

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

IN THE MATTER of the Resource Management
Act 1991

AND

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

**REBUTTAL EVIDENCE OF KIM BANKS
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

PLANNING

20 April 2017

 **Simpson Grierson**
Barristers & Solicitors

S J Scott / H L Baillie
Telephone: +64-3-968 4018
Facsimile: +64-3-379 5023
Email: sarah.scott@simpsongrierson.com
PO Box 874
SOLICITORS
CHRISTCHURCH 8140

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1. INTRODUCTION

- 1.1 My full name is Kimberley Anne Banks. I am a Senior Planner and have been employed by the Queenstown Lakes District Council (**Council**) since 2015.
- 1.2 My qualifications and experience are set out in my first, strategic statement of evidence in chief dated 10 March 2017.
- 1.3 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise except where I state that I am relying on the evidence of another person. The Council, as my employer, has agreed for me to give expert evidence on its behalf in accordance with my duties under the Code of Conduct.
- 1.4 I refer to documents included in the Council's Bundle (**CB**) and Supplementary Bundle (**SB**).
- 1.5 All references to PDP provision numbers, are to the Council's Reply version of those provisions (unless otherwise stated).

2. SCOPE

- 2.1 My rebuttal evidence is provided in response to the following evidence filed on behalf of the listed submitters:
- (a) Mr Dent and Mr Skelton for NZSki Limited (**NZSki**, 572);
 - (b) Mr Brown and Mr Espie for Mount Cardrona Station Limited (**MCS**, 407); and
 - (c) Mr Ferguson for Soho Ski Area Limited and Blackmans Creek No. 1 LP (**Soho**, 610) and Treble Cone Investments Limited (**TCI**, 613).

2.2 I also confirm that I have read the following legal submissions and statements of evidence:

- (a) Legal Submissions by Mr Goldsmith for MCS (407);
- (b) Mr Darby for Soho (610) and TCI (613);
- (c) Mr McCrostie for Soho (610) and TCI (613); and
- (d) Ms Pfluger for Soho (610) and TCI (613).

2.3 **Appendix A** to this rebuttal evidence is a Section 32AA Evaluation of my recommended changes.

3. COMMON THEMES

Application of the landscape classifications to the Ski Area Sub Zones and Ski Area Activities

3.1 I wish to respond to the following matters raised in a number of briefs, in relation to the application of the landscape classifications and assessment matters to the Ski Area Sub Zones (**SASZ**), and reiterate / clarify Council's position:

- (a) Mr Espie¹ at paragraph 3.7 states:

Part 5.3.1.2 and Part 5.4.1(ii) of the ODP make it clear that the SASZs are excluded from the landscape categories that apply to the Rural General Zone, i.e. the areas of the SASZs are not part of the ONLs that surround them for planning purposes.

- (b) Mr Ferguson² at paragraphs 5.7 and 5.16 (respectively) states:

The ODP further states that "For the avoidance of doubt, Ski-Area Sub-Zones are excluded from the landscape classifications used in the Plan (ie: Outstanding Natural Landscapes (Wakatipu Basin), Outstanding Natural

¹ For Mount Cardrona Station Limited (407)

² For Soho Ski Area Limited (610) and Treble Cone Investments Limited (613)

Landscapes (District Wide) or Visual Amenity Landscapes".

The Council's position on the application of the landscape categories to the SASZs through the hearing on Stream 01B is unclear. Within the Council's right of reply to Chapter 6, it seeks to retain Policy 6.8.7.3 providing clear direction to exclude the SASZs from the landscape categories and full assessment of the landscape provisions. However, the proposed changes to Implementation Method 6.4.1.3 seeks to only exempt the SASZs from the landscape assessment matters, not the identified landscape categories and therefore the relevant objectives and policies.

- 3.2** The application of landscape classifications applying to Ski Area Activities (**SAA**) and the SASZ generally is discussed at paragraphs 11.7 to 11.14 of my first strategic statement of evidence,³ and in particular at paragraph 11.13.
- 3.3** Chapter 6 (Landscape) [**CB6**] contains the framework for the identification of landscape classifications (Outstanding Natural Feature (**ONF**), Outstanding Natural Landscape (**ONL**) and Rural Landscape (**RL**)). The rules and assessment matters relating to the three landscape classifications are in the Rural Zone (Chapter 21) [**CB15**].
- 3.4** Implementation Method 6.4.1.3 of Chapter 6 (Landscape) identifies how the landscape assessment matters (which are contained in Chapter 21) are applied, and this provision is replicated below.

6.4.1.3	<p>The landscape categories assessment matters apply only to the Rural Zone, and for clarification purposes do not apply to the following areas within the Rural Zones are not applicable to the following:</p> <ul style="list-style-type: none"> a. Ski Area Activities within the Ski Area Sub Zones. b. The area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps. c. The Gibbston Character Zone. d. The Rural Lifestyle Zone. e. The Rural Residential Zone.
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- 3.5** Implementation Method 6.4.1.3(a) states that the "landscape **assessment matters**" (emphasis added) apply only to the Rural Zone (which the SASZ sits within), but do not apply to SAA within the SASZ. The implementation method does not state that the **landscape classifications** do not apply within the SASZ. This means that the landscape classifications remain applicable within the SASZ, inclusive of SAA, as these classifications define matters identified within Section 6 (ONL, ONF) and Section 7 (RL) of the RMA, and specifically identified for management within the Rural Zone. These classifications have been purposefully identified irrespective of the SASZ, which is an overlay over the Rural Zoned land. This is the case under both the notified and right of reply versions of Chapter 6.
- 3.6** This implementation method does however also recognise the importance of the skiing and tourism activities undertaken in the SASZ to the District, through exempting SAA undertaken in the SASZ from the landscape **assessment matters**. As such, the landscape **assessment matters** do not apply to activities defined as SAA, and consequently this exemption is limited to those activities identified by Rule 21.4.18 and 'Table 7' of Chapter 21.
- 3.7** The SAA identified in Table 7 are either controlled or restricted discretionary activities, and contain matters of control or discretion relevant to amenity and landscape effects that can adequately manage the limited and defined umbrella of effects associated with these SAA activities that are anticipated and enabled within the SASZ.

- 3.8** It is not the intention for 'non-SAA' locating within the SASZ to also have the same benefit of such exemptions from landscape assessment matters, as landscape effects are also a relevant and important consideration for other activities that seek to locate within the SASZ. It is for this reason that the landscape classifications still apply over the land, in addition to the landscape assessment matters for any 'non-SAA'.
- 3.9** Examples include the potential for a mineral extraction activity or a renewable energy generation activity such as a wind farm. While such activities may not currently be contemplated by the ski operators, I do not consider it to be unreasonable that activities of a similar nature or scale may seek to locate in the SASZ. I also note that there is already a level of infrastructure in these areas such as access roads that could assist in the viability of alternative land uses establishing, and I consider that it would be a shortcoming of the PDP if the framework simply excluded this land from a landscape classification, irrespective of the type of activity that could be sought.
- 3.10** Both Mr Espie and Mr Ferguson refer to the ODP framework in the quotes from their evidence set out above in paragraph 3.1. I consider that it is a shortcoming of the ODP that it excludes (entirely) the landscape classification system over land within the SASZ, on the assumption that the only activities that could operate in the SASZ are SAA. The ODP does not prohibit non-SAA in the SASZ and therefore this planning framework has been revised and re-evaluated in the PDP.
- 3.11** It is also relevant to reiterate the position identified in paragraph 3.6 of the Council's closing legal submissions for the Resort Zones (Hearing Stream 9):

The landscape objectives and policies located in Chapter 6 will also be relevant to any non-complying or fully discretionary activity consent application, and to any restricted discretionary or controlled activity consent application where the same landscape matters are adequately covered in a matter of discretion or control.

3.12 I support this statement. In practical terms, this means that for SAA undertaken within the SASZ, because the landscape classifications remain applicable within the sub zone, the landscape objectives and policies of Chapter 6 can be considered in implementing the matters of control or discretion for SAA. The scope of their application to an assessment of environmental effects is however limited by the breadth of the relevant matter of control or discretion.

3.13 Lastly, it is worth reflecting on what could be the impact if the Panel were minded to accept the landscape classifications framework promoted by Messrs Espie and Ferguson (refer my paragraph 3.1). The rezonings proposed at Treble Cone and Cardrona extend to low elevations of the valley floor and cover significant land area. If the landscape classifications were completely excluded across this part of the Rural zone through a rezoning to SASZ, then no matters of control or discretion, nor relevant objectives and policies from Chapter 6, would apply to any SAA or non-SAA within these extended areas (which might also include mountain biking or commercial activities for example). The result would be a complete lack of landscape considerations applying to these extended areas, over large areas of the valley floor. I consider that due to their lower elevation and proximity to access and services, there is an even greater likelihood that non-SAA may seek to locate in these areas. This reinforces the reasoning behind the Council's position on this matter.

Enabling the provision of a gondola through the SASZ framework

3.14 Mr Ferguson (for Soho and Treble Cone) and Mr Brown (for MCS) have separately filed evidence in relation to the extension of the SASZs at Treble Cone and Cardrona. Each statement of evidence, although geographically distinct, discusses a common theme of seeking to extend the SASZ for the purpose of enabling a gondola alignment extending down to the valley floors. Although different planning methods are proposed to achieve this by each planning witness, I wish to respond to these matters together, and clarify the reasoning for my unchanged position on these rezoning proposals.

3.15 I note that Mr Brown has limited the scope of activities provided for in the rezoned area sought (between the ODP Mount Cardrona Station Special Zone (**MCSSZ**) and the notified PDP SASZ) to only enabling a gondola. Mr Ferguson has proposed a 'Passenger Lift Corridor Overlay' within defined land areas of the rezoning extent to enable this activity as a controlled activity.

3.16 Mr Brown at paragraph 2.12(c) states that:

*within the 400m gap of Rural Zone lying **outside** the SASZ between the MCSSZ and the SASZ, the system would be a **restricted discretionary activity**, and the landscape assessment matters (which apply in the Rural Zone and do not apply within the SASZ or the MCSSZ) would apply. Hence, the 400m gap would be subject to a significantly different planning regime than within the SASZ immediately to the west and the MCSSZ immediately to the east. (Mr Brown's emphasis)*

3.17 Mr Brown also identifies at his paragraph 2.13 that without the rezoning and Passenger Lift Corridor Overlay, it is likely that any consent application would be bundled such that the entire length of a gondola (including within the SASZ) would be subject to restricted discretionary activity status, given some of it would be located within the Rural zone.

3.18 In response to Mr Brown's evidence, firstly, I have previously clarified how the landscape assessment matters and classifications apply to SAA and the SASZ. As such, the view of Mr Brown (where he states that landscape assessment matters do not apply to the SASZ) is partly incorrect, as the landscape assessment matters do not apply to SAA within the SASZ, but would still apply to any other activity within the SASZ. Therefore whilst the passenger lift system (as a SAA) would be exempt from landscape assessment matters within the SASZ, the landscape classification of ONL would still apply along the entire length (including within the MCSSZ), in addition to the landscape objectives and policies as relevant to the matters of control for passenger lift systems that relate to landscape. The only distinction between the application of landscape provisions between

the Rural and SASZ, therefore, is that the gondola alignment within the SASZ would not be subject to the landscape assessment matters of Chapter 21.

3.19 Secondly, I accept and acknowledge the assessment that any consent application for a passenger lift system would likely be 'bundled' as restricted discretionary if it affects Rural land outside of the SASZ. However, it should be recognised that this process, and the controlled activity status identified for passenger lift systems within the SASZ, is also intended to enable smaller scale passenger lift systems such as chairlifts, t-bars and rope tows referred to in the definition, which are typical land uses within a ski area. In my view, it is appropriate for such smaller scale systems located at higher elevations (ie, within the notified SASZs) to be a controlled activity, where visual impacts can be partly mitigated through elevation and distance. However, the Council's restricted discretionary status for passenger lift systems outside of a SASZ recognises that for a gondola that extends through the Rural zone, greater consideration to effects is necessary because such infrastructure:

- (a) could span a significant distance and a large receiving environment could experience effects;
- (b) would extend to lower elevations of the valley;
- (c) entails a broader range of potential consequential environmental and operational effects such as greater levels of vehicle movements and parking demand, greater volumes of earthworks and large scale construction activity;
- (d) is of a scale that an inherent assumption for approval under a controlled status, and exclusion from landscape assessment matters is not appropriate; and
- (e) the Council's recommended SASZ framework does not anticipate or adequately manage the range of possible environmental effects and considerations that would otherwise be necessary through a resource consent.

3.20 This last point appears to be recognised by Mr Ferguson where he proposes a range of amended provisions, including a bespoke Passenger Lift Corridor for both Soho and Treble Cone ski areas to

provide for future lift systems to be located through the extended SASZs. At paragraphs 12.3 to 12.7 and 13.5 of my strategic statement of evidence I have discussed my view on the purpose and limitations of the SASZ (which I return to below).

3.21 Accordingly, I consider that for a gondola that crosses lower elevations, the restricted discretionary status already afforded by the Rural zone is more appropriate. If the effect of bundling would mean the entire gondola was restricted discretionary status including land within the SASZ, I also support that outcome. I note this outcome has been anticipated through the notified extent of the Rural zone and Chapter 21 provisions; and would enable a full and detailed assessment of this activity, including matters related to its location that may be affected not simply by the zoning of the land, but by geotechnical conditions, natural hazards and/or external considerations of the applicant outside of the PDP. I consider that the rezonings sought by submitters, with the aim of ensuring a controlled activity status and guaranteed approval along the entire alignment of the gondola (which would occur as a result of the extension to the SASZ), would inappropriately dictate the location and route before detailed analysis is undertaken, and enable the activity without appropriate consideration of its likely effects.

3.22 In principle, I consider that the application of zones or sub zones generally is warranted where a framework is necessary to manage or enable a range of known activities. I have acknowledged within my first strategic statement of evidence that the SASZ is not adequate to address this level of complexity; yet at the same time, I also do not consider a zone or sub-zone framework is an effective or efficient way of enabling a single item of linear infrastructure such as a gondola. I maintain my view that the Rural Zone, which enables a site and development specific assessment to be undertaken across the length of such infrastructure, is more appropriate than an extension to the SASZ.

Broadening the complexity and scope of the zone

3.23 At paragraphs 12.3 to 12.7 of my strategic statement of evidence I have discussed my view on the purpose and limitations of the SASZ framework, in addition to its foundation in enabling skiing and ancillary activities.

3.24 At his paragraph 7.3 Mr Ferguson (for Soho) states:

...the SASZ extension sought by Treble Cone and Soho extends beyond the average winter snow line and these extension areas are not thus designed to accommodate winter based recreation activity, including related development of ski trails, reservoirs or other ski field infrastructure.

3.25 Within this statement, Mr Ferguson identifies the inherent broadening of the SASZ as a result of the rezoning request, and as a result proposes a range of amended provisions to achieve this broadened offering, including a 'Ski Area Facilities Overlay' (to define the area and extent of buildings on the lower slopes) and a 'Passenger Lift Corridor' (as a basis for future lift systems to be located through the extended SASZs). Additional rules are proposed as the method of implementing this new overlay and lift corridor.

3.26 Similarly, Mr Brown (for MCS) at his paragraph 4.1 proposes the creation of an 'Area A' over the rezoning extent proposed by MCS at Cardrona to limit this area to supporting a gondola link. Mr Dent (for NZSki) also identifies a new 'sub-zone B' framework with bespoke rules and provisions to apply to the rezoning extent.

3.27 All of these approaches result in what is effectively an overlay or sub-zone, within a sub-zone, of a higher order zone. I consider this approach to be inefficient for plan administration, and contrary to the decision making principles outlined in my strategic statement of evidence⁴ and particularly with regard to maintaining the integrity and structure of the PDP. The extent of changes put forward by Mr Brown

4 In particular at paragraphs 13.4, and 13.10(l).

and Mr Ferguson are also contrary to the defined purpose of the SASZ and are otherwise suggestive of a more complex and detailed higher order zone.

Passenger lift systems and standards for buildings

3.28 Mr Brown for MCS states at his paragraph 2.9:

In my Chapter 21 evidence I also recommended that, in Table 3 of the Rural Zone provisions, passenger lift systems should be exempted from the standards for buildings (along with farm buildings which are exempted). This appears to have been overlooked by the Council as there is no record of consideration of it in Mr Barr's right of reply on Stream 2 topics. Without that exemption, the passenger lift system pylons would need to meet the 8m height standard or require restricted discretionary activity consent to breach this standard.

3.29 I agree with Mr Brown's view on this matter. As recommended, passenger lift systems, even where located in the SASZ are still required to comply with the general standards for the Rural Zone, where not specifically exempted. I consider it impractical for passenger lift systems to trigger a restricted discretionary non-compliance status under Rule 21.5.17, for pylons that are more than 8m, noting that these systems are a controlled activity within the SASZ. While the practical difference would be limited to passenger lift systems outside of the SASZ (which are restricted discretionary anyway), I consider it misleading to suggest that pylons of these systems are expected to comply with an 8m height limit. Therefore, I recommend the following exemption be added under Rule 21.5.17, however limited to pylons only and not passenger lift systems generally (which may involve other types of "buildings" that should be limited to the 8m height limit):

Except this rule shall not apply for passenger lift system pylons

3.30 I have undertaken a s32AA analysis for this change within **Appendix A**.

4. EVIDENCE SPECIFIC TO THE REMARKABLES SKI AREA SUB ZONE

Mr Dent for NZSki Limited (572)

Area 1: Remarkables Ski Area Extension

- 4.1 Mr Dent's evidence (for NZSki) at paragraph 25 is that activities such as snow grooming, avalanche control and skiing and boarding are defined as SAA and would consequently be non-complying outside of the SASZ. I have addressed this issue within my strategic statement of evidence at paragraphs 12.30 to 12.34 and my view has not changed, however this context is relevant to the discussion of Area 1 and no-build area extent below.
- 4.2 I note that the evidence of Mr Dent proposes to amend the scope of the rezoning sought to establish a 'building line restriction' which would prevent structures and earthworks within the sensitive area west of the Curvy Basin Chair Lift and within the Lake Alta Basin.
- 4.3 The rebuttal evidence of Ms Read has considered this proposed amendment and maintains that she opposes the entire extent of the rezoning sought by NZSki at the Remarkables. I accept the landscape assessment of Dr Read. However, my view as a planner upon review and balancing of other contributing factors, including the relevant planning and consenting framework, rezoning assessment principles, and geographic location of the zone proposed, is that I **support** this rezoning, subject to the area identified as a no-build zone being *entirely excluded* from the extended SASZ and therefore remaining Rural zone. The reasons for this are:
- (a) expansion of the ski area into the Doolans is anticipated and regulated through the Conservation Management Strategy, as discussed by Mr Dent at paragraphs 112 to 118. A concession assessment process would apply over this land and I understand this assessment process to be

comprehensive and guided by provisions in the Strategy, which aim to avoid, remedy or mitigate adverse effects;⁵

- (b) putting aside the issue of earthworks, which is a matter for Stage 2 of the PDP, the comparative difference between the underlying Rural zone and the SASZ as it relates to the construction of a chair lift across into the Doolans (referred to in paragraph 106 of Mr Dent's evidence) is either a restricted discretionary status under Rule 21.4.19, or a controlled status under Rule 21.5.28, respectively. Additionally, the landscape *assessment* matters would not apply to the rezoned land, however the landscape classifications remain applicable, in addition to the objectives and policies of Chapter 6 (as discussed above) as they are relevant to the matters of control; and
- (c) I consider the physical location of this extended SASZ and its relationship to established SAA to be consistent with the intended purpose of the SASZ, which is to enable the continued development of SAA.

4.4 With regard to excluding the area above Lake Alta identified by Mr Dent as a no-build zone, I consider it is unnecessary to include this area within the SASZ rezoning extent, because I maintain that activities such as avalanche control and snow grooming can be undertaken outside of the SASZ without consent obligations under the PDP. The protection of the important environmental, landscape and recreational features of this defined area would be more appropriate under the Rural zone and full consideration of Chapter 6.

4.5 I have undertaken a s32AA analysis for this recommendation, which is included within **Appendix A**.

5 Outlined in paragraphs 4.16 to 4.17 of my Strategic statement of evidence; and paragraphs 83 to 86 of the statement of evidence of Mr Dent.

Area 2: Proposed 'Ski Area Sub Zone B'

- 4.6** Firstly I wish to address new information that has been provided by Mr Skelton for NZSki relating to the ONL boundary. Mr Skelton holds a different view (compared to the notified PDP) as to the location of the division between the RL and ONL classifications on this land. I understand that the location of the line appears to be debated by Mr Skelton and the zone extent sought by NZSki has been reduced as a result. However, the submitter does not seek to amend the location of the ONL, and I note that there are no submissions seeking this change in any event.
- 4.7** Although the location of the ONL boundary can be a relevant consideration for ascertaining the boundaries of any zone, I consider it to be inappropriate to rely on this evidence to enable an exemption to landscape assessment matters (which would be the planning outcome through an extension of the SASZ and the restricted discretionary activity status framework proposed by NZSki) within a portion of this ONL, when this particular matter is not within the scope of any submission.
- 4.8** I have mentioned at paragraph 4.39 of my specific s42A report that it is unclear from the proposed 'Table 11' provisions provided with the NZSki submission whether the table functions as an activity table or a standards table. This matter is also not clarified in Mr Dent's evidence. For example, if Table 11 is an activity table, Rule 21.5.55 suggests that buildings of a size up to 300m² are a discretionary activity in all instances; however it is phrased as a type of permitted standard being a 'maximum' floor area; whereas proposed Rule 21.5.54 identifies buildings generally as a restricted discretionary activity. The two rules appear to be contradictory.
- 4.9** Mr Dent at paragraphs 154 to 160 discusses matters related to infrastructure and servicing, and access to the state highway. He correctly identifies that the land is not currently serviced and that there is no upper limit to the proposed density or capacity enabled by the proposed zone indicated within the submission or statement of evidence. I understand from the zone provisions provided by Mr Dent that the proposed 'sub zone B' provisions:

- (a) have no maximum height limit or density;
- (b) have no minimum lot size; and
- (c) enable buildings up to a maximum GFA of 300m² (NZ Ski proposed Rule 21.5.55).

4.10 While I acknowledge that Mr Dent is correct in that the proposed 'sub zone B' provisions appear to enable consideration of these matters at resource consent stage, I also note that this consideration is site specific only and I do not consider such an approach to be good resource management practice. This approach does not address wider effects on the network that may result as a consequence of the establishment of new services to this location, such as lifecycle and maintenance costs and possible flow on development which may occur from any new infrastructure. I do not consider it to be sound planning, to allow any land to be rezoned away from Rural, simply because the planning provisions allow consideration of infrastructure, servicing and traffic capacity and safety at the consent stage. The appropriateness of the potential effects of the rezoning, should be considered through this process.

4.11 Mr Dent's evidence also refers to commercial and residential or visitor accommodation activities, but does not specifically consider SAA in coming to his view that any potential adverse effects can be appropriately assessed at the time of resource consent.

4.12 Mr Glasner has provided a statement of evidence on behalf of the Council to address this particular matter. As discussed at paragraph 3.6 of his evidence, there is a lack of water and wastewater servicing in this location and council has no plans to extend water and wastewater servicing to this location, nor is there any project in the current Long Term Plan (**LTP**). Although the developer may fund the initial infrastructure and may later seek to connect to any Council reticulated services that had been extended to this area (noting that Council has no plans for any such extensions or connections, as stated in Mr Glasner's paragraphs 3.6 and 3.11), the on-going maintenance of such infrastructure would be borne by the Council. The provisions as proposed by NZSki would not enable Council to

recover the full costs of growth associated with the extension of services to this location, as under the Council's Development Contributions policy, since development contributions are not required within the Rural zone (under which the SASZ sits) for the three waters unless the particular area is supplied by a scheme, which is not the case.

4.13 Mr Glasner also notes at his paragraph 3.10 that it would be difficult for the site to connect to services at Hanley Downs, as the wastewater and water supply network is already fully allocated. Mr Glasner's evidence is that any services to this location would have to be provided on-site, which appears to be an option accepted by Mr Dent.

4.14 With regard to the New Zealand Transport Agency (**NZTA**), I understand the ability to consider access and transport effects exists where subdivision or new access onto the state highway is proposed. Whilst Mr Dent at his paragraph 155 notes that this access point already accommodates significant traffic numbers, his evidence does not mention safety considerations relating to the creation of what could be multiple new access points onto the Remarkables Ski Field Access Road, and subsequent effect on the intersection; or associated with sight lines or queueing that may be affected by the location of built form. Also, whilst the access point already exists, Mr Dent does not address possible NZTA views associated with intensifying land use through an existing access point onto the highway. I note that no specific traffic assessment or evidence has been provided by the submitter.

4.15 I accept that traffic, parking and access matters have been included as matters of control or discretion for commercial activities and residential/visitor accommodation within the proposed provisions. However, the submitter has not provided any evidence to suggest the intensification of this area in close proximity to the intersection as a whole, is appropriate from a transport perspective.

4.16 Lastly I wish to address the existing consented environment as Mr Dent states at his paragraphs 42 to 45 that he considers it to be of

relevance. Council's legal counsel has referred me to *Shotover Park Ltd v Queenstown Lakes District Council*⁶ where the High Court held that the "existing environment" as defined in *Queenstown Lakes District Council v Hawthorn Estate Ltd*⁷ (as it might be modified by permitted activities and by resource consents which have been granted where it appears likely that those consents will be implemented) does not apply to plan changes. The High Court held that *Hawthorn* was intended to involve a real world analysis for resource consent applications rather than applying to sections 31 and 32 of the RMA. I understand that this will be covered in Council's legal submissions.

- 4.17** Legal counsel has also referred me to the case of *A & A King Family Trust and Hamilton City Council*⁸ in which Judge Harland confirms that the permitted baseline is not a relevant consideration for a plan change appeal, and should not be used as a springboard for further activities. In that particular case, the existing consented environment was found to be comparatively minor to that which the plan change sought would have enabled.
- 4.18** Mr Dent at his paragraphs 42 to 45 refers to existing resource consents for a car park, port-a-com building, signage and chain hire, and outdoor storage within the rezoning extent. I note that the port-a-com authorised under RM170207 is of a minor scale (36m² and 2.8m high) compared to the scale of built form that could be enabled under the proposed provisions put forward by Mr Dent, which contains no density control or maximum height, and simply provides a standard of 300m² maximum building footprint (Proposed Rule 21.5.55). As such I consider that the land use and built form enabled under the proposed zone provisions is significantly greater than the consented environment.
- 4.19** In the *King Family Trust* decision, Judge Harland⁹ also discusses the relative importance of strategic objectives of the plan review¹⁰ and the

6 [2013] NZHC 1712.

7 [2006] NZRMA 424 (CA).

8 [2016] NZEnvC 229, at paragraph 78.

9 *Ibid*, at paragraph 11.

10 *Ibid*, at paragraphs 170 and 171.

need to consider the rezoning within its wider context.¹¹ I consider that this site specific rezoning proposal is at odds with Goal 3.2.5¹² of Strategic Directions (Chapter 3), and undermines a key goal of the review to reduce complexity and length of the PDP (discussed at paragraph 9.2 and 9.3 of my strategic s42A). I do not believe the proposed provisions provide certainty over the protection of ONL from "inappropriate development" (Goal 3.2.5, Strategic Direction Chapter 3 **[CB3]**) and so I consider that the Rural zone is more appropriate at balancing the competing interests and environmental objectives sought by Chapter 3.

4.20 I do not support rezoning of Area 2, for the reasons previously outlined in my specific s42A report, and also because:

- (a) I consider it to be inefficient to enable a zoning entitlement in which the scale and density is uncertain and largely unguided by the proposed provisions provided by Mr Dent;
- (b) there is a lack of information provided as to the mechanisms to provide water supply and wastewater services to this location;
- (c) the rebuttal evidence of Mr Glasner indicates that no services are planned to this location or identified within the Long Term Plan. It is inefficient and not integrated planning to extend the Council's water and wastewater networks further into currently zoned rural land outside of the urban limits, as this will result in increased operational, maintenance and renewal costs for the Council over the long term; and

¹¹ Ibid, at paragraph 176.

¹² "3.2.5 Goal - *Our distinctive landscapes are protected from inappropriate development.*"

- (d) the Rural zoning is more appropriate in ensuring the protection of the ONL from inappropriate development.

A handwritten signature in black ink, appearing to be 'Kim Banks', written in a cursive style.

Kim Banks

20 April 2017

Appendix A
Section 32AA Evaluation

Exemption for pylons of passenger lift systems for Rule 21.5.17 (Building height), as set out below:

21.5.17	<p>Building Height</p> <p>The maximum height shall be 8m.</p> <p>Discretion is restricted to all of the following:</p> <ul style="list-style-type: none"> • Rural Amenity and landscape character. • Privacy, outlook and amenity from adjoining properties. • Visual prominence from both public places and private locations. <p><u>Except this rule shall not apply for passenger lift system pylons</u></p>	RD
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Costs	Benefits	Effectiveness and efficiency
<p>Creates a bespoke exemption for pylons.</p> <p>Exclusion from Rule 21.5.17 results in no alternative upper height limit applying to pylons for passenger lift systems.</p>	<p>Consistent with exemptions provided under other standards of the Rural Zone for the ski area subzones (eg 21.5.16).</p> <p>Removes assumption that pylons for passenger lift systems are required to comply with an 8m height limit.</p> <p>Ensures passenger lift systems within the SASZ do not trigger a restricted discretionary non-compliance status where pylons are greater than 8m in height.</p> <p>Recommended amendment is limited to pylons for passenger lift systems only, to ensure other buildings ancillary to passenger lift systems remain subject to the 8m height limit.</p>	<p>The recommended change is considered to be effective through avoiding an incorrect interpretation that the intended height limits for pylons is 8m. The recommended change is efficient in supporting the approach to enable passenger lift systems and ancillary components within the SASZ as a controlled activity.</p>

Rezoning of the area identified as 'Proposed SASZ extension' as sought by NZSki (572) (boundary shown in thick red), but excluding 'Area A' identified as a 'no-building line' area (yellow area bounded in red), from Rural to Rural (Ski Area Sub Zone) within the Remarkables Conservation Area



Costs	Benefits	Effectiveness and efficiency
<p>Uncertainty surrounding the future regulation of earthworks in this location and risk of earthworks resulting in effects on the landscape values.</p> <p>Limits the extent of landscape matters that can be considered for SAA to the matters of control or discretion under 'Table 7' and the objectives and policies of Chapter 6 that are within the scope of these matters of control or discretion.</p> <p>May exacerbate existing constraints on access to the ski field through enabling greater intensification.</p>	<p>Excluding the 'no building line' area will ensure adequate protection of this sensitive landscape of the Lake Alta Basin, through ensuring full consideration to Chapter 6 and landscape assessment matters of Chapter 21.</p> <p>Supports Objective 3.2.1.4 and Policy 3.2.1.4.1 of the Strategic Direction Chapter to enable economic development and tourism where effects can be avoided, remedied or mitigated; in a location adjacent to which existing SAA already occur.</p> <p>Consistent with the purpose of the SASZ to</p>	<p>The SASZ would provide for development of the ski area, in a location in which such activities are considered appropriate and anticipated, and already occur on an informal basis. This supports Strategic Directions Objective 3.2.1.3.</p> <p>The ability to consider landscape effects for SAA is enabled through the provision of Table 7 and Chapter 6; in addition to any non-SAA which would be subject to the full suite of landscape considerations of Chapter 6 and Chapter 21, given the ONL landscape categorisation.</p>

	<p>enable the continued development of SAA, where the effects of the development are cumulatively minor.</p> <p>Provides certainty of regulatory approach for ski operators.</p> <p>Recognises the additional statutory protection and regulation over this land under the Conservation Act and Conservation Management Strategy.</p> <p>Recognises that the provisions of 'Table 7' of Chapter 21 for passenger lift systems contain adequate consideration to landscape matters and effects on ridges and skylines through matters of control under Rule 21.5.28; in addition to the ONL classification and consideration to the objectives and policies of Chapter 6.</p>	
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