

Analysis of the zoning options for the ACRAA land

Zoning/ Area Options	Summary of provisions	Conclusion as to appropriateness
<p>1. The ACRAA zoning, as notified.</p>	<p>Policies enable use where effects on landscape and natural values minimal; enable infrastructure/ servicing (and associated buildings) necessary to support Jacks Point area; protect and enhance biodiversity; protect valuable natural vegetation and encourage it to be re-established; and limit buildings to those that support recreation, agriculture, and conservation, <u>or</u> do not undermine landscape, recreation or conservation values, <u>or</u> provide infrastructure and servicing for greater Jacks Point. On pg. X-25 there is a note clarifying that the landscape classifications and all district-wide objectives and policies also apply.</p> <p>Rules require an ODP to be approved for the whole ACRAA prior to individual consents however as both the ODP and the buildings are discretionary (DISC) activities there is no real incentive to do this. Service activities are DISC and non-residential activities¹ are restricted discretionary (RDIS). Buildings are subject to site standards relating to reflectivity & materials and a zone standard specifying a maximum height of 7m/ 8m depending on slope. Areas of biodiversity are shown on the Structure Plan and the rules limit planting and clearance of these.</p> <p>ODP assessment matters suggest that encroachments of urban property into the ACRAA may be justified on certain grounds (pg. X-17); that buildings in the wetland area may be appropriate if related to conservation activities or the enjoyment of the natural area, do not risk degrading the natural values, and are appropriately set back from the wetland (pg. X-17); and consider whether the design/ materials/ colour of non-residential buildings will make a positive contribution to the landscape (although the numerous assessment matters under this heading are really aimed at urban-based non-residential activities). Assessment matters</p>	<p>The notified objective is generally appropriate (refer Dr Read’s comments).</p> <p>The policies are weak, enabling buildings for any purpose provided landscape, and recreation or conservation values are not undermined and enabling buildings for recreation, agriculture, conservation or infrastructure purposes, arguably even if the values of the ACRAA are not necessarily protected. Whereas the objective of the ACRAA includes ‘containing the Henley Downs urban area’ (which is good), there are no policies, rules, or assessment matters to support this.</p> <p>The height of the permitted buildings is considerably higher than ordinarily appropriate in sensitive rural areas (i.e. when compared with the resort zones and what is commonly imposed as conditions on development in the Rural General Zone).</p> <p>The rules relating to:</p> <ul style="list-style-type: none"> • Biodiversity as notified and as requested by RCL’s submission are relatively weak, particularly when compared to the Jacks Point (open space) Zone. • Planting and landscaping generally are considered weak, particularly when compared to the Jacks Point (open space) Zone. • Golf courses - there are none • Subdivision - although there may be a case to allow for minor changes at the urban boundary, the controlled status of subdivision has been problematic in Jacks Point in a number of instances.

¹ Which would arguably include conservation and agricultural activities

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	<p>relating to buildings in the ACRAA consider whether the building is important to the functioning of the wider Jacks Point area, or will aid conservation, or will aid public recreational enjoyment; whether any farm building is in keeping with the character of a working farm, is recessive, and appropriately located, and, for all buildings, whether it is highly visible from public places.</p> <p>Subdivision within the zone prior to an approved ODP (other than subdivision of an entire activity area) is DISC and any subdivision inconsistent with an approved ODP is non-complying (N-C). However there is a note (pg. 15-20) stating that an ODP is <u>not</u> required for subdivision to occur in the ACRAA, thus suggesting that all subdivision of the ACRAA is a controlled activity.</p>	<p>There are significant inefficiencies in introducing another whole open space/ Rural General-type zone</p>
<p>2. The ACRAA zoning, with amendment to strengthen controls</p>	<p>The provisions above, could be amended along the following lines in response to submissions:</p> <ul style="list-style-type: none"> • Divide the ACRAA into three separate activity areas, or sub-areas of the ACRAA each with their own objectives and policies to better reflect the varying nature of the ACRAA. It is unclear from the submission whether the intention is that the rules are the same regardless of the sub-area (as per the landscape categories in the RG zone) or whether they differ (as per the Resort Zone, which includes 6 different open space areas); each with separate rules. If it is the latter then finer grain analysis will need to be presented at the hearing in support of this. • Either: <ul style="list-style-type: none"> ○ Remove the requirement to apply for an Outline Development Plan in the ACRAA and amend the rules to make subdivision DIS or N-C (and/ or the same activity status as the landuse being applied for such as a 	<p>As above with the exception of the following:</p> <p>It is inefficient to include the more sensitive urban areas (A H, I, J and K) in the ACRAA as the landscape analysis (x2) show there is capacity for some form of development within those areas (although the appropriate density yet to be determined). Therefore it is inefficient to require development in those areas to be subject to the uncertainty and costs of resource consent processes under the ACRAA provisions.</p> <p>Splitting the ACRAA into 3 separate areas would add more complexity and is inefficient given both the Rural General and Jacks Point (Open space) options already provide this added level of sophistication.</p> <p>Having considered the council’s decision to refuse consent to develop G/F land within Jacks Point RM090252 (Zante²) and an Environment Court Decision C166/2007 to refuse development of the comparable ‘G’ land at Quail Rise, it is effective and</p>

² The Zante decision (RM090252) declined the establishment of 7 dwellings within the open space Activity Area on the basis that it would be contrary to the objectives and policies and effects would be more than minor. NB: Whilst this decision has been appealed to the HC, it suggests that the provisions in the resort (Jacks Point) Zone are relatively strong.

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	<p>sportsfield) OR</p> <ul style="list-style-type: none"> ○ Retain the notified rules that require an Outline Development Plan to be approved for the whole ACRAA prior to any piecemeal landuse or subdivision consents and retain the rules in Part 15 supporting this and delete Note 2 (pg. 15-20), which states that an ODP is not required for subdivision of the ACRAA) ● Delete Policies 3.2 and 3.5(ii) and related assessment matters in order to no longer specifically enable servicing buildings in the ACRAA ● Amend Policy 3.5 to restrict built development in the ACRAA only to those that support its agriculture, conservation and recreation purpose <u>and</u> have a minor effect on landscape, recreational, natural, and biodiversity values (and potentially other values). ● Make all buildings non complying. 	<p>efficient for most buildings in the ACRAA to be non-complying.</p> <p>Note: A N-C building was approved in the Jacks Point Zone (a golf course maintenance compound) but that, to a large extent, this decision was swayed by the fact there was no such area provided for in the Structure Plan (something this report seeks to address) and that the compound was related to the permitted golf course.</p> <p>The proposed amendment to Policy 3.5 means that neither residential dwellings nor service activities will find support in the policies, noting that neither will achieve the objective of containing the Henley Downs Zone.</p> <p>Whilst this option will more effectively achieve the relevant objectives than option 1, it is still considered inefficient for those reasons outlined above.</p>
<p>3. The ACRAA zoning, with amendment to relax controls</p>	<p>The above provisions could be amended along the following lines in response to the submission seeking relaxation of the provisions:</p> <ul style="list-style-type: none"> ● Amend the name of the Activity Area to something like “Rural Tourism and Community Facilities Activity Area (TCAA)”³ ● Amend the objective along the following lines: <p><i>“To enable conservation, education, rural-based tourism, community facilities, visitor accommodation and service activities and associated buildings to establish in the TCAA, provided the landscape, environmental, and open space values are protected and urban development contained within the Urban Activity Area of the Henley Downs Zone”</i></p>	<p>Depending on its specific nature, ‘rural based tourism’ would either be considered a ‘commercial activity’ or a “commercial recreation activity” (CRA) in the District Plan. Commercial recreation activities⁴ and education are not listed in the plan change and it is therefore assumed that they default to commercial and community activities (respectively). Such activities are RDIS if approved as part of an Outline Development Plan and presumably outside such precincts they are full DIS, including in the ACRAA. Particularly in the absence of clear or strong policies, this further relaxation would risk commercial activity sprawling into the ACRAA.</p> <p>It is considered inappropriate to relax the rules in respect of</p>

³ Such a subzone exists in Three Parks but is not particularly applicable to this context.

⁴ Defined in the District Plan as “the commercial guiding, training, instructing, transportation or provision of recreation facilities to clients for recreational purposes including the use of any building or land associated with the activity, excluding ski area activities”. In the Rural General Zone, for comparison, commercial recreation activities are allowed provided they are outdoors and do not exceed 5 in a group.

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	<ul style="list-style-type: none"> Amend the policies and assessment matters to reflect this. Note: it is unclear whether the submitter seeks a relaxation of the rules relating to buildings (to controlled, for instance). Amend the rule to clarify that agricultural buildings include a residential dwelling for the farm owner OR rely on the existing farm buildings rule from the Rural General zone to enable farm buildings (duplicate it in this zone if need be) . 	<p>buildings or the activities themselves from what was notified. There is ample space and provision for all the activities listed in the submission to occur within the urban area albeit that some (such as the built component of rural-based tourism) may be best located on the edge of the urban area with the non-built aspects of the activity extending into the ACRAA provided landscape values are preserved.</p> <p>To introduce a new definition of ‘agricultural buildings’ (which would include a residential dwelling for the farm owner) is inefficient and raises all the same issues that were considered by the Environment Court when it determined the rules for farm buildings and farm worker housing.</p>
4. The Rural General Zone	<p>RCL commented in the body of their submission that the Rural General (RG) provisions over the ACRAA may better ensure that only appropriate development will occur.</p> <p>Under the RG provisions, all subdivision and development is DIS and subject to extensive objective and policies, which would apply variously to the ONL-WB and VAL parts of the ACRAA. There is an extensive body of case law in relation to the administration of the RG Zone.</p>	<p>Whilst the discretionary status of the Rural General Zone is unquestionably strong, it is noted that:</p> <ul style="list-style-type: none"> The DIS status in that zone was necessitated and deemed appropriate, to a large degree, because the zone is so vast that finer grain zoning was not possible at the time; The discretionary status is supported by a vast number of policies and assessment matters, a body of caselaw, and the landscape categories themselves; In this instance, the relatively small area of the ACRAA means that a fine grain analysis can, and presumably has been undertaken to determine those areas where development can be enabled (i.e. the urban areas and the Rural Living areas A, H, I, J, and K). As such there is no need to impose the uncertainty and costs of a DIS regime, such that of the RG Zone.
5. The operative Jacks Point ‘open space’ zoning.	<p>The operative zoning for the proposed ACRAA land is the JPRZ (open space), which is further split into:</p> <ul style="list-style-type: none"> (G) Golf course and Open Space (tablelands). Restricted to outdoor recreation and open space (and 2 dwellings). Pools and tennis courts are RDIS, fencing and walls are controlled, (O/P) Open space, Landscaping, and Passive Recreation (a very small area of the Henley Downs Zone). Restricted to outdoor 	<p>Refer Dr Read’s report for a full discussion on the benefits of the Jacks Point (open space) provisions. In summary, in her view it has been effective thus far in regard to ensuring quality landscaping and planting, (including species choice), enabling appropriate buildings (the compound being the likely exception), avoiding inappropriate building (e.g. Zante).</p> <p>Applying the well-understood resort zone (open space) activity</p>

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	<p>recreation and open space.</p> <ul style="list-style-type: none"> • (O/S) Open space (tablelands) - Restricted to arable farming and endemic vegetation and RDIS to breach the restrictions in relation to exotic species. • O/S - Highway Landscape Protection Area - As above plus any landscaping or public access is controlled and DIS to plant/ grow any tree which may or does obscure views from the State Highway to the mountain peaks beyond the zone. • O/S - Peninsula Hill Landscape Protection Area - As above plus any landscaping or public access is controlled and DIS to plant/ cultivate species not indigenous and characteristic of the escarpment. <p><u>Notes:</u></p> <ul style="list-style-type: none"> • In all open space areas, golf courses (over and above the anticipated 18-hole course) are DIS. • Whilst buildings that do not comply with the Structure Plan are non-complying (12.2.3.5), non-compliance with the site standard which states “the siting of buildings and activities within the resort Zone must be in conformity with ... Structure Plan as set out below...” (12.2.5.1) triggers only a RDIS consent. The effect of this rule is that any building that is ancillary to the restricted list of activities outlined above is controlled (provided it is less than 4 metres) and all others are non-complying. • In all the above open space areas, the maximum height is 8 m for any permitted farm building and 4 m for all other buildings. • In Jacks Point, Outline Development Plans are not required for the open space areas. • It appears that none of the O/S - Lakeshore Landscape Protection Area is included in the proposed Henley Downs Zone. • All subdivision in the Resort Zone (including any subdivision of the open space Activity Areas) is a controlled activity • Whilst the single objective is not particularly strong (i.e. essentially to enable development “with appropriate regard for landscape and visual amenity values, servicing and public access issues.” The policies are considerably better and when read together, they provide a sound decision-making framework. I.e. 	<p>areas to this land will have efficiencies in terms of District Plan administration/ Resource Consent processing and any forthcoming/ foreseeable District Plan review.</p> <p>The controlled status of subdivision means land could feasibly be subdivided with very little controls and, in so doing, development expectations could be created; making it more difficult to resist allowing some development on each of the lots (e.g. the Zante land)</p> <p>In summary, the Jacks Point Open Space Activity Area provisions don’t seem sufficiently “ineffective” to the point that justifies the wholesale replacement with a new zoning; the effectiveness of which is unknown and the efficiency of which is likely to be low. However, there are certainly improvements that could be made and applied specifically to the Henley Downs subzone (and, in turn, to the balance Jacks Point Zone as part of the next District Plan review).</p>

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	<p><i>To <u>maintain and protect</u> views into the site...;</i></p> <p><i>To <u>require</u> ...buildings to have regard to landscape values;</i></p> <p><i>To <u>require</u> development to be located in accordance with a Structure Plan to ... mitigate the impact on... landscape values;</i></p> <p><i>To <u>provide</u> public access from the State Highway to the lake;</i></p> <p><i>To <u>ensure</u> that subdivision, development... is subservient to the landscape; to <u>provide for</u> local biodiversity through...;</i></p> <p><i>To <u>ensure</u> that residential development is not readily visible from the State Highway; and</i></p> <p><i>To <u>provide for</u> farming and associated activities in appropriate areas while ensuring that development associated with those activities does not result in over domestication of the landscape.</i></p>	
<p>6. The operative Jacks Point open space zoning, with amendments.</p>	<p>This would mean that the operative provisions would apply to the notified ACRAA area but that site-specific improvements could be made to the Henley Downs zone/ Henley Downs part of the Jacks Point Zone⁵. These might include:</p> <ul style="list-style-type: none"> • Clarification that building or activity not in accordance with the Structure Plan is non-complying • Clarification that the Part 4 objectives and policies also apply • Making subdivision non complying and potentially also, in the case of combined resource consent applications, giving subdivision the same consent status as the landuse that is being sought/ enabled by the subdivision. • Stronger and more directive objectives and policies, if deemed necessary. 	<p>This is the preferred option as it is efficient yet overcomes the known deficiencies with a few site-specific provisions.</p>

⁵ Depending on whether the Henley Downs zone survives the decision-making process or whether the Jacks Point Zone is retained (with amendments to achieve the key objectives of the Plan Change).