

INTRODUCTION

QUALIFICATIONS AND EXPERIENCE

- 1 My name is Christopher Bruce Ferguson. I hold the qualifications of a Bachelor of Resource and Environmental Planning (Honours) from Massey University. I hold the position of Partner with the environmental consultancy firm Boffa Miskell Limited (**Boffa Miskell**).
- 2 I have prepared evidence for and attended the initial hearing of the Environment Court on Topic 22: Jacks Point Zone. My evidence on this topic included the following statements:
 - (a) Statement of Evidence – Topic 22: Jacks Point (8 July 2020) (**EIC**). This statement addressed a broad range of matters concerning the Jacks Point Zone, including the Jacks Point Village Activity and provisions relating to the CDP; and
 - (b) Statement of Rebuttal Evidence – Topic 22: Jacks Point (15 September 2020). The scope of this evidence concerned provisions relating to the Peninsula Hill ONL and the proposed new Homesite Activity Areas.
- 3 In addition to these statements and at the direction of the Environment Court, I have also undertaken expert witness conferencing with Ms Jones for QLDC, and prepared a Joint Witness Statement (Planning), dated 28 August 2020 (**JWS**). The JWS addressed the proposed Comprehensive Development Plan (**CDP**) package for the Village very briefly and recorded no agreement on an appropriate approach to resolve the matters under appeal (at that stage).
- 4 My EIC provides further details of my qualifications and experience.
- 5 Following the completion to the Environment Court hearing on Topic 22 Jacks Point Zone and subsequent agreements between the parties and the Council on a consultation process for the development of a CDP and related changes to the Jacks Point Zone Village, my involvement in this process included the following:
 - (a) The formulation of supporting documentation associated with the “draft for consultation” version of the CDP that was formally circulated to the Council and parties in November 2020
 - (b) Involvement in several of the consultation sessions held at Jacks Point with residents over January and February of 2021
 - (c) Undertaking updates and changes to the CDP documentation in response to residents' feedback in March 2021 and attendance at workshops held at Jacks Point

- (d) Meeting with landowners within the Village, including RCL (June 2021) and Remarkables Start Property
 - (e) Preparation of the Consultation and Options Report (June 2021)
 - (f) Preparation of the CDP package for notification under s293, including CDP text, s32AA report and Summary document.
- 6 I would emphasise that in terms of my role in the preparation of the CDP documentation itself, its preparation has very much been a collaborative process with inputs from multiple parties, including, in particular, the residential precinct committee of the JPROA and the Council.

CODE OF CONDUCT FOR EXPERT WITNESSES

- 7 I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2014 and that I have complied with it when preparing my evidence. Other than when I state I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 8 In preparing this evidence I have reviewed:
- (a) The notice made under s274 from RCL Hanley Downs (**RCL**) to become a party to proceedings
 - (b) The evidence prepared by John Edmonds on behalf of RCL Hanley Downs
 - (c) The comments on the proposed s293 proposal by Mr Neville Andrews
- 9 I confirm that I have visited the site on many occasions and am familiar with the area through over 15 years of working within and around the zone for Jack's Point as well as for surrounding landowners.

SCOPE OF EVIDENCE

- 10 I have been asked to prepare evidence on the s293 proposal proposing alterations to the Jacks Point Zone Structure Plan and provisions and the inclusion of a CDP for the Jacks Point Village within Chapter 41 Jack's Point Zone (**JPZ**), of the Proposed District Plan (**PDP**) by the appellant entities with a direct interest in the Jacks Point Village, namely Jacks Point Village Holdings Ltd, Jacks Point Village Holdings No. 2 Ltd, Jacks Point Clubhouse Holdings Ltd, Jacks Point Developments Limited, Jacks Point Land Limited, , (**Jacks Point**). My evidence addresses the section 293 proposal and the comments received in response to its public notification.

11 I rely on my previous statements of evidence prepared in relation to Topic 22 in relation to the following matters:

- (a) A description of the planning history to the Jacks Point Zone,
- (b) Identification of the relevant provisions of the National Policy Statement on Urban Development Capacity 2016 (**NPD-UD**)
- (c) Identification of the relevant provisions from the Otago Regional Policy Statement (**ORPS**)
- (d) Identification of the relevant provisions from Chapter 3 Strategic Directions and Chapter 4 Urban Development, from the PDP

12 This evidence provides a focussed assessment of a small number of matters raised within the comments and the s274 notice received on the notified s293 proposal. My evidence is structured to address the following issues:

Statutory Documents

- (a) The Proposed Otago Regional Policy Statement 2021 (**pORPS**)

Since my EIC the Otago Regional Council has notified a proposed Regional Policy Statement for the Otago Region and that includes provisions relevant to the proposal.

Evaluation

13 My understanding of the concerns raised by Mr Andrews is that they arise from his understanding of what the overall changes to site coverage and general scale of development will be, the scale of open space that will be "hard wired" into the plan, the classification of the Education Activity Area, and what he perceives to be the effects arising from the above

- (a) Site Coverage and Scale of Development

My response provides clarification of the potential building coverage available under the s293 proposal; the reasons supporting a change away from the needing an area dedicated to education activities; a summary of the high level Strategic Objectives and Strategic Policies of the PDP, including the approach taken under the PDP to the management of urban growth and development within the District; and a summary of the relevant national directives that apply to urban areas and that support intensification.

- (b) Views and Outlook

In terms of the effects, my response provides a summary of the landscape advice received during consultation phase on expansion to the Village into the Education Activity Area relevant to the comments received on the impact of the proposal on views and outlook.

- 14 My understanding of the concerns raised by RCL relevant to my area of expertise are in relation to how the proposed structure of the plan provisions, CDP design controls and separate Design Guidelines are intended to work, and what the implications are for RCL and its interest:

(a) Design Guidelines

My response will provide clarification of the differences between design controls incorporated into the proposed CDP and the voluntary formulation and administration of design guidelines under non-statutory processes.

FEEDBACK ON THE NOTIFIED S293 PROPOSAL

- 15 Jacks Point has received feedback on the s293 proposal in the form of written feedback from Mr Neville Andrews and notice under s274 from RCL.

Feedback from Mr N Andrews

- 16 A summary of the Feedback from Mr N Andrews is as follows:

- (a) Opposition to any expansion of the Village Activity Area, and any further changes to the current OSG Activity Area and Education Activity Area
- (b) The reasons for this opposition include:
- (i) An increase to the village footprint
 - (ii) The impact of an increase to land coverage on outlook and views
 - (iii) Erosion of the agreed plan for the development of Jacks Point, including departure from the original deed relating to the proportion of open space
 - (iv) A conflict in the plans to realign the OSG Activity Area with the CDP Plans
 - (v) Allowance for open space within the Village and the benefits of proposed areas of open space. A request is made for more land to be committed to dedicated open space, not just open space remaining from un-built areas on a site.

Notice under s274 from RCL

- 17 The relief sought by RCL in its notice to join proceedings under s274 includes opposition to any change to the RCL properties land use areas, which would result in a change from the current mixed-use precinct.
- 18 The notice states the reasons for this opposition as being because the current s293 proposal:
- (a) Does not represent the efficient use and management of natural and physical resources;
 - (b) Does not enable social, economic and cultural well being;
 - (c) Does not promote the sustainable management of resources;
 - (d) Does not achieve the purpose of the Act; and
 - (e) is otherwise contrary to other relevant planning documents
- 19 The notice by RCL is supported by a statement of evidence by Mr John Edmonds.
- 20 The evidence of Mr Edmonds states that there is a lack of evidence supporting the amendment to the provisions relating to the RCL land in terms of visual effects, reverse sensitivity or any other changes that would justify this change, particularly given the adverse effects for RCL in losing the flexibility to undertake mixed use development as it has

PROPOSED RELIEF

- 21 The proposed relief is that described within the s293 proposal, as notified on 15 October 2021.¹ Jacks Point does not propose to make any further changes to this proposal.

STATUTORY DOCUMENTS

Proposed Otago Regional Policy Statement 2021

- 22 S74(2) of the Act requires that the District Plan 'have regard to' any proposed regional policy statement.

¹ Jacks Point Village Section 293 Proposal - <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/appeals>

- 23 The Otago Regional Council has notified a proposed Regional Policy Statement for the Region in June 2021. Relevant provisions from the pORPS are detailed below.

UFD–02 – Development of *urban areas*

The development and change of Otago’s urban areas:

- (1) improves housing choice, quality, and affordability,*
- (2) allows business and other non-residential activities to meet the needs of communities in appropriate locations,*
- (3) respects and wherever possible enhances the area’s history, setting, and natural and built environment,*
- (4) delivers good urban design outcomes, and improves liveability,*
- (5) improves connectivity within urban areas, particularly by active transport and public transport,*
- (6) minimises conflict between incompatible activities,*
- (7) manages the exposure of risk from natural hazards in accordance with the HAZ–NH – Natural hazards section of this RPS,*
- (8) results in sustainable and efficient use of water, energy, land, and infrastructure,*
- (9) achieves integration of land use with existing and planned development infrastructure and additional infrastructure and facilitates the safe and efficient ongoing use of regionally significant infrastructure,*
- (10) achieves consolidated, well designed and located, and sustainable development in and around existing urban areas as the primary focus for accommodating the region’s urban growth and change, and*
- (11) is guided by the input and involvement of mana whenua.*

- 24 Objective UFD-02 is further supported by Policy UFD-P3, as follows:

UFD–P3 – Urban intensification

Within urban areas intensification is enabled where it:

- (1) contributes to establishing or maintaining the qualities of a well-functioning urban environment,*
- (2) is well-served by existing or planned development infrastructure and additional infrastructure,*
- (3) meets the greater of demonstrated demand for housing and/or business use or the level of accessibility provided for by existing or planned active transport or public transport,*
- (4) addresses an identified shortfall for housing or business space, in accordance with UFD–P2,*

- (5) *addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents, and*
- (6) *manages adverse effects on values or resources identified by this RPS that require specific management or protection.*

- 25 These provisions closely resemble the policy direction within the PDP (refer to discussion below) and provide broad support for intensification of urban areas on a qualified basis, where it would contribute to establishing or maintaining the qualities of a well-functioning urban environment, is serviced by infrastructure, and meets demand.
- 26 The pORPS is at an early stage of formulation, with the submission period closing on 3 September 2021.

EVALUATION

Intensification

- 27 The comments by Mr Andrews raise concerns with the proposed expansion to the Jacks Point Village Activity area over the Education Activity Area, based on his interpretation that would lead to an increase of the building footprint overall, and that increase in "land coverage" (aka site or building coverage) having a "significant impact on the outlook of many Jacks Point Residents". On a related point, Mr Andrews considers that if the proposal is to proceed with expanding the Jacks Point Village Activity Area to incorporate the current Education Activity Area, he considers that the land should stay zoned for education purposes as this would reduce the intensification.
- 28 The matters raised by Mr Andrews are premised on a misunderstanding that the proposed expansion to the Jacks Point Village Activity area over the Education Activity Area, will increase 'land coverage' for the Village. It is accepted, as fact, that the proposal will increase the size of the Village Activity Area, by absorbing part of the Education Activity Area and neighbouring OSG Activity Area, expanding from its current area of 18.67 ha to a combined area of 23.93 ha (once the various changes to open space areas are included). The proposed Village Activity area will be less in area than the current Village and Education Areas combined (25.70ha).
- 29 However, as explained within the evidence of Mr Darby, the proposed increase to the Village Activity Area does not in itself translate to a greater area of building coverage. Adopting the calculations from Mr Darby, the combined building coverage from the existing Village and Education Activity Areas has potential to realise 14.36ha of building coverage. By contrast, the s293 proposal results in changes to the building coverage standard (new Rule 41.5.2.2) that lower the building coverage standard across the expanded Village to 10.00ha.

- 30 I note, for completeness, the s293 proposal seeks to change the current building coverage standard within the Village, both in terms of the actual metric (%), but also with respect to the area to which coverage is calculated. The building coverage standard (41.5.2.2) within the Village Activity Area restricts maximum building coverage to 60%, calculated across the whole of the activity area. Application of building coverage across a wider area differs from the way building coverage is used elsewhere in the PDP, which is usually based on the individual Site. The approach under the s293 proposal for the expanded Village Activity Area is to apply a building coverage standard to each land use area, 60% in the Mixed Use and Visitor Accommodation land use areas, and 45% within the residential and community land use areas.
- 31 Lowering the overall building coverage has been proposed to address concerns raised by Jacks Point Residents and the resident precinct committee in particular.² It is not a response driven necessarily by the objectives of the plan to manage urban growth and development.
- 32 The second issue impacting on the zoning options for the Education Activity Area / driving range, was its necessity given the decision of the Ministry of Education to establish the new school site within Hanley Farm – *Te Kura Whakatipu o Kawarau*. Feedback received from the Ministry was that it has no plans for using the land that had been set aside for education facilities following the establishment of Te Kura Whakatipu o Kawarau, which is due to open in 2022.³ Without the anchor of a school, provision of a large area dedicated to the provision of education activities (7 ha) would likely lead to inefficiencies in the utilisation of urban land, and potentially an *ad hoc* approach to development through discretionary activity resource consents. In the absence of an appropriate spatial planning mechanism such as the CDP, this would be less likely to integrate development of that land into the surrounding Jacks Point community.
- 33 The broader issue raised in the comments by Mr Andrews relate to intensification. In planning terms intensification is relevant to a range of the strategic and district wide provisions.
- 34 The PDP adopts a strategic approach to urban growth management based on containment. It achieves this through the identification of Urban Growth Boundaries (**UGBs**) around urban areas in the Whakatipu Basin, and dual Strategic Objectives that promote compact, well designed and integrated urban form;⁴ and that enable

² Page 39, Report to Environment Court on Consultation and Options (30 June 2021)

³ Page 27, Ibid

⁴ SO3.2.2.1, Chapter 3, PDP

urban development within the UGBs and avoid urban development outside of the UGBs.⁵

- 35 Jacks Point is located within the UGB containing the greater Queenstown urban area.
- 36 The strategic objectives and strategic policies are supported by the objectives from Chapter 4 (Urban Development) that establish direction for the management of urban growth, including through the establishment of UGBs. Whilst these are primarily a tool to aid in the spatial planning outcomes for urban development, they also provide a basis for compact, integrated and well designed urban form.⁶ The related policies seek to enable an increased density of well designed residential development in close proximity to town-centres, public transport routes, community and education facilities, while ensuring development is consistent with any structure plan for the area and responds to the character of its site, the street, open space and surrounding area;⁷ that larger scale development be comprehensively designed within an integrated and sustainable approach to infrastructure, buildings, street, trail and open space design; and in applying plan provisions, have regard to the extent to which minimum site size, density, height, building coverage and other quality controls have disproportionate adverse effect on housing affordability.⁸
- 37 In addition, the PDP policies are underpinned by the national direction provided by the NPSUD. The key objectives from the NPSUD include to enable more people to live in and more businesses and community services to be located in, areas of an urban environment in which an area is in or near a centre zone or other area with many employment opportunities, is well serviced by existing or planned public transport, and where there is high demand for housing or business land.
- 38 Collectively, there is therefore strong policy and national direction that supports intensification occurring within the core urban areas of the Jacks Point Zone, particularly where it can be well integrated into the urban form with access to public transport and opportunities for employment.
- 39 Whilst the PDP and national directives support intensification, the response that has been proposed for the expanded Jacks Point Village, does not necessarily seek to take up that opportunity to its fullest. As noted above, the proposed s293 provisions would result in lower overall coverage compared to the *status quo*. The potential greater positive impact of the proposal would be, however, to

⁵ SP3.3.15, Ibid

⁶ Objective 4.2.2A, Chapter 4 Signed Mediation Agreement (1 February 2019)

⁷ Policy 4.2.2.3

⁸ Policy 4.2.2.8, Chapter 4 Urban Development, PDP

accommodate a larger range of land use activities across the former education activity area land and in doing so promote greater employment opportunities, and greater access to land for housing, including at higher densities than available within the residential activity areas beyond the Village.

Views and Outlook

- 40 In addition to the concerns raised in relation to land coverage, which I have addressed above, Mr Andrews raises concerns with the proposal to expand the Jacks Point Village Activity on views and outlook, from the perspective of a Jacks Point resident.
- 41 The potential impact of changes to the Jacks Point Village Activity Area on landscape and visual effects were examined during the consultation period through a memo prepared by Ms Yvonne Pfluger of Boffa Miskell Ltd.⁹ This memo examined the landscape and visual amenity effects associated with the proposed design changes to the Jacks Point Village, as they were proposed at that stage. The report examined the expansion to the Village Activity Area to incorporate the driving range land, as well as part of the land currently used for golf holes 17 and 18 along the western shore of Lake Tewa within the Open Space Golf Activity Area. The present s293 proposal has narrowed its footprint such that it no longer incorporates the OSG land west of Lake Tewa.
- 42 The remaining elements of the proposal that was assessed in the Memo including the provision of a CDP, containing the identification of land use areas (precincts), and the main design elements including pedestrian and cycle connections, the provision of open space, the road network and passenger transport routes. Given that these elements have been retained and that the proposed expansion to the Village Activity Area is now smaller than it was proposed in May 2021, the general findings relating to the key differences between the Education Activity and expanded Village remain relevant.
- 43 A summary of the key findings from the landscape memo, relevant to the expansion of the Village over the Education Activity Area, is detailed below (noting that the full version of this report, including figures and a graphic attachment was incorporated into the notified s293 package).

⁹ Yvonne Pfluger, Memorandum: Assessment of Landscape and Visual Effects for DPR, (27 May 2021), attached as appendix 10 to Appendix 5 of the Section 294 proposal as notified.

Visual effects associated with change from E Activity Area to V precincts¹⁰

- (a) The E Activity Area is mostly visible from the west facing edges of elevated escarpments to the south of Maori Jack Road, where no immediately adjacent buildings block views to the west. Currently, views are also possible from slightly elevated residences close to the E Activity Area (eg lower parts of McAdam Drive and Jacks Point Rise), where no existing buildings are currently visible in the foreground. However, there will be intervening buildings within residential development (currently partially developed, eg on the lower terrace along Soudley Court) and the Village Activity Area which forms part of the existing PDP (Decision Version) zoning along the eastern side of Maori Jack Road.
 - (b) The views from other parts of the escarpments, already contain existing development in the foreground and the change in outlook through the change from educational facilities (as anticipated in the E Activity Area) to village precincts would be minimal. While views would be possible from the southern most parts of the existing residences, the visibility of buildings in this area would be very low due to the oblique angle and intervening buildings and vegetation.
 - (c) While the buildings in the E Activity Area would only be up 10m high, the change to 12m is would be difficult to detect from the viewpoints in the residential areas described above. Generally, buildings associated with schools or other educational institutions are relatively large in size due to operational requirements. This means that it would be likely that educational facilities would appear bulkier than the mixed- use, residential and visitor accommodation buildings anticipated under CDP in this area. Overall, it is considered that the changes in types of buildings from educational facilities to other uses would not lead to adverse visual effects, since the site coverage would remain the same.
- 44 The more recent changes to building coverage across the Village now mean that site coverage would be less than the combined available under the current Education and Village Activity Areas.

Landscape Character and Amenity Effects¹¹

- (a) The proposed extension of the village precincts into the E Activity Area is compatible with the adjacent village development to the north and would be perceived as a natural extension from the existing and future residential

¹⁰ Page 5, Ibid

¹¹ Page 7, Ibid

development to provide a coherent urban form and roofscape when viewed from the existing residences with trees breaking up the built-form. The outlook and character will only change to a very low extent from surrounding viewpoints, as the proposal would form a small part of the outlook in the context of existing development and large adjacent landforms, which will continue to dominate the view. The site coverage and subsequent provision of open space within this area would remain the same.

- 45 As above, building coverage has been since lowered further. Relevant to the points raised by Mr Andrews regarding views and outlook, the report by Ms Pfluger concludes by stating that *“the proposed change would not lead to adverse effects in terms of landscape character and amenity, as experienced from the surrounding properties and open spaces in the context of the village”*.¹²

Design Guidelines

- 46 I understand from the evidence of Mr Edmonds (for RCL) that current constitutional arrangements establish a set of Bylaws for the RCL land, described as being the Northern Village Precinct. According to Mr Edmonds, the two parcels of RCL land within the Village are subject to a different set of Design Guidelines, administered by a separate Review Board.¹³
- 47 Mr Edmonds then identifies that design guidelines have been incorporated into the s293 documents and that they will sit outside of the District Plan, administered by the various Jacks Point Village Design Review Boards, and that with respect to the RCL land, it is subject to its own own Design Review Board, and is not subject to the guidelines proposed by Jacks Point.¹⁴
- 48 It is correct to state that the detailed design guidelines for the Village will sit outside of the District Plan. I also understand that the RCL land is subject to its own Design Guidelines, administered by its own Design Review Board. The changes to the PDP proposed through the s293 proposal are to establish a CDP for the Village and do not seek to change the current covenant arrangements in relation to the formulation of design guidelines or their subsequent administration through the relevant Design Review Boards.
- 49 However, the Design Controls that are important to the design outcomes across the whole of the Village activity Area have been incorporated into Part 2 of the CDP, which will in turn be incorporated into the District Plan through this s293

¹² Page 7, Ibid

¹³ Paragraphs 3.5 and 3.6, Evidence of John Edmonds (15 November 2021)

¹⁴ Paragraphs 4.24 and 4.25, Ibid

process. The Design Controls incorporated into the CDP have been formulated in direct response to the requirements of Policy 41.2.1.19, as follows:

Encourage high quality urban design throughout the Jacks Point Village (V(JP)) and Homestead Bay Village (V(HB)) Activity Areas by:

- a. *requiring all subdivision and development to be in accordance with a Comprehensive Development Plan incorporated in the District Plan (Schedule 41.9), which shall establish an integrated and coordinated layout of open space; built form; roading patterns; pedestrian, cycle access, and carparking; the land uses enabled within the buildings; streetscape design; **design controls in relation to buildings and open space**; and an appropriate legal mechanism to ensure their implementation;*

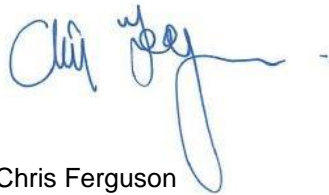
[my emphasis]

- 50 If the RCL land remains classified as a Residential land use area, the relevant design controls in the notified CDP are:
 - (a) Land uses are restricted to residential activities.
 - (b) A requirement to locate and form pedestrian and cycle links through the land use area in accordance with the community amenities, pedestrian and cycle network plan
 - (c) That the residential density for units is an average net area of no greater than 350m² per residential unit.
- 51 In addition to the above design controls, the residential land use area would impact on building coverage, which would through the changes to Rule 41.5.2.2 be restricted to of 45%, calculated across each land use area.
- 52 If the RCL land gets reclassified as Mixed Use, as sought by RCL, the relevant design controls are:
 - (a) Land uses are restricted to commercial, visitor accommodation, residential, and community activities.
 - (b) A requirement to locate and form pedestrian and cycle links through the land use area in accordance with the community amenities, pedestrian and cycle network plan.
 - (c) A minimum finished floor to ceiling height of 3.5m for no less than 7m from the building's street frontage.

(d) Depending on whether this land use area was to also become a part of the Local Shopping Area Overlay, activities could be further restricted to retailing, commercial activities and non-habitable uses associated with any visitor accommodation activity.

53 In addition to the above design controls, the mixed use land use area would impact on building coverage, which would through the changes to Rule 41.5.2.2 be restricted to of 60%, calculated across that land use area.

54 This structure of design controls does not prevent the formulation of more detailed design guidelines that might be adopted, from time to time, by the relevant Design Review Board/s. Whilst the RCL will not be subject to the design guidelines formulated by and for the Jacks Point land, both areas will from a District Plan perspective be subject to the Design Controls incorporated into the CDP.



Chris Ferguson

Dated this 13th day of December 2021

