

Before Queenstown Lakes District Council

In the matter of the Resource Management Act 1991

And **The Queenstown Lakes District Proposed District Plan –
Stage 15: Open Space and recreation Zone**

Evidence of Paul Kavanagh for Kiwi Birdlife Park Limited

Submitter #2569; #2756

Dated 06 August 2018

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**anderson
lloyd.**

May it please the Panel

Introduction

1. My name is Paul Kavanagh and I am the park manager at the Kiwi Birdlife Park (**KBP**). I studied Science, specialising in Zoology (BSc 2001 (Hons)) and have been at the park for 9 years. During this time I have progressed from working as a wildlife keeper, head keeper, wildlife manager and now park manager.
2. We hold over 23 endangered native species at the park. We have some of the rarest animals in the world and all of our animals are at the park as part of managed programs to help ensure their survival for future generations such as breed for release programs etc. All of the conservation work we do is funded by our visitors; admission fees, donations and sponsorship. We are incredibly proud of how far we have come over our 30 years in operation, and of the product our visitors experience during their visit. We have transformed the land from an old wasteland area into the sanctuary that we have today. Animal welfare is always our priority at the park and we also need to ensure that we are doing what we can to ensure our amazing native species are saved from extinctions.
3. We participate in national breed for release programs for many of our species including whio, pateke and North Island Brown kiwi, and have in the past done the same for Haast Tokoeka kiwi. Kiwi are our main focus species, and the species that most of our visitors primarily come to see. We currently have 2 nocturnal kiwi houses, each of which generally house a breeding pair of kiwi. These houses are on display to the public, allowing our visitors to get a really close encounter with our kiwi, in a controlled environment. Every visitor is instructed to keep noise to a minimum, and there is no photography, cell phones etc allowed in the nocturnal houses. We also have an off display, outdoor breeding area, which houses a breeding pair.
4. In the wild, only 5% of kiwi chicks survive to be adults because of introduced predators. By keeping any chicks safe for 6 months before releasing them, the survival rate increase to 65%. Breed for release programs and pest trapping in the wild are the only reason why some of our species of kiwi have been saved from extinction.
5. Kiwi rely on their incredible sense of smell and remote tactile senses to forage for food. Kiwi are the only bird in the world to have their nostrils located at the tip of their bill, and going up the bill they have incredibly sensitive nerve tips to sense vibrations of prey in the soil and leaf litter. As we release all of our kiwi into the wild, it is vital that our kiwi retain and hone these natural foraging skills for their wild release. Any vibrational disturbances will affect this ability.
6. Kiwi are incredibly shy, nocturnal birds. They can easily pick up on low decibel noises and are particularly sensitive to noise disturbance (Craigie, 1930) and high frequency sounds. There are studies that suggest that kiwi have an over-

representation of high frequency hearing which suggests that they use this as a feeding mechanism; they hear invertebrates like barn owls. So our kiwi's ability to forage for food will be impacted by both vibrations and noise.

7. We know from 30 years of experience and anecdotal evidence that noise and vibrations results in abnormal behaviour such as pacing and retreating into their burrows. We are concerned about on-going increased operational noises with increased traffic, and closer proximity to everyone day operational noises as a result of the Subzone identified over the Skyline site adjacent to KBP. We cannot just act reactively to this noise, we have to proactively plan to prevent any issues or reduce the effects, particularly during breeding season and during our peak visitor season. We have also discussed the matter with pre-eminent kiwi specialists who share our concern. KBP therefore seeks policy support for specific boundary treatment between sites, assurance as to the notification of consent applications (including controlled activities), and no blanket increase for carpark building heights on the Skyline site, as discussed later in my evidence. KBP also opposes more permissible standards pertaining to the use of informal airports over the Ben Lomond recreation reserve for these same reasons.
8. If any of our native species are adversely impacted by noise etc, KBP would be in breach of our permits to hold wildlife in captivity, which are issued by Department of Conservation and are pursuant to the Wildlife Act 1953, as these species would not be receiving species-specific care. Furthermore, the KBP, as members of the ZAA (Zoo and Aquariums association) would not be meeting the professional standards subscribed to as welfare accredited members of ZAA, using Mellor's 5 Domains model (Mellor and Beausoleil 2015).
9. We have recently become the first NZ institute to be certified as having positive animals welfare as part of the Zoo and Aquariums Associations Accreditation 2020 scheme. Our results came back as outstanding levels of welfare for our animals. Noise and vibrations will significantly affect this. We cannot knowingly leave our birds in an environment which could cause stress as this breaches animal welfare standards.
10. Some rules within the proposed Subzone are of concern to KBP with respect to the ongoing operation and maintenance of its facilities. The KBP facilities are designed and located so as to primarily provide for the welfare of the wildlife within the park. Rules pertaining to building and fence heights for example, are not specifically adapted to the needs of the KBP infrastructure to achieve the objective of wildlife welfare. Given the importance of the established KBP operations in this location and surrounding development, site-specific standards providing for differential height limits is justified.

Scope of evidence

11. I have prepared evidence in respect of Topic 15: Open Space and Recreation Zone (Chapter 38) for KBP in relation to their submission and further submissions. Those submissions pertain specifically to the KBP, located at 51 Brecon Street (CT 795902) (**Site**).
12. My evidence covers, from an operations and practical perspective, the impacts of the provisions of the proposed Open Space 'Informal Recreation – Ben Lomond Subzone' over the Site, as well as impacts from the use of adjacent sites under the same zoning.
13. My evidence also briefly addresses concerns with respect to the KBP further submission (2756) on the Skyline Enterprises Submission, seeking more permissible provisions in respect of informal aircraft activity within the Skyline Enterprises leased areas (**Skyline site**).
14. By way of summary, I will address the following key aspects of concern to KBP:
 - (a) Amendments to building height rules to provide for bird aviary enclosures;
 - (b) Amendments to fencing height rules necessary for predatory protection;
 - (c) Policy support relating to the interface between KBP and Skyline sites;
 - (d) Increased heights for carparks and activity status within the Skyline site;
 - (e) Notification status for controlled activities;
 - (f) Extension of the Ben Lomond Subzone; and
 - (g) Informal airport activities within the Skyline site.
15. In preparing this evidence I have reviewed the section 42A report of Christine Edgley for QLDC in respect of Chapter 38 – Open Space and Recreation (text and mapping) (**s42A Report**), and the Statement of Evidence of Jeannie Galavazi on behalf of QLDC – Open Space and Recreation Zones: Planning (**QLDC Planning Report**) as these relate to the concerns raised in the KBP submissions.

Amendments to building height rules to provide for bird aviary enclosures

16. The Council's S42A Report rejects the KBP submission seeking an increase from 6m to 10m in height limit for aviary enclosures. The reasons for the author's opposition are:

Increasing the maximum height has the potential to result in adverse effects on character and amenity, shading, dominance and visual effects.¹

¹ S42A Report, at [11.38].

17. I do not have specialist expertise to discuss matters such as character and amenity, however from a practical perspective, the location of the aviary enclosures within the forest canopy and the private nature of the KBP site mean that adverse effects from shading and dominance are unlikely to be problematic for adjacent landowners. The KBP site is surrounded on 3 sides by zones that enable significant development and high buildings. In that respect the KBP site is rather unique.
18. Furthermore, the aviary enclosures are constructed of wire and bars and therefore are permeable, such that no issues of shading would occur, either within or beyond the KBP site.
19. From a practical / operations perspective, 10m aviary enclosures are more desirable to create a safe and desirable habitat for our wildlife. The vision of KBP in the future is to expand to more interactive enclosures where wildlife have more room, and park visitors can walk through the enclosures to have an intimate experience with wildlife. The 6m limitation would make it more difficult to achieve this outcome without further resource consent requirements. In addition to some of our display species, we are the main wildlife rehabilitator for injured native wildlife in Otago, and we strive to release any injured native animals back in to the wild. This off-display work necessitates having large flight spaces to build up flight muscles.
20. In order to ensure the additional height allowance would not be used for all buildings within the Subzone, rather than just aviary enclosures located within the Kiwi Birdlife Park Brecon Street, Rule 38.10.1 could be amended as follows:

Building Height

The maximum height in the following zones shall be:

...

38.10.1.2 Informal Recreation Zone: 6m.*

...

*Excluding aviary enclosures located within the Kiwi Birdlife Park Brecon Street, which shall be 10m.

Amendments to fencing height rules necessary for predatory protection

21. Similar to the above issue, KBP sought in its submission to increase the maximum permitted fencing height limits above 1.2m on the Zone boundary. The S42A Report disagrees with this submission, noting that:

Fences exceeding the maximum height requirement have the potential to adversely affect neighbouring properties and the general character and amenity of the locality. For wildlife fences adverse effects could potentially be mitigated by keeping the fence setback from the boundary and providing a landscaping buffer²

² S42A Report, at [11.39].

22. As discussed above, the nature of the KBP Site is that it is privatised and enclosed by forest growth such that amenity effects on adjacent sites are minimised. It is impractical to locate wildlife fences away from the boundary and closer within the Site as this minimises enclosure room within the park, which is already limited.
23. Practically speaking, predator proof fences are generally at least 2.2m tall (above ground) so as to stop animals such as cats jumping over the top easily. Such fences are used in established Eco sanctuaries like Orokonui in Dunedin, and Zealandia in Wellington.
24. In the location of the KBP Site, it would not be unusual to see or expect a predator proof fence, and therefore I consider that 'general character and amenity' would not be affected. Furthermore, this height is not dissimilar to that of a standard deer fence, which would be commonplace in rural areas.
25. Practically, there is little benefit in requiring predation fences to be any less than 2.2m in height as this will not serve any useful purpose. This increased height also provides for the safety of visitors and adjacent sites, as the height stops people attempting to jump in or out of the enclosure. To ensure the rule were site-specific to the needs of KBP, Rule 38.10.7 could be amended as follows:

Fencing

...

38.10.7.2 The maximum height of any fences erected on the boundary of any Open Space and Recreation Zone shall be 1.2m.*

*Except fences for the purposes of predator proofing within the Kiwi Birdlife Park Brecon Street, which shall be 2.2m.

Increases in retail space ancillary to permitted activities

26. KBP sought in its submission to increase the GFA for retail activities ancillary to permitted activities from the current 100m² / 10% limitation, as well as amendments to the activity table to provide for commercial, retail, and restaurant / café activity ancillary to the KBP operation as a permitted activity.
27. As discussed in the Planning Report, the Ben Lomond Subzone is unique in its provision of a variety of activities, and therefore the Subzone was created to recognise the commercial recreation and tourist activities on the Site, as differentiated from other open space zones³. Also discussed in that Report is the importance in recognising the established level of investment and infrastructure already provided for by existing tourism operators, which accommodates significant tourist numbers⁴.

³ Planning Report at [7.4].

⁴ Planning Report, at [7.5].

28. Given these unique differences between the Ben Lomond Subzone and other open space zones, and the clear acceptance of the higher level of commercial activities established, it is appropriate to recognise that retail activities may be higher in this Subzone than elsewhere.
29. KBP has invested significantly into its retail facilities onsite which provide a diverse offering, including ticketing and admissions, the Honey Bee Centre, souvenir shop, gallery and café. These facilities directly support the operations of the park and enhance the overall visitor experience as well as providing a necessary diversification of income streams.
30. Rule 38.10.9 specifically relates to providing for permitted retail space associated to 'recreation activities' permitted within the relevant zone:

Maximum gross retail floor space

Within the Informal Recreation Zone, Active Sports and Recreation Zone, CPZ, CPZ (Golf), and CPZ (Camping Ground) the maximum gross retail floor space associated to recreation activities permitted within these zones shall be 100m² or no more than 10% of the gross floor area (whichever is the lessor) of the building supporting the recreation and leisure activities.

31. KBP does not necessarily oppose the 100m² limitation above; so long as it is clear that the established park operations would fall to be a permitted activity in table 38.1. Currently this is not entirely clear as the example activities are broad categories. The following amendment is suggested to table 38.1 to clarify this:

Rule	Activities	Informal Recreation Zone
38.9.26	Conservation Planting, species protection and conservation management works, including associated trapping, restoration and re-vegetation work, noxious plant and pest control, <u>keeping, breeding, and managing wildlife.</u> and scientific research	P

Policy support relating to the interface between KBP and Skyline sites

32. KBP sought in its submission to provide better protection of the interface between the KBP site and the Skyline lower terminal. As outlined in the introduction to my evidence, KBP's main concerns stem from its objectives to protect wildlife within its enclosures from adverse external effects.
33. The s42A report considers that such changes are not necessary, and that KBP would be considered as part of any resource consent application as an affected neighbour. I note however that this is potentially inconsistent with the amendments to Rule 38.12 (non-notification) included in the same Report. The amendments to this Rule seek to remove the following:

Controlled activities within the Informal Recreation Ben Lomond Sub Zone shall not be publicly notified but may require the written approval of affected persons or give limited notification to affected persons.

34. The removal of this rule is of concern to KBP in that controlled activities provided for can have adverse effects on KBP and without policy support relating to the interface of the two sites, there would be little protection against proposals which had adverse effects on its wildlife.
35. Furthermore, any notification for particular activities would be an effects- based assessment, which does not guarantee KBP's involvement in all future consent applications. Policy support is required to ensure that all new proposals do not have adverse effects on established operations. This is particularly important for the Ben Lomond Subzone, which as recognised above, hosts a diverse range of activities and operations. This could be appropriately provided for within the proposed new suite of policies specific to the Subzone at 38.4.1.7 - .8.4.1.9, as follows:

Within the Ben Lomond Sub Zone

...

[38.4.1.10 Ensure that the establishment of new activities does not create adverse reverse sensitivity effects on existing and planned land uses or activities that could be subject to effects including from increased noise, use, and light spill, or which could affect the amenity values of the surrounding area.](#)

Increased heights for carparks within the Skyline site and activity status

36. As discussed in para 11.28 of the S42A report, Skyline sought that parking within the Lower Terminal Area of the Subzone be permitted, rather than controlled., and an increase in height limits from 17m to 20m.
37. KBP generally submitted to amend provisions to further protect the interface between KBP and the Skyline Lower Terminal. It therefore opposes those increases to permitted standards for parking buildings within the Lower Terminal area.
38. These increased allowances have the potential to create adverse impacts on KBP, such as through increased noise, light spill, and other adverse amenity effects on the park.
39. I refer to and support the Council's conclusions on these matters, at 11.28 and 11.29 of the S42A Report, opposing the increase in height and the permitted activity status.

Notification status for controlled activities

40. As discussed above, I do not support the removal of the (potential) requirement for written approval for controlled activities within the Subzone (Rule 38.12). Controlled activities cover a broad range of potential activities with the potential for adverse effects on adjacent sites.
41. The requirement to obtain written approvals is not an onerous one and encourages good communication and participation between parties. This is

particularly important in the Subzone which has diverse activities and needs and will lead to better community and integrated planning outcomes.

Extension of the Ben Lomond Subzone

42. As discussed in Ms Galavanzi's Planning Report, the Ben Lomond Reserve is a unique tourist destination within the District. I agree with the report writer's statement that:

The mixture of tourism operators is fairly unique in that several very wellknown activities (e.g. the gondola, luge, zip line, Birdlife Park, bungee, and parapenting) share a very small geographic area but attract a large number of visitors. There are also very few opportunities for expansion and further development given the geographic landform at Bob's Peak so there is likely to be future competition between operators for development rights and space.⁵

43. This further evidences the diverse uses of the Site currently, the need to provide strong policy support for the interaction of those activities between sites.
44. KBP does not necessarily oppose the extensions of the Subzone sought by Skyline, as long as the amendments sought by KBP in its submissions and as addressed in this evidence are included to address concerns around the interaction of different operations and activities within the area.

Informal airport activities within the Skyline site.

45. As discussed at para 11.30 of the S42A Report, Skyline has sought that informal airport activities become a restricted discretionary rather than discretionary activities within the Subzone and including the Skyline extension area sought. I refer to and support the conclusions of the Report which considers that the notified activity status of discretionary is more appropriate for informal airport activities, given potential cumulative effects of multiple applications and the breadth of the Subzone this would be applicable to.
46. Furthermore, as stated in the KBP further submission, increased informal airport activities in this location have the potential to impact upon the amenity and conservation activities undertaken at the park, which are anticipated in the purpose of the Subzone.
47. KBP therefore supports the discretionary activity status being maintained.
48. Should the Commission be minded to accept the Skyline submission and impose a restricted discretionary activity status, then KBP request the following specific amendments to address concerns relating to amenity effects on the park:
- (a) A limitation to maximum 4 flights on any day, with only two flights within any fifteen minute period (on five occasions per annum, when larger pre-booked groups are flown to the helicopter landing area there may be up to

⁵ Planning Report at [7.2].

three flights in any fifteen minute period provided that the operator shall advise KBPL at least 48 hours in advance of the date and time during which the multiple flights will occur);

(b) The operation of all helicopters at the helipad shall be managed in accordance with a Helicopter Management Plan;

(c) All flights will occur between the hours of 10am and 7pm.

49. These restrictions are consistent with Environment Court Decision: *ZJV (NZ) Ltd v Queenstown Lakes District Council* [2016] NZEnvC 90, a copy of which I attach as **Appendix A** to my evidence.

Paul Kavanagh

06 August 2018

Appendix A

ZJV (NZ) Ltd v Queenstown Lakes District Council [2016] NZEnvC 90

BEFORE THE ENVIRONMENT COURT

Decision No. [2016] NZEnvC 90

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under section 120 of the Act

BETWEEN ZJV (NZ) LIMITED
(ENV-2011-CHC-130)

Appellant

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

AND SKYLINE ENTERPRISES LIMITED

Applicant

Court: Environment Judge J R Jackson
Environment Commissioner K Edmonds

Hearing: In Chambers at Christchurch

Submissions: R Somerville QC and J Young for ZJV (NZ) Limited
R Wolt and S C Reese for Queenstown Lakes District Council
G M Todd and S Buchan for Skyline Enterprises Limited

Date of Decision: 12 May 2016

Date of Issue: 12 May 2016

FINAL DECISION

A: Under section 290 of the Resource Management Act 1991, the Environment Court confirms that Queenstown Lakes District Council resource consent



RM100777 is granted for a term of five (5) years for a maximum of four (4) flights per day subject to:

- (i) the amended conditions detailed in Appendix 1;
- (ii) the plan titled "Helipad Extension and Skyline Access" Sheet 01 Rev G, Job Number Q4115-51 dated 13/02/2015, marked Appendix 2; and
- (iii) the Helicopter Management Plan (revision 5.0), marked Appendix 3

— all of which are attached to and form part of this decision.

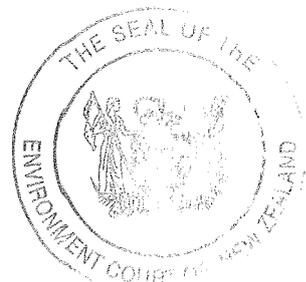
- B: Except to the extent the resource consent is modified in order A, the appeal is refused.
- C: Leave is reserved for any party to apply within 20 working days for any corrections in the event any errors have been made when the court amended the conditions and/or Helicopter Management Plan.
- D: Costs will be resolved in a separate decision.

REASONS

Introduction

[1] This proceeding concerns an appeal by ZJV (NZ) Limited against a decision of the Queenstown Lakes District Council granting resource consent to Skyline Enterprises Limited to operate a helicopter landing area adjacent to the Skyline Gondola building on Bob's Peak, within the Ben Lomond Reserve, Queenstown.

[2] In its decision dated 25 November 2015¹, the court confirmed the resource consent for a term of five years for a maximum of four flights per day, with the parties to agree on the amended conditions to give effect to the decision. In the event the parties could not agree a timetable was set for submissions for the court then to resolve the conditions on the papers. Costs were reserved. ZJV (NZ) Limited ("Ziptrek") made an application for costs against the Council and Skyline Enterprises Limited ("Skyline") and this is to be dealt with by way of a separate decision.



¹ [2015] NZEnvC 205.

[3] The purpose of this decision is to resolve any remaining areas of disagreement so that the conditions are able to be finalised. In doing so we have made amendments to the Helicopter Management Plan and to the conditions proposed by the Council. All parties agreed that these issues can be resolved on the papers.

Helicopter Management Plan

[4] We asked the parties to work on the Helicopter Management Plan (“HMP”) with a view to ensuring it is clear, certain and enforceable. On the whole the HMP is improved. However, there are three points we need to make.

[5] First, the title of the plan should be consistent with the title used in the conditions. The plan is labelled “Helicopter Management Plan,” while the conditions refer to it as the “Helicopter Noise Management Plan”. The former is preferred as the plan refers to interaction with paragliders as well as to noise issues.

[6] ZJV’s preference is that all aircraft operating from the helipad be required to meet the noise certification requirements set out under that title in the HMP. It is clear from the third paragraph under the Noise Certification title that this is the case. However, to avoid all doubt the second paragraph² under the title Helicopter Types has been amended to read: “No other aircraft shall operate from the Landing Area unless it meets the Noise Certification criterion below and the following specifications”.

[7] We have amended the HMP so that the sections and paragraphs are numbered which will make it easier to refer to.

Amendments to conditions

[8] At the end of the decision we asked the parties to amend the conditions in light of our findings and to add conditions providing for³:

- (1) continuous radio contact between a marshal on the ground and the pilot of any helicopter proposing to land on or take off from the helipad; and
- (2) consistent, clear and comprehensive signage to activities on the site; and

² Now 9.2 Helicopter Management Plan.

³ [2015] NZEnvC 205 at [208].



- (3) compilation of a list of operational controls to be published in the New Zealand Aviation Information Publication.

[9] We have made some very minor amendments which include corrections to any grammatical errors or obvious word repetition.

[10] With regard to condition 15, we have amended the opening sentence for consistency, to read: “Within six months of the commencement of this consent the consent holder shall: ...”

[11] Following proposed condition 15(g) there is a line containing only a colon followed by a paragraph which reads as follows:

Confirmation that the protocols have been submitted to the Airways Corporation of New Zealand for inclusion in the New Zealand Aviation Information Publication shall be provided to the Planning Manager, Queenstown Lakes District Council within 7 days of being submitted.

This paragraph would logically follow proposed condition 15(e) and so, with some minor amendments, we have inserted it as 15(f).

Disputed conditions

[12] The conditions which remain in dispute concern the following issues:

- (a) whether it is necessary for Skyline to obtain a determination approving the location and layout of the helipad from the Director of Civil Aviation under Part 157 of the Civil Aviation rules and, if so, whether conditions preventing the consent holder from exercising the consent prior to obtaining such a determination are necessary and appropriate;
- (b) the plans to be attached to and form part of the consent;
- (c) whether consultation with Ziptrek should be required in respect of:
 - (i) the preparation of the Helicopter Management Plan, including any variations;
 - (ii) the signage plan;



- (iii) quarterly meetings with the parapenting community (in particular whether Ziptrek should be included in those); and
- (iv) any review of the consent conditions under sections 128 and 129 of the Act.

Determination under Part 157 Civil Aviation Rules

[13] One of the main areas of dispute is whether the alteration to the helipad needs to be approved by the Director of Civil Aviation (“DCA”) under Part 157 of the Civil Aviation Rules before Skyline can implement the resource consent.

[14] Part 157.5 of the Civil Aviation Rules provides that whenever a person proposes to construct, alter, activate, or de-activate any aerodrome or heliport notice of the intended project must be given to the DCA 90 days before the work is to begin⁴. The DCA must then conduct an aeronautical study⁵. Once complete, the DCA must issue an aerodrome determination falling into one of three categories: unobjectionable, conditional or objectionable⁶. All parties accept that the helipad constitutes a heliport for the purposes of Part 157.

[15] At [59] of our decision⁷ we set out what we believe to be the correct approach, as follows:

...the absence of an “aviation document” or of a “determination” from the DCA is neutral in respect of Skyline’s application, although that absence may make the evidential burden more difficult for the applicant to meet. We should consider all the safety issues raised by the evidence, including the discussion of Part 157 CAR and then consider our predictions as to risks to safety as part of our overall evaluation of the application.

Skyline’s position

[16] Skyline submits that it seems illogical to argue that if the decision making authority can evaluate an application for consent in absence of Part 157, the same Part

⁴ Civil Aviation Rules Part 157 rule 157.7.
⁵ Civil Aviation Rules Part 157 rule 157.9(a).
⁶ Civil Aviation Rules Part 157 rule 157.11.
⁷ [2015] NZEnvC 205.



157 determination is required as a condition precedent to that application taking effect⁸. Skyline points out that the court has reached conclusions about the safety of the application by carrying out an overall evaluation of the application in terms of section 104 of the Act. This involved considering evidence that is broader in scope than that required by a determination under Part 157⁹. The administration and determination of Part 157 is required and enforced under legislation that is within the jurisdiction of the Civil Aviation Rules. As acknowledged by the court, “it does not have power to rule on the issue”¹⁰. A Part 157 determination is required to be obtained regardless of whether there is a condition of consent requiring one. Skyline submits that a condition precedent of a Part 157 determination is superfluous and is not necessary to “give effect to” the decision of the court¹¹.

Ziptrek’s position

[17] Conversely, to limit the potential for uncertainty and conflict Ziptrek seeks the inclusion of the following condition¹²:

The consent holder shall not exercise this consent prior to receiving a determination in respect of the location and layout of the helipad from the Director of Civil Aviation under Part 157 of the Civil Aviation Rules.

[18] Ziptrek says that Skyline’s position appears to be that the safety issues raised by the evidence amounts to an aeronautical study and that no determination from the DCA is required¹³. However, Messrs Bermingham and Shelley both acknowledged that the work they had undertaken for the resource consent appeal did not constitute an aeronautical study for the purposes of CAR Part 157¹⁴.

[19] Counsel for Ziptrek submitted that while the power to impose conditions on a resource consent is wide, it is not unlimited¹⁵. Dr Somerville QC went on to look at the court’s power to impose conditions, provided for in sections 108 and, for this case,

⁸ Applicant’s submissions on consent conditions dated 24 March 2016 at [3.6].

⁹ Applicant’s submissions on consent conditions dated 24 March 2016 at [3.6].

¹⁰ [2015] NZEnvC 205 at [53].

¹¹ Applicant’s submissions on consent conditions dated 24 March 2016 at [3.7]-[3.8].

¹² Appellant’s submissions on consent conditions dated 11 April 2016 at [2.12].

¹³ Appellant’s submissions on consent conditions dated 11 April 2016 at [2.13].

¹⁴ Transcript, p136, lines 5-8 and 31-32; p144, lines 21-23; p196, lines 7-17.

¹⁵ Appellant’s submissions on consent conditions dated 11 April 2016 at [3.3], referring to *Aubade NZ Ltd v Marlborough District Council* [2015] NZEnvC 154 at [37].



104B. Section 104B states that if the consent authority grants the application it may impose conditions under section 108. Section 108 gives the court the power to impose any conditions it considers appropriate. Section 108(3) provides that a consent authority may include a condition requiring the consent holder to supply information to the consent authority relating to the exercise of the resource consent. Section 108(4) goes on to give some examples as to what might be expected of the consent holder in providing that information.

[20] Ziptrek says the meaning of the proposed condition is straightforward: before the consent can be given effect to there must be a determination in respect of the Rev G plan pursuant to Part 157 of the CAR. The proposed condition is sufficiently certain and within the court's powers. Ziptrek argues the proposed condition is reasonable since without reference to the Part 157 determination the conditions would be unreasonable and may negate the use of the consented operation of the heliport in the event that the DCA makes a determination in respect of the Rev G plan¹⁶.

[21] It is submitted for Ziptrek that there is no question of the proposed condition nullifying the consent because it is clear that Skyline can meet the condition by making an application to the DCA¹⁷.

[22] Ziptrek relies on the decision of the High Court in *Westfield (New Zealand) Ltd v Hamilton City Council*¹⁸, where it was determined that conditions attached to a consent will usually be regarded as unreasonable if incapable of performance. However, a condition precedent which defers the opportunity for the applicant to embark on the activity until the third party carries out some independent activity is not invalid. Ziptrek argues that a condition framed in the manner proposed is valid and capable of satisfaction. It is quite different from a condition that would require the applicant to bring about a particular result (for example, an unobjectionable determination), which is not within its power¹⁹.

¹⁶ Appellant's submissions on consent conditions dated 11 April 2016 at [3.5]-[3.7].

¹⁷ Appellant's submissions on consent conditions dated 11 April 2016 at [4.8].

¹⁸ *Westfield (New Zealand) Ltd v Hamilton City Council* [2004] NZRMA 556 at [55]-[56] (HC).

¹⁹ Appellant's submissions on consent conditions dated 11 April 2016 at [5.5].



The Council's position

[23] The Council's position remains that CAR Part 157 does not require notification to the DCA of the existence of the helipad²⁰. It does require notification of any alteration to the helipad. Despite the apparently plain wording of CAR Part 157, Civil Aviation Authority ("CAA") practice on when notification is required may vary. The DCA's inquiry under CAR Part 157 is focussed on safety in relation to the alterations to the helipad whereas the Environment Court's inquiry is much broader in scope and considers a wide range of environmental effects²¹. Given the court's finding that a determination under CAR Part 157 is neutral and not a necessary pre-requisite for a grant of consent, it is submitted for the Council that it is a logical inference that nor is such a condition required prior to the consent being exercised²².

[24] The Council gives a number of reasons as to why the proposed condition would be inappropriate (summarised here)²³:

- (a) there is a disagreement between the parties as to whether a determination by the DCA is required and the court noted in its decision it has no power to rule on the issue;
- (b) it may prevent the exercise of the consent (were the DCA to make a determination that the helipad was objectionable);
- (c) despite the wording of CAR Part 157, actual practice suggests that the CAA may not require notification of alterations which could make compliance with the condition problematic;
- (d) as the argument as to the necessity and/or appropriateness of the requirement for a CAR Part 157 determination prior to the exercise of consent has already been had, the court may be *functus officio* on this issue; and
- (e) as the CAA Rules and the RMA operate entirely independently of one another a determination under CAR Part 157 will be required (if that is the case) irrespective of whether there is a consent condition requiring it.



²⁰ The helipad has been operational since 1975 and the CAR Part 157 does not require notification of a helipad in existence and operating prior to 8 July 1993.

²¹ Council's submissions on consent conditions dated 11 April 2016 at [12].

²² Council's submissions on consent conditions dated 11 April 2016 at [18].

Consideration

[25] While a determination in Skyline’s favour would have strengthened its case, we found that the absence of a determination from the DCA had a neutral effect on Skyline’s application. We also commented that in the absence of such a document the evidential burden may be harder for Skyline to meet. We ruled that we did not have the power to decide whether a determination from the DCA was required.

[26] If we were to accept the condition as proposed by Ziptrek we would, in effect, be saying that a determination is required. That would not only be inconsistent with our decision but, as pointed out for the Council, as we have already considered the point we are almost certainly *functus officio*. Accordingly we will not direct that the condition be added.

The plans to be attached to the consent

[27] The plan attached to the court’s decision is referred to as the Rev G plan²⁴. Ziptrek maintains that a Part 157 determination is required for the Rev G plan. Ziptrek has argued that the plan does not comply with the Advisory Circular 139-8 due to the distance of the safety fence from the touchdown area and the “uneven” surface of the helipad.

[28] The Council and Skyline submit that the Rev G plan is appropriate to reference and form part of the consent conditions as it was the plan against which the court made its overall evaluation²⁵. The Council points out that the Advisory Circular contains recommendations only²⁶. There is no Civil Aviation Rule to which the Advisory Circular relates and it is only the Rules that can be enforced²⁷. Referencing the relevant parts of the court’s decision, the Council submits that these non-compliance issues have been raised by Ziptrek during the course of the hearing and have been the subject of expert evidence and scrutiny by the court. The court found that a list of safety measures finalised in conjunction with the chief pilot for Skyline and recorded in the NZ Aviation

²³ Council’s submissions on consent conditions dated 11 April 2016 at [19].

²⁴ Otherwise known as Helipad Extension and Skyline Access , Sheet 01 Rev G, Job Number Q4115-51 dated 13/02/2015.

²⁵ Council’s submissions on consent conditions dated 11 April 2016 at [19]; Applicant’s submissions on consent conditions dated 24 March 2016 at [4.1]-[4.2].

²⁶ [2015] NZEnvC 205 at [60]-[61].

²⁷ Council’s submissions on consent conditions dated 11 April 2016 at [23].



Information Publication was the appropriate approach to deal with the reduced safety area and the single flight path²⁸.

[29] Both the Council and Skyline agree that the court has found that the risks are able to be minimised effectively through the conditions. Skyline submits that the Rev G plan, in conjunction with the implementation of the controls proposed by the agreed conditions, are appropriate to give effect to the decision²⁹. The Council agrees and adds that these are matters in respect of which the court may be *functus officio*³⁰.

Consideration

[30] The court accepts the submissions made by Skyline and the Council. The Rev G plan attaches to and forms part of the court's decision. The court is *functus officio*.

Consultation

Ziptrek's position

[31] Ziptrek seeks a condition stating that it should be consulted in respect of³¹:

- (a) any variations or amendments to the Helicopter Management Plan ("HMP", proposed condition 10);
- (b) signage (proposed condition 18); and
- (c) any review of conditions under sections 128 and 129 of the Act.

Ziptrek also wants to be included in the proposed quarterly meetings with the consent holder, helicopter operators using the helipad and the parapenting community (proposed condition 14).

[32] The conditions of consent are of particular importance to its operations on Bob's Peak and the safety of the public and if these conditions can be amended without consulting Ziptrek or its experts there is potential for Ziptrek's interests (and presumably those of the public) to be compromised. The HMP is of particular concern to Ziptrek, as it addresses a number of safety concerns including measures to manage the reduced

²⁸ [2015] NZEnvC 205 at [114].

²⁹ Applicant's submissions on consent conditions dated 24 March 2016 at [4.7].

³⁰ Council's submissions on consent conditions dated 11 April 2016 at [31].

³¹ Appellant's submissions on consent conditions dated 11 April 2016 at [6.1].



safety area and single flight path. It is submitted that the management of safety is an ongoing process. Ziptrek considers ongoing dialogue with Skyline is essential to ensure the continued safe use and operation of the reserve by all operators and users³².

The position of Skyline and the Council

[33] The Council points out that while there is no statutory duty to consult after an application for resource consent has been determined a consent authority has a wide discretion to impose conditions under section 108³³. Skyline and the Council both submit that it is unnecessary and inappropriate for Ziptrek to be consulted in respect of any variations to the HMP; it would only delay the decision making process and compromise efficiency³⁴.

[34] In relation to the signage plan, the purpose of the condition is to reduce the risk of potential adverse safety effects should any visitors to Bob's Peak mistakenly find themselves in the vicinity of the helicopter pad. The proposed condition requires the signage plan to be submitted to the consent authority for final approval. The Council and Skyline see no reason to involve Ziptrek in this process³⁵.

[35] As for the quarterly meetings with the paragliding community, the purpose of the meetings between the helicopter operators and paragliders is to identify and remedy risks to those parties as a result of them sharing the same airspace. It is submitted for Skyline and the Council that it would be unnecessary and inappropriate for Ziptrek to participate in these meetings³⁶.

[36] Finally, with regard to any review of consent conditions under sections 128 and 129 of the Act, there is a comprehensive process under the Act and it should not be predetermined by Ziptrek's request to be consulted on any review³⁷.

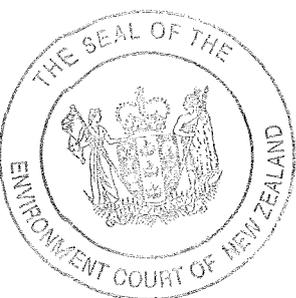
³² Appellant's submissions on consent conditions dated 11 April 2016 at [6.5].

³³ Council submissions on conditions of consent dated 11 April 2016 at [33].

³⁴ Applicant's submissions on consent conditions dated 24 March 2016 at [5.2]; Council's submissions on consent conditions dated 11 April 2016 at [36].

³⁵ Applicant's submissions on consent conditions dated 24 March 2016 at [5.3]-[5.4]; Council's submissions on consent conditions dated 11 April 2016 at [38]-[39].

³⁶ Applicant's submissions on consent conditions dated 24 March 2016 at [5.5]-[5.6]; Council's submissions on consent conditions dated 11 April 2016 at [40]-[42].



Consideration

[37] Ziptrek seeks to be consulted about any changes to the HMP, signage for safety purposes in the vicinity of the helipad and any review of the conditions under sections 128 and 129 of the Act. It also wishes to attend the quarterly meetings with helicopter operators and the paragliding community.

[38] In respect of signage, proposed condition 18 states that the signage plan is to be submitted to the Planning Manager of Queenstown Lakes District Council for approval. The condition stipulates that the plan must include directional signage to Ziptrek's operations and that it must be consistent, clear and comprehensive. On that basis any concerns Ziptrek might have (which are not specified in the submissions) about the information to be covered and the manner in which it is conveyed appear to be covered. We see no need to include wording to the effect that Ziptrek be consulted in respect of signage.

[39] As for the quarterly meetings, they are for those who use the airspace, that is, the helicopter operators and the parapenters. As Ziptrek is not a user of the airspace it is difficult to see how it could usefully contribute to these meetings. We see no need to include wording to the effect that Ziptrek be consulted in respect of the quarterly meetings.

[40] The process for review of consent conditions is set out in some detail in sections 128 to 130 of the Act. Section 130 concerns public notification and this depends on criteria in other parts of the Act. We are not prepared to undercut a process which the Act clearly provides for by including a condition that Ziptrek be "consulted" or "notified".

[41] The HMP has been developed by the parties and their experts and it is understandable that Ziptrek may have fears about this good work being undone through variations or amendments which follow this decision. However, it seems to us that as any amendments need to be submitted to the Planning Manager for the Council for approval, there is a safety net. The Planning Manager should ensure that all relevant



³⁷ Applicant's submissions on conditions of consent dated 24 March 2016 at [5.7]-[5.8]; Council's submissions dated 11 April 2016 at [43].

standards and best practice management procedures for the use of the helipad are included in the HMP and are current and that is a sufficient safeguard. In any case the substantive outcomes that the consent holder has to meet are contained in the conditions which cannot be changed through any amendments to the HMP.

[42] Ziptrek is correct when it says that the management of safety and risks is an ongoing process. It is clear that ongoing dialogue with Skyline will be essential to ensure the safe use and operation of the reserve. This does not need to be through consultation formalised in the conditions of consent. We encourage the parties to work together with the public's safety always in mind.

Outcome

[43] Resource consent RM100777 will be confirmed for a term of five (5) years for a maximum of four (4) flights per day subject to:

- (i) the amended conditions detailed in Appendix 1;
- (ii) the plan titled "Helipad Extension and Skyline Access" Sheet 01 Rev G, Job Number Q4115-51 dated 13/02/2015, marked Appendix 2; and
- (iii) the Helicopter Management Plan (revision 5.0), marked Appendix 3

— all of which are attached to and form part of this decision.

[44] We record that costs will be resolved by way of a separate decision.

For the court:



J R Jackson

Environment Judge

ZJV v QLDC - Final Decision



Appendix 1

1. The activity shall be undertaken in accordance with the plans (Patterson Pitts Partners) Helipad Extension and Skyline Access, Sheet 01 Rev G, Job Number Q4115-51 dated 13/02/2015 and Helipad Extension and Skyline Access, Sheet 02 Rev A, Job Number Q4115-51 dated 13/10/2011 (**Approved Plans**).
2. The consent holder shall pay to the Council an initial fee of \$240 for the costs associated with the monitoring of this resource consent in accordance with Section 35 of the Resource Management Act.
3. The maximum number of flights authorised at the helicopter landing area are:
 - Four flights on any day;
 - Two flights within any fifteen minute period except that:

On five occasions per annum, when larger pre-booked groups (e.g. weddings or conferences) are flown to the helicopter landing area there may be up to three flights in any fifteen minute period provided that the consent holder shall advise the operations manager at Ziptrek at least 48 hours in advance of the date and time during which the multiple flights will occur.

4. The consent holder shall submit to the Planning Manager, Queenstown Lakes District Council an annual activity return of all helicopter activity at the helicopter landing area. The activity return shall include the following information for every flight undertaken:
 - a. Date of flight
 - b. Aircraft Type
 - c. Aircraft Registration
 - d. Pilot in Command
 - e. Time Landed
 - f. Time Departed

The first activity return shall be submitted within 10 working days of the first anniversary of this consent. The activity return shall be kept up to date and provided to Council at any other time upon request to ensure compliance with this consent.

5. The consent holder shall ensure that operation of the helicopter landing area shall involve no more than four flights per day of the AS350B2 helicopter (a flight is defined as an arrival plus a departure). This condition is based on the noise limit of 60 dB Ldn specified in the Environment Court decision [2015] NZEnvC 205.
6. The operation of all helicopters at the Skyline Gondola Helicopter Landing Area shall be managed in accordance with the Helicopter Management Plan - Skyline Gondola Helicopter Landing Area, Queenstown – Revision 5 (**HMP**).

7. All flights shall occur between the hours of 10:00am and 7:00pm.



8. Only one helicopter at a time shall use the helicopter landing area.
9. All operators authorised by the consent holder to operate flights into and out of the Skyline helicopter landing area shall comply with all operational requirements and protocols contained within the HMP and any subsequent variations or amendments to the HMP.
10. Any variations or amendments to the HMP shall be prepared and submitted to the Planning Manager, Queenstown Lakes District Council for approval to ensure that all relevant standards and best practice management tools are included and up to date. The HMP shall address the following:
 - a. Operator training;
 - b. hours of operation;
 - c. flight paths;
 - d. ground marshals;
 - e. paragliding operations;
 - f. idling times;
 - g. blade slap;
 - h. helicopter types;
 - i. number of flights;
 - j. information to be recorded;
 - k. liaison and complaint procedures;
 - l. Fly Neighbourly and/or any equivalent.
11. The consent holder shall ensure that a ground marshal is present at every flight to and from the helicopter landing area to facilitate the loading/unloading of passengers to ensure their safety, minimise ground idling time and minimise the time spent away from the helicopter controls by the pilot. The marshal shall have direct radio contact with the pilot in command and shall be responsible for:
 - Ensuring the safety gate remains closed prior to and following each flight;
 - Controlling the movements of disembarking/embarking passengers;
 - Alerting the helicopter pilot to the presence of paragliders.
12. The consent holder shall not permit other operators or pilots to use the helicopter landing area unless prior written permission is obtained from the consent holder and the operator and/or pilot(s) are briefed by the consent holder's chief pilot, including as to the following:
 - a. That the helicopter landing area operates under Day VFR (Visual Flight Rules) only;
 - b. That helicopters using the landing area shall not to exceed a maximum length;
 - c. That all helicopters shall be fitted with a hydraulic accumulator;
 - d. That all helicopters shall meet a minimum power requirement;
 - e. That all helicopters shall have a maximum rotor disc size;
 - f. Approach and departure routes;
 - g. That ground idle is to be used after landing;
 - h. That there are time restrictions to adhere to from touch down to lift off;



- i. A caution as to paragliding activity in the G756 airspace;
 - j. That there is a reduced safety area from the FATO;
 - k. That only one helicopter at a time shall use the helicopter landing area;
 - l. That there is a possibility of wind shear under certain conditions;
 - m. That all helicopter landings are limited to occurring in wind conditions suitable for the single approach path into and out of the helicopter landing area.
13. Before the consent holder's approval shall be given for any other operator and/or pilot to use the helicopter landing area, the chief pilot shall be satisfied that the operator/pilot has demonstrated competent knowledge and understanding of the above matters, the HMP and any protocols for use of the helicopter landing area as detailed in the New Zealand Aviation Information Publication.
14. The consent holder shall arrange and facilitate quarterly meetings with the helicopter operators permitted to use the helicopter landing area and the paragliding/parapenting community in the first twelve months of operation. The first such meeting is to occur within three months of the date of commencement of this consent. After the first twelve months of operation these meetings may occur at intervals of no more than six months.
15. Within six months of the commencement of this consent the consent holder shall:
 - a. Extend the concrete helipad area a minimum of 3 metres as depicted on the Approved Plans and incorporate a skid resistant surface on the landing area compatible with the requirements of seasonal conditions (e.g. ice) and sow all exposed batters in grass;
 - b. Install a windsock;
 - c. Install a fire extinguisher;
 - d. Seal all exposed gravel/dirt surfaces as indicated on the Approved Plans in cobblestones;
 - e. Engage a suitably qualified person to prepare, in conjunction with the Chief Pilot for The Helicopter Line, and to submit to the Airways Corporation of New Zealand for inclusion in the New Zealand Aviation Information Publication, the protocols for the use and operation of the helicopter landing area;
 - f. Provide confirmation to the Planning Manager, Queenstown Lakes District Council that the protocols have been submitted to the Air Airways Corporation of New Zealand;
 - g. A barrier fence shall be constructed and maintained in the location shown on the Approved Plans to separate pedestrians and the general public from the helipad area. The fence shall be constructed as follows:
 - (a) At least 1.2 metres in height;
 - (b) Contain no holes or gaps that could provide a child access;
 - (c) Any horizontal rails shall be 900mm apart;



(d) There shall be no space between the bottom of the fence and the ground greater than 100mm at any point.

h. Undertake luge track tunnel extension and seal.

16. Within 6 months of the commencement of this consent the consent holder shall submit to the Planning Manager, Queenstown Lakes District Council for approval design plans and specifications for the installation of helimesh structures on the south-western and north-eastern sides of the helicopter landing area as illustrated on the Approved Plans and described as follows:

- a. Install helimesh painted 'Karaka Green' of no less than two metres on the south-western side of the helicopter landing area;
- b. Install helimesh painted 'Karaka Green' on the north-eastern side of the helicopter landing area of sufficient size to effectively prevent a helicopter rolling on to the Luge track in the event of an accident.

17. The helimesh required by condition 16 shall be installed no later than twelve months from the date of commencement of this consent.

18. Within 6 weeks of the commencement of this Consent the consent holder shall submit to the Planning Manager, Queenstown Lakes District Council for approval a Signage Plan showing proposed directional signage to the helicopter landing area, pedestrian and biking trails and commercial recreational activities within the Skyline Lease Area and its immediate surrounds including from the gondola to Ziptrek's operations. The signage plan must illustrate that all signage will be consistent, clear and comprehensive.

The approved signage shall be installed within one month of Council's approval.

19. Within 10 working days of the anniversary of this consent or upon receipt by the Council of any information identifying non-compliance with the conditions of this consent, the Council may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:

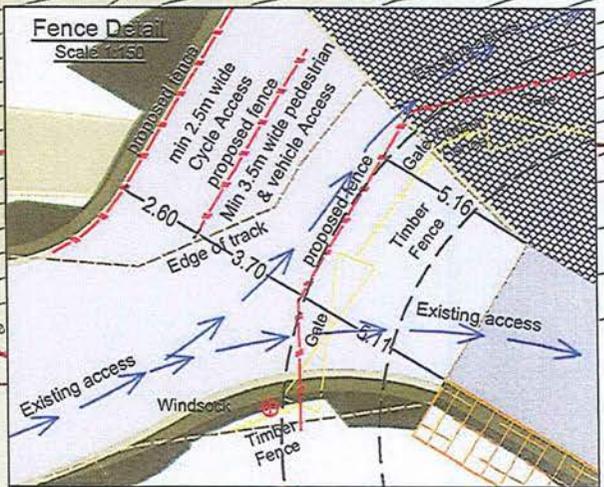
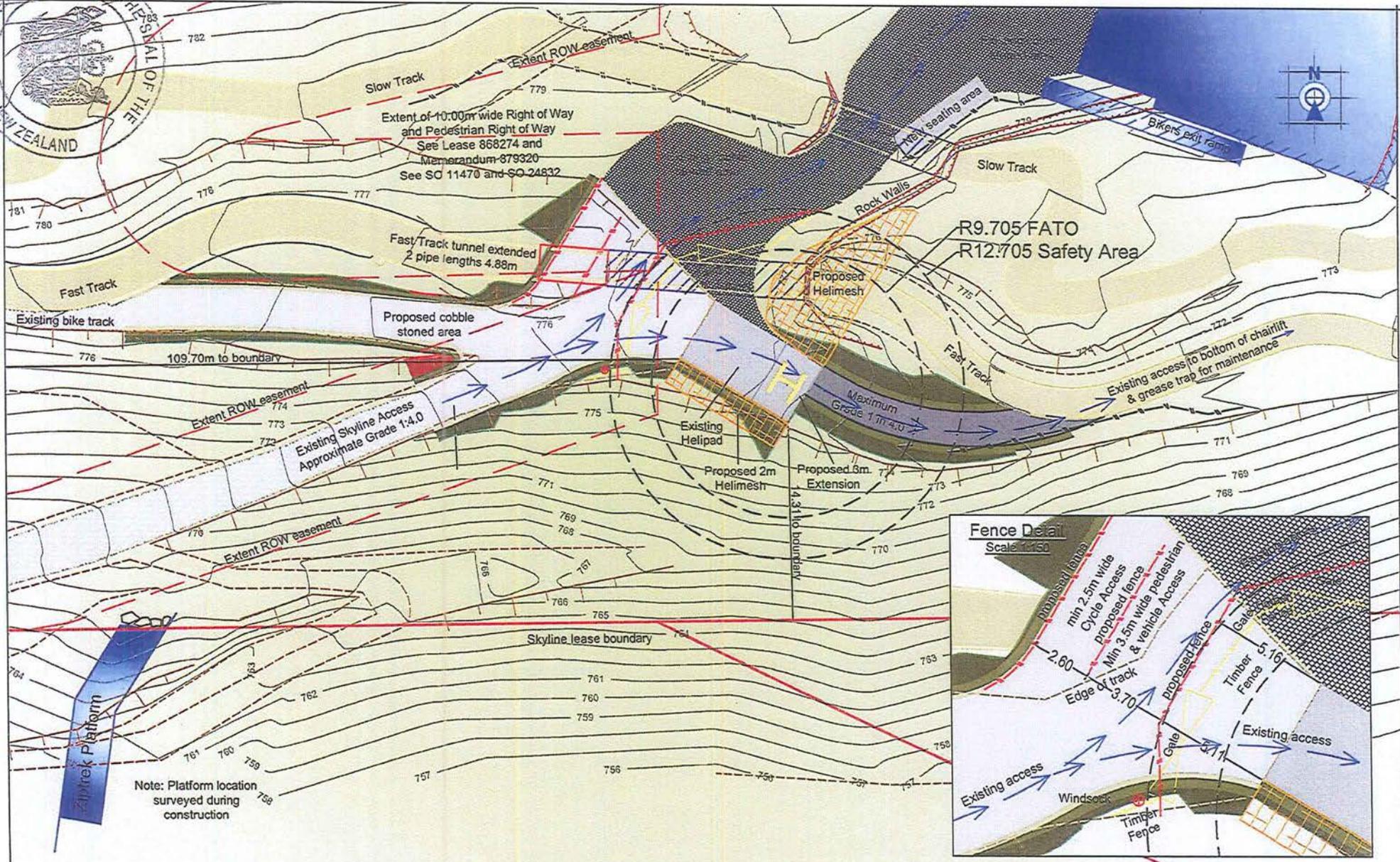
- a. There is or is likely to be an adverse environmental noise effect as a result of the exercise of this consent, which was unforeseen when the consent was granted.
- b. Monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse effect on the environment particularly with respect to any adverse effects resulting from operation of the helicopter landing area on paragliding/parapenting activity at Bob's Peak.
- c. As a consequence of (a) and/or (b) if it is necessary for the acoustic assessment and/or HMP to be audited this shall occur at the consent holder's expense. In addition, the Council may request monitoring of the adverse effects of the helicopter noise on visitors to the Ben Lomond Reserve. Any such monitoring shall be in accordance with the guidelines in "The Effects of Aircraft Overflights on



Recreationists in Natural Settings 1997” (K.L. Booth, N.C. Jones and P.J. Devlin, Lincoln University) and the results shall be forwarded to the Planning Manager Queenstown Lakes District Council. This monitoring will occur at the consent holder’s expense.

20. This resource consent shall expire five years from the date of commencement of the consent.
21. The Council will notify any review of conditions under sections 128 and 129 of the Resource Management Act 1991.





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Helicopter Management Plan Skyline Gondola Helicopter Landing Area, Queenstown

Skyline Enterprises Limited holds the resource consent (RM100777) for the use of the helicopter landing area located at the Skyline Gondola, Queenstown (**Skyline Gondola Helicopter Landing Area or Landing Area**).

This Helicopter Management Plan (**HMP**) describes the way in which helicopter operations shall be conducted at the Skyline Gondola Helicopter Landing Area and the protocols that all users of the Landing Area must abide by in order to mitigate adverse noise effects as far as reasonably practicable.

1 Statement of Intent

1.1 The holder of the resource consent, Skyline Enterprises Limited, will comply with and ensure that all users of the Skyline Helicopter Landing Area comply with:

- (a) All requirements of this HMP;
- (b) All requirements of the Operative Ben Lomond and Queenstown Hill Reserve Management Plan;
- (c) All conditions of resource consent RM100777 which authorises the use of the Skyline Helicopter Landing Area under the Resource Management Act 1991.

2 Operator Training

2.1 The Helicopter Line (THL) is the primary operator (**Primary Operator**) at the Landing Area.

2.2 Permission from the Primary Operator is required prior to any other pilot and/or operator using the Landing Area.

2.3 In addition, pilots/operators using the Landing Area must be briefed by the Primary Operator's Chief Pilot and must demonstrate to his/her satisfaction competent knowledge and understanding of the protocols for use of the Landing Area as detailed in this HMP, resource consent RM100777 and the New Zealand Aviation Information Publication.

3 Hours of Operation

3.1 All flight operations at the Landing Area shall be restricted to between 10am and 7pm each day (emergencies excepted).

4 Flight Paths & Helicopter Orientation

4.1 Flight paths to and from the Landing Area have been identified to accommodate the variable wind conditions and direction of the sun in relation to the operator at various times of the year.

4.2 Additionally, the identified flight paths minimise, as far as practicable, the effects of helicopter noise on ground based activities within the Ben Lomond Reserve while still maintaining compliance with NZCAA regulations.



Helicopter Management Plan Skyline Gondola Helicopter Landing Area, Queenstown



- 4.3 Operators may deviate from the identified flight paths only for safety and emergency purposes.
- 4.4 The figure below identifies the approved approach and departure flight paths that an operator may fly when arriving and departing from the Landing Area.

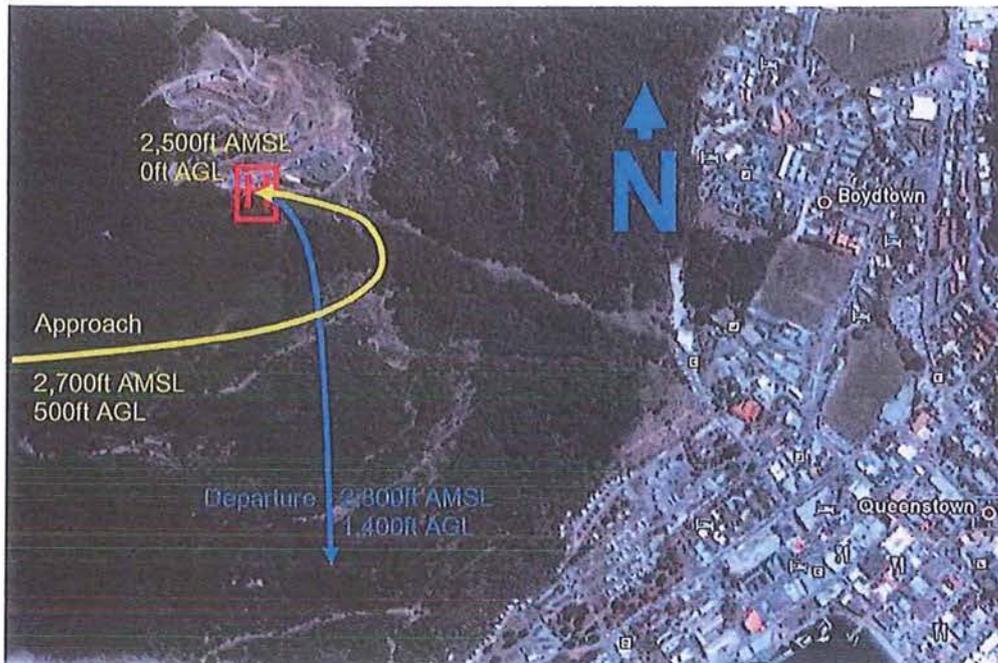


Figure 1. Skyline Gondola Helipad Detailed Approach and Departure Paths

- 4.5 When flight origins are to the north or east of Arthurs Point all approaches to the Landing Area shall occur via the Ben Lomond Saddle.
- 4.6 Any approach to the Landing Area from Frankton Arm shall approach straight in from a point south west of the shoreline of Queenstown Gardens.
- 4.7 Any approach shall maintain a 200 metre clearance above the terrain and vegetation over the Ben Lomond Reserve from One Mile Creek over the south east face of Bobs Peak.
- 4.8 Helicopters shall land on the Landing Area such that their orientation is to the north east.
- 4.9 In the unlikely event that a second helicopter arrives to use the Landing Area while it is already occupied, the second helicopter shall not hover or "stand-off" over any part of the Ben Lomond Reserve whilst waiting for the opportunity to land.
- 4.10 Should meteorological conditions fall below the minimum requirements of Civil Aviation Rule Pt 135, all flight operations into the Landing Area shall cease.



Helicopter Management Plan

Skyline Gondola Helicopter Landing Area, Queenstown



5 Ground Marshals

- 5.1 For every flight to and from the Landing Area a ground marshal shall be present at the landing area.
- 5.2 Ground marshals shall wear personal protective gear including high visibility vests to make them easily identifiable to the helicopter operator and bystanders.
- 5.3 Other personal protective gear worn by the marshals shall include ear muffs/ear plugs, and if necessary in dry conditions, eye protection.
- 5.4 The marshals shall have direct and continuous radio contact with the pilot.
- 5.5 The marshal's duties shall include the following:
 - (a) Ensuring the safety gate remains closed prior to and following each flight;
 - (b) Controlling the movements of disembarking/embarking passengers;
 - (c) Alerting the helicopter pilot to the presence of paragliders.

6 Paragliding Operations

- 6.1 With regard to paragliding operations from above and around the site of the Landing Area, Civil Aviation Rule 91.229 (c) requires powered aircraft to give way to non-powered aircraft. Helicopter operators to, from and around the Landing Area must comply with this rule at all times.
- 6.2 Helicopter operators shall maintain an open line of communication with paragliding operators. To facilitate this, the Primary Operator will arrange and facilitate quarterly meetings between the helicopter operators permitted to use the Landing Area and the paragliding community. Within the first twelve months of commencement of resource consent RM100777 meetings shall occur every three months, and then at intervals of no more than six months subsequently.
- 6.3 At the first quarterly meeting a process shall be agreed which will ensure that any incident or safety concern expressed by either party is addressed in an adequate and appropriate timeframe.
- 6.4 The primary contact within the paragliding community for such meetings is the President of the Southern Hang Gliding and Paragliding Club. The relevant contact details are outlined below:

Mark Hardman
021 809 275



Helicopter Management Plan

Skyline Gondola Helicopter Landing Area, Queenstown



7 Idling Times

- 7.1 The proximity of the helipad to noise sensitive receivers necessitates minimal idling. Pilots shall retard throttles to 'ground idle' immediately after landing at the Landing Area. The pilot (assisted by the ground marshal) shall exit the aircraft as soon as is practicable and disembark or embark the passengers.
- 7.2 Passenger loading/unloading shall each not exceed 2 minutes.
- 7.3 If a helicopter is required to remain situated on the Landing Area for in excess of 5 minutes (e.g. for disembarking wedding parties), the machine shall be shut down.

8 Blade Slap

- 8.1 Pilots shall avoid 'blade slap' during approach to and departure from the Landing Area. Steep turns shall be avoided and gradual and smooth control inputs shall be utilised to reduce noise emissions. Specifically, particular care will be required during the following flight movements:
- (a) When making a descending turn from Ben Lomond Saddle over the forested area of the Ben Lomond Reserve;
 - (b) When transforming from a vertical ascent over the landing area to ascent towards hidden island; and
 - (c) When turning over Lake Wakatipu towards Frankton.

9 Helicopter Types

- 9.1 The aircraft authorized to operate from the Landing Area is the AS350 B2 Squirrel aircraft.
- 9.2 No other aircraft shall operate from the Landing Area unless it meets the Noise Certification criterion below and the following specifications:
- (a) A minimum power requirement of a turbine engine
 - (b) A maximum size of rotor disc of 11m
 - (c) A maximum length of 12.94m
 - (d) The machine must have a hydraulic accumulator

10 Noise Certification

- 10.1 To certify an alternative helicopter, a series of noise measurements must be made at the site. A minimum of 3 flights (3 arrivals + 3 departures) of the proposed helicopter must be measured and averaged, to obtain the sound exposure level (L_{AE}) of a flight. Either the take-off or the landing must include six passengers in each case.



Helicopter Management Plan

Skyline Gondola Helicopter Landing Area, Queenstown



10.2 The noise measurement position shall be 55m from the mean centre of the helipad and within the access road to the Skyline Lease Area located approximately 5m west of the entrance to the Zip Trek briefing platform. Noise measurements shall be made in accordance with NZS 6801:2008 'Acoustics - Measurement of environmental sound'.

10.3 Helicopter types other than the AS350B2 are not allowed to use the helipad unless the noise certification procedure specified above shows that the average sound exposure level (L_{AE}) of a flight is less than 104.0 dB .

11 Number of Flights

11.1 One flight in respect of the Skyline Gondola Helicopter Landing Area is deemed to comprise any one of the following:

- (a) Approach and landing, including descent below 500ft AGL over the terrain immediately west of the landing area. Take off and departure, including climb until above 500ft AGL
- (b) Each flight shall enable a drop off of passengers or a pickup of passengers with a maximum of 6 passengers. No single flight shall incorporate both.

11.2 The number of flights permitted shall be as follows:

- (a) A maximum of four flights per day; and
- (b) No more than two flights in any fifteen minute period, except that on up to 5 occasions per year, when larger pre-booked groups (e.g. weddings or conferences) are flown to the Landing Area, there may be up to three flights in any fifteen minute period, provided that :
 - (i) the operations manager at Ziptrek is advised (by phone on 03 441 2102 or 0277219014) and in writing at mhigson@ziptrek.com) at least 48 hours in advance of the date and time during which the multiple flights will occur; and
 - (ii) Ground staff (marshals) are positioned at the Landing Area to facilitate the loading/unloading of passengers to ensure their safety, minimise ground idling time and minimise the time spent away from the helicopter controls by the pilot.

12 Information to be Recorded

12.1 The Primary Operator of the Landing Area shall record the following information for EVERY flight undertaken:

- (a) Date
- (b) Aircraft Type



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- (c) Aircraft Registration
- (d) Pilot in Command
- (e) Time Landed
- (f) Time Departed

- 12.2 The Primary Operator shall provide an annual activity return of all flights to the Queenstown Lakes District Council (**Council**) for compliance monitoring purposes, which shall include the information listed above. The first activity return shall be submitted to the Council within 10 working days of the 1st anniversary of commencement of the resource consent.
- 12.3 The activity returns shall be kept up to date at all times and shall be provided to the Council at any time upon request to determine compliance with the resource consent and this HMP.

13 Liaison and Complaint Procedures

- 13.1 General liaison with respect to helicopter operations at the Landing Area can be facilitated as follows:

The Helicopter Line Limited
PO BOX 1530
QUEENSTOWN 9348

(03) 442 3034
zqnleadpilot@helicopter.co.nz

Queenstown Lakes District Council
Private Bag 50072
Queenstown 9348
Attention: Principal Enforcement Officer

(03) 441 0499
Anthony.Hall@qldc.govt.nz

14 Fly Neighbourly

- 14.1 Pilots are responsible to ensure methods are used for noise control including the provisions in each aircraft flight manual required by Civil Aviation Rules Part 91, noise abatement procedures for that aircraft as published by the Helicopter Association International, and the manufacturer's recommended noise abatement procedures for each aircraft type.
- 14.2 All helicopter operations at the Landing Area shall be flown and managed in accordance with the NZ Aviation Industry Association's (NZAIA) AIRCARE Safety Programme, or equivalent, and the Fly Neighbourly protocol.



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15 **Review**

- 15.1 The HMP shall be reviewed if there are any significant operational changes such as a new or modified flight path and any revised plan shall be submitted to Planning Manager, Queenstown Lakes District Council for approval to ensure that all relevant standards and best practice management protocols and procedures are included and current.



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