

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 11 –
Ski Area Sub Zones,
Mapping Annotations
and Rezoning Requests

**FIRST STATEMENT OF EVIDENCE OF KIM BANKS
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

SKI AREA SUB ZONES – MAPPING, ANNOTATIONS AND REZONING REQUESTS

PLANNING - STRATEGIC OVERVIEW

10 March 2017

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1. INTRODUCTION

1.1 My name is Kimberley Anne Banks. I am employed by the Queenstown Lakes District Council (**Council**) as a senior planner and I am a full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Science and Master of Planning from the University of Otago. I have been employed in planning and development roles in local authorities and private practice since 2009. I have been employed by the Queenstown Lakes District Council since 2015.

1.2 I was involved in the preparation of the following notified PDP chapters:

- (a) Urban Development (4);
- (b) Medium Density Residential (8);
- (c) High Density Residential (9);
- (d) Energy and Utilities (30); and
- (e) Temporary Activities and Relocated Buildings (35).

1.3 I have been the hearings reporting officer for the Council on the following chapters:

- (a) High Density Residential (9); and
- (b) Temporary Activities and Relocated Buildings (35).

1.4 I have visited the sites where submitters have requested their land to be rezoned. Where I have not visited the specific physical location of the rezoning sought due to weather conditions or access constraints, I have viewed the part of the site subject to the rezoning from public locations, such as roads, or from adjacent private land.

1.5 I have also read and considered the following documents associated with the hearings on submissions that I am not the author of, to ensure I have adequately considered matters of integration and consistency:

- (a) S42A report of Mr Matthew Paetz for Chapters 3 and 4 Strategic Direction and Urban Development **[CB35]**;
- (b) Right of Reply of Mr Matthew Paetz for Chapters 3 and 4 Strategic Direction and Urban Development **[CB39]**;
- (c) Recommended Revised Chapter 3 **[CB3]**;
- (d) Recommended Revised Chapter 4 **[CB4]**;
- (e) S42A report of Mr Craig Barr for Chapter 6 Landscape **[CB36]**;
- (f) Right of Reply of Mr Craig Barr for Chapter 6 Landscape **[CB40]**;
- (g) Recommended Revised Chapter 6 **[CB6]**;
- (h) S42A report of Mr Craig Barr for Chapter 21 Rural **[CB41]**;
- (i) Right of Reply of Mr Craig Barr for Chapter 21 Rural **[CB42]**;
- (j) Recommended Revised Chapter 21 Rural **[CB15]**;
- (k) S42A report of Mr Craig Barr for Chapter 33 Indigenous Vegetation and Biodiversity **[CB45]**;
- (l) Right of Reply of Mr Craig Barr for Chapter 33 Indigenous Vegetation and Biodiversity **[CB46]**; and
- (m) Recommended Revised Chapter 33 **[CB22]**.

1.6 I am also relying on the evidence of the following:

- (a) Dr Marion Read – Landscape Architect;
- (b) Mr Glenn Davis – Ecologist with respect to rezonings sought at Treble Cone and Cardrona; and
- (c) Dr Kelvin Lloyd – Ecologist with respect to rezonings sought at the Remarkables and Coronet Peak (by NZSki Ltd).

2. CODE OF CONDUCT

2.1 I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

3. SCOPE OF THIS EVIDENCE

- 3.1 This evidence provides a strategic overview of the recommendations to the Hearings Panel (**Panel**) on submissions seeking to rezone and undertake alterations to the mapping annotations on the Proposed District Plan (**PDP**) planning maps for the Ski Area Sub Zones (**SASZ** or **Sub Zones**).
- 3.2 This evidence is one of two separate statements of evidence I have prepared for the SASZ Hearing Stream. The second statement of evidence is a specific Analysis of Submissions ("**the specific s42A report**").
- 3.3 This strategic overview evidence addresses the key resource management issues and higher level policy direction of most relevance to the SASZ. It also discusses common issues applicable to the SASZ generally, and identifies guiding principles informing my analysis of individual submissions.
- 3.4 In this strategic evidence I focus specifically on:
- (a) Council's approach to the District Plan Review;
 - (b) relevant amendments to the ODP (since notification of the PDP);
 - (c) statutory and non- statutory considerations;
 - (d) the higher order strategic policy directions, including the purpose of the SASZ;
 - (e) relevant recommendations in preceding hearing streams as they relate to the SASZ, including key changes made as a result of submissions made by ski operators;
 - (f) common issues applicable to the management of activities and effects within the SASZ; and
 - (g) the strategy and criteria of decision making principles applied in the analysis of rezoning submissions.
- 3.5 My second statement of evidence (the specific s42A report) analyses and makes site specific recommendations to the Panel on individual rezoning submissions. More detailed images identifying the

rezonings sought are contained within this second statement of evidence.

3.6 The SASZ is a sub-zone of the Rural Zone, and the provisions applying to the sub-zones are contained within Chapter 21 (Rural) of the PDP. There are five notified SASZs in the District, identified below and illustrated in **Figure 1**:

- (a) Treble Cone SASZ;
- (b) Cardrona SASZ;
- (c) Waiorau Pisa SASZ;
- (d) Coronet Peak SASZ; and
- (e) Remarkables SASZ.

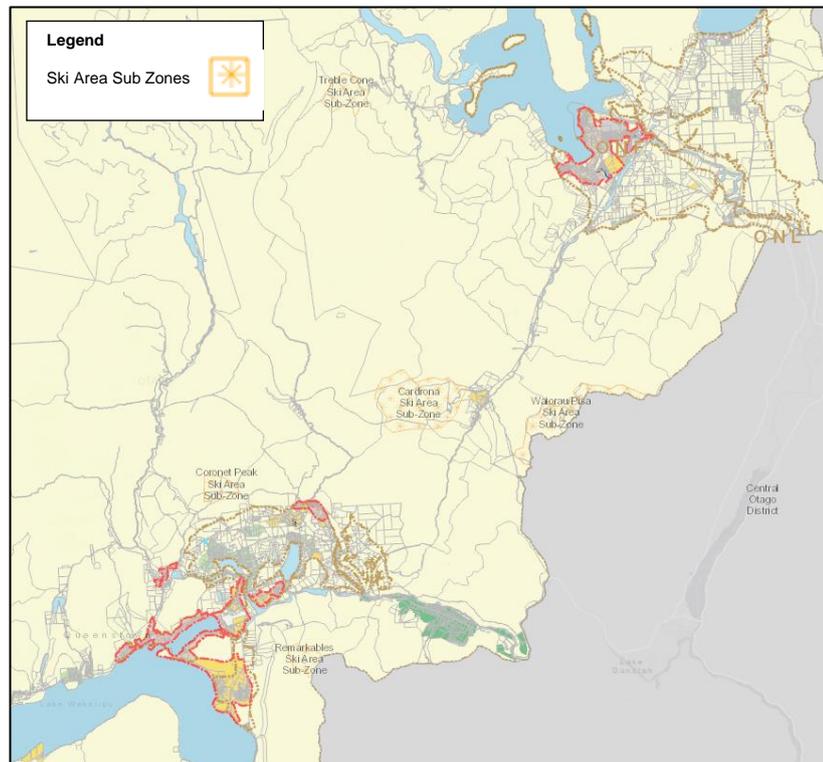


Figure 1. Location of notified SASZ within the Queenstown Lakes District (source: Queenstown Lakes Proposed District Plan, planning maps)

3.7 Submissions seeking to alter the extent of the SASZ have been received for four SASZs only, and while considering issues that apply to the SASZ regulatory framework generally, the scope of my evidence is limited to these four areas:

- (a) Treble Cone SASZ;

- (b) Cardrona SASZ;
- (c) Coronet Peak SASZ; and
- (d) Remarkables SASZ.

3.8 No submissions have been received seeking rezoning of the Waiorau Pisa Ski Area Subzone.

3.9 I note that the relief sought by Cardrona Alpine Resort Limited (**CARL**, 615) (at points 23 and 24 of their submission) seeks *either* a SASZ or a type of special zone applied to the land identified at Cardrona. The nature of alternative relief sought and its geographic relationship to the existing Cardrona SASZ indicate that this submission is appropriate to consider alongside the other proposed extensions to the SASZ. Accordingly it has been incorporated into this hearing stream and within the scope of this evidence.

3.10 I also wish to clarify that the submission point of Queenstown Park Limited (806) which seeks "*the expansion of the Ski Area Sub Zone South to the Doolans and/or the renaming of that sub-zone to the 'Remarkables Alpine Recreation Area'*" will be considered in the Queenstown Mapping Hearing Stream, and is not within the scope of this evidence. This allocation has been made because it is considered that the submitter's relief sought is more akin to a Special Zone than a SASZ, which is integral to the submitter's other relief sought for the creation of a new 'Queenstown Park Special Zone'. This approach has been confirmed with, and agreed by the submitter.

4. APPROACH TO THE DISTRICT PLAN REVIEW

4.1 The Council are undertaking a partial and staged review of the operative Queenstown Lakes District Plan. The Council's approach to Stage 1 and 2 has evolved since the commencement of the hearings in March 2016, and the Council provided the Panel with an updated position and approach to Stage 1 and 2 of the District Plan Review on 23 November 2016.¹ A key change to the outcome is the separation of the District Plan into two volumes, based on geographic area.

¹ Memorandum of Counsel for QLDC Regarding Approach to Stage 1 and Stage 2 dated 23 November 2016.

4.2 A key reason for this was to reduce complexity associated with recently settled plan changes to the ODP. The approach also avoids the uncertainty to the Council and proponents of the plan changes for these to be further litigated and altered through the PDP process. The volumes will be as follows:

- (a) **Applicable across both volumes:** the PDP Introduction and Strategy chapters as notified in Stage 1, will apply across both Volumes A and B. These chapters consist of PDP Chapters 1 (Introduction), 3 (Strategic Direction), 4 (Strategic: Urban Development), 5 (Strategic: Tangata Whenua) and 6 (Strategic: Landscapes). There will also be one Designations chapter, which applies across both Volume A and B geographic areas;
- (b) **Volume A**, which will comprise the geographic areas that have been notified in either Stages 1 or 2 of the PDP, and District Wide chapters to cover these areas, included PDP definitions; and
- (c) **Volume B**, which will comprise the ODP as it relates to geographic areas that are excluded from the partial review, and are therefore not being notified in either Stages 1 or 2 of the PDP, and the operative district wide chapters to cover these areas, including ODP definitions.

4.3 Of particular relevance to the SASZs is that this structure renders Chapter 22 (Earthworks) of the ODP applicable to Volume B land only, and does not apply to Volume A land. The ODP chapter will therefore not be applicable to the SASZs, and an earthworks chapter that will apply across Volume A land is to be notified in Stage 2. This is discussed further below.

5. MODIFICATIONS TO THE ODP SINCE NOTIFICATION

Plan Change 49: Earthworks

- 5.1 Plan Change 49 (Earthworks) was made operative on 29 April 2016 and replaced Chapter 22 of the ODP. As noted above, an outcome of the review process is that Chapter 22 of the ODP will apply only to Volume B of the District Plan, and will not apply to Volume A land (which includes the SASZs). As such, Council has resolved to notify an earthworks chapter in Stage 2 of the Review, to apply to Volume A land only.
- 5.2 At the time of writing, it is not certain whether the substantive content of the chapter will be revised as it applies to the SASZ, or whether an equivalent rule to 22.3.2.1 of the ODP will be replicated for the PDP. That ultimately is a decision for full Council.
- 5.3 Rule 22.3.2.1(c) of the ODP completely exempts SASZs from the provisions of Chapter 22. Therefore any scale and location of earthworks can be undertaken within the SASZ as a permitted activity, with no related performance standards. This rule was carried over into PC49 from a previous rule contained within the Rural Zone chapter, which also provided a blanket exemption for earthworks in the SASZ.
- 5.4 Whilst there are currently no equivalent earthworks rules in the PDP, the possible scenario that earthworks may be exempt in the SASZs of the PDP has been considered within my analysis of submissions and recommendations made in my second statement of evidence.
- 5.5 I note that while this status under the ODP can be considered as a comparison, I acknowledge that the future rule framework applicable to earthworks in the SASZ is at the time of writing this evidence, uncertain. However, I also consider that this has been an entitlement provided under the SASZ for some time under the ODP (prior to PC49) and it is reasonable to assume it may be carried over to the *notified* PDP SASZs in Stage 2. The same cannot be said for any extensions to the SASZ into new environments.

Plan Change 52: Mount Cardrona Station Special Zone

- 5.6** Plan Change 52 – 'Mount Cardrona Station Special Zone', was accepted for notification and processing as a Private Plan Change on 2 February 2016. PC52 is being undertaken by Mount Cardrona Station (**MCS**), and seeks a reconfiguration of the structure plan and associated provisions of Chapter 12 of the ODP (Special Zones - Mount Cardrona Station).
- 5.7** Changes are proposed to the structure plan to accommodate a golf course, to provide a more centrally located 'village square', and to provide for gondola access to the Cardrona Ski Area within Activity Areas 6 or 7b of the Structure Plan as a Controlled activity. The PC52 provisions provide for the construction of access and parking associated with a gondola.
- 5.8** Whilst this Plan Change relates to a special zone (and is outside of the SASZ), the Mount Cardrona Station Special Zone directly adjoins the proposed extension to the SASZ also advanced by MCS (610) through the PDP hearings (refer to the aerial photographs within the table at paragraph 2.20 of my specific s42A report), and is nearby other proposed SASZ extensions at Cardrona. Provision for an anticipated gondola link through the amended PC52 structure plan is aligned with the relief sought by MCS in their submission on the PDP seeking to extend the SASZ.

6. BACKGROUND - STATUTORY CONSIDERATIONS

Resource Management Act 1991 (RMA)

- 6.1** The statutory framework for assessing the merits of the application of zones is set out in sections 31, 32, 32A and 72 to 76 of the RMA.

6.2 By way of summary, the proposed zoning of land must:

- (a) accord with and assist the Council in carrying out its functions so as to meet the requirements of Part 2 of the RMA;²
- (b) have regard to the actual and potential effects of activities on the environment;³
- (c) have regard to any evaluation report prepared in accordance with section 32;⁴
- (d) be in accordance with any regulations (including National Environmental Standards);⁵
- (e) give effect to the Otago Regional Policy Statement (**RPS**);⁶
- (f) have regard to the Proposed Otago Regional Policy Statement (Decisions Version) (**PRPS**);⁷
- (g) have regard to management plans and strategies under other Acts (to the extent that they have a bearing on the resource management issues in the region);⁸
- (h) have regard to any relevant entry on the New Zealand Heritage List (to the extent that they have a bearing on the resource management issues in the District);⁹
- (i) have regard to the extent to which the district plan needs to be consistent with policy statements and plans of adjacent regional councils and territorial authorities;¹⁰ and
- (j) take into account any relevant planning document recognised by an iwi authority and lodged with the Council to the extent that its content has a bearing on the resource management issues of the district.¹¹

6.3 Under section 32 of the RMA, an evaluation must also:

- (a) examine whether the proposed application of zones is the most appropriate way to achieve the objectives of the PDP

2 Section 74(1) (b) of the RMA.
3 Section 76(3) of the RMA.
4 Sections 74(1)(d) and 74(1)(e) of the RMA.
5 Section 74(1)(f) of the RMA.
6 Section 75 (3) (c) of the RMA.
7 Section 74(2)(a)(i) of the RMA.
8 Section 74(2)(b) (i) of the RMA.
9 Section 74(2)(b) (iii) of the RMA.
10 Section 74(2)(c) of the RMA.
11 Section 74(2A) of the RMA.

Strategic Directions and the RMA by identifying other reasonably practicable options for achieving the objectives, assessing the efficiency and effectiveness of the provisions in achieving the objectives,¹² and summarising the reasons for deciding on the proposed application of zones; and

- (b) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from implementing the requested zoning.

Part 2 – Purpose and Principles

6.4 The RMA has an overriding purpose to promote the sustainable management of natural and physical resources.¹³ The PDP uses a zoning approach to land uses and the management of activities and zoning / sub zones is a fundamental method to achieve the purpose of the RMA.

6.5 The zoning regime and accompanying policy framework sets out the direction to assist in determining the future land uses, built form and nature of geographic areas. The Council also owns and manages physical infrastructure comprising roads, water and wastewater. The efficient location and integrated management of this resource with land uses is integral to sustainable management.¹⁴

6.6 The matters of national importance set out in section 6 of the RMA represent values that must be recognised and provided for when considering appropriate locations for zones. Many of these values are represented by overlays in the PDP Planning Maps, including Significant Natural Areas (**SNA**) and Outstanding Natural Features and Landscapes (**ONF** and **ONL**).

12 In particular that evaluations must also identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from implementing the provisions including the opportunities for economic growth and employment that are anticipated to be provided or reduced, quantify these benefits and costs if practicable, and assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions (section 32(2) of the RMA).

13 Section 5 of the RMA.

14 Sections 7(b), 30(g)(b), 31(1)(a) of the RMA.

- 6.7** In determining the location of zones, particular regard must also be had to the matters listed in section 7 of the RMA, including the efficient use and development of natural and physical resources, the intrinsic values of ecosystems, the maintenance and enhancement of the quality of the environment, and the maintenance and enhancement of amenity values.¹⁵
- 6.8** Section 8 of the RMA requires the principles of the Treaty of Waitangi to be taken into account. The provisions in Chapter 5 in particular address these issues.¹⁶

National Policy Statement for Freshwater Management 2014 (NPS-FM)

- 6.9** The NPS-FM [CB30] sets out objectives and policies that direct local government to manage water in an integrated and sustainable way, while providing for economic growth within set water quantity and quality limits.
- 6.10** The NPS-FM directs regional councils and communities to set objectives for their water bodies in the future and to set limits to meet these objectives. I note that the Otago Regional Council have indicated that they consider the NPS-FM has been fully implemented¹⁷ and that the identification of Freshwater management units is incorporated into the Proposed RPS.

Operative Otago Regional Policy Statement 1998 (ORPS)

- 6.11** Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "give effect to" any regional policy statement. This requirement applies to the ORPS 1998.
- 6.12** Relevant objectives and policies of the ORPS include:

Objective 5.4.3 To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development (Policy 5.5.1 and 5.5.6)

15 Section 7 of the RMA

16 Section 8 of the RMA

17 <http://www.mfe.govt.nz/fresh-water/national-policy-statement/regional-councils-implementation-programmes>

Objective 5.4.5 *To promote the sustainable management of Otago's mineral resources in order to meet the present and reasonably foreseeable needs of Otago's communities*
(Policies 5.5.3, 5.5.4 and 5.5.5)

Objective 9.4.1 *To promote the sustainable management of Otago's built environment in order to:*

- (a) *Meet the present and reasonably foreseeable needs of Otago's people and communities; and*
- (b) *Provide for amenity values, and*
- (c) *Conserve and enhance environmental and landscape quality; and*
- (d) *Recognise and protect heritage values*

Objective 9.4.2 *To promote the sustainable management of Otago's infrastructure to meet the present and reasonably foreseeable needs of Otago's communities* (Policies 9.5.2 and 9.5.3)

Objective 9.4.3 *To avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources.* (Policies 9.5.1 and 9.5.3 to 9.5.6)

Objective 11.4.1 *Recognise and understand the significant Natural Hazards that threaten Otago's communities and features* (Policies 11.5.1, 11.5.6 and 11.5.7)

Objective 11.4.2 *To avoid or mitigate the adverse effects of natural hazards within Otago to acceptable levels* (Policies 11.5.1 to 11.5.7)

6.13 Objectives 5.4.3 and Policy 5.5.6 seek to protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development. Objective 5.4.5 and Policies 5.5.3 to 5.5.5 promote sustainable land use and minimising the effects of development on water and land.

6.14 The promotion of sustainable management of the built environment and infrastructure, as well as avoiding or mitigating against adverse effects on natural and physical resources is also incorporated into Objectives 9.4.1, 9.4.2 and 9.4.3; as well as Policies 9.5.1 to 9.5.5.

Objectives 11.4.1 and 11.4.2 seek to manage risks from natural hazards by identifying and then avoiding or mitigating the risks.

Proposed Otago Regional Policy Statement (Decisions Version) (PRPS)

6.15 Section 74(2) of the RMA requires that a district plan prepared by a territorial authority shall "*have regard to*" any proposed regional policy statement. The PRPS was notified for public submissions on 23 May 2015, and decisions on submissions were released on 1 October 2016.

6.16 The following objectives and policies of the Decisions Version **[CB34]** are relevant to the SASZ and submissions on mapping:

Objective 3.1 *The values of Otago's natural resources are recognised, maintained and enhanced.*

Related Policies:

- Policy 3.1.9 associated with maintaining or enhancing indigenous biological diversity.
- Policy 3.1.10 associated with recognising the values of natural features and landscapes.

Objective 3.2 *Otago's significant and highly-valued natural resources are identified, and protected or enhanced.*

Related Policies:

- Policies 3.2.1 – 3.2.2 and Schedule 5 associated with identifying and managing significant vegetation.
- Policies 3.2.3 – 3.2.6 and Schedule 4 associated with identifying and managing outstanding or highly valued natural features and landscapes.

Objective 4.3 *Infrastructure is managed and developed in a sustainable way.*

Related Policies:

- Policies 4.3.1 – 4.3.4 associated with managing infrastructure.

Objective 5.3 *Sufficient land is managed and protected for economic production*

Related Policy:

- Policy 5.3.1 to manage activities in rural areas to support the region's economy and communities, and provide for other activities which have a functional need to be located in rural areas, including tourism and recreational activities compatible with rural activities.

6.17 The majority of the provisions of the Decisions Version have been appealed and mediation is currently taking place. Accordingly, limited weight can be provided to the Decisions Version of the PRPS. However, the provisions of PRPS are relevant in highlighting an intention to provide for economic growth and tourism where this is compatible with the rural environment.

Otago Conservation Management Strategy (CMS, 2016)

6.18 The notified extent of the SASZs at Coronet Peak, The Remarkables and Treble Cone are all located on public conservation lands.

6.19 The Otago Conservation Management Strategy 2016 (**CMS**) provides the policy framework for the integrated management of natural and historic resources, including land for recreation, tourism and other conservation purposes. The CMS is relevant in assessing activities within conservation land under the Conservation Act 1987 or National Parks Act 1980. The Council must also have regard to the CMS when preparing or changing the District Plan.¹⁸

6.20 Of particular relevance to ski field development is the 'outcome' statement for '*The Western Lakes and Mountains /Ngā Puna Wai Karikari a Rākaihautū Place*' at page 65, which states:

The Remarkables, Coronet Peak and Treble Cone ski fields provide for intensive use and are highly valued recreation and tourism opportunities enabling access to high-altitude areas.

18 Section 74(2)(b)(i) of the RMA.

Recognition of the ski fields' location on public conservation lands and waters, and conservation interpretation, are readily apparent to visitors. Ski fields are managed in a precautionary approach in terms of new and additional structures and terrain modification. Further development of existing ski fields may occur, in preference to any new ski fields. Disturbed areas are restored to an agreed standard comparable with that which was present prior to any development.

- 6.21** This outcome statement:
- (a) highlights the importance of these ski fields in contributing to public appreciation and enjoyment of conservation land;
 - (b) recognises that a precautionary approach is necessary to ensure physical works protect the natural values of these locations;
 - (c) provides for the further development of *existing* ski fields; and
 - (d) requires appropriate mitigation and restoration to agreed levels where disturbance occurs.
- 6.22** These outcomes are consistent with the direction of the PDP which seeks to consolidate Ski Area Activities (**SAA**) within the SASZ (Chapter 21, Policy 21.2.6).

7. NON-STATUTORY PLANS AND PUBLICATIONS

Proposed National Policy Statement on Indigenous Biodiversity (2011)

- 7.1** The Draft Proposed National Policy Statement on Indigenous Biodiversity **[CB31]** sets out the objective and policies about managing natural and physical resources to maintain indigenous biological diversity (biodiversity) under the RMA. It was notified for consultation in 2011. There have been no further advancements to date.
- 7.2** The Draft Proposed National Policy Statement's accompanying s32 report cited a study undertaken that identified the Queenstown Lakes

District as the second ranking territorial authority in the country (behind Central Otago District) with the largest extent of native cover not legally protected in the five threatened Land Environments of New Zealand (LENZ) categories.¹⁹

7.3 The Draft Proposed National Policy Statement has been considered in the development of provisions relating to the management of indigenous vegetation and biodiversity under the PDP, including the Chapter 33 and the identification of SNAs.

7.4 There is no legal test required of the Draft Proposed National Policy Statement in preparing the District Plan.

QLDC Economic Development Strategy (2015)²⁰

7.1 The QLDC Economic Development Strategy identifies key economic development priorities for the District. The strategy states that:²¹

Queenstown Lakes' economic development potential and performance depends on the quality of the resources that can be drawn on (people, infrastructure, natural environment, capital and institutions) and how effectively they are combined and used to generate value.

7.2 The mountain areas of the Remarkables, Coronet Peak, Treble Cone and Cardrona are identified as some of the most valuable natural assets of the District. It is noted that tourism, based on these natural assets underpins the District's economy.

7.3 The strategy identifies a number of economic development priorities to "encourage higher contribution visitor activity"²² through growing the proportion of 'higher value visitors' and diversifying visitor offerings generally.

19 The Threatened Environment Classification is a GIS tool combining three national databases, and can be viewed free of charge in Landcare Research's GIS portal. Information is available at:

20 <http://www.landcareresearch.co.nz/resources/maps-satellites/threatened-environment-classification>
<http://www.qldc.govt.nz/assets/Uploads/Council-Documents/Strategies-and-Publications/Queenstown-Lakes-Economic-Development-Strategy-Consultation-Document.pdf>

21 At page 3.

22 At Table 4, page 17.

'Cardrona 2020' Community Plan (2003)

7.4 The purpose of the Cardrona 2020 Plan²³ was to provide a community vision, strategic goals and priorities for the next 10 to 20 years.

7.5 Key community outcomes identified in the plan include:²⁴

- *To retain the general character of the landscapes surrounding the townships.*
- *To enhance public facilities and services to provide for the needs of a growing community and growing visitor numbers.*
- *To enhance the historic theme in the main Cardrona township area and for all new buildings to respect the existing character and scale of the township.*
- *To provide accommodation for service providers.*

7.6 At the time the community plan was created, the focus on the ski fields was in reference to their value in providing winter destination for tourists and employment for local residents. Future expansion of the ski fields is referenced, in addition to the need to cater for growing visitor numbers.

8. THE STRATEGIC DIRECTIONS OF THE PDP AND ZONING STRATEGY

8.1 The PDP has a hierarchical structure. The higher order provisions of 'Part Two – Strategy' highlight overarching resource management goals and objectives, to meet the needs of the community and achieve Part 2 of the RMA. These chapters also provide the framework to integrate and manage matters of national importance (s6(b), s6(c), s6(e) of the RMA).

8.2 Strategic Directions Chapter (Chapter 3) sits above the remaining strategic chapters (Chapters 4 Urban Development, 5 Tangata

23 http://www.qldc.govt.nz/assets/OldImages/Files/Small_community_plans/Cardrona_Community_Plan_-_FINAL.pdf

24 At page 7.

Whenua and 6 Landscapes). These chapters as a group sit above the remaining zone and district wide chapters.²⁵

8.3 Chapter 3: Strategic Direction brings together the key resource management issues for the District in a relatively concise manner and provides a policy framework that establishes the rationale for the remaining components of the District Plan. The evidence of Mr Matthew Paetz for the Council at Hearing Stream 1B on the Strategic Direction and Urban Development chapters **[CB35]** provides the following discussion on the Strategic Direction Chapter:²⁶

As the Strategic Direction chapter is a policy framework, containing no rules (but provides the strategic basis for subsequent chapters and rules), it is important that it:

- *Is underpinned by a sound analysis and understanding of the key resource management issues in the district, both present and future.*
- *Distils the meaning of the purpose of the RMA for the district, based on an understanding of those issues and expressed community views.*
- *Reconciles the competing issues in the District in a balanced manner, through providing for the social, economic and cultural wellbeing of people and communities balanced with the environmental objectives set out in Sections 5(2)(a), (b) and (c) of the RMA.*

It is important that the chapter is a meaningful tool for decision makers, both with regard to resource consent applications, and any plan change applications that may be made. In order to be a meaningful regulatory tool, it should not only appropriately distil the key resource management issues of the District, but should provide a strong policy direction on how those issues should be managed. As far as possible, the aim should be to provide a policy direction

25 **[CB39].**
26 **[CB35]** at paragraphs 8.5-8.6.

that is meaningful and not so general or broad as to be of limited decision making value.

- 8.4** I agree with these statements. The Strategic Directions chapter of the PDP overall sets the basis for managing the rural land resource in a manner that provides for the protection of the District's distinctive landscapes from 'inappropriate development' (Goal 3.2.5); yet also recognises that the rural resource provides opportunities for diversification and further economic development (Goal 3.2.1).
- 8.5** Provision for economic wellbeing is reflected through the following provisions of Strategic Directions **[CB3]**:
- (a) Goal 3.2.1, Objective 3.2.1.1, Objective 3.2.1.4, 3.2.1.6.
- 8.6** Specific recognition of the socio-economic benefits of tourism is provided in:
- (a) 3.1 Purpose, Goal 3.2.1, Objective 3.2.1.4, Policy 3.2.1.5.
- 8.7** Provisions to address matters of national importance that are particularly relevant to the SASZ include:
- (a) Goals 3.2.4, 3.2.5, 3.2.7; Objectives 3.2.4.1, 3.2.4.2, 3.2.4.3, 3.2.5.1, 3.2.5.2, 3.2.5.3, 3.2.5.4.
- 8.8** These competing, but interrelated objectives are distilled through an acknowledgement within the policy framework that appropriate activities may occur in the rural environment, providing adverse effects on landscape values and amenity can be avoided, remedied or mitigated (Objective 3.2.1.6).

9. ZONING STRUCTURE

- 9.1** As set out in Section 5 of this evidence, the District Plan review is a partial review and will be notified in two stages. Stage 1 notification

comprises zoning for the majority of the land area covered by the District²⁷ and the bulk of district wide chapters.

9.2 The development of the PDP provided an opportunity to reduce the number of bespoke rules that were in the equivalent ODP zones, reduce unnecessary complexity associated with provisions, and provide a more user friendly policy framework.

9.3 To provide for local or site specific issues, a number of zones have overlays or sub zones within them that either identify additional constraints or provide an alternative regulatory framework to enable specific activities within them. The overlays are framed so that the provisions generally trump the rules of the underlying zone where they relate to particular activities only. In reviewing the existing overlay and sub zone areas and evaluating new areas, the Council has been careful not to encourage their proliferation at the expense of presenting a district plan that is efficient to administer, while accounting for local context where appropriate.

9.4 The SASZ of the Rural Zone is one such example of the sub zone approach, and provides an alternative regulatory framework to enable SAA to occur in defined locations, as well as some limited activities via a consenting approach that balances the economic benefits of this tourism offering to the District, with environmental considerations. It enables SAA to occur in the defined SASZ via a permitted or less restrictive consenting (generally controlled) framework than that which applies to the underlying rural zone generally.

10. ROADS

10.1 Roads are not zoned in the PDP and therefore any rules that regulate activities in zones do not apply to roads. However, as discussed by Mr Craig Barr for Chapter 30 (Energy and Utilities)²⁸ district wide

27 The Rural Zone makes up approximately 98% of the District, however a substantial portion of this land is mountainous and within the National Parks.

28 Summary of Evidence of Mr Craig Barr for Chapter 30, Energy and Utilities (Paragraphs 5 to 8) <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Hearing-Stream-5/Evidence-Presented-at-Hearing/Monday-12-September/S001-QLDC-T05-BarrC-Summary-of-Evidence-Chapter-30.pdf>

provisions do apply to roads, as the rules of district wide chapters apply generally, and are not specific to zones.

- 10.2** The matter of whether a zone would be applied to roads and any provisions is set aside for Stage 2.
- 10.3** Some of the SASZ rezoning requests seek to incorporate the geographic area of existing access roads within the SASZ. I understand this is proposed as a means of integrating SAA with its supporting access infrastructure, but also will enable future maintenance and upgrade to these roads without triggering consent requirements for earthworks (because under the ODP earthworks are exempt in the SASZ). However, I note that the application of earthworks provisions over roads is also a matter that will be addressed through the review of roads in Stage 2 of the review, and also in the development of an Earthworks chapter for Volume 1 of the PDP.
- 10.4** I note that the Cardrona and Soho ski field access roads are private roads. Because of this status, it is my understanding that the extent of these private roads within the notified SASZ is captured by the SASZ provisions and these roads are therefore 'zoned'. Any rezoning which extends the SASZ further across these private roads would have the same effect.
- 10.5** This evidence considers only the appropriate geographic location of the SASZs and does not consider the specific rule framework which would apply to roads within this. If the Panel were to recommend the expansion of SASZs it would also need to consider the desirability of including roads within the zone framework.
- 10.6** At the time of writing, without knowing the recommendations of the Panel on the SASZ rezoning requests, the Stage 2 framework for roads, or future earthworks provisions, I am unable to present a well considered view as to the appropriateness of incorporating roads within the SASZ.

11. RELEVANT RECOMMENDATIONS OF HEARINGS ON TEXT

- 11.1** The hearings on submissions on text were heard from March 2016 and are scheduled to be completed in March 2017. Through the evaluation of submissions and questioning from the Panel a number of changes have been recommended to the notified Stage 1 Chapters. The Right of Reply versions filed by the Council at the conclusion of each hearing²⁹ have been used as a basis to assess the rezonings. This section outlines key recommendations relevant to the SASZ. I wish to emphasise the Council's clear understanding that the rezoning hearings is not a second opportunity for submitters to debate the merits of the text for notified SASZ.
- 11.2** Unless otherwise mentioned, the description below refers to the Council officers' reply version filed at the conclusions of the respective hearings on text held through March 2016 to March 2017. A full copy of all of the applicable reply chapters is available in the Common Bundle.

Strategic Direction Chapter (3) – Reply Version [CB3]

- 11.3** Strategic Direction Chapter 3 sets the overarching direction for the management of growth, land use and development in a manner that ensures sustainable and integrated management of the District's environment and landscapes, and provides for social, economic and cultural wellbeing.
- 11.4** While a number of changes to policy wording have been recommended, the overall approach and principles of the Strategic Directions chapter has not substantially changed. This chapter does not contain any provisions specific to the SASZ.
- 11.5** In response to submissions, the s42A report filed by Mr Matthew Paetz **[CB35]** discusses strategic considerations related to landscape values, the protection of the natural environment, economic growth, tourism and visitor accommodation. A new objective and policy was

²⁹ With the exception of any changes recommended through Hearing Stream 10 Definitions (Chapter 2) and Natural hazards (28) and the Whole of Plan submissions, as the Council's Right of Reply for Hearing Stream 10 had not been filed at the time of filing this evidence.

recommended by Mr Paetz to more explicitly recognise the benefits of tourism activity to the District's economy:

3.2.1.4 ~~Objective – Recognise and provide for t~~he significant socioeconomic benefits of tourism activities across the District are provided for and enabled.

Policy

3.2.1.4.1 Enable the use and development of natural and physical resources for tourism activity where adverse effects are avoided, remedied or mitigated.

11.6 The s42A report³⁰ notes this change was made because tourism plays a key economic role in the District's economy, and this was not sufficiently recognised in the chapter. However the support for tourism also has the caveat under Policy 3.2.1.4.1 that such activities should only occur where adverse effects are avoided, remedied or mitigated. Mr Paetz notes that the objective *"helps to counter balance the strong (and important) landscape, amenity and environmental objectives and policies espoused in the Strategic Direction chapter"*. I agree with this view and consider that enabling tourism does not take primacy, but that it must be balanced with other desired strategic goals and objectives.

Landscapes Chapter (6) – Reply Version [CB6]

11.7 Chapter 6 identifies the regulatory framework for the management of the District's natural features and landscapes, and implements Part 2 and in particular s6(b) of the RMA. The chapter recognises the landscape as a significant resource to the District and region. This resource requires protection from inappropriate activities that could degrade its qualities, character and values.

11.8 Three classifications apply to the District's landscapes:

- (a) Outstanding Natural Feature (**ONF**);
- (b) Outstanding Natural Landscape (**ONL**); and
- (c) Rural Landscape (**RL**).

11.9 The Landscape Assessment Matters of Chapter 21 apply only to the Rural Zone.

30 [CB35] at pages 18 and 21.

11.10 Objective 6.3.7 and Policies 6.3.7.1 to 6.3.7.3 provide a framework to facilitate enjoyment of the District's landscapes through tourism and ski activities within identified SASZs. Policy 6.3.7.2 provides for recreation and tourism on the basis that these enhance the appreciation of the landscape and protect, maintain or enhance landscape quality and amenity.

11.11 The following provisions relating to SASZs were considered through the hearing on the Landscape chapter (as discussed in the s42A report of Mr Craig Barr **[CB36]**):

- (a) suggested rephrasing of (notified) Policy 6.3.8.2 so that adverse effects of tourism related activities are managed in terms of effects on landscape quality;
- (b) amendment of (notified) Policy 6.3.8.3 to identify access corridors; and
- (c) suggested exclusion of the SASZ from the landscape categories (as opposed to "ski area activities").

11.12 The above relief sought by submitters was not recommended to the Panel by the Council. However a clarification amendment was recommended to 6.4.1.3 ('Application of the landscape provisions'), and is set out below:³¹

6.4.1.3 The landscape ~~categories assessment matters apply only to the Rural Zone, and for clarification purposes do not apply to the following areas within the Rural Zones are not applicable to the following:~~

- a. Ski Area Activities within the Ski Area Sub Zones.
- b. The area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps.
- c. ~~The Gibbston Character Zone.~~
- d. ~~The Rural Lifestyle Zone.~~
- e. ~~The Rural Residential Zone.~~

11.13 Provision 6.4.1.3 of the Landscape Chapter identifies that SAA within the SASZ are exempt from application of the "landscape assessment matters" (as contained within Chapter 21 – Rural). However, the "landscape categories" as set out in paragraph 11.8 above apply to the SASZ as it is located within the Rural Zone, and any activities

31 **[CB40]**.

within the SASZ, including SAA. The SASZs are also subject to the remaining provisions (purpose, objectives and policies) of Chapter 6. Where relevant, landscape effects are addressed within matters of control or discretion for SAA in the SASZ.

11.14 I note that SAA occurring in the Rural Zone *outside* of the SASZ are not subject to this exemption, and landscape assessment matters can be considered. Also, in any circumstance where an alternative land use (that did not fall within the definition of SAA) was proposed in the SASZ, the general provisions applicable to the Rural zone would apply, including the full suite of Landscape Assessment Matters in Part 21.7.³²

Rural Chapter (21) – Reply version [CB15]

11.15 The SASZs are located in the Rural Zone, and the purpose and regulatory framework applicable to these areas are contained in Chapter 21 (Rural Zone). At a broad level, the activities anticipated within the SASZ are indicated within the zone purpose, in addition to the uses encompassed within the definition of "Ski Area Activities" (**SAA**). Also, Table 7 (Ski Area Activities within the Ski Area Subzones) of Chapter 21 contains the primary rule framework for activities that are anticipated and enabled within the sub zone and within the definition of "SAA". I note at this point that I recommend that the title of this table be changed to "Activities within the Ski Area Sub Zones"; or that Table 7 is combined with Table 1 under Rule 21.4.18.

11.16 The purpose of the SASZ, at a strategic level, is to enable continued development of skiing, and activities ancillary to skiing, recognising the importance of these activities to the District's economy.

11.17 The S32 report for the Rural Zone (at page 20) identifies that the notified provisions were intended to reinforce and encourage SAA within the identified sub zones. No substantial changes were made to the provisions in the ODP with the notified PDP; and no zone extensions were made. Activities falling within the scope of the

³² Refer Legal Submissions on behalf of Queenstown Lakes District Council as part of Council's Right of Reply for the Resort Zone hearing, dated 24 February 2017, at paragraphs 3.3-3.6.

definition of SAA are permitted within the sub-zone, recognising that these activities are anticipated within the zone, and should be enabled without consent.

11.18 Through the hearing on text, a key matter discussed was broadening the purpose statement to reflect the SASZ diversifying into 'year-round' commercial recreation facilities, recognising the wider range of recreational activities other than snow skiing and boarding that currently occur in these locations (such as mountain biking, hiking, and paragliding).³³

11.19 While I do not intend to repeat the analysis undertaken here, key issues discussed through the s42A report (based on the relief sought by submitters) included:

- (a) diversifying the purpose of the SASZ to recognise these areas as 'year-round' bases for commercial recreation, including expansion of on-mountain commercial activities and visitor accommodation;
- (b) provision for vehicular and non-road (gondola) access to the SASZ;
- (c) enabling the clearance of indigenous vegetation without consent;
- (d) enabling ski area operations including avalanche control and ski patrol; and
- (e) establishing permitted standards for earthworks (specific to the submission of CARL only).

11.20 Through the hearing on text, the following recommended changes are of relevance to SAA and SASZs **[CB42]**:

- (a) amendment to the zone purpose to include reference to year round tourism and recreational activities:

33 **[CB41]** at page 20.

21.1 Zone Purpose

Ski Area sub zones are located within the Rural Zone. These sub zones recognise the contribution tourism infrastructure makes to the economic and recreational values of the District. The purpose of the Ski Area sub zones is to enable the continued development of Ski Area Activities as year round destinations for ski area, tourism and recreational activities within the identified sub zones where the effects of the development ~~would be~~ are cumulatively minor.

- (b) a new definition of "passenger lift systems" which includes specific reference to gondolas and other mechanical transport systems:

Passenger Lift Systems	Means any mechanical system used to convey or transport passengers within or to a Ski Area Sub-Zone, including chairlifts, gondolas, T-bars and rope tows, and including all moving, fixed and ancillary components of such systems such as towers, pylons, cross arms, pulleys, cables, chairs, cabins, and structures to enable the embarking and disembarking of passengers. Excludes base and terminal buildings.
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- (c) modification of the definition of SAA to include reference to the new definition of "passenger lift systems"; and specify other ski area operations including avalanche control and ski patrol:

Ski Area Activities	Means the use of natural and physical resources for the purpose of providing for <u>establishing, operating and maintaining the following activities and structures:</u> <ul style="list-style-type: none"> (a) recreational activities either commercial or non commercial (b) chairlifts, t-bars and rope tows to facilitate commercial recreational activities <u>passenger lift systems.</u> (c) use of snowgroomers, snowmobiles and 4WD vehicles for support or operational activities. (d) activities ancillary to commercial recreational activities <u>including</u> avalanche safety, ski patrol, formation of snow trails and terrain. (e) <u>installation and operation of snow making infrastructure including reservoirs, pumps and snow makers.</u> (f) in the Waiorau Snow Farm Ski Area Sub Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.
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- (d) a new policy (21.2.6.4) to provide for provision of alternative (non-road) transport to and within SASZ;
- (e) modification to Rule 21.5.28 to reflect the new definition of "Passenger Lift Systems";
- (f) exempting "Passenger Lift Systems" within a SASZ from Rule 21.4.19;
- (g) identifying "Passenger Lift Systems" located outside of a SASZ as a restricted discretionary activity, subject to satisfying matters of discretion relating to: landscape effects; route selection; visual effects of lighting, materials and

colours; ecological and geotechnical conditions; environmental and operational considerations; and positive effects;

- (h) a new policy (21.2.6.5) to provide for visitor accommodation within SASZ that is associated with a SAA;
- (i) a new rule (21.5.X)³⁴ to provide for the opportunity for visitor accommodation as a restricted discretionary activity, subject to satisfying matters of discretion relating to the scale and intensity of the activity, location, including whether the scale and intensity means that the activity is better located near the base buildings, parking, water supply and sewage, and cumulative effects; and
- (j) scope within new rule 21.5.X for visitor accommodation to accommodate worker accommodation of a duration of stay between 0 to 6 months.

11.21 As mentioned above, SAA within SASZ are permitted activities. Where identified in Table 7 of Chapter 21, activities are identified as either controlled or restricted discretionary within the SASZ, and accordingly the matters which can be considered in the assessment of resource consents for the listed activities are limited to the matters of control or matters of discretion specified.

11.22 The landscape assessment criteria of Chapter 21 do not apply unless an activity within the SASZ is identified as fully discretionary or non-complying (as per 6.4.1.3), and there are no SAA (as defined) identified as having this activity status (because they are either permitted, controlled or restricted discretionary). As a result of the recommendations identified in the Council's Right of Reply, this scenario now extends to "passenger lift systems", which are identified as a controlled activity within the SASZ; and restricted discretionary outside of the SASZ.

Indigenous Vegetation and Biodiversity Chapter (33) [CB22]

11.23 Chapter 33 contains provisions regulating the clearance of indigenous vegetation and biodiversity, and implements s6(c) of the RMA. There

34 "X" appears to be a placeholder in the reply rule.

are no blanket exemptions under this chapter for the SASZ or activities within the SASZ.

11.24 The rules of Chapter 33 as notified, identify separate activity status for clearance of indigenous vegetation in 'alpine environments' above 1070 metres above sea level (**masl**) (Rule 33.5.10); clearance of threatened plants (Rule 33.5.6); clearance within identified significant natural areas (**SNAs**) (Table 3) and the clearance of indigenous vegetation generally (Table 2).

11.25 With the exception of the Cardrona SASZ, the notified extent of all other SASZs are above an elevation of 1070masl and, therefore, the clearance of indigenous vegetation would be captured by Rule 35.5.10 as a discretionary activity. Also, I note that an identified SNA is located adjacent to (but not within) the zone extension sought by NZSki at Remarkables Park.

11.26 The following issues applicable to the SASZs were considered through the hearing on text (based on the relief sought by submitters):

- (a) providing an exemption from the rule framework (and support through policies) where prior approval is obtained from the Department of Conservation (**DoC**) within Public Conservation Land administered under the Conservation Act 1987;
- (b) suggested provision for indigenous vegetation clearing as a permitted activity within the SASZs; and
- (c) suggested exemption from the rule framework where prior approval is obtained alongside a recreation permit granted under the Land Act 1948.

11.27 In summary, the following changes were recommended to the provisions, relevant to the SASZ, and as discussed in the s42A report **[CB45]** and Right of Reply **[CB46]**:

- (a) modification to Policy 33.2.1.5 to "*have regard to*" Ski Area activities being an anticipated activity in the Rural Zone; and

- (b) a new rule (Exemption) 33.3.4.4 to exempt indigenous vegetation clearance within the SASZ where, on land administered under the Conservation Act 1987, the relevant approval has been obtained from DoC and the Council is satisfied that the application information submitted to DoC adequately identifies the indigenous vegetation to be cleared and the effects of the clearance. This rule recognises that the notified extent of all Coronet Peak, Treble Cone and Remarkables SASZ are located on conservation land, and subject to administration by DoC.

12. COMMON ISSUES APPLICABLE TO THE SASZS

- 12.1** This section discusses common issues relevant to the SASZ generally, the application of the PDP to this sub zone, and the consistent themes raised by submitters in seeking to change the boundaries of the sub zone.
- 12.2** These issues are relevant to and have informed the recommendations on individual rezoning requests (outlined in my specific s42A evidence).

Purpose of the zone as "*year round destinations for ski area, tourism and recreational activities*"

- 12.3** As discussed above, through the hearing on provisions, the purpose of the SASZ in Chapter 21 was recommended to be amended to recognise these areas as "*year round destinations for ski area, tourism and recreational activities*". This diversification of 'year round' facilities is a common reason provided by submitters to advance the expansion of the SASZ boundaries.
- 12.4** It is important to note that the zone purpose was recommended to be amended in isolation from considering the effects of expanding the geographic extent of the zones. As such, it effectively recognised that current operations occurring within the SASZ have already expanded into 'all season' commercial recreation facilities, offering activities outside of winter such as tramping, paragliding and mountain biking.

The provisions seek to consolidate ski area activities within the SASZs.

- 12.5** Diversifying the tourism offering in this zone outside of the ski season is relevant in considering whether, in the context of the significant scale of proposed zone expansions (and possible cumulative effects), it is appropriate for a broad scope of activities, as advanced by submitters, to be enabled within a rural subzone framework.
- 12.6** There is considerable uncertainty whether in an expanded zone extent, the provisions contained within the Chapter 21 Right of Reply are sufficient to manage the possible adverse effects associated with a broader offering of "*ski area, tourism and recreational activities*". In particular, the expansion of the zone would render the landscape assessment matters not applicable, and the possibility of an exemption for controls on earthworks (as evident in the ODP Chapter 22 – discussed below).
- 12.7** I consider that the purpose of the zone has its foundation in skiing, and any ancillary operational and recreational uses that are undertaken in alpine environments. However, the extension of this sub zone down into lower hillslopes, where skiing does not occur, potentially conflicts with the zone purpose and requires a more tailored regulatory approach and careful assessment.

Earthworks, road access and car parking

- 12.8** As discussed above, no earthworks provisions have been notified in Stage 1, and in the ODP, there are no earthworks provisions that apply to the SASZ. Council intends to notify an earthworks chapter for the PDP during Stage 2 of the review.
- 12.9** It is noted that Chapter 22 of the ODP, within 22.3.2.1(c) specifies that "*Earthworks in the Ski Area Sub-Zones are exempt from the rules in Section 22 of the District Plan*". This exemption applies to the entire SASZ, and is not limited to a particular type of activity. While this status under the ODP can be considered as a comparison, it is not possible at the time of writing to be certain whether future earthworks

provisions developed for the PDP will contain substantive changes to the operative rules when notified. I also note that this provision of the ODP was developed on the basis of the SASZ as it existed at the time the rules were developed, and could not have anticipated extensions to the SASZ; or a widened scope of activities and buildings within them.

- 12.10** All submissions considered within this hearing stream specify one of the reasons for the relief sought being the need to integrate and provide infrastructure connections to the SASZ from Rural Zoned land located outside of the SASZ. In particular, reference is made to vehicular and non-vehicular (gondola) transportation access infrastructure that supports the effective operation of the SASZ, and on which the SASZs rely.
- 12.11** Currently, access to the SASZs from lower elevations is located outside of the SASZ and relies upon specific provisions in the rural zone. I understand that several submitters (Soho (407), CARL (615) and NZSki (572)) seek that existing road access is incorporated into the SASZ.
- 12.12** The submissions also refer to the future provision of a broader range of commercial recreation offerings (such as mountain biking trails), and diversification into year-round tourism facilities including on mountain accommodation visitor and residential accommodation.
- 12.13** In the possible scenario that a similar provision was developed for earthworks under the PDP (for 'Volume A' SASZ land), this could allow an unlimited extent of earthworks to be undertaken in the extended zone areas, and at lower land elevations, for mountain biking trails, road access, and car parking areas (as examples). Such activities would be over and above the permitted SAA anticipated within the zone.
- 12.14** It is possible that this potential earthworks exemption is the reason these submitters seek the inclusion of existing road access within the SASZ, as this would enable (without quantity limits or standards) the further development and maintenance of road access, in addition to

the establishment of uncovered car parking areas. It is also relevant to note that were the SASZ extended to include road access, any potential resealing of that road would also be exempt from consideration to the landscape assessment matters.

- 12.15** The evidence of Dr Marion Read considers the possible effects of activities within the SASZ on landscape values. On the issue of earthworks, Dr Read identifies for all of the proposed rezonings that earthworks have the potential for significant adverse effects on landscape character and would diminish existing qualities of 'naturalness'. I rely on and support this analysis.
- 12.16** Whilst there are currently no equivalent earthworks rules in the PDP, the possible scenario that earthworks may be exempt in the SASZs of the PDP has been considered within the analysis of submissions and recommendations made in my specific s42A evidence. I acknowledge that the future rule framework applicable to earthworks in the SASZ is uncertain. However, given the long standing exemption for earthworks that has been enabled in the ODP, it is reasonably likely such a provision could be carried through to the PDP chapter in the areas of the *notified* SASZ extent.
- 12.17** For any extension to the SASZ, it is my view that if any of the current rezoning submissions are to be supported, then it is more appropriate for the possible effects of earthworks above a certain threshold on the landscape to be considered via a resource consent process. As such, I consider it to be generally inappropriate for an earthworks exemption to apply to any extensions to the SASZ, and that these areas should be subject to the earthworks standards applicable for the rural zone. I discuss this issue further in my specific s42A evidence as it applies to each respective rezoning request.
- 12.18** I note that the s42A report of Mr Craig Barr for Chapter 21 Rural, addressed specific points from CARL (615), which sought the insertion of permitted earthworks standards for the SASZ within Chapter 21.³⁵ Mr Barr rejected the submission points of CARL on the basis that it was understood (at this time) that the ODP Chapter 22

35 [CB41] at paragraphs 14.45 to 14.46.

would apply to the SASZ. As outlined in paragraphs 5.1 to 5.5 above, this understanding is now known to be incorrect, and Council intends to notify a new earthworks chapter for the PDP. Regardless, I concur with the recommendation of Mr Barr, as although the circumstances have changed, I agree that the reinvention of earthworks standards through a zoning chapter would duplicate those of a yet to be notified district wide earthworks chapter. It would be most appropriate for the applicability of earthworks rules to the SASZ to be considered and heard alongside the development of the District wide chapter in Stage 2. I therefore also reject this submission point of CARL, and note that interested submitters will also have an opportunity to submit on the Earthworks chapter in Stage 2.

Clearance of Indigenous Vegetation

- 12.19** The provisions of Chapter 33 **[CB22]** apply to the SASZ and there are no exemptions for SAA.
- 12.20** With the exception of the Cardrona SASZ (notified extent), all other SASZs (notified extent) within the PDP are located above 1070masl and would be captured by the blanket discretionary consent requirement for clearance of indigenous vegetation in alpine environments (Table 4). As such, a resource consent process is available in all circumstances to consider the effects on indigenous vegetation and biodiversity for any activity (including earthworks) within the SASZ above 1070masl.
- 12.21** For activities not captured by Table 4 for Alpine environments (i.e. below 1070masl and not within an SNA), the general provisions of Table 2 would apply. These allow a level of permitted clearance based on the scale (m²) and timeframe in which clearing is undertaken.
- 12.22** With the exception of the NZSki submission at Coronet Peak and adjacent to the Remarkables Ski Area, all of the other submitters seek to extend the boundaries of the SASZ to include areas below 1070masl. Accordingly, this blanket discretionary status for alpine environments would not apply, with the consequential effect that

vegetation clearance would be assessed against the 'general' provisions of Table 2, which provide for permitted clearing within specified limits. In combination with the recommended amended wording of Policy 33.2.1.5 to include specific reference to 'Ski Area Activities' in the SASZ, I consider that this may create an assumption that indigenous vegetation clearing should be enabled within the SASZ.

- 12.23** I note however that the amended wording of Policy 33.2.1.5 was again recommended on the basis of the current extent of the zone (recognising its location in predominantly 'alpine environments' subject to resource consent under Table 4), and did not consider the possible unintended consequences of enabling permitted clearance associated with SAA. Such clearing could be potentially between 500m² to 5000m² within a 5 year period (via Rule 33.5.1 for vegetation less than 2m in height), for example, in association with the construction of chairlifts, gondola, commercial recreation activities. However, I also note that clearing a threatened plant is not permitted, and requires Discretionary resource consent under Rule 33.5.6.³⁶

QEII Open Space Covenants

- 12.24** Large high country areas of the District are covered by QEII National Trust open space covenants (or otherwise referred to as Mana Whenua Covenants). These covenants are administered by the QEII Trust and provide a legally binding protection agreement that is registered on the title of the land for the purpose of protecting natural biodiversity and cultural heritage values.
- 12.25** Open space covenants are located over land that is sought to be rezoned by NZSki at Coronet Peak, and also adjacent to the Cardrona and Treble Cone SASZs. **Figure 2** below shows the extent of these covenants, in relation to the notified SASZs.

³⁶ [CB22].

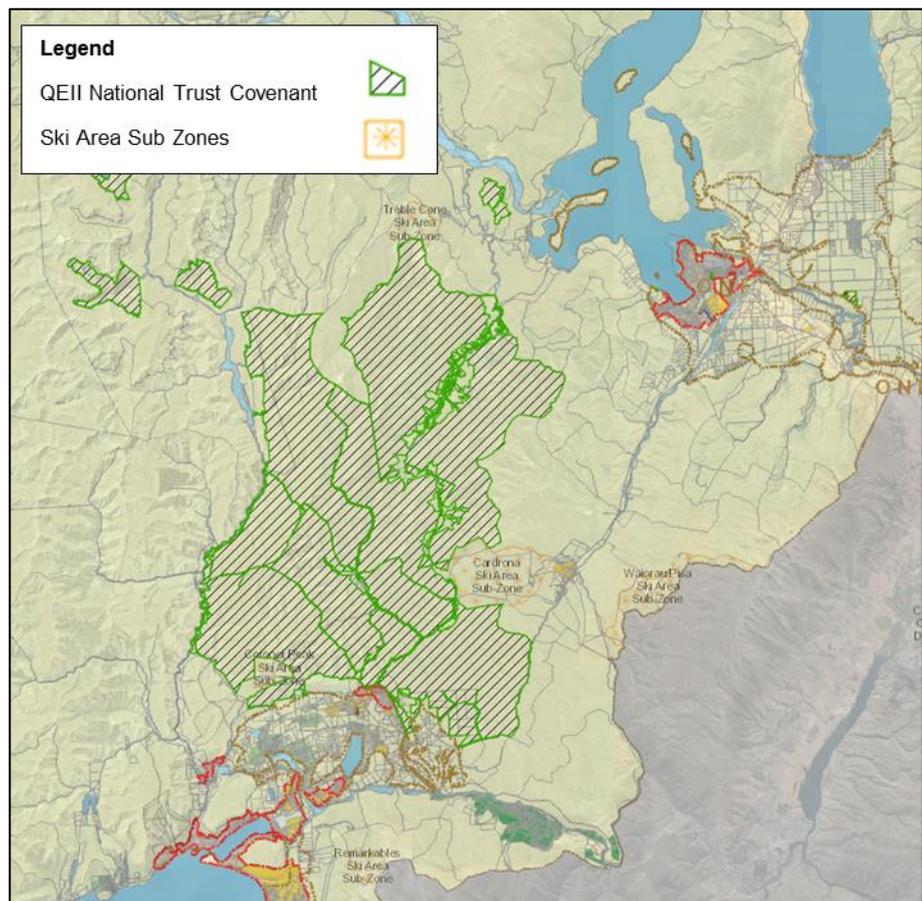


Figure 2. Location of notified SASZ and QEII Mana Whenua (Open Space) Covenants

12.26 In order to undertake activities or works within the area covered by the covenant, a person must first obtain the authorisation of the landowner, and confirm that the activity is undertaken in accordance with the conditions of the covenants. These covenants generally prohibit physical works, without prior authorisation from the QEII Trust. Included within [CB73] is a letter of advice received from the QEII Trust, and a copy of the Coronet Peak Open Space Covenant is included in [CB72] that exists between Soho Property Ltd (the leaseholder) and the QEII National Trust).

12.27 This particular covenant at Coronet Peak identifies its purpose and objectives (section 2) as "*managing the area as a Kohanga, by protecting and enhancing (including by way of new plantings) the indigenous biodiversity.....and encouraging the restoration of indigenous vegetation and animal species...*" and "*protecting the covenant area, its aesthetic natural landscapes and features which*

are national landmarks and which contribute to New Zealander's sense of place..."

12.28 Also relevant is section 4.3.3 which states that "*the covenantor must also not do nor permit others to do any of the following.....: construct or erect any building or structure or undertake any exterior alterations to any existing building or structure that is materially prejudicial to the open space values of the covenant area*".

12.29 While these covenants are legal instruments that are independent of the PDP, they are relevant to the consideration of the existing environment and recognised values of the land to which they apply; and its appropriateness or otherwise to accommodate intensifying land use. The relevance of the Coronet Peak covenant area is discussed further in my second statement of evidence.

Identified errors and inconsistencies – Chapter 21 [CB15]

Avalanche control and snow grooming

12.30 NZSki in its submissions relating to Remarkables Park and Coronet Peak SASZs has stated that one of the reasons for the relief sought to extend the SASZ boundaries is to formalise the safety management activities that are presently undertaken by NZSki (such as avalanche control) in the rezoning areas as permitted activities.

12.31 Firstly, avalanche control and snow grooming is not a matter regulated by the ODP (or PDP) unless it affects the underlying land, in which case this would be considered as earthworks (for example). Given that these activities presently occur in these areas (as acknowledged by NZSki) with the authorisation of the relevant landowners, I do not consider that the zone extension is necessary to enable avalanche control.

12.32 However I acknowledge that as a result of the Rural hearing on provisions, "*avalanche control, ski patrol, formation of snow trails and terrain*" were recommended to be included within the definition of

SAA³⁷ (therefore these activities are explicitly permitted within the SASZ), and consequently requires an equivalent rule that identifies avalanche control *outside of the SASZ* as a permitted activity; or alternatively, exempt from the chapter provisions. Otherwise, these activities could be interpreted to be non-complying outside of the SASZ (under Rule 21.4.19) and this is not intended.

12.33 Therefore to avoid unnecessary confusion as to the status of these activities outside of the SASZ, I recommend that a minor clarification amendment is made to Rule 21.4.19 to insert a new exception as 'item (c)', as follows:

- c. *Use of snow groomers, snow mobiles and 4WD vehicles for support or operational activities, and activities ancillary to commercial recreation activities, including avalanche safety, ski patrol, formation of snow trails and terrain, shall be permitted activities.*

Table 7 – 'Ski Area Activities within the Ski Area Subzones'

12.34 Table 7 is structured as an 'activity table' as per the right of reply version, and not a 'standards' table. I note this was clarified through amendments made during the Rural hearing stream.

12.35 An identified issue related to the format of 'Table 7' is that the activity status of Table 7 potentially conflicts with Rule 21.4.18, which states that SAA within the SASZ are permitted activities. Rule 21.4.18 is not accurate because specific types of SAA listed in Table 7 are not permitted, and are either controlled or restricted discretionary.

12.36 An example is passenger lift systems. I note that through the hearing on provisions, a new definition of "Passenger Lift Systems" was developed, and referenced within the definition of "SAA" with one reason being to accommodate a gondola, subject to a controlled activity status under Table 7 (21.5.28).

37 [CB42].

- 12.37** However, because "passenger lift systems" are referenced within the definition of "SAA" then they *could* be interpreted to be permitted (in any case) in accordance with Rule 21.4.18. This is not intended and in my view it is intended that the more specific controlled activity rule applies.
- 12.38** These issues may be resolved by a minor clarification to amend Rule 21.4.18 to add the qualifier that SAA are permitted in the SASZ, "*unless otherwise identified*".

13. DECISION MAKING PRINCIPLES

Overarching strategy

- 13.1** The relevant objectives of the RPS 1998 and the Decisions Version **[CB34]** are set out in paragraphs 6.11-6.17 and provide for economic growth and tourism where compatible with the rural environment. Both RPS documents also seek that landscape and scenic values, indigenous biodiversity and rural production is appropriately managed and protected from inappropriate development.
- 13.2** The PDP Strategic Direction (Chapter 3 **[CB3]**) gives effect to the ORPS and has regard to the decision version of the PRPS through the coordinated and planned approach to the spatial application of land use activities and supporting policy framework.
- 13.3** Zoning is also a key method to give effect to the objectives and policies of the RPS. In determining the zoning that should be applied in response to submissions, the assessments have been guided by the overall strategy of the Strategic Directions chapter to protect the District's valued landscapes in terms of both their intrinsic value and economic value to the region and District's tourism economy,³⁸ and to enable the benefits of tourism and diversification of the rural land resource where effects can be avoided, remedied or mitigated.
- 13.4** Simply because a site or area is identified as having the ability to absorb development, does not imply that it should be rezoned.

38 Refer to the economic evidence of Philip Osborne for the Council at Hearing Stream 2 **[CB49]**.

Rather, the zoning of land requires wider consideration of the ability of the rezoning to maintain (and not compromise) the intentions of the Strategic Direction provisions; whether the rezoning is consistent with the purpose of the zone; and maintaining the integrity and structure of the PDP. These are key considerations in the zoning strategy of the PDP, as required by the RMA and discussed in paragraphs 7.1 to 7.8.

- 13.5** An important principle used to assist with assessment of rezoning requests, as set out in paragraph 13.9, is to evaluate whether the rezoning requested is simply attempting to achieve the development potential that is available through a resource consent process. Further, it is also important to evaluate whether the effects of the activity or development sought by the rezoning would be more appropriately assessed through a resource consent. A resource consent process enables location and activity specific assessment of environmental effects, in addition to the consideration of alternatives³⁹ and the ability to impose conditions to manage implementation and ongoing operations of an activity.
- 13.6** This principle recognises that an evaluation is required to consider whether the zone proposed by submitters is more appropriate than the notified zone, with regard to the approach to the management of the rural land resource, maintenance of indigenous vegetation and biodiversity, and protection of the District's landscapes. Also relevant is whether the rezoning proposed may be more effective and efficient than the zone notified.
- 13.7** I consider that if the Council accepted rezoning requests that enable a wide array of potential development outcomes and possible inappropriate effects, without sufficient certainty over managing possible effects within the rules of the zone, that zoning would:
- (a) not give effect to the ORPS;
 - (b) compromise the Strategic Directions of the PDP; and
 - (c) reduce the effectiveness of the overall policy framework of the PDP.

39 Schedule 4 of the RMA.

13.8 However, I also consider it to be inappropriate for detailed bespoke provisions to be established within a zone, particularly if this method provides the only basis by which potential effects can be reasonably managed. Such an outcome suggests an approval process under the RMA via a resource consent would be more appropriate.

Rezoning Assessment Principles for the SASZ

13.9 The following key principles have been used as the basis for implementing the overarching strategy (outlined above) and statutory requirements (outlined in Section 6) as they relate to the determination of the most appropriate zoning of land.

13.10 My analysis of individual submissions against these principles has also taken account of amendments made through preceding hearings on provisions, and the common issues applying to the SASZ, as follows:

- (a) whether the change is consistent with the objectives and policies of the proposed zone. This applies to both the type of zone in addition to the location of the zone boundary;
- (b) whether the zone proposed / sought is more appropriate than the notified zone;
- (c) whether the change is consistent with and does not compromise PDP Strategic chapters and in particular the Strategic Direction, Urban Development and Landscape Chapters;
- (d) the overall impact of the rezoning gives effect to the ORPS;
- (e) economic costs and benefits are considered;
- (f) zone changes should take into account the issues debated in recent plan changes;
- (g) changes to zone boundaries are consistent with the maps in the PDP that indicate additional overlays or constraints (e.g. Airport Obstacle Limitation Surfaces, SNAs, Building Restriction Areas, ONF/ONL);
- (h) changes should take into account the location and environmental features of the site (e.g. the existing and consented environment, existing buildings, significant features and infrastructure);

- (i) zone changes recognise the availability or lack of major infrastructure (e.g. water, wastewater, roads);
- (j) zone changes take into account effects on water, wastewater and roading network capacity, and are not just limited to the site specific effects of extending infrastructure;
- (k) there is adequate separation between incompatible land uses;
- (l) rezoning in lieu of resource consent approvals, where a portion of a site has capacity to absorb development does not necessarily mean another zone is more appropriate; and
- (m) zoning is not determined by existing resource consents and existing use rights, but these will be taken into account.

Local Context Factors

13.11 The Rezoning Assessment Principles identified above should also be considered in the context of the particulars of a site or geographic area. These context factors are likely to influence the support (or not) of change to a zone or overlay mapping.

13.12 Context factors include:

- (a) the layout of road access, public open space and community facilities;
- (b) land with physical challenges such as steep topography, poor ground conditions, instability or natural hazards;
- (c) land with other identified significance values (environmental, cultural, amenity, heritage); and
- (d) the vulnerability of the wider area the subject land is part of to the adverse effects of development.

13.13 In assessing and forming a recommendation to the zoning and amendments requested to the PDP Planning Maps the Council has been guided by the above overarching principles, and in particular the Strategic Directions Chapters of the PDP.

CONCLUSION

- 13.14** This report is my first statement of evidence on the SASZ and sets out relevant statutory considerations, common issues and themes applying to the subzone, and the assessment principles that have been accounted for in the analysis of individual rezoning submissions.
- 13.15** The analysis of individual rezoning submissions is set out in my second, specific s42A evidence.

A handwritten signature in black ink, appearing to read 'Kim Banks', is positioned to the left of the typed name.

Kim Banks

10 March 2017