an element of the environment including aesthetic coherence which may warrant protection.
18. Subparagraph (d) reminds us that the purpose of the Act includes the need to protect particular environments from the adverse effects of activities and that environmental protection is a core element of that purpose. The Court notably concludes that a policy of preventing the adverse effects of development on particular areas is consistent with sustainable management and is consistent with the explanation given when the Resource Management Bill was introduced.
19. These passages are particularly relevant to Millbrook's case that the submitters seeking to expand the MRZ on their own terms risk undermining the aesthetic coherence of the zone, and in the words of Mr Edmonds, render it "obsolete".
20. The environment that requires protection from such submitters are the natural and physical qualities and characteristics of Millbrook that contribute to its pleasantness, aesthetic coherence, and cultural and recreational attributes. These amenity values are the essence of the Millbrook

environment and the reason for its inclusion in the District Plan as a Special Zone.

Aesthetic coherence

21. The aesthetic coherence was evolving before the Zone was created on a planning map. It is a product of the master planning, structure planning, design guidance and ownership constraints (through memoranda of encumbrance) over 35 years. Those components and instruments have operated hand in glove to achieve a special environment worthy of protection from inappropriate development.
22. Millbrook has a design legacy that dates back to the establishment of its first golf holes and the careful refurbishment of its heritage buildings and the 'campus' on which they now operate as part of a golf tourism resort. The integrity of that design legacy has been ensured by recognition in the district plan as a special zone and by the faithful operation of non-statutory tools such as master planning; the design guides(s) and the encumbrances which constrain the design, build and behaviour of subsequent residential owners, and visitors.
23. As to the MRZ amenity, Mr Craig observes:

The MRZ exhibits an extremely high degree of amenity derived from abundant open space, many large trees, extensive lawns (including golf courses), historic buildings, natural features such as water bodies and landforms and well-designed buildings whose appearance is visually consistent.¹

And

The paramount outcome for Millbrook is consistent and coherent character from which an extremely high level of amenity occurs throughout the MRZ.²

24. The resulting aesthetic coherence is part of an environment that is further articulated by Mr Craig³ as worthy of protection from inappropriate development.⁴ Mr Craig concludes that "...any development within the MRZ needs to abide by all of the prerequisite design controls in order to maintain the consistency and coherence which underpins the Millbrook environment.
25. What is, or is not, appropriate involves a common-sense judgement. Hopefully, that process is aided by the evidence of Messrs Craig, Edmonds

¹ Craig SoE, Paragraph 11 and see paragraph 50 & 51;

² Craig SoE, Paragraph 62;

³ Craig SoE, Paragraph 40, a-e;

⁴ Craig SoE, Paragraph 45, 51 & 62.

and O'Malley. They make clear and sensible suggestions about what is and isn't appropriate. Their evidence supports the objective of the zone with an eye to the benefits that Millbrook provides to the district as its flagship golf tourism facility well balanced and supported as it is, by a carefully constrained residential component.

26. Protection in an RMA sense includes selecting optimal Plan provisions such as, in this case, provisions which exclude the possibility of residential intensification on the resort fringes under a more relaxed master planning and design regime.

The Submitters

27. The submitters seeking Millbrook zoning suggest that the zoning by itself is an appropriate outcome – the most appropriate for land use controls at their locations in the Basin. None of them seek to adopt the Millbrook design guidelines or encumbrances as to design build and operation, including the use of the Design Review Panel. They do not buy into master planning and pay lip service to the structure plan process by arguing that their properties are suitable for residential development at a density that they say meets the objectives of the zone. Spruce Grove Trust, for example, suggests a density of 1 dwelling per 500m² and argues that inclusion within the MRZ is appropriate to achieve that.
28. It is submitted that this is a transparent sophistry and that all the submitters are hoping to achieve is zoning for residential development at a greater density than would otherwise be available to them and with the imprimatur of Millbrook Resort – the trading name of MCC – New Zealand's most enduring tourism resort.
29. Further, with reference to the proposed definition of resort:

Resort - Means an integrated and planned development involving low average density of residential development (as a proportion of the developed area) principally providing temporary visitor accommodation and forming part of an overall development focussed on onsite visitor activities.

- the one component offered by these submitters, is residential activity. They cannot suggest contribution in any other way to the mix of components which make up that definition because they do not have the land area necessary to host a range of quality activities. In short, if they separately or even jointly sought their own Resort Zone (other than MRZ) all they could

offer would be a residential component adjacent to, or in the vicinity of, an actual golf tourism resort where public access may or may not be available subject to the priority of existing members and guests.

30. As signalled, these submitters treat the MRZ as a generic zone enabling a suite of activities from which they could select residential only for the future use of their properties.

31. As Mr Edmonds points out:⁵

The submitters seeking to join the MRZ have not identified why those parcels of land are better suited to being within the MRZ, nor what benefit their inclusion within the resort will bring, either to the resort or to the wider community. These submissions all seek to borrow from the development rights, amenities and reputation that MRZ provides.

32. Mr Edmonds goes on to neatly summarise the position at paragraphs [60]-[62] to conclude that the effect of these submissions would render the Millbrook Resort Zone almost obsolete.

Spruce Grove Trust – Malaghans Road

33. This submitter has amended the relief it seeks by identifying its parcel as “R21” and sub-areas A and B for residential activity at a maximum average density 1 dwelling per 500m² with restricted discretionary status limited to appearance of buildings, associated landscaping controls and the effects on visual and landscaping amenity of the area including coherence with the surrounding area. Access and services would all be via Malaghans Road (or on site).

34. The submitter proposes inclusion of the area within Rule 43.5.3 as to restrictions on colours and materials, and a maximum site coverage of 50% with restricted discretionary status if exceeded. Interestingly, none of the suggested discretionary criteria would include visual impacts on Millbrook or its members. There would be no assessment as to visual coherence or dominance.

35. A proposed structure plan (Smetham) is advanced in response to the concerns raised by the reporting officers, the general intent of which is to continue the two residential lanes that make up the existing area known as Malaghans Ridge. This is advanced on that basis that if Malaghans Ridge is

⁵ Reference Edmonds at paragraph [59]

acceptable to Millbrook, its continuation across the open slopes of the roche moutenee should also be acceptable.

36. The submitter suggests that its proposal would usefully fill a structure plan gap between two residential activity areas – enclaves, to achieve an appropriate fit and structure plan coherence.
37. Ms Smetham for the submitter suggests that because a council document has concluded that the roche moutenee is within the same landscape character unit (LCU 23) as Millbrook and the MRZ, there is a ready fit.
38. Mr Craig’s response to this is that the proposed density; and refusal to accept the Millbrook design guide process including the policy to avoid structures on natural landscape features counts against development of this site, other than by locating four dwellings across the lower slopes.
39. Ultimately, Spruce Grove says that it can be trusted to bring forward design and build qualities for council to approve such that the visual coherence of LCU 23 – Millbrook will not be impacted – and that such an urban development will only have positive benefits. Spruce Grove says such benefits are deserving of the title Resort Zone when they contribute little more than the introduction of suburban elements to the open space backdrop to a genuine, internationally rated and aesthetically coherent golf tourism resort.
40. Regardless of Ms Smetham’s efforts, her proposal amounts to little more than the introduction of suburban Arrowtown to these steep slopes overlooking the golf tourism and residential activities that have been cautiously enabled so as to achieve aesthetic coherence justifying its own landscape character descriptor.
41. The Spruce Grove reasoning for being in the MRZ is:
 - As the sites are in the same LCU their landscape expert deems their land to be consistent with the LCU;⁶
 - No landscape, infrastructure or servicing reasons have identified that the two areas are unsuitable for MRZ.⁷
 - there will be adequate assessment via the resource consent process and the MRZ chapter standards to ensure consistency of design with the Millbrook Design Guides.⁸

⁶ Leith para 54-55

⁷ Leith para 122;

- Ms Leith considers the zoning is consistent with objectives and policies for MRZ but in her s32AA analysis⁹ she does not address the purpose of the zone or the requirement for integration.

So, on analysis, there is no real link to the "integrated development", which is a critical component of the proposed definition of Resort

42. Further Ms Smetham does not appear to address the Environment Court decision which settled on capacity for just four dwellings across the lower slopes of the roche moutonee. The Court's reasons for restricting development in 2009 are equally relevant now. No new or different factors are at play which might justify extension of the zone by virtue of conspicuously intensive residential activity on the slopes of this distinctive geomorphological feature. The proposal is not improved in any way by an effort to suggest that it is 'at home' in an adjunct to the MRZ structure plan. It gains nothing from that suggestion, which is no more than inelegant sophistry.
43. The definition of resort implies a collaborative planning approach to arrive at a structure plan which works across the whole zone – not multiple structure plans across the zone so as to achieve "...an integrated and planned development" – with the emphasis on a resort reading as one overall "development".
44. If this parcel were to be re-zoned as resort zone of some name and style other than Millbrook, how would that be justified when the highly visible characteristics of the site have little if any potential for resort type activities when compared to Millbrook, Jack's Point or Waterfall Park? Of the activities typically associated with resorts in the district, the submitters can only realistically suggest residential in the vicinity of a golf course, but that feature only does not qualify for as resort activity especially when the only link to the golf course is visual. In other words, that a parcel of land provides views over a resort does not qualify it to be an integral part of that resort.
45. The problem for Spruce Grove is that its parcels of land are not large enough to provide a range of activity components which go to make up a resort.
46. Finally the proposed definition of resorts calls for integration. Without Millbrook's cooperation (which would not be forthcoming) this parcel of land can only mimic some of the residential activity taking place in the MRZ but that alone does not achieve integration. If there are no opportunities for

⁸ Leith para 127

pedestrian or vehicle access, including direct access to fairways, and no membership by virtue of or as a necessity of ownership, how could there be any integration within the meaning of the proposed definition of 'Resort'?

47. If the alternative zoning for this parcel is WBLP, that is a different issue which would need to be considered on its merits. But an examination as to whether that could be optimal for this site would need to consider that WBLP is a form of non-urban zone intended to cater for the special characteristics of the Basin and what level of non-urban development might be appropriate. In that respect, the Court's 2009 limitation to just four dwellings is apposite.

48. In rebuttal Mr Craig reminds us:

The Malaghans Road submitter site comprises 9.1 hectares. At the current MRZ density that would equate to 15 dwelling units rather than the 88 sought. In applying the above-mentioned 'Dagleish Farm density' it would equate to 7 dwelling units, of which 4 could reasonably be located as indicated by the Environment Court in its 2011 decision referred to in my evidence in chief.¹⁰

Spruce Grove Trust – Arrowtown-Lake Hayes Road - Boundary Trust, Campbell, Egerton Etc.,

49. The general submissions at paragraphs 19 – 32 above equally apply to the issues raised by these submitters.
50. All but the Egerton parcel gain access from the Arrowtown-Lake Hayes Road or from Butel Road. The land area involved is 23 hectares, "...almost 10% of the total zoned area of Millbrook."¹¹
51. Mr Craig helpfully summarises the overall effect of these submissions in his rebuttal statement:

The submitter's combined Arrowtown / Lake Hayes Road sites collectively amount to 10.35 hectares. To be consistent with MRZ density, this would equate to 17 dwelling units, rather than the 90 sought by the submitter. In applying the 'Dagleish Farm density' it would equate to 8 dwelling units (i.e. three more than the existing five dwellings).¹²

52. For the reasons articulated by Messrs Craig, Edmonds and O'Malley, this would amount to inappropriate from which the MRZ environment should be protected.

⁹ At the back of her evidence; no page number

¹⁰ Craig Rebuttal paragraph 16

¹¹ Edmonds, paragraph 60.

¹² Craig Rebuttal paragraph 17

53. The residential enclaves within the MRZ in the vicinity of these neighbouring properties already maximise the opportunities for residential activities at this 'end' of the MRZ whilst retaining sufficient open space between structures or enclaves, the majority of which is able to be utilised for recreation (golf) activities.

54. In short, the zoning (MRZ) sought by these submitters would be sub-optimal. In landscape terms Mr Craig concludes:

The key landscape matter arising from Ms Smetham's evidence and that of the overall submission generally, rests on the issue of whether the existing character and amenity of Millbrook can be delivered to the proposed sites via the District Plan standards alone. For the foregoing reasons and those addressed in my EIC (in addition to that of Mr O'Malley and Mr Edmonds), it is my opinion that it cannot.

55. The 90+ dwellings sought by the submitters at this location equates to nothing more than a transposition of residential Arrowtown to this location. An outcome which the MRZ deserves protection from.

56. Urban growth of this magnitude at this location is not supported by any of the PDP's provisions for appropriate urban growth. The officers' recommendations to retain WBRAZ across these parcels should be upheld.

57. A possible exception is the Egerton parcel which is accessed via Millbrook and which Mr Craig has identified as being capable of taking an additional dwelling if agreement can be struck with that submitter for to adhere to:

all of the MCC design, master planning, maintenance and management protocols as well as those embodied in the District Plan.¹³

58. As at today's date, Millbrook and the Egerton Family seem to be a long way apart on these protocols and mechanisms. If that gap can be sufficiently closed, the Panel will be advised.

Waterfall Park

59. Waterfall Park Development Limited's ('WPDL') seeks to rezone a triangular block of land on Waterfall Park Road to Waterfall Park Resort Zone.

60. Millbrook maintains that Waterfall Park Road itself should not be zoned as this may preclude public access to the waterfall and might unintentionally enable development rights over the road.

61. The WPDL submission includes applying the Waterfall Park Structure Plan to this triangular block of land. Millbrook's position is that the Open Space

activity area (AA O/P) should apply to the part of the triangle that is over 360masl. Millbrook also considers that a rule should be included in the WPRZ to ensure any building in the O/P activity area require non-complying assessment as this would assist in achieving the intention of an open-space area.

62. WPDL also submitted that the land sound of the Millbrook Resort Zone, Waterfall Park Resort Zone and Waterfall Park Road should become a new 'Ayrburn Zone'. On this land is Christine's Hill.
63. WPDL has suggested that the toe of the slope on Christine's Hill is 370masl and indicates on the proposed Ayrburn Zone structure plan that an Open Space and Recreation area (O/P) will occupy the hill slope above 370masl with a residential area occupying below the 370masl contour.
64. Millbrook maintains that Christine's Hill is visually important and the hill-slope from the 360masl to the boundary of the MRZ should be included in the WBRAZ or similar.
65. The WPDL submission also requests that the Urban Growth Boundary be extended to include Waterfall Park's land. The extension of the Arrowtown Urban Growth Boundary would be inappropriate and would undermine the distinctiveness of Arrowtown and the land use patterns in this corner of the Basin.

Donaldson; X-Ray Trust and Williamson – Ayrburn Terrace

66. Mr Edmonds refers to the location of WBLP across these properties along what is locally known as the Ayrburn Terrace.¹⁴
69. Mr Edmonds' paragraphs 82-84 neatly summarise Millbrook's position in respect of the Donaldson parcel. He refers to the existing agreements between Mr Donaldson and Millbrook which include access through Millbrook at two points, and concludes:

Ultimately, the WBLP zoning could be appropriate for the Donaldson land, considering the physical and visual enclosure of this land, and neighbour agreements to mitigate potential impacts on adjoining MRZ land. I note that the WBLP height limit for dwellings here is proposed to be 6m. I support that height limit for dwellings closest to the common boundaries with Millbrook in order to reduce visual impacts and better enable mitigation.¹⁵

¹³ Craig Rebuttal paragraph 22

¹⁴ Edmonds, paragraph 81

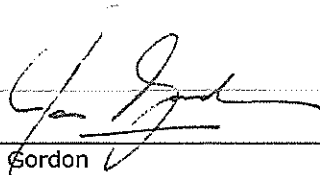
¹⁵ Edmonds, paragraph 84

70. The existing agreements between the Mr Donaldson and Millbrook focus on interface amenity issues between the two zones. These issues were also to the fore with the extension of the MRZ across the adjacent Dalglish Farm area and the potential impacts on the visual amenities for the Donaldson and X-Ray Trust parcels.
71. It is hoped that the agreements are able to be further refined so that Millbrook can provide unconditional support for the WBLP across the Donaldson parcel.
72. The alternative is site mitigation specific treatment as advocated by the Millbrook submission either through rules or a combination of structure plan and rules, so that the same or similar level of attention can be given to interface amenity issues when the Donaldson parcel is finally developed.
73. As to the X-Ray Trust and Williamson parcels, Millbrook's position is as set out in Mr Edmonds evidence circa paragraph 90 where he recommends an upper elevation of 440masl for WBLP on the Williamson parcel in the vicinity of the (new) western boundary of the MRZ where elevated land has been identified via the MRZ Structure Plan for Landscape Protection. Similar landscape protection can be achieved by maintaining WBRAZ above the 440masl contour in this vicinity.
74. That approach is understood to be consistent with the view of X-Ray Trust which seeks the restricted development opportunities of WBRAZ above a certain contour.

Underdown Trust and Archibald

75. Agreements already exist between Millbrook and these landowners which will enable these pockets of land well within the MRZ to be re-zoned with confidence that modest enclaves of residential activities on these sites can readily be absorbed into Millbrook's master planning. Those agreements are the subject of further discussions as to suitable refinements.
76. It is anticipated that the parties will be able to report on positive outcomes as to the optimal provisions to include these parcels in the MRZ by the time these submitters are to be heard.

DATED this 9th day of July 2018

A handwritten signature in black ink, appearing to read 'I M Gordon', is written over a horizontal line.

I M Gordon
Counsel for Millbrook Country Club Limited

APPENDIX A

1. The legal test of s 32 is well known and well traversed by various Court decisions. The issues were usefully described by the Court in its declaration decision in *Monk v Queenstown Lakes District Council* [2013] NZEnvC 156 as follows:

[47] That is a generic assessment of the amended plan change, but of course each provision will need to be assessed individually (to the extent necessary) under section 32. That means that one of the primary matters for the court to consider on a substantive hearing of the appeal on PC39 would be to compare:

- (a) the status quo (i.e. a Rural General Zoning) of the Arrowtown South land with
- (b) the PC39 proposal; or
- (c) the submissions on PC39; or
- (d) something in between (a), (b) and (c)

in the light of the relevant tests under the RMA for preparation of plan changes. In particular, as set out in *High Country Rosehip Orchards Limited v Mackenzie District Council*, that requires:

[...]

8. ... Each proposed objective in [the] ... plan ... change ... **is to be evaluated** by the extent to which it is the most appropriate way to achieve the purpose of the Act;
9. The policies ... to **implement** the objectives, and the rules (if any) ... to Implement the policies.
10. [Examination of] Each proposed policy or method (including each rule), ... **having regard to its efficiency and effectiveness**, as to whether it is the most appropriate method for achieving the objectives of the district plan:

(a) **taking into account:**

- (i) the benefits and costs of the proposed policies and methods (including rules);

And

- (ii) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods; ...

[...]

The ultimate issue for the substantive hearing would be which of the options (a) to (d) above better achieves, in respect to each objective, policy and rule, the purpose of the RMA when examined under those statutory tests.

2. As to the correct approach to be taken to s 32, the High Court has observed:¹⁶

Section 32

[44] Section 32 requires that, before adopting any proposed changes to policies, the Board must evaluate and examine whether, having regard to the efficiency and effectiveness, the changes are the most appropriate way of achieving the objectives of the Freshwater Plan.¹⁷ In making that evaluation the Board had to take into account the benefits and costs of the proposed policies (ie "benefits and costs of any kind, whether monetary or non-monetary");¹⁸ and the "risk of acting or not acting, if there is uncertain, or insufficient information" about the subject matter of the proposed policies.¹⁹

3. That s 32 requires a value judgement "as to what on balance, is most appropriate, when measured against the relevant objectives" is not new. It is the approach that the Environment Court has consistently been taking as evident by cases such as:
 - *Eldarmos Investments Ltd v Gisborne District Council*²⁰
 - *Long Bay-Okura Great Park Society Inc v North Shore City*²¹
 - *High Country Rosehip Orchards Ltd v MacKenzie District Council*,²² and
 - *Waterfront Watch Incorporated v Wellington City Council*.²³
4. It is submitted that the task for the Panel involves its overall value judgment as to whether a proposed policy appropriately achieves the objective(s) and whether methods – rules, standards, and assessment matters enable successful implementation of the policies.
5. Likewise, in *Colonial Vineyard* the Court acknowledged that:²⁴

'most appropriate' in section 32 suggests a choice between at least two options (or, grammatically, three). In other words, comparison with something does appear to be mandatory.
6. The overarching value judgement referred to above is whether the proposed provisions meet the purpose and principles of the Act. The final word on the Part 2 purpose and principles of the RMA is set out between paragraphs [21]

¹⁶ *Rational Transport Society Incorporated & Anor v NZTA* CIV-2011-485-002259

¹⁷ Section 2(1)

¹⁸ Section 2(1)

¹⁹ Section 32(4)

²⁰ [2005] NZEnvC 198.

²¹ EnvC A078/08, 16 July 2008.

²² [2011] NZEnvC 387.

²³ [2012] NZEnvC 74.

²⁴ *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at [64].

to [30] of the Supreme Court's 2014 decision in *King Salmon*. No other interpretation is now available.

