

**QLDC Proposed District Plan**  
**Jeff Brown – summary statement to primary evidence**  
**Chapter 27**

1. This is a summary statement to my primary evidence dated 15 July 2016 on Chapter 27 – subdivision.
2. I support retaining a controlled activity rules framework for subdivision in the urban and rural living zones.
3. District plans should be very clear about what activities a zone enables and what it does not, based on the effects of activities in the context of the objectives and policies of the zone and the wider environment.
4. For subdivision in zones which are clearly destined for a specific purpose, such as the urban and rural living zones, I support the certainty of the controlled activity framework over the comparative uncertainty of the restricted discretionary or discretionary framework. The controlled framework provides sufficient market certainty while still providing the Council with sufficient powers of intervention to “fine tune” a proposal, such as in relation to urban design. The Council’s powers do not need to extend to refusal of consent where it is already deemed that the zone is appropriate for the activities it is intended to embrace.
5. If there were sufficient examples to demonstrate that the operative Plan’s controlled activity framework was the cause of poor subdivision, then my opinion about a controlled activity framework in the proposed Plan could well be different. However, no concrete evidence has been presented, in my view. The subdivision examples that Boffa Miskell studied were all consented to prior to what I have called in my primary evidence the “urban design paradigm shift” through the 2000s, but nevertheless:
  - Most of the examples achieved a majority “Successful / Acceptable” urban design rating from Boffa Miskell; and
  - There is no nexus between the “defects” of those subdivisions that received majority “Less Successful” ratings and the controlled activity framework that is alleged to be the cause of those defects.
6. Further, in light of the lack of examples of “cause” (controlled status) and “effect” (bad subdivision), there does not seem to me to be any clear argument that reserving the right to refuse an application is going to automatically lead to “better” subdivision. If there is an application for a bad subdivision, the Council has various powers to address it: it can ask for

additional information on the matter; it can commission reports; it can notify if it considers that the proposal will have adverse effects on an existing neighbourhood such that there may be “special circumstances” grounds for notification; it can put the matter before independent commissioners; and it can impose conditions to achieve outcomes it sees as necessary. If an applicant does not agree with the conditions or the process, they can object or appeal.

7. I acknowledge that there is the possibility of an uncooperative applicant who refuses to accept Council guidance. In that circumstance the Council retains the power to impose conditions. If there is a specific outcome that the Council wants to achieve (and is entitled to insist on) then it can be conditioned. I cannot think of any specific issue or desired outcome which cannot be addressed in this way, and the Council witnesses have not identified an example of the problem they are concerned about.
8. In my experience, any areas of possible or actual disagreement between an applicant and a Council have been able to be resolved before or during the consent process, through pre-lodgement and post-lodgement meetings with staff and other parties, and by presentation to the Urban Design Panel. The end result has been acceptable suites of conditions. I do not know of any examples where this has not been the case.
9. A controlled activity framework which properly reflects urban design principles can deliver quality environmental outcomes and by way of efficient processing. The improved emphasis on urban design principles – as is inherent in the PDP’s objectives and policies – is a significant improvement over the operative Plan.
10. I consider that Chapter 27, with the modifications I set out in my primary evidence, will appropriately enable use and development in the urban and rural living zones. The matters of control are wide, and coupled with the development controls and the wide range of detailed objectives and policies to guide the assessment of any proposal, particularly in relation to urban design principles, the framework will achieve the purpose of the Act.

**J A Brown**

**1 August 2016**