

Summary Legal Submissions

1. In terms of the decision making framework, as with Stream 14 reliance is placed on the case law that emphasises the less restrictive regime that gives effect to higher order documents and meets the purpose of the Act, should be adopted, in order to give proper weight to benefits and costs under section 32 (1) (b) (ii) and best enable well being.¹
2. With respect to chapter 29 the key areas of difference relate to the High Traffic Generating Activity rule as it relates to the Jacks Point Zone, and parking for ski area activities outside of the SASZ.
3. In respect of the HTGA rule 29.4.10, Ms Rowe's expert opinion is that it is appropriate for the currently permitted and controlled land use and subdivision rules (in both ODP and PDP) to be exempt. This is because:
 - a. They are more appropriate in light of the NPS-UCD, ORPS and PRPS, as well as higher order chapters 3 and 4, as they avoid unnecessary constraint on house capacity otherwise enabled and provided for in the Jacks Point Zone, **within the Urban Growth Boundary** while still ensuring there is the ability to address effects on the transport network;
 - b. The zone has been structure planned, has a level of development that is known, anticipated and should be being planned for through development contributions, and already provides for consideration of the types of matters set out in the HTGA rule in chapters 41 and 27. The bespoke provisions and framework is already in place to cater for the predicted and anticipated transport needs of the Jacks Point community² between the RMA and LGA frameworks and for Council to now take a position that the those provisions are insufficient after all these years, is surprising and contrary to all the decisions made to date since the inception of the zone, including in Stage 1 on chapters 27 and 41, and results in a level of "double dipping";
4. In respect of parking for ski area activities outside of SASZ and transportation requirements of SASZ particularly, the submitters seek a new policy³, and seek an exclusion to rule 29.4.11.
5. In respect of earthworks the key points of concern are recognising the benefits of earthworks to the continued operation and development of SASZ, duplication with the Otago Regional Plan Water, and the lack of justification or evidence for increased controls over earthworks in SASZ, just 2 years after a comprehensive plan change 49 to chapter 22 of the ODP explicitly found exemptions were justified⁴.
6. The primary concern for Visitor Accommodation is the effect of the rules supported by Council on the Jacks Point Village in particular. Given its explicit purpose is a mixed use hub including for visitor accommodation, and the eventual controls that will be provided through some form of Comprehensive Development Plan step, it is unnecessary and unjustified duplication to then add another layer of consenting requirement for Homestays and RVAs. Mr Ferguson is of the expert opinion that no rules or standards for Homestays and RVAs are necessary within the Village, given the other controls that are present and the intended use of the Village activity area already approved. Similarly for signage in the Village there is sufficient control already in place.

¹Legal Submissions for Darby Planning Limited Partnership et al, 20 September 2018, para 10 onwards.

² See in particular a summary of the consideration and assessments to date of the transportation requirements of the JPZ at paragraph 24 of Legal Submissions, 20 September 2018

³ Deborah Rowe Evidence in Chief, 6 August 2018, Paragraph 124

⁴ See excerpts from Decision, quoted at para 15, Legal Submissions, 20 September 2018

7. Jacks Point also seeks that the council owned reserve in the Zone remain part of the Jacks Point Zone OSA activity area, rather than the less integrated Informal Recreation Zone that does not fit as well with the overall Structure Plan and chapter 41.

Dated this 24th day of September 2009
Maree Baker-Galloway