

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER OF

Queenstown Lakes Proposed District Plan –
Chapter 21 – Rural and Chapter 33 – Indigenous
Vegetation and Biodiversity

**STATEMENT OF EVIDENCE OF SEAN DENT
ON BEHALF THE FOLLOWING SUBMITTERS:**

571 – Totally Tourism Limited

572 – NZSki Limited

574 – Skyline Enterprises Limited

20th April 2016

Introduction

1. My name is Sean Dent. I hold the qualifications of Bachelor of Resource Studies from Lincoln University which I obtained in 2005. I reside in Cromwell, Central Otago.
2. I have been employed as a resource management planning consultant with Southern Planning Group for approximately nine years. Prior to this I was employed as a resource consent processing planner and compliance officer with Lakes Environmental (formerly CivicCorp) for approximately two years.
3. Throughout my professional career, I have been involved in a range of resource consent and policy matters. I have made numerous appearances in front of various District and Regional Councils and the Environment Court.
4. From the variety of working roles that I have performed as described in the preceding paragraphs, I have acquired a sound knowledge and experience of the resource management planning issues that are faced in the Queenstown area and the wider District.
5. Whilst I acknowledge that this is a Council hearing I confirm that I have read the Code of Conduct for Expert Witnesses outlined in the Environment Court's Consolidated Practice Note 2014 and have complied with it in preparing this evidence.
6. I have read the Section 32 reports and supporting documentation and the Section 42A reports prepared by the Council officers with respect to both the Rural and Indigenous Vegetation & Biodiversity Chapters of the Proposed District Plan ("PDP"). I have considered the facts, opinions and analysis in this documentation when forming my opinions which are expressed in this evidence.
7. I confirm that the matters addressed in this brief of evidence are within my area of expertise except where I advise otherwise and that I have not omitted to consider material facts known to me that might alter or detract from my opinions.

Scope of Evidence

8. I have been engaged by the following submitters to provide expert planning evidence on the proposed Rural Chapter (Chapter 21) and Indigenous Vegetation & Biodiversity Chapter (Chapter 33) of the Queenstown Lakes District Council's PDP:
 - Skyline Enterprises Limited –Submission # 574;
 - Totally Tourism Limited – Submission # 571;
 - NZSki Limited – Submitter # 572;

9. The concerns of submitters 571 and 574 relate to the management of informal airports and Commercial Recreation Activities in the Rural Zone.
10. Submitter 572 supports the retention of the Ski Area Sub-Zones with minor amendments to the provisions of the PDP to provide for year round use, visitor accommodation, and other ancillary matters such as recognition of the transportation systems from the valley floors to the ski fields.
11. In addition, submitter 572 considers that recognition of ecological reports prepared for and assessed under the Conservation Act 1987 are not afforded sufficient weighting in terms of indigenous vegetation clearance in the Ski area Sub-Zone.
12. My brief of evidence is set out as follows:
 - a) Comment on Chapter 21 – Rural;
 - b) Comment on Chapter 33 – Indigenous Vegetation and Biodiversity;
 - c) Summary of my opinions;
 - d) **Appendix [A]** Summary of submitters' submissions;
 - e) **Appendix [B]** Protocol for the Rehabilitation of Natural Alpine Environments;
 - f) **Appendix [C]** Correspondence regarding withdrawal of DOC's Opposing Further Submission

CHAPTER 21 - RURAL

13. The scope of my evidence on the Rural Chapter is limited to the interests identified in the submissions 571, 572 and 574 and specifically, cover the following areas:
 - Informal Airports;
 - Commercial Recreation Activities;
 - Use and development of the Ski Area Sub-Zone.

I discuss each area in detail below:

Informal Airports

14. In the interest of transparency I would like the hearings panel to be aware that Southern Planning Group ("SPG") was engaged by the Council to undertake research and reporting on how to simplify and streamline the Operative District Plan ("ODP") provisions relating to management of informal airports. I personally undertook this work for SPG. This resulted in the preparation and submission of a report titled Queenstown Lakes District Council – Management of Informal Airports dated April 2012. In addition, I also undertook the drafting of a Section 32 analysis on behalf of the Council in 2014.

Objectives and Policies

15. I have reviewed the proposed Objectives and Policies for informal airports and in light of the instructions in the Fourth Procedural Minute issued by the Chairman¹ I consider that there are amendments required to ensure that these provisions set the appropriate desired outcome and course of action.

16. The current Objective reads as follows:

21.2.11 Objective – Manage the location, scale and intensity of informal airports.

17. In my opinion this Objective is poorly worded and should be amended such that it recognises that informal airports are desired within the Rural Zone subject to appropriate management of their effects on amenity. In my opinion the following wording is more appropriate:

21.2.11 Objective – The operation of informal airports in the Rural Zone is enabled subject to the management of their location, scale and intensity.

18. In my opinion, the re-worded Objective outlined above clearly illustrates a desired outcome that informal airports are provided for within the Rural Zone. Notwithstanding the intent to provide for informal airports the Objective clearly stipulates this is on the basis of controlling the key factors that reduce rural amenity being the location, scale and intensity of the flights.

19. Having regard to the abovementioned Objective it is my opinion that the two supporting Policies in the PDP (Policies 21.2.11.1 and 21.2.11.2) do not outline a credible course of action that will implement the Objective. These Policies presently state:

21.2.11.1 Recognise that informal airports are an appropriate activity within the Rural Zone, provided the informal airport is located, operated and managed so as to minimise adverse effects on the surrounding rural amenity.

21.2.11.2 Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports.

20. It is my opinion that these Policies should be amended as follows to afford a clearer direction to achieve the Objective:

¹ Fourth Procedural Minute Issued by Chairman Denis Nugent dated 8 April 2016 paragraphs 6 – 10.

21.2.11.1 *Ensure that the location of informal airports meet separation distances from rural dwellings and other District Plan Zones that are sufficient to minimise the effects of their operation on amenity values.*

21.2.11.2 *Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports through managing the frequency and intensity of daily and weekly flight operations to acceptable levels.*

21. In my opinion, the amended versions of the Objective and Policies for informal airports provide considerably more direction that the Rural Zone is the appropriate location for this activity and how the temporary nuisance effects (noise, dust, smell) on the Districts residents and visitors can be controlled.
22. Furthermore, the proposed Objective and Policy are considered to better inform and relate to the Permitted Activity standards in Table 6 which provide for informal airport operation as a Permitted Activity through the implementation of minimum separation distances and controls on the number of flights. I discuss the rules below.

Proposed Rule 21.5.25 – Informal Airports on Public Conservation & Crown Pastoral Land

23. I note that both Mr Barr and Dr Chiles support the inclusion of Rule 21.5.25 in Table 6 as it was publicly notified with minor modifications to permit Department of Conservation (“DOC”) operations and to remove the requirement for a setback from a legal road.
24. I don’t consider that a specific exemption is necessary for DOC because Section 4(3) of the Resource Management Act exempts work or activities undertaken by the Crown where the work or activity occurs within the boundary of land managed under the Conservation Act 1987, it is consistent with the relevant Conservation Management Strategy or Plan and does not have a significant adverse effect beyond the boundary of the area of land.
25. In my experience, DOC management plans typically provide for aircraft operations for management purposes. In addition, a ‘staging point’ for DOC management operations is likely to be utilised on an infrequent basis and therefore not likely to create significant adverse effects beyond the boundary of their land.
26. With the exception of the above, it is my opinion that the proposed Rule will significantly simplify and streamline the approval process for informal airports on Public Conservation Land and Crown Pastoral Land.

27. Both land tenures require robust assessments of the potential adverse effects from informal airports on the land and its users through different statutory processes – Concessions under the Conservation Act 1987 and Recreation Permits under the Land Act 1948.
28. In my experience having acted for a number of commercial helicopter operators over the last eight years² any resource consent granted by the Council on these land tenures under the ODP provisions simply duplicates the flight numbers, flight locations/grid references and other relevant conditions that are outlined in the Concession or Recreation Permit granted under the above legislation.
29. There is in effect no greater level of assessment provided by the Council's consents process under the ODP provisions and such resource consent applications are for all intents and purposes a 'rubber stamping exercise' that simply necessitates additional time and cost for the aircraft operators.
30. However, I did identify limitations of the Conservation Act 1987 and Land Act 1948 assessments in the research report I prepared for the Council in 2012³. The key limitation was that these assessments predominantly considered the internal effects of informal airports and limited (if any) consideration was given to the adverse effects (particularly noise) beyond the boundaries of the land on which the informal airport is located.
31. In my opinion it is therefore appropriate that Permitted Activity Rule 21.5.25 specifies a separation distance from the notional boundary of residential units, building platforms or other District Plan Zones.
32. With this separation distance the Council can be assured that the noise of aircraft operating on these land tenures which extends beyond the land tenures boundary is unlikely to breach the applicable noise rules or result in aircraft noise that significantly adversely affects people's amenity values.
33. Dr Chiles confirms that the noise limits would likely be met for informal airports for helicopters using the proposed 500m separation distance unless more than ten flights were to occur per day⁴. I am not aware from my experience of any informal airports on either land tenure that are used by helicopters that would be close to this minimum separation distance.
34. This is because most aircraft operations on these land tenures are for scenic tourism purposes or heli skiing and generally occur at high altitude well away from areas used for residential purposes. In my opinion it would be highly unlikely for more than ten helicopter flights to occur on these land tenures on any one day at a single site within 500m the notional boundary of residential units, building platforms or other District Plan Zones.

² Alpine Helicopters, The Helicopter Line, Heliworks Queenstown Helicopters

³ Queenstown Lakes District Council – Management of Informal Airports dated April 2012 Section 4.3 and Section 5.2.

⁴ Evidence of Dr Stephen Chiles dated 6 April 2016, page 7, paragraph 5.1

35. Dr Chiles does advise that if a fixed wing aircraft operated from an informal airport compliance may be achieved with the 55dB L_{dn} noise standard 500m either side of the runway however; this noise limit may not (depending on the type of aircraft) be achieved until approximately 1km in the direction of the arrival or departure of the aircraft.
36. In my opinion fixed wing informal airports are unlikely to create non-compliance with the applicable noise standard when operating from these land tenures because (a) there are very few operational fixed wing airstrips on Public Conservation Land in the Queenstown Lakes District and none that I am aware of that would be in the vicinity of 1km of the notional boundary of residential units, building platforms or other District Plan Zones and (b) as Dr Chiles correctly points out compliance is still required under proposed noise Rule 36.5.14 and a resource consent and appropriate assessment of effects can be triggered under these provisions⁵.
37. Accordingly, it is my opinion that this proposed Rule is effective and efficient if re-worded as follows:

21.2.25 Informal airports that comply with the following standards shall be Permitted Activities:

25.5.25.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to section 17 of the Conservation Act 1987;

21.5.25.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a recreation Permit issued pursuant to Section 66A of the Land Act 1948;

21.5.25.3 Informal airports for emergency landings, rescues fire-fighting and activities ancillary to farming activities;

21.5.25.4 In relation Rules 21.5.25.1 and 21.5.25.2, the informal airport shall be located a minimum distance of 500m from any other Zone, or the notional boundary of any residential unit or approved building platform not located on the same site.

⁵ Evidence of Dr Stephen Chiles dated 6 April 2016, page 8, paragraph 5.5

Proposed Rule 21.5.26 – Informal Airports on other Rural Land

38. In terms of proposed Rule 21.5.26 I note that Dr Chiles and Mr Barr recommend maintaining the proposed condition as notified with the exception of increasing the frequency of flights from three per week (which could all occur on one day) to two per day, removing the reference to separation distances from legal roads and requiring a 500m separation distance from any other District Plan Zone.
39. I have given significant consideration to the proposed increase in the frequency of flights. This is because in my experience people's subjective responses to the effects of informal airports are not made with respect to compliance with technical acoustic limits but on the number of flights – this is something that is easily quantifiable and understood by the general public.
40. I acknowledge the advice of Dr Chiles that in most scenarios the applicable noise limits in Chapter 36 may be achieved by this rule and the proposed 500m separation distance and particularly for helicopters the limit of two flights per day is conservative. However, notwithstanding that may be the case I am also aware that the Council may consider or impose tougher restrictions than that which are specified in NZS 6805 and NZS 6807 if it considers it necessary to do so.
41. Based on my experience I would consider fourteen flights per week to be near the maximum threshold of amenity for some members of the community who particularly dislike the operation of informal airports.
42. However, it is important to read the number of weekly flights in conjunction with the 500m separation distance and daily frequency of flights. By virtue of the 500m separation distance there will not be a proliferation of informal airports that commence operating as Permitted Activities because the reality is there are large parts of the District where it will be difficult for a compliant site to be found (i.e. in the Wakatipu Basin).
43. Further, with only two flights per day the noise generated by Permitted flight operations will be a very small proportion of any day. Applications I have been involved in for helicopter flights⁶ generally result in a flight operation (descend below 500ft, land and idle during passenger deplaning/loading and ascend back to 500ft) of between two to four minutes.
44. Aircraft are expensive to operate and therefore the operators will not unnecessarily leave them idling on the ground and will ensure that loading and unloading occurs as efficiently as possible whilst having utmost regard to safety.

⁶ RM100677 Skyline Helipad and RM140704 Cedar Safaris Limited, Makarora

45. At a separation distance of 500m the quietly audible sound of an aircraft arriving and departing a site for this period of time twice per day is considered to be an appropriate level of noise in the Rural Zone.
46. The Rule (when I originally drafted it) was intended to capture the infrequent use of rural lodges / wedding venues by aircraft operators where there might be a couple of flights per week.
47. It is highly unlikely that an increase in the number of Permitted weekly flight numbers in the Rule would therefore lead to an exacerbation of aircraft use at such locations.
48. Based on the commercial flight operations I have been involved in the proposed daily flight numbers will be sufficient to cater for the types of operation that I have mentioned above (subject to meeting the separation distances). Any greater level of viable commercial aircraft operations from a particular site such as heli skiing pick up and drop offs⁷, rafting flights⁸ or fly fishing tours⁹ is likely to exceed the daily limits and still necessitate a Discretionary Activity Consent which will be assessed on its merits.
49. The only situation I can foresee that may result in the full Permitted Activity weekly limit being utilised is for a private or commercial aircraft operator who has a property which meets the separation distances of the proposed rule and who arrives and departs from their property every day by aircraft. The chances of this occurring are also very limited.
50. Given the limited likelihood that there would be more than a handful of circumstances where the maximum Permitted weekly limit would be utilised, that the noise limits will be achieved and noise will only be emitted for a matter of a few minutes per day, I consider that the effects on rural amenity if this Rule is adopted will be negligible.
51. I also consider that in terms of compliance and enforcement a daily flight limit will be easier for neighbours and Council staff to monitor and enforce than the originally proposed weekly limit.
52. The down side of a daily flight limit is that either the flight limit needs to be so low that the weekly limit is appropriate or high enough that it enables a viable daily use at the expense of the weekly flight numbers becoming intolerable.
53. It is my opinion that given the limited circumstances in which an informal airport would be used every day the proposed two flights a day / fourteen a week limit is an appropriate position.

⁷ RM080324 White Point Heli Ski Staging Point

⁸ RM090963 O'Connell's Landing Site, 25 flights per day.

⁹ RM140704 Cedar Safaris Fly Fishing Lodge, 5 flights per day.

54. As noted above in paragraph 35 the use of a fixed wing aircraft could result in non-compliance with the applicable noise standard in Chapter 36 beyond the 500m separation distance proposed in the direction of the flight paths.
55. Ultimately, this would depend on the make and model of the fixed wing aircraft that was utilised and the operator would also have a requirement to ensure compliance with the proposed noise standard 36.5.14 was achievable.
56. This may necessitate confirmation from an acoustic consultant that the noise levels can be achieved prior to commencing operations. In my opinion this is not significantly different to other Permitted Activities in the District Plan that must ensure compliance with a noise limit such as construction noise standard or noise from temporary activities.
57. While this is not ideal, I consider that given the limited numbers of fixed wing informal airports that have been applied for by way of resource consent compared to helicopters over the last eight years, it is a potential burden that is unlikely to affect many operators.
58. This 'burden' is further reduced when most airstrips I am aware of (outside of the Wakatipu Basin) on privately owned rural land occur on high country stations several kilometres from Zone boundaries and residential units i.e. air strips on the free hold land of Elfin Bay, Greenstone, and Mt Nicholas Stations.
59. Accordingly, I support the inclusion of the Rule as amended and illustrated on page 78 of the Section 42A Report.

Removal of the Separation Distance from Legal Roads in Rules 21.5.25 and 21.5.26

60. The setback distance from formed legal roads was imposed not as a noise mitigation measure but rather a safety measure acknowledging that in the past Council has raised issues with driver distraction from informal aircraft operations close to public roads and State Highways.
61. However, as outlined in Totally Tourism Limited's further submission, a large number of submitters opposed the 500m separation distance from legal roads that was included in the proposed rules.
62. Upon further reflection and research on this matter I found a number of higher intensity airports / airstrips operate in much closer proximity to roads and State Highways with limited adverse effects on driver distraction. Such examples included Queenstown International Airport whose western runway is approximately 90m from Kawarau Rd (State Highway 6) and the Designated Cromwell Aerodrome in Cromwell is located parallel to and 70m from State Highway 6 for a length of approximately 1,110m.

Established helicopter companies operate from between 30m and 230m from adjoining roads and State Highways on this site.

63. Based on the low frequency and intensity of operations at informal airports in proposed Rules 21.5.25 and 21.5.26, the high use examples outlined above and that to my knowledge there have been no submissions supporting the retention of the 500m setback by relevant agencies (NZTA) I support Mr Barr's recommendation to remove this setback distance entirely¹⁰.

Commercial Recreation Activities

Objectives and Policies

64. The relevant Objective and Policies for commercial recreation activities are those found at part 21.2.9 of the PDP.
65. As Mr Barr identifies in the Section 42A Report¹¹ the definitions of Commercial Activity and Commercial Recreation Activity are quite different with the definition of Commercial Recreation Activity being considerably more constrained.
66. In my opinion, the relevant Objective and its supporting Policies are specific to Commercial Activities and Forestry Activities – not once do these provisions as notified mention 'Commercial Recreation Activity'.
67. Accordingly, it is my opinion that a new Objective and supporting Policies should be adopted to specifically recognise and direct the management of Commercial Recreation Activities in the District. Given the importance of Commercial Recreation as a contributor to tourism and economic well-being it is in my view appropriate to have a specific suite of provisions for these activities. My proposed Objective and Policies are outlined below:

Objective Commercial Recreation in the Rural Zone occurs at a scale that is commensurate to the amenity values of the specified location.

68. In my opinion, the key issues or effects arising from Commercial Recreation Activities in the Rural Zone is the impacts that the activities can have on the amenity values of rural residents and on visitors to the Districts natural environment.

¹⁰ QLDC Section 42A Report, Rural Zone Section 16, page 75, paragraphs 16.29-16.30

¹¹ QLDC Section 42A Report, Rural Zone Section 13, page 43, paragraphs 13.4-13.6

69. Specifically, the Rural Zone and areas that are used for Commercial Recreation Activities contain natural or physical qualities and characteristics that contribute to people's appreciation of the environment.
70. These amenity values can be adversely impacted by noise, overcrowding and use of 'remote' areas for Commercial Recreation Activities.
71. Accordingly, having an Objective that recognises the importance of enabling Commercial Recreation Activities but controlling their scale which indirectly manages the impact on these values is considered to be efficient and effective.
72. In order to implement the proposed new Objective I recommend the following Policies also be adopted:

Policy The group size of commercial recreation activities will be managed so as to be consistent with the level of amenity anticipated in the surrounding environment.

Policy To avoid, remedy or mitigate the adverse effects of commercial recreation activities on the natural character, peace and tranquillity of remote areas of the District.

Policy To avoid, remedy or mitigate any adverse effects commercial recreation activities may have on the range of recreational activities available in the District and the quality of the experience of people partaking of these opportunities.

Policy To ensure the scale and location of buildings, noise and lighting associated with commercial recreation activities are consistent with the level of amenity anticipated in the surrounding environment.

73. A number of these proposed Policies are taken or modified from those which are already found in Chapter 4 – District Wide Issues and specifically Section 4.4 – Open Space and Recreation of the ODP.
74. In my opinion the Policies suitably direct proposed Rule 21.4.16 and the standard 21.5.21 in Table 5 of the Proposed District Plan which specifies a maximum group size for Permitted Commercial Recreation Activities.

Proposed Rule 21.5.21

75. In general, I support the recommendation to increase the group size for Commercial Recreation Activities from 5 people in the Operative District Plan ("ODP") to 10 in the PDP.

76. However, in Totally Tourism Limited's primary submission I identified the issue that heli skiing falls within the definition of a Commercial Recreation Activity being the commercial guiding, transportation and provision of a Commercial Recreation Activity.
77. A typical day heli skiing could involve one machine at a site with up to twenty clients and guides that are 'cycled' throughout the site and the various 'runs'.
78. Sometimes there can be two helicopters operating concurrently and special charters may differ again.
79. This would breach the proposed group size of 10 people and trigger a Discretionary Activity resource consent pursuant to proposed Rule 21.5.21.
80. It was submitted that it is the helicopters used to provide transportation for the activity that lead to the greatest effects on the environment by virtue of the noise they emit. To my knowledge, all heli-skiing occurs on Public Conservation and/or Crown Pastoral Land.
81. Accordingly, pursuant to proposed Rule 21.5.25 this component of the activity will become Permitted. In addition, the overall effects of the activity on the inherent values of Crown Pastoral Land and Public Conservation Land will have been addressed through the Recreation Permit and Concession processes.
82. Requiring a further resource consent for the guided component of this activity will in my view simply be inefficient, ineffective and costly for the operators with no significant benefit in terms of protection from adverse environmental effects for the Districts residents or visitors. No reference or assessment of this submission point made by Totally Tourism Limited is addressed in the Section 42A Report.
83. Accordingly I propose that Rule 21.4.16 be redrafted as follows (new wording underlined):

21.4.16 Commercial recreation activities that comply with the standards in Table 5, and commercially guided heli skiing.

Ski Area Sub-Zones

84. In general, I support the PDP provisions with regard to the management and use of the identified Ski Area Sub-Zones for Ski Area Activities.
85. I have acted in a professional capacity for NZSki Limited since 2011 and have prepared the resource consent applications and overseen their processing by the Council for the major redevelopment of the Remarkables Ski Area over the last three years.

86. This has included a number of land use consents for new buildings, snow making infrastructure, terrain modification, car parking and ski chair lifts. Perhaps most widely known of all these projects was the new Remarkables Ski Area base building which opened in 2015.
87. In my experience, the provisions of the ODP have enabled an efficient and effective consenting process and provide sufficient certainty for developers of the Ski Area Sub-Zones as to what the expectations are for buildings and associated Ski Area Activity development.
88. I note that these existing provisions have largely been adopted in the PDP with some minor amendments. Based on my significant experience with these provisions I support their retention.
89. However, I have reviewed a number of submissions made by other Ski Field Operators^{12]} and made a further submission on behalf of NZSki Limited supporting a number of changes to the proposed provisions which I consider result in a more sustainable, efficient and effective use of the Ski Area Sub-Zones.
90. I will outline my recommended changes below:

Zone Purpose

91. Submitters 610 and 613 both suggested a change to the purpose of the Ski Area Sub-Zone to recognise the wider outdoor recreation uses of these areas and their value as a year round resource.
92. In my opinion, this is a valid amendment that recognises the existing and potential future diversification of the Ski Area Sub-Zones for other recreational uses. It is appropriate that the Zone is still referred to as the Ski Area Sub-Zone as winter Ski Area Activities are still the predominant driver for use and development. The Section 42A Report is silent on this matter.
93. However, and particularly given the investment made in the infrastructure and facilities¹³, it will be a more efficient use of these limited and consolidated alpine areas if they are promoted as year round destinations as opposed to the short (4 month) winter ski season.
94. I don't support the proposed wording promoted by these submitters and consider that the following amendments to the Zone purpose would be more appropriate (underlining shows new text):

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

¹² Submissions 610, 613 and 615

¹³ NZSki Limited Remarkables Ski Area re-development has cost circa \$45 million

development of Ski Area Activities within the identified sub zones as the predominant use, whilst also enabling a diverse range of year round outdoor recreational pursuits and commercial activities where the effects of the development would be cumulatively minor.

Definitions

95. In general I consider that the definition of Ski Area Activities is fairly robust. However, a number of submitters have suggested amendments to broaden and/or clarify its scope.
96. In my opinion a number of these submissions seek to broaden the scope of the definition and/or include activities that are otherwise defined separately by the PDP or which would result in some activities (indigenous vegetation clearance and Visitor Accommodation) becoming a Permitted Activity where it is inappropriate to grant such a status.
97. Accordingly, I generally support the amended definition as proposed by Mr Barr in Appendix 1 of his Section 42A Report with the following alterations shown in underline (new text) and strikethrough (deletions).

Ski Area Activities

Means the use of natural and physical resources for the purpose of ~~providing for~~ establishing, operating and maintaining the following activities and structures:

- (a) recreational activities either commercial or non-commercial*
- (b) Passenger lift systems ~~chairlifts, t-bars and rope tows to facilitate commercial recreational activities.~~*
- (c) use of snowgroomers, snowmobiles and 4WD vehicles for support or operational activities.*
- (d) activities ancillary to commercial recreational activities including avalanche safety, ski patrol, formation of snow trails and terrain.*
- (e) 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.*
- (f) Establishment of snow making guns, lances and associated pipeline infrastructure (excluding vegetation clearance if any).*

98. In my opinion the above version of the definition is most appropriate as it adopts the new proposed terminology for passenger lift systems (addressed below), provides certainty about the ski field safety operations (avalanche control) and clarification as to whether snow making guns and lances are Permitted or not.

99. With regards to the last matter I note that NZSki Limited sought resource consent for snow making fans and lances on the Curvey Basin trail through resource consent RM130754 because the definition of building in the ODP which includes any structure in excess of 2m in height, relied on the Building Act 1991 definition of Building. This act excludes pursuant to Section 3(c), cable cars, cableways, ski tows, and other similar stand-alone machinery systems, whether or not incorporated within any other structure.
100. It was considered a 'grey area' as to whether snow making fans and lances were similar standalone machinery systems so resource consent was sought for them as buildings to avoid all doubt regarding their lawful establishment.
101. I note the PDP definition of Building refers to the Building Act 2004 definition which at Section 9 contains a similar exclusion.
102. Therefore, for the avoidance of all doubt snow making fans and lances are proposed to be included in the Ski Area Activity definition and will be Permitted Activities by virtue of Rule 21.4.18 and the absence of any specific standards in Table 7.
103. In my opinion, there is an expectation for such infrastructure within a ski field. By virtue of their bulk and location they have limited effects on landscape and amenity values. It is in my opinion appropriate that they be Permitted Activities.
104. I support Mr Barr's proposed definition of Passenger Lift Systems in Appendix 1 of his Section 42A Report. In my opinion, it is simple and more streamlined to refer to all the various mechanical passenger transport systems under the one definition.
105. In order to provide some further certainty to NZSki Limited's proposed Permitted Activity Rule which will be discussed further below I consider that a definition of 'Public Conservation Land' which ties the land tenure to the Conservation Act should also be included in the PDP.
106. The Conservation Act 1987 defines a Conservation Area as:
- “any land or foreshore that is –*
- (a) Land or foreshore for the time being held under this Act for conservation purposes; or*
- (b) Land in respect of which an interest is held under this Act for conservation purposes.”*
107. I consider that the appropriate definition of Public Conservation Land in the PDP should therefore read:

“Public Conservation Land” has the same meaning as ‘Conservation Area’ under the Conservation Act 1987.

Objectives and Policies

108. As identified above, I support the enabling of a more diversified use of the Ski Area Sub-Zones and in NZSki Limited’s further submission I indicated partial support for an additional Policy proposed by submitters 610 and 613. This proposed Policy sought to enable commercial, visitor and residential accommodation activities within Ski Area Sub Zones, which are complementary to outdoor recreation activities.
109. I do not agree with the overall proposed Policy wording as I do not consider residential activity appropriate within the Ski Area Sub-Zone. I note that my opinion concurs with that of Mr Barr¹⁴.
110. I do however consider that recognition of activities other than Ski Area Activities and direction as to when they may be appropriate is necessary. I therefore recommend that the following Policy be added under Objective 21.2.6:

Policy 21.2.6.4 Enable commercial, commercial recreation and visitor accommodation activities within the Ski Area Sub-Zones where the effects are consistent with the level of amenity anticipated in the Sub-Zone.

111. In my opinion, this Policy will direct that a range of alternative year round uses are appropriate within the Ski Area Sub-Zones but that they should not adversely affect the landscape and recreational values anticipated with use of the area for the predominant Ski Area Activities.
112. This Policy will be complemented by the proposed rules which will be discussed in more detail below.
113. Submitters 610 and 613 also identified that both the ODP and PDP do not make provision for the means of transporting guests onto and off the mountain. Specifically, the Rural Zone provisions that apply to the land outside of the Ski Area Sub-Zones do not anticipate or provide for the transportation connections to ski areas and there is a disconnect in the plan provisions in failing to manage the whole of the infrastructure necessary to operate the ski area.
114. I agree with this observation as does Mr Barr¹⁵. Accordingly, I support the inclusion of the following Policy below Objective 21.2.6.

¹⁴ QLDC Section 42A Report Part 14, Issue 7, Page 59, paragraph 14.30.

¹⁵ QLDC Section 42A Report Part 14, Issue 7, Page 59, paragraph 14.31.

Policy 21.2.6.5 To recognise and provide for the functional dependency of Ski Area Activities ~~to~~ on transportation infrastructure, such as land access and passenger lift based or other systems, linking 'on mountain' facilities to the Districts road and transportation network.

Proposed Rules for the Ski Area Sub-Zones

115. Table 7 in Chapter 21 of the Proposed District Plan lists the Standards for Ski Area Activities in the Ski Area Sub-Zone. Given my evidence above which supports the diversification and year round use of the Ski Area Sub-Zones for alternative activities I consider that Table 7 should instead be titled:

Table 7: Standards for ~~Ski Area~~ Activities within the Ski Area Sub-Zones

116. Both NZSki Limited and submitters 610 and 613 support the use of the Ski Area Sub-Zones for Visitor Accommodation purposes.
117. This activity already occurs on a number of the Districts Ski Fields already. Specifically, the NZSki Limited submission notes the existence of five 'club huts' operated at Coronet Peak. I also note that there are resource consents granting visitor accommodation use at Cardrona Alpine Resort (RM980520 and RM020744). Snow Farm also provides visitor accommodation in a 50 person capable lodge and two back country huts¹⁶.
118. To my knowledge there are no known issues with the provision of Visitor Accommodation in these Ski Area Sub-Zones. Therefore it is my opinion that if the scale and nature of the activity can be controlled to a level at which is commensurate with the amenity and infrastructural capacity of the Sub-Zone then it is appropriate that it be provided for in the Rules.
119. NZSki Limited's submission sought that Visitor Accommodation be incorporated into proposed Table 7 as a Controlled Activity. Mr Barr considers that Visitor Accommodation is appropriate but does not accept a Controlled Activity status because he holds concerns that there is no control on the scale and intensity of Visitor Accommodation and that Council would have no scope to decline an [inappropriate] application¹⁷. Instead, Mr Barr prefers a Restricted Discretionary Activity status.
120. I have considered Mr Barr's position and agree there is some merit to his concerns particularly if large scale Visitor Accommodation was proposed which was out of context with the character of the Ski Area Sub-Zones. As such, I accept Mr Barr's proposed Restricted Discretionary Activity status for Visitor Accommodation. I don't accept the wording of his Rule in Appendix 1 to the Section 42A Report and consider it should be re-worded as follows:

¹⁶ <http://www.snowfarmnz.com/>

¹⁷ QLDC Section 42A Report Part 14, Issue 7, Page 59, paragraph 14.12.

21.5X Visitor Accommodation

Discretion is restricted to all of the following:

- ~~Scale and intensity of the activity and whether these would have adverse effects on amenity, including loss of remoteness or isolation.~~
- ~~Location, and specifically proximity to base building facilities including whether that because of the scale and intensity the visitor accommodation should be located near the base building (if any).~~
- Parking.
- Provision of water supply, sewage treatment and disposal.
- Cumulative Effects.

Other Miscellaneous Changes

121. NZSki made a further submission in support of submitters 610 and 613 who sought an exemption be added to proposed Rule 21.5.15 in Table 5 which contains the standards for structures and buildings.
122. Specifically, it was unclear in the way the PDP was drafted as to whether the requirements for buildings set out in this rule for the Rural Zone generally would also apply to those within the Ski Area Sub-Zones.
123. In my opinion the matters addressed in this Rule are already adequately covered by Rule 21.5.27 on Table 7.
124. Mr Barr has acknowledged these submissions and included an appropriate exemption in his amended Rural Chapter provisions in Appendix 1 of the Section 42A report¹⁸. I agree with his proposed amendment.
125. Similarly, NZSki Limited made a further submission in support of submitters 610 and 613 who sought that proposed Rule 21.5.16 which limits buildings to a maximum ground floor area of 500m² contained an exemption for buildings in the Ski Area Sub Zone.
126. Again it is my opinion that Rule 21.5.27 in Table 7 adequately deals with such matters through the control over location and size within this Rule. I note out of interest and with relevance to this proposed Rule, the Remarkables Ski Area new base building has a footprint of approximately 3,066m².
127. A restriction to a maximum ground floor area of 500m² would not be relevant to the scale of buildings (particularly base building facilities) required in the Ski Area Sub-Zone and which can otherwise be appropriately controlled through Rule 21.5.27. I consider an amendment clarifying an exemption for

¹⁸ QLDC Section 42A Report, Appendix 1, page 21-15, Rule 21.5.15

buildings in the Ski Area Sub-Zones is appropriate and I concur with the change made in Appendix 1 of Mr Barr's Section 42A Report.¹⁹

Chapter 33 – Indigenous Vegetation and Biodiversity

128. NZSki Limited have sought that the clearance of indigenous vegetation becomes a Permitted Activity in the Ski Area Sub-Zones that sit within Public Conservation Land and which are under the administration of the Department of Conservation (“DOC”).
129. This is because all earthworks (unless associated with building construction) in the Ski Area Sub-Zones are Permitted Activities. However, for any terrain modification or trenching for infrastructure there is inevitably some removal of indigenous vegetation in what is defined as an Alpine Environment (1070masl) in both the ODP and the PDP.
130. As a result of the altitude of the Ski Area Sub-Zones (Remarkables Ski Area for example commences at approximately 1600masl) a resource consent is almost always required for earthworks due to the trigger of clearance of indigenous vegetation in an Alpine Environment. This essentially reduces the effectiveness and efficiency of the Permitted Activity earthworks rules in Chapter 22 of the District Plan.
131. In my experience dealing with such resource consent applications at the Remarkables Ski Area the resource consent approvals are largely a replication of the approvals granted under the Conservation Act 1987. The Council planners review the same ecologist's reports that are provided as part of the Concession application(s) and implement the same or similar conditions imposed on the Concession documents and which have been derived from a set of established protocols for the rehabilitation of natural environments that has been developed between NZSki Limited and DOC.
132. A copy of these agreed protocols is attached to my evidence as **Appendix [B]**.
133. An example of this situation is Concession OT-34110-SKI which was granted by DOC in 2012 and which approved a new abstraction regime for surface water from the Rastus Burn Stream and Lake Alta for snow making. The decision also approved the trenching and laying underground of a new snow making water pipe which would necessitate the disturbance of indigenous vegetation. The application to DOC included an ecologists report prepared by Davis Consulting Group to address the impacts of vegetation clearance.

¹⁹ QLDC Section 42A Report, Appendix 1, page 21-16, Rule 21.5.16

134. NZSki Limited also obtained at the same time Concession OT-34109-SKI for the construction of the new Curvey Basin ski trail, chair lift and associated snow making infrastructure. This Concession application was also supported by an ecologists report from Neill Simpson.
135. When NZSki Limited sought resource consent for the indigenous vegetation clearance associated with these Concessions the same ecological reports were submitted to QLDC as Attachments [G] and [H] to the application RM130662.
136. The conditions of consent in RM130662 replicate almost word for word the conditions imposed in the approved Concessions. As such, it is apparent there was no greater level of assessment undertaken by the Council and the process resulted in a watered down duplication of the Concessions (as the Concessions also have requirements for independent performance monitoring).
137. A similar process ensued with the construction of the new car parking areas for the Remarkables Ski Area. These upgrades were approved via Concession OT-34109-SKI as well and the conditions of the Concession relevant to the clearance of indigenous vegetation were again largely replicated on the relevant QLDC resource consent RM130708.
138. As a result of the lack of any further detailed assessment than that which is undertaken under the Concession processing and the apparent duplication of conditions that are already agreed to between DOC and the Ski Area operator it is my view that the current provisions do not meet the purpose of the Act.
139. I am however aware of the Council's responsibilities under the Resource Management Act and in particular Section 31(1)(b)(iii) 'Function of territorial authorities under this Act' and Section 6(c).
140. NZSki Limited's position seeking an exemption from the indigenous vegetation clearance Rules has been viewed as requesting the Council to renege on its statutory obligations for the maintenance of indigenous biological diversity by both DOC and the Council.²⁰²¹.
141. In my opinion, this is not actually the case. NZSki Limited are proposing that the Council considers, recognises and accepts the assessments of these values that are undertaken by DOC in the Concessions process.
142. The proposal does not seek to disregard the functions of the Council as stipulated in the Act as the proposal will not result in a blanket Permitted Activity status for indigenous vegetation clearance within the Ski Area Sub-Zones with no certainty that the indigenous biological values are adequately assessed and protected.

²⁰ Further Submission – Department of Conservation.

²¹ QLDC Section 42A Report – Indigenous Vegetation and Biodiversity page 48, paragraph 12.35.

143. Specifically, as identified above, the processing of resource consents for this matter at present is an expensive duplication of the Concessions issued by DOC. The Permitted Activity rule proposed by NZSki Limited affords recognition of the level of ecological information provided to DOC as part of the Concession process, the protocols established for dealing with such works and the lack of any more detailed assessment undertaken by the Council.
144. In my opinion, this is considerably different to other scenarios such as that outlined in ENV-2010-CHC-244 *Royal Forest and Bird Protection Soc of New Zealand v Waitaki District Council* where blanket Permitted Activity status for indigenous vegetation clearance on land freeholded through Tenure Review was (unsuccessfully) sought.
145. NZSki Limited's proposal is very specific that a Permitted Activity status would only apply to vegetation clearance in Ski Area Sub-Zones that are Public Conservation Land administered by DOC. The extent of land to which the rule would apply is therefore very limited and further controlled by the proposed definition. By being restricted to this very specific type of land tenure the Council is assured of an assessment that is at least equal to that which it would (and currently does) undertake itself based on the examples outlined above.
146. Further, this means that the Ski Area Sub-Zones on Crown Pastoral Land and/or private ownership such as Soho Ski Area, Snow Farm and Cardrona Alpine Resort will still necessitate resource consent for indigenous vegetation clearance in an Alpine environment and a full assessment of effects.
147. In my opinion it is considered appropriate that these land tenures still require resource consent as there is either no other statutory approval process that would protect indigenous biodiversity values (private land) and in respect of Crown Pastoral Lease land DOC have limited input into the approval process (and no decision making powers) for Recreation Permit applications and it is possible through Tenure Review that this land will one day become privately owned as well.
148. DOC opposed NZSki Limited's proposed Permitted Activity Rule by way of further submission. Since that was received I have met with DOC's representatives and afforded them a greater understanding of NZSki Limited's position and provided assurance that it is only avoidance of the unnecessary duplication in approvals that is sought and not a blanket avoidance of appropriate ecological assessment.
149. Subsequently, DOC have agreed to the partial withdrawal of their further submission with respect to this matter and I attach a copy of correspondence between the parties outlining this position to my evidence as **Appendix [C]**. A formal memorandum will be forwarded to the Hearings Chairman once it is fully executed.

150. Based on all of the above I consider it appropriate that the following changes are made to Chapter 33 – Indigenous Vegetation and Biodiversity:

Zone Purpose

151. The fifth paragraph outlining the purpose of Chapter 33 refers to Alpine Environments as the least modified environments in the District. In the most part this is an accurate statement but it does not recognise that the Ski Area Sub-Zones are heavily modified for the creation of ski trails, car parks and base building facilities.
152. While they make up a very small percentage of the Districts Alpine Environment, Ski Area Sub-Zones are areas of significant recreational value and economic well-being for the District and in my opinion warrant recognition in the purpose of this Chapter. As such, I recommend that the specified paragraph be amended as follows:

Alpine environments are identified as areas above 1070m and are among the least modified environments in the District with the exception of the Ski Area Sub-Zones. Due to thin and infertile soils and severe climatic factors, establishment and growth rates in plant life are slow, and these areas are sensitive to modification. In addition, because these areas contribute to the District's distinctive landscapes, and are susceptible to exotic pest plants, changes to vegetation at these elevations may be conspicuous and have significant effects on landscape character and indigenous biodiversity.

Objectives and Policies

153. Objective 33.2.3 in the PDP is the only Objective in this Chapter which specifically refers to the Ski Area Sub-Zones. This Objective acknowledges that ski field development is an efficient use of land but continued use and development in these areas should not reduce indigenous biodiversity.
154. A range of Policies are proposed to achieve the Objective which I don't necessarily disagree with however, none of the Policies afford specific recognition of Ski Area Sub-Zones. In addition, none of the proposed Policies recognise the significant work that is undertaken to re-establish and re-habilitate disturbed areas in the Ski Area Sub-Zones as illustrated by the extensive protocols agreed to by NZSki Limited and DOC in **Appendix [B]**.
155. As such, I consider it appropriate that the following Policy that was suggested in NZSki Limited's primary submission be added under Objective 33.2.3 as Policy 33.2.3.8 with minor amendments:

Policy 33.2.3.8 Provide for continued terrain development and enhancement within the Districts identified Ski Area Sub-Zones whilst requiring the ~~ensuring regard is given to~~

the re-establishment and/or re-habilitation of indigenous vegetation communities where practicable.

156. In my opinion this Policy achieves the intent of the Objective by specifying and acknowledging that development in the Ski Area Sub-Zones is an efficient use of a limited land resource and ensuring that indigenous biodiversity values are not reduced by specifying the appropriate mitigation to be undertaken.
157. The terminology “where practicable” at the end of the proposed Policy can in some circumstances be considered unnecessarily broad. For certainty those words are to reflect that in some areas of terrain modification re-establishment of vegetation is not possible because the terrain results in exposed rock outcrops with little to no topsoil to support re-establishment of vegetative communities.
158. The Policy also reflects the agreed protocols between NZSki Limited and DOC which are already implemented at the Remarkables and Coronet Peak Ski Areas.
159. Objective 33.2.4 requires that the indigenous biodiversity and landscape values of Alpine Environments are protected from the effects of vegetation clearance.
160. Essentially, this Objective seeks to preserve or safe guard indigenous vegetation in these environments. In my opinion, and as already described in paragraphs 130 - 135 above, the Council already relies on assessments undertaken by DOC to achieve this outcome under the Operative District Plan.
161. I also consider that DOC’s expertise and assessments of ecological information submitted with Concession applications form a vital component of the justification for NZSki Limited’s Permitted Activity clearance rule and therefore, recognition of this needs to be afforded in the Policies. I recommend the addition of the following Policy under Objective 33.2.4:

Policy 33.2.4.3 Acknowledge the expertise and assessment of indigenous biodiversity values undertaken by the Department of Conservation for vegetation clearance proposals in Ski Area Sub-Zones located on Public Conservation Land.

158. This proposed Policy will directly support and inform the proposed Permitted Activity Rule that is sought by NZSki Limited and discussed below.

Proposed Rules

162. Proposed Rule 33.4.3 in Table 1 specifies that activities undertaken in an Alpine Environment which comply with the Standards in Table 4 are Permitted Activities.

163. Rule 33.5.10 in Table 4 specifically permits any activity which does not involve the clearance of indigenous vegetation.
164. Based on the above I consider it appropriate that the following Rule be added to Table 4:
- 33.5.11 Clearance of indigenous vegetation in a Ski Area Sub-Zone located within Public Conservation Land.*
165. This Rule is clear and concise and affords certainty that the exemption relates only to the Ski Area Sub-Zones and more importantly only those located on Public Conservation Land. There is no ambiguity in its interpretation and application.
166. The proposed Rule recognises that the indigenous biodiversity values Council is required to protect under the Act are adequately safeguarded by assessments undertaken by DOC. In summary, the proposed Rule provides recognition of the level of protection already provided as opposed to a disregard of the Council's functions under the Act.
167. While Mr Davis considers similar submissions²² he does not respond to NZSki Limited's specific proposal. Mr Davis outlines limitations of assessments under the Land Act & Reserves Act but he does not raise any concerns with respect to the Conservation Act.
168. For the panel's clarification Section 17S of the Conservation Act requires all Concession applications to provide a description of the potential effects of the proposed activity, and any actions which the applicant proposes to take to avoid, remedy, or mitigate any adverse effects.
169. Under this Section the Minister may also require an applicant for a Concession to supply such further information as the Minister considers necessary to enable a decision to be made, including the preparation of an environmental impact assessment in the form set out in Schedule 4 of the Resource Management Act 1991. In my experience, for vegetation clearance at the Remarkables this level of assessment is provided in a Concession application along with expert ecological reporting.
170. The Minister also has power under this Section of the Act to (at the expense of the applicant), commission a report or seek advice from any person (including the Director-General) on any matters raised in relation to the application, including a review of any information provided by the applicant.
171. Accordingly, I consider that the level of assessment and reporting required or which can be sought under this Act to ensure a full and comprehensive understanding on the ecological effects of a clearance proposal is robust enough to validate the Permitted Activity rule sought by NZSki Limited.

²² Evidence of Glenn Davis, paragraphs 7.12 – 714, page 27

Summary

172. Overall, in my opinion the amendments to the provisions of the Rural and Indigenous Vegetation and Biodiversity Chapters of the PDP as outlined above will result in a more efficient and cost effective regulatory environment for tourism operators and Ski Field Operators alike.
173. However, it is important to note that this increase in efficiency and cost effectiveness is not at the expense of important characteristics, values and features of the environment. Specifically, the amendments seek to reduce the requirements for resource consents only where they align with Permitted Activities that are critical parts of a commercial product or which are suitably and robustly assessed under other statutory processes.
174. In my opinion the amendments outlined above recognise the positive effects and benefits for the District that can result from a variety of commercial land uses that rely on the resources of the rural environment. These land uses can occur or be otherwise controlled without inappropriate costs or effects on the rural amenity and indigenous biodiversity values therefore recognising this in the context of the enabling nature of the Act is considered appropriate.



Sean Dent

20th April 2016

APPENDIX [A] – Summary of Submitters

Totally Tourism Limited (Submission No. 571)

1. Totally Tourism Limited (“TTL”) is a tourism based company operating in the South Island of New Zealand. It offers scenic and adventure activities to both international visitors to New Zealand and domestic travellers.
2. TTL was established in 1999, and is the umbrella company for a group of tourism operations. These operations include The Helicopter Line, Mitre Peak Cruises, Milford Sound Scenic Flights, Glacier Helicopters. Queenstown Combos, Challenge Rafting, Harris Mountains Heli-Ski, Air Fiordland, Wanaka Flightseeing, The Station and Queenstown Information Centres.
3. TTL’s submission was largely directed towards simplifying and streamlining the PDP provisions for commercial recreation activities such as heli skiing and informal airports. To achieve the relief sought in their submission it is my opinion that the Rural Chapter of the PDP should be amended to provide for greater recognition of the benefits of commercial recreation activities and the appropriate provision and management of informal airports.

Skyline Enterprises Limited (Submission No. 574)

4. Skyline Enterprises Limited (“Skyline”) is the leaseholder of Section 1 SO Plan 24832 and Section 1 SO Plan 22971. In combination with an easement for the gondola cableway over Pt Section 110 BLK XX Shotover SD Skyline provides and operates the Skyline Gondola, Restaurant and associated commercial recreation facilities on Bob’s Peak, Queenstown. The 4.1 Ha area containing the restaurant and associated commercial recreation activities sees over 700,000 visitors annually.
5. The majority of the abovementioned facilities operated by Skyline are proposed to be located within the Rural Zone (Outstanding Natural Landscape) of the PDP.
6. Skyline’s primary submission seeks re-zoning of the subject site in recognition of its iconic tourism status.

7. Notwithstanding the above, Skyline Enterprises Limited is also the 'parent company' to Totally Tourism Limited and supports a more enabling suite of provisions for commercial recreation activities and informal airports within the Districts Rural Zone for such activities.

NZSki Limited (Submission No. 572)

8. NZSki Limited are the leaseholders and operators of both the Remarkables Ski Area and Coronet Peak Ski Area, Queenstown.
9. NZSki Limited also own the property legally described as Lot 2 Deposited Plan 17411 as held in Certificate of Title OT8C/1489. This property is commonly recognised as the start of the Remarkables Ski Area access road and is accessed directly off State Highway 6, Queenstown.
10. As the operator of Queenstown's premier Ski Area's NZSki Limited has a direct interest in the provisions of the PDP in terms of their effect on the continued growth and development of the ski industry.
11. NZSki Limited's primary submission was largely in support of the proposed Rural Chapter of the PDP which seeks to maintain the Ski Area Sub-Zone classification and the specific development controls (including the exemption from application of the landscape provisions) largely as they exist today in the ODP.
12. Some areas of re-zoning were sought along with changes to the provisions in Chapter 33 – Indigenous Vegetation & Biodiversity. In addition, minor changes were proposed to Rural Chapter to diversify the use of the Ski-Area Sub-Zones.

PROTOCOL FOR THE REHABILITATION OF NATURAL ALPINE ENVIRONMENTS FOLLOWING SKI AREA DEVELOPMENT

Between

DEPARTMENT OF CONSERVATION and NZSKI LTD.

1. Introduction

The protocol sets out practical means of achieving a high standard of environmental rehabilitation during and following development works at either Coronet Peak or The Remarkables Ski Areas. NZSki will require its staff and contractors to act in accordance with the protocol.

The scope includes any work that results in any environmental disturbance including (not not limited to) the indigenous vegetation, native fauna, soil, wetlands, streams, lakes and natural landforms of the ski area. Works may only be exempted from the protocol with prior agreement from DOC.

DOC staff will conduct regular monitoring to observe progress and assess effectiveness of the measures. This will include providing advice, troubleshooting unexpected problems, adjusting management approaches and, if necessary, require corrective action to ensure the objectives of the protocol are met.

2. Objectives of the protocol

To ensure that during the course of ski area developments there is a minimum of interference with the natural environment, and avoidance of disturbance to areas outside approved work areas;

To ensure that any indigenous vegetation disturbed by development is restored as near as possible to its original density and diversity, within the shortest practical timeframe;

To minimise the erosion and sedimentation of exposed soils (and soil among transplanted vegetation), optimising the longer term regeneration of indigenous vegetation through natural dispersal;

To otherwise replicate a high standard of natural appearance to any ground not occupied by permanent structures or required to regularly bear mechanised traffic; and

To establish a clear understanding between the staff and contractors of both the Department of Conservation (DOC) and NZSki on the required standards for:

- Work site control measures;
- Removal and replacement of vegetation and top soil;
- Management of soil erosion and sediment control;
- Ongoing monitoring and maintenance of rehabilitated areas;
- Contracted monitoring; and
- DOC's ability to suspend works.

3. Work Site control measures:

- a. Only machinery operators with a demonstrated ability in low impact earthworks and vegetation rehabilitation in an alpine setting are to undertake construction;
- b. Prior to works NZSki shall ensure that a briefing occurs between its staff, contractors and DOC to ensure a common understanding of how works will be conducted;

- c. NZSki must minimise disturbing non target areas when accessing and working within development sites. If machinery is required to move off existing tracks the least damaging route must be used and any disturbed vegetation must be rehabilitated when works are completed;
- d. The risk of soil erosion over denuded areas must be carefully managed until rehabilitation works are undertaken and soil is no longer exposed;
- e. Works must be conducted to ensure no contaminants are discharged onto the land or into watercourses (directly or indirectly). All vehicles, machinery, equipment and aggregate material must be cleaned of weeds, seeds and soils before entering the works area. Refuelling must be undertaken on hard surfaces away from watercourses and vegetation.
- f. Sensitive natural features including streams, wetlands, tarns, lakes and rare habitats are not to be disturbed, either for development works or access to development sites. Where disturbance is unavoidable prior approval must be sought and additional environmental protection measures may be required;
- g. All development and rehabilitation works impacting the natural environment must be completed by the 1st May. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.

4. Removal and replacement of vegetation and top soil:

- a. Vegetation must be carefully removed in a manner to minimise damage to both the above ground plant and to protect as much soil material around the roots as possible;
- b. The remaining topsoil must also be removed before excavation of rock material may commence. If not used quickly with the replanting of vegetation this topsoil may be stockpiled for later use;
- c. All vegetation removed should be quickly replanted into areas where works have already been completed. This will usually occur through progressive reinstatement on completed formations behind the main work “face”;
- d. Priority for replanting shall be given to areas prone to erosion;
- e. Individual plants or clumps of vegetated material (“sod”) shall be reinstated by careful use of a digger bucket. Spacing should be no greater than 1 metre, unless directed otherwise by DOC.
- f. Final positioning of transplanted vegetation and sods should be conducted by hand tools, with top soil packed around each plant or sod to maximise survivorship and to achieve a result that closely resembles the surrounding natural areas;
- g. When transplanted plants and sods are insufficient to cover the disturbed area additional vegetation may be sourced through splitting indigenous vegetation from adjacent areas. This should only be done where there is sufficient plant and humic material to allow survival of both ‘parent’ and ‘split’ plants.
- h. Nursery reared plants (usually tussocks) may also be used to supplement transplanted vegetation and sods. Only locally sourced seeds may be used to grow plants for the ski area. Nursery reared plants are susceptible to rapid die off and browsing and must be handled carefully as follows:
 - Fertiliser is to be placed in the root well prior to planting;
 - Plants must be well bedded to lessen risk of uprooting by feral animals; and
 - Plants may be treated with suitable chemicals to deter browsing by feral animals.

- i. Locally sourced seed of appropriate species may be broadcast to promote vegetation growth between transplanted vegetation and sods. Exotic seeds may be spread only with prior approval;
- j. Special care must be taken when replanting on steep slopes between 30 and 45 degrees:
 - Plants should be transplanted quickly, steep slopes require plants to be in the healthiest possible condition;
 - Indented troughs or depressions should be formed to create “bedding” for the tussocks or sods to be transplanted. Replanting should not occur on sheer surfaces;
 - Replanting should be as close together as practical, leaving little exposed ground;
 - Large heavy plants and sods should be staked for support where possible;
 - Steep slopes should be closely monitored and any plants or sods released from the slope quickly retrieved, split into smaller, lighter clumps and replanted back into the slope as described above;
 - Consideration should be provided to planting small nursery reared plants where possible;
 - Attempts at replanting vegetation on slopes steeper than 45 degrees should only proceed with prior approval;
- k. The vegetation removed at one site may be used at another development site within the ski area only with prior approval;
- l. If no areas are available for a quick reinstatement, vegetation may be temporarily stored in designated areas with prior agreement;
 - All handling of vegetation for longer term storage must be done with great care to minimise cumulative damage to plants;
 - Vegetation may only be stockpiled up to one metre high to avoid die off resulting from smothering and crushing; and
 - All vegetation temporarily stored must be watered when protracted dry conditions may impact on survivorship.
- m. If NZSki expects to have a surplus of vegetation and/or topsoil at the end of works, this must be replanted /spread over other areas of rehabilitation, under direction from DOC.
- n. Any surplus rock material must not be stockpiled and/or spread over nearby terrain without prior approval.
- o. NZSki will actively eradicate any noxious weeds from all development and rehabilitation areas; and
- p. No rock landscaping may be used as a substitute for vegetation unless by prior agreement.

5. Management of soil erosion and sediment control

- a. The surface of vehicle tracks, formed ski trails and any other disturbed ground without a cover of indigenous vegetation will be managed to improve water infiltration, minimise rilling and sheet erosion, reduce suspension of sediment and provide micro sites for wind borne seed to settle. Control measures include;
 - shaping / crowning the surface;
 - applying an appropriate gravel surface in problem areas;
 - forming of earth, rock or vegetation bunds;

- Ripping or roughening soils perpendicular to the slope angle; and
 - Constructing water tables/swale drains to intercept and divert surface flows.
- b. Where the slope angle exceeds 30 degrees natural features such as rocks could be incorporated into the slope where this lends to the stability of the site; this would require prior approval from DOC and potentially the support of geotechnical experts. This solution would be considered on a site by site basis.
- c. Water tables/swales must have a catchment area no greater than 2,000m². Ski trails must have functioning swales no less than 60m apart. All water tables/swales must be clear of sediment and able to convey water.
- d. Water tables and swales must lead to an appropriately designed and armoured settlement pond to capture sediment so only clear water disperses into the surrounding landscape.
- These ponds must be large enough to ‘settle’ the flow and allow sediment to be deposited, particularly from heavy rainfall events. Precise dimensions will depend on the area and erosion potential of catchment above, however, these may be graduated areas 1m wide x 2m long x 1m deep. They should be armoured with rocks or surrounded by soil mounds and tussocks or geotextile materials.
 - Sediment captured by settlement ponds are to be redistributed to assist re-vegetation of disturbed areas, whether previous or planned earthworks e.g. used to fill gaps between transplanted tussocks or to improve the mineral soil content when planting nursery tussocks.
 - Settlement ponds must be maintained such that they provide a means of monitoring the effectiveness of control measures thereby assist adjusting management approaches to reduce the potential for recurrent erosion.
- e. To protect wetlands and wetland vegetation from sediment no surface water carrying sediment must be allowed to run into wetland areas. Settlement ponds must not exit onto wetland areas. Water tables and swales must be designed to maintain the hydrological integrity of adjacent seepages and wetlands.
- f. Areas requiring erosion control measures are to be prioritised based on the following criteria:
- Vulnerability to erosion (e.g. slopes > 20 degrees, unconsolidated soils, disturbed ground adjacent to compacted soils)
 - Saturated soils on cut faces where seepages have been intercepted,
 - Remediation of slips or slumped land and stabilisation of land to prevent further or repeated slope failures.
 - Settlement areas that require armouring or treatment in order to filter water,
 - Stabilisation works required to facilitate revegetation.
- g. Areas identified for erosion control and soil conservation work may vary from year to year as revegetation occurs and slope and soil stability is achieved. Areas prioritised for erosion control in the 2015 – 2016 works programme are outlined in **Attachment A** below.
- h. Significant developments will have a soil conservation and erosion control plan in place prior to the commencement of works. This plan will demonstrate how the objectives of this protocol will be achieved.

6. Ongoing monitoring and maintenance of the rehabilitated area

- a. The purpose of the monitoring is to assess the progress of rehabilitation and advise NZSki how to prevent or minimise risks to re-growth becoming self sustaining;

- b. All development and rehabilitation works will be monitored at least once prior to the commencement of work and again at completion of works. Interim monitoring may be required, depending on the nature of work. Following completion, regular monitoring will continue until DOC resolves, at its sole discretion, that the rehabilitation of the natural environment can progress unaided;
- c. Additional monitoring of erosion and sediment control measures will be made during or following significant periods of rainfall.
- d. Where monitoring establishes significant risks to rehabilitation, DOC will require NZSki to take any reasonable steps to rectify the situation and return the area to its desired condition. Any additional work required will be carried out at the cost of NZSki;
- e. In the event that an area is not rehabilitated following works, monitoring will continue until rehabilitation works have begun. Attention will be paid to preventing erosion during any lay period;
- f. DOC should reserve the right to recover the actual and reasonable costs of monitoring work.

7. Contracted monitoring:

DOC may contract monitoring to an external person/s. This approach not only provides time savings, but can also source specialist expertise on how to rehabilitate the sensitive alpine vegetation. This expertise is also vital to advise on appropriate remedial actions for any issues, and to provide expert input to planning processes. Contracted monitoring will take place as follows;

- a. The contractor is generally tasked to monitor the implementation of this protocol during any ski area development work that disturbs the natural environment;
- b. The monitor is to resolve any concerns of a routine nature directly with NZSki. Issues should be referred to DOC when problems are recurrent, significant in scale, unconventional or if a mutual agreement cannot be reached;
- c. To advise both DOC and NZSki whenever their action (or inaction) may present a problem for ski area environment, whether related to a specific development or any other activity;
- d. The monitor is to immediately advise DOC and NZSki if unauthorised works may be occurring, of significant risks to the natural environment that warrant suspension of works, and of any concerns with geotechnical hazards and/or public safety;
- e. Monitoring visits are to be scheduled in consultation with NZSki and DOC at a frequency of no more than once a week and no less than three times a summer (depending on nature of works over summer);
- f. If agreement on scheduling cannot be reached, DOC will make a final decision and notify NZSki of when monitoring is to occur;
- g. A brief written report of each monitoring visit is to be forwarded to DoC and NZSki in a timely manner. Reports should take a broad approach to assess overall performance, record agreements reached on site and highlight unresolved issues. Reports should take advantage of photo monitoring where possible;
- h. The time required for visits (and reports) are to be appropriate to the works in progress. The monitor is to notify and seek agreement from NZSki on where the combined time required for site visits and reporting is likely to exceed 5 hours;
- i. Support tasks supplementary to monitoring and reporting (eg research and meetings) are to be agreed with DOC and NZSki prior work occurring;

- j. The time spent on monitoring visits, reporting and support work will be billed directly to NZSki at a rate equivalent to DOC's current hourly rate for field staff, plus gst. Disbursements are to be billed separately.
- k. All monitoring reports and discussions between the contractor, NZSki and DOC will be kept confidential.

8. Right to suspend works

- a. DOC will, at its sole discretion, suspend any development work or activity should contracted monitoring, public feedback or DOCs own observations determine there are unexpected and/or significant impacts on the natural environment that are not being adequately rehabilitated.
- b. Any suspension shall remain in place until a response plan is agreed with NZSki.

ATTACHMENT A

The Remarkables: Priority Areas for erosion control measures and monitoring 2015 - 2016:

In the 2013 – 2014 and 2014 – 2015 substantial development occurred at the Remarkables Skifield. As a result, the following areas have been prioritised for soil erosion control works in 2015 – 2016 growth season (November – April).¹

Curvey Basin Trail

- Curvey A trail from chainage 60m through to 360m.
- Curvey B trail from chainage 60m through to 360m.
- Curvey main trail chainage 360m through to 600m.
- Curvey main trail chainage 600m through to 800m.
- Curvey main trail triangle at 820m through to 860m.
- Curvey main trail 'old road' 860m through 1040m.
- Curvey main trail 'Ford' 1040m through 1072m.

Lower Alta Green trail

- Trail chainage 0m through to 72m

Summer access road

- Road on Alta Green trail elevation 1,660m asl down to 1,640m asl.
- Road up Turquoise trail including elevations 1,660m asl to 1,726m asl.

Learners Area

- Elevations between 1,607m asl and 1,624m asl.

Description of Planned Soil Conservation Measures (2015 – 2016)

Curvey Basin Trail

- Curvey A trail from chainage 60m through to 360m.
 - 4 swales crossing the trail left to right (looking downhill)
 - Settlement area at the end of the swale
 - Swales need to be maintained in good working order
- Curvey B trail from chainage 60m through to 360m.
 - 2 swales in the lower section of this area. The trail material is very porous here as it was all fill in course aggregate
 - Swales need to be maintained in good working order
- Curvey main trail chainage 400m through to 640m.
 - 3 swales running right to left²
 - 1 swale running left to right at the 640m chainage
 - All have settlement areas at their terminals
 - Swales need to be maintained in good working order
- Curvey main trail chainage 640m through to 800m.

¹ Where chainage details are provided, refer to the approved Cut and Fill Plans prepared by Clark Fortune McDonald for the development of the Curvey Trail.

² Orientation – facing down the trail/ track

- 3 swales running left to right
- All have settlement areas at their terminals
- Swales need to be maintained in good working order
- Curvey main trail triangle at 800m through to 860m.
 - Once the slope was reshaped it was roughened across the exposed area to mitigate downhill run off.
 - Tussocks have been planted / transplanted here, although currently sparse these will mature to provide ground cover over the next 5 years.
- Curvey main trail 'old road' 860m through 1040m.
 - The road has been reinstated back to natural landscape with areas of rock scree where vegetation was scarce.
 - Ground slopes and the seepage flows were reinstated as near as practicable to pre-development condition.
- Curvey main trail 'Ford' 1040m through 1072m.
 - Surface water from the development of Curvey trail has been contained within a swale drain and flows into the Rastus Burn immediately upstream of the Ford.
 - Scoured land east of the Ford to be smoothed over/ re-contoured by hand and planted.
 - The access road to the base of Sugar Bowl chair requires another 300mm depth of surface material on it to help control surface flow and reduce scouring of the ford in this area. Raising the access track level will enable water to drain into the swale above the Rastus Burn Ford.

Lower Alta Green trail

- Trail chainage 0m through to 72m
 - Natural drainage from Turquoise trail and the tank farm runs across the summer access road and into depression north of Tower 6 of the Curvey Chairlift. A bund was formed using earth and tussocks to prevent sediment carrying beyond this point. The bund has suffered a minor breach with sediment extending down slope which requires repair and maintenance.
 - The area needs to be monitored to make sure run off is still retained and sediment settles within the intended area.
 - Build up of sediment in this area may require removal to retain the integrity of the structure until such time as surface runoff and sediment flow are reduced.
 - Water tables and Swales on the Turquoise trail need to be maintained in good working order, this will follow maintenance of the summer access road – see below.

Summer access road

- Road on Alta Green trail elevation 1,660m asl down to 1,640m asl.
 - 2 water tables are in place to remove surface water from the track.
 - Currently there are no effective settlement areas to capture/ retain sediment flows. These need to be introduced in a manner that prevents sediment from entering the Alta Green wetland.
 - Roading material about 300mm deep is to be placed, compacted and shaped on the road with a design that will eliminate any transfer of sediment from the road to the off- site areas in the future.

- Swales designed to reduce the erosive potential of water carried off the access road need to be maintained in good working order; these may require rock armouring. These need to be designed such that they prevent sediment from entering the Alta Green wetland.
- Road up Turquoise trail including elevations 1,660m asl to 1,726m asl.
 - 3 water tables exist across the road access running left to right.
 - The outflow runs into tussock
 - Minimal transfer of sediment occurs here since road surfacing has been laid, shaped & compacted.
 - Swales need to be maintained in good working order

Learners Area

- Elevations between 1,607m asl and 1,624m asl.
 - Once final landscaping is complete the area, roughly 16,000m², will be ripped and roughened across the trail.
 - A seed mix of Chewing Fescue (*Festuca rubra*) will be broadcast to secure short term cover. Sowing rates should be light such that Fescue does not form a competitive thatch that inhibits natural regeneration of native herbs.
 - Additional broadcasting of native seed harvested from site will also occur.
 - Consideration is being given to applying a spray on mulch to assist in protecting the soil until such time as grasses and native cover can be established.

Summary:

The protocol and prioritised soil conservation works are intended to prevent loss of soil from site and enable the successful revegetation of disturbed areas.

Soil erosion control measures additionally aim to avoid or minimise sedimentation of adjacent wetlands and tussock grasslands during and following earthworks.

Sean Dent

From: Geoff Deavoll <gdeavoll@doc.govt.nz>
Sent: Monday, 11 April 2016 4:04 p.m.
To: Sean Dent
Cc: John Roberts
Subject: RE: NZSki Limited - DP Review - Indigenous Vegetation

Hi Sean,

John has asked me to respond to your email from last week.

In principle the Department is not opposed to the relief sought in the NZ Ski submission regarding an exemption for indigenous vegetation clearance within ski field sub-zones located on land managed by the Department. We can agree to withdrawing the opposing further submission lodged by the Department on that matter.

I note that other ski field operators lodged submissions seeking similar exemptions where those fields were located on land leased from LINZ. The Department would not be comfortable with the same approach applying in those situations as DOC has limited input into those processes, has no decision making role and the CPL Act has a different focus when compared to the Conservation Act.

The Department will not be calling evidence on this submission, other than withdrawing the further submission, therefore NZ Ski will need to put the case to the hearing panel that the relief sought is appropriate in this case.

Regards

Geoff

Geoff Deavoll

Resource Management Planner - *Kai Whakamaherehere Penapena Rawa*
Planning, Permissions & Land
Department of Conservation - *Te Papa Atawhai*
72 Moorhouse Avenue, PO Box 4715, Christchurch 8140
DDI:03 371 3712 VPN:5412

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From: John Roberts
Sent: Friday, 8 April 2016 3:45 p.m.
To: Geoff Deavoll
Subject: FW: NZSki Limited - DP Review - Indigenous Vegetation

From: Sean Dent [<mailto:sean@southernplanning.co.nz>]
Sent: Friday, 8 April 2016 3:00 p.m.
To: John Roberts
Cc: Jayne Macdonald; Paul Anderson
Subject: NZSki Limited - DP Review - Indigenous Vegetation

Good Afternoon JR,

Thanks again for the time to discuss NZSki's position regarding the indigenous vegetation rules in the Proposed District Plan with both yourself and Jeff a few days back. My understanding was that while you and Jeff seemed fairly comfortable with the proposed rule we put forward in the submission made on NZSki's behalf you would give the matter some additional thought and internal discussion before coming back to me in due course as to whether the Department may be agreeable to a memorandum withdrawing their further submission in opposition.

I did not intend to 'chase' this matter up so soon but the Council has just released their reports for the rural hearing stream of the PDP and have also included the indigenous vegetation chapter. All expert evidence on these chapters needs to be pre-circulated by 21st April. Accordingly, if we cannot reach agreement with the Department then I need to brief our ecologist to prepare evidence fairly urgently. I would therefore be grateful if you could come back to me and confirm the Departments position on this matter.

If at all possible, could you come back to me on Monday next week? I will be in our Cromwell office that day so best to get me on my mobile if you wish to discuss further (021 946 955).

I will also send you a separate e-mail regarding the Skyline Enterprises Limited proposal as well.

Cheers

Sean Dent
Resource Management Consultant

T: +64 3 409 0140
F: +64 3 409 0145

M: +64 21 946 955

19 Man Street & 1 The Mall
Queenstown Cromwell

PO Box 1081
Queenstown 9348
New Zealand

www.southernplanning.co.nz



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