

**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

LEGAL SUBMISSION ON BEHALF OF RCL QUEENSTOWN PTY LIMITED

16 FEBRUARY 2017

INTRODUCTION

1. These submissions are on behalf of RCL Queenstown PTY Ltd ("RCL")
2. RCL made submissions and further submissions on the Jacks Point Zone of the Proposed District Plan.
3. RCL owns a large part of the area shown as R(HD) on the Jacks Point Structure Plan and has advanced planning provisions to support important opportunities for the 'affordable' or 'entry-level' sector of the local market.
4. The Hanley Downs land has characteristics that make it suitable for such urban development, which is a scarce resource in the District. The evidence for RCL is that there is no more suitable site in the Wakatipu in this regard, and the proposed provisions which enable higher density development are an efficient use of this area.
5. The areas of interest to RCL are those referred to as the Hanley Downs part of the zone, and are the following areas shown on the Jacks Point Structure Plan:¹
 - 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
6. RCL will retain interest in a section on the eastern side of the Village, which they are preparing to subdivide into lots for housing.
7. RCL also own a 41.6 Ha lot to the south of developed Jacks Point Residential neighbourhoods (41.6 Ha Lot).² Currently, this site is mostly used for farming or wastewater disposal fields, for which RCL seeks 'education facilities' land use provision.

OVERVIEW

8. The submissions of RCL on the Proposed District Plan:
 - (a) Support the Proposed District Plan provisions retention of the provisions from the Private Plan Change 44 (PC44) process;

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.

² Legally described as Lot 12 DP 364700 held on CFR 262752

- (b) Seek new rule provisions to improve the plan, drawing on experience and implementation of development to date;
- (c) Support the Proposed District Plan extension of the R(HD)-B Activity Area to include the 'small triangular' parcel of land;
- (d) Seek to amend the road access acknowledgement on the structure plan;
- (e) Seek provision for education facilities for the 41.6 Ha Lot.

EVIDENCE

9. RCL has pre-lodged evidence from:
 - (a) Mr Ben Espie (visual and landscape) supports the conclusions reached in the landscape reports appended to the section 32 report as it applies to the Hanley Downs land, and gives landscape and visual amenity evidence supporting the RCL submission.
 - (b) Mr Gary Dent (natural hazard) confirms the appropriateness of proposed education facility land use for the 41.6 Ha site in relation to potential flood channels.
 - (c) Dr Jeremy Trevathan (noise) confirms proposed education facilities land use on the 41.6 Ha lot would have minimal reverse sensitivity effects for surrounding activities.
 - (d) Mr Peter White (engineer) addresses the proposed education facilities land use and its suitability to accommodate services.
 - (e) Mr Dan Wells (planning) sets out the planning background to the RCL Hanley Downs land, and the changes sought to the Proposed District Plan, concluding that the Proposed District Plan, with the amendments proposed in his evidence, provides the most appropriate provisions to accord with the proposed objective of the Jacks Point Zone.

Plan Change 44

10. In 2012, RCL initiated the private plan change request for PC44.
11. The hearing for PC44 commenced in November 2013, before being adjourned for a period to allow work with Council and submitters, and reconvened in July 2015.
12. There was a full hearing process with extensive information produced, and the commissioners providing their report and recommendations on 28 January 2016 (PC44 Report).

13. The rationale behind PC44, acknowledged by the commissioners, and as remains the case with RCL's submission on the Proposed District Plan, is to make efficient use of a scarce natural resource in the Wakatipu Basin – readily developable residential land, not subject to major environmental or other constraints or encumbrances.
14. The Commissioners for PC44 agreed that based on the evidence and statutory considerations the land was suited to bringing on line a large volume of modestly priced housing that provides efficient, readily deliverable housing solutions that contribute to Wakatipu Basin's housing supply.³
15. The Proposed District Plan has been prepared to incorporate the provisions as amended through Plan Change 44 (Hanley Downs),⁴ which is strongly supported by RCL.
16. In essence, RCL seeks to retain the outcomes of PC44 that have been incorporated in the Proposed District Plan.
17. The evidence of Messrs Espie and Wells⁵ affirm the suitability of the density rules for the Hanley Downs area as the most appropriate method of implementing the Jacks Point Zone objective.

Improvements to Proposed District Plan

18. RCL has commenced subdivision and residential development of their land in the Hanley Downs area.
19. As a result, valuable knowledge has been gained on how the provisions could operate more effectively and efficiently to support the proposed residential development.
20. Mr Wells sets out the detailed amendments to the Proposed District Plan in his evidence⁶ to better achieve the objective for the Jacksons Point Zone.

³ Pages 40-41 of PC44 Report.

⁴ Paragraph 1.1 of Section 32 Evaluation Report – Jacks Point Zone.

⁵ Wells evidence - paragraphs 49.

⁶ For example:

- Native planting rules – paragraphs 60-63
- Building controls – paragraphs 69-75
- Building coverage – paragraphs 76-80
- Recession planes – paragraphs 81-86
- Road set backs – paragraphs 87-89
- Internal / side yards – paragraphs 90-93
- Front fences – paragraphs 94-95
- Structure plan adherence – paragraph 96

Extension of the R(HD)-B Activity Area

21. RCL supports the Proposed District Plan⁷ extension of the R(HD)-B activity area to incorporate the small 'triangle' parcel of land in the Hanley Downs area.
22. Mr Espie's evidence supports the suitability of this extension from a landscape perspective, and Mr Wells confirms his view that this as the most appropriate method of achieving the Jacks Point Zone objective.

Road access

23. RCL has sought acknowledgement of an additional road access point on the structure plan. This new road access has been consented by Council as part of the first and second subdivision stages for the R(HD) area, in which the traffic safety, efficiency and suitability of this proposed access point was assessed.⁸ NZTA has acknowledged its written approval as part of that consenting process.
24. This additional access road recognises the practical situation of enabling appropriate access to the residential development of the Hanley Downs area, and is an appropriate method for achieving the Jacks Point objective.

Education Facilities land use

25. RCL seeks provision for education facilities land use on the 41.6 Ha Lot. The current zoning of this land provides for recreation activities and associated buildings.
26. Mr Espie has assessed⁹ landscape and visual amenity matters for an education facility land use, with proposed limits on buildings of 7m height and maximum coverage of up to 5,000m², and design requirements. Mr Espie considers it to have no more effect than activities currently provided for. Mr Wells sets out proposed provisions to address submitter concerns. The amendment sought by RCL seeks proactive provision for education facility land use options to support appropriate use of this land. With the amendments proposed, it is considered the provision achieves the Jacks Point objective.¹⁰

Submitter evidence

27. RCL has noted the legal submission and evidence for the Jacks Point Group (#762) which seek amended provisions in respect of the Hanley Downs area, and particularly the R(HD)-E area, including changes to density, visitor

⁷ Wells evidence – paragraph 48.

⁸ Wells evidence – paragraph 66.

⁹ Espie evidence – paragraph 5.

¹⁰ Wells evidence – paragraph 109.

accommodation and open space provisions. These matters were not foreshadowed in their originating submission and are beyond the scope of those submissions.

28. Counsel for the Jacks Point Group outlined the legal considerations on scope. The High Court in *Albany North Landowners v Auckland Council* [2016] NZHC 138 has recently considered the matter of scope for plan reviews, and confirmed the 'reasonably foreseen logical consequence'¹¹ test and the ability to take a holistic approach to submissions.¹² This outlines the scope available to the commissioners in determining the plan provisions, as distinct from a submitter relying on other submissions for revisions sought in its submission and evidence to the commissioners.
29. If the commissioners consider the evidence to be within scope of the originating submission, this is a factor in weighing the evidence.

CONCLUSION

30. Mr Wells has assessed the proposed provisions against the various statutory requirements in his evidence.¹³
31. With the changes set out in Mr Wells evidence, it is considered the Proposed District Plan provisions are the most appropriate to achieve the purpose of the Act.
32. In particular, having regard to the management function in section 5 of the RMA, as emphasised in the opening submissions for the Council,¹⁴ it is considered the proposed provisions for the Hanley Downs area, with the amendments sought, make the most efficient use of a scarce resource within the District.

Tama Hovell

On behalf of RCL Queenstown PTY Ltd

¹¹ At paragraph [115].

¹² At paragraph [149].

¹³ Wells evidence – paragraphs 24-42.

¹⁴ Opening Legal submissions for Council (Hearing Streams 1A and 1b)(4 March 2016) – paragraph 4.4:

"4.4 In light of the challenges that this District faces in terms of balancing economic and population growth, and consequential housing demand, with the use and protection of the natural environment that in turn sustains the District, it is submitted that the management function in section 5 of the RMA is of critical importance and should be given particular weight and emphasis."