

In the Environment Court of New Zealand  
Christchurch Registry

I Te Koti Taiao o Aotearoa  
Ōtautahi Rohe

**ENV-2018-CHC-**

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Under	the Resource Management Act 1991 ( <b>RMA</b> )
In the matter of	An appeal under clause 14(1) of Schedule 1 of the RMA in relation to the proposed Queenstown Lakes District Plan
Between	<b>Treble Cone investments Limited</b>
	Appellant
And	<b>Queenstown Lakes District Council</b>
	Respondent

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**Notice of Appeal**

19 June 2018

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**Appellant's solicitors:**

Maree Baker-Galloway | Rosie Hill  
Anderson Lloyd  
Level 2, 13 Camp Street, Queenstown 9300  
PO Box 201, Queenstown 9348  
DX Box ZP95010 Queenstown  
p + 64 3 450 0700 | f + 64 3 450 0799  
maree.baker-galloway@al.nz | rosie.hill@al.nz

**anderson  
lloyd.**

**To** The Registrar  
Environment Court  
Christchurch

- 1 Treble Cone Investments Limited (**Treble Cone**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Treble Cone made a submission (#613) and further submission (#1330) on the PDP.
- 3 Treble Cone is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Treble Cone received notice of the decision on 7 May 2018.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
  - (a) Chapter 3 Strategic Direction;
  - (b) Chapter 6 Landscapes;
  - (c) Chapter 21 Rural;
  - (d) Chapter 27 Subdivision;
  - (e) Chapter 33 Indigenous vegetation and Biodiversity;
  - (f) Planning Map 7 – SASZs rezoning.
- 7 Reasons for appeal and relief sought

### **Background**

- 8 TC own and operate the Treble Cone Ski Area. The ski area is located within Ski Area Sub Zone (SASZ) of the operative and Proposed Queenstown Lakes District Plans. Given the continued the historic use, investment and comprehensive ongoing use and management of the area as a world class ski and year round recreation destination, the provisions arising from the District Plan Review are critical to enabling the SASZ while ensuring activities and potential effects are managed appropriately.
- 9 The Treble Cone SASZ is located on east facing slopes below Treble Cone (alt. 2058m), approximately 23 km from Wanaka Township. Treble Cone is an established ski area accessed from the western side of Wanaka Mount Aspiring

Road and includes two main chair lifts located on the front side and in saddle basin. This site comprises the main ski area and a smaller parcel containing the Treble Cone Ski field access road. Both are leases from the Crown under s.83 of the Land Act.

- 10 The Treble Cone SASZ land is legally described, as follows:
  - Pt Runs 333A and Part Run 334B Motatapu SD, being 770 hectares in area and contained within Computer Interest Register OT8C/243; and
  - Section 1 SO Plan 23260 and Section 2 SO Plan 22995, being 35.1577 hectares in areas and contained within Computer Interest Register OT17C/552.
- 11 The level of current and planned investment in infrastructure as part of this SASZs is significant. It contributes to the range of outdoor recreation activities available within the District and enhancing its reputation as a major national and international tourist destination.

### **Chapter 3 Strategic Direction**

- 12 Chapter 3 provides for the overarching strategic direction for resource management in the Queenstown Lakes District. The nature of Chapter 3 applying as higher order provisions to all other provisions of the PDP means that Treble Cone interests are affected by Chapter 3.
- 13 Significant changes to content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. Treble Cone therefore considers that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.
- 14 Treble Cone opposes those provisions of Chapter 3 which do not provide for appropriate diversification of land uses (particularly in the Rural Zones and in chapter 6 Landscapes for ski area activities and recreation), and which do not provide sufficiently for the social, economic, and cultural wellbeing of people and communities.
- 15 The specific provisions of Chapter 3 and the relief sought by Treble Cone are set out in **Appendix A** to this Appeal.

### **Chapter 6 Landscapes**

- 16 Treble Cone opposes those policies relating to the preference for farming as the means to protect landscape values as these are disproportionately weighted towards the protection of agriculture and fail to provide for those rural landscapes where pastoral farming does not occur such as within the conservation estate or

other land held for recreation purposes including ski areas. Farming is one method for using rural resources productively, but its long term sustainability is uncertain particularly in this district, and there are other uses of rural land that are compatible with the protection of landscape values. Other natural factors, processes and human activities have shaped the landscape of the district in addition to farming.

- 17 Treble Cone opposes those landscape provisions which establish a more than minor threshold or transience of effects into the determination of what is appropriate development in a landscape. This is a higher standard than that which is provided for in section 6(b) of the Act and is unjustified where the legislature has provided that such landscapes are only required to be protected from 'inappropriate' development. What is appropriate or inappropriate in a particular landscape, and based on a particular proposal may be a broader question than simply a more than minor effects assessment.
- 18 Treble Cone considers that the PDP is fundamentally flawed in recognising that over 97% of the District is classified as a section 6(b) landscape and requests that landscape mapping be undertaken from a first principles landscape basis, applying the criterion that such landscapes to qualify must be 'outstanding or preeminent within the District'.
- 19 The specific provisions of Chapter 6 and the relief sought by Treble Cone are set out in **Appendix A** to this Appeal.

## **Chapter 21 Rural**

- 20 Specific amendments are sought to ski area provisions within the Rural Zone to provide for their ongoing viability and recognised benefits to tourism and recreation within the District. Amendments are sought to provisions to enable and encourage ongoing road access to the SASZs and connections to the wider District road network. Ski areas are currently reliant on roads as the primary access to ski fields (although provision should also be made for future access through gondola and other access options).
- 21 The default activity status for ski area activities outside of SASZs should be amended from non-complying to discretionary as there is an interconnection between development of SASZs which is enabled and recognised in Chapter 21, and adjacent rural land (which is usually identified as ONL). There is no justification for a non-complying activity status in adjacent rural zones where the development enhances and is connected to the Ski Area Subzone.
- 22 The definition of Passenger Lift System specifically excludes base and terminal buildings. Any application for a gondola for example will include the base and terminal building attached to the gondola and associated bundling would render

the entire gondola non-complying, rather than restricted discretionary. This renders the restricted discretionary provisions for gondola outside of SASZ redundant (21.4.25). The status of non-complying for these specific buildings is also more stringent than the status of any other buildings in the Rural zone, with no justification. There is no scope to specify that base or terminal buildings of a gondola outside SASZ is non-complying

- 23 The specific provisions of Chapter 21 and the relief sought by Treble Cone are set out in **Appendix A** to this Appeal.

#### **Chapter 27 Subdivision**

- 24 New provisions are sought to enable subdivision within the SASZs through a Landscape and Ecological Management Plan as a condition of consent so as to provide for appropriate subdivision and development in combination with positive ecological and landscape outcomes.
- 25 Subdivision in SASZs is sought to be included in the list of recognised non-notified subdivision activities in Chapter 27, given the strategic importance of SASZs and their ongoing viability to recreation and tourism in the District.
- 26 The specific provisions of Chapter 27 and the relief sought by Treble Cone are set out in **Appendix A** to this Appeal.

#### **Chapter 33 Indigenous Vegetation and Biodiversity**

- 27 The Appellant seeks to ensure policy support is included for the ability to undertake indigenous vegetation clearance related to ski area activities located within SASZs. The enablement of such clearance is critical to the ongoing enhancement and upgrade of SASZs, which benefits the strategic importance of recreation and tourism in the District.
- 28 New provisions are sought to provide for indigenous vegetation clearance undertaken in association with a ski area activity within a SASZ. This is aimed at those SASZs not located on land administered by DoC covered under the new Permitted Activity Rule 33.4.5.
- 29 The specific provisions of Chapter 33 and the relief sought by Treble Cone are set out in **Appendix A** to this Appeal.

#### **Planning Map 7 – rezoning**

- 30 By way of alternative relief to the provisions as set out in this Appeal, Treble seeks an extension to the treble Cone SASZ as generally indicated in the Treble Cone PDP submission attached as **Appendix B**. Treble Cone may seek to amend the location and extend of this proposed rezoning in the course of any

hearing so as to better provide for the purpose of SASZ and relevant higher order provisions of the PDP.

**Further and consequential relief sought**

31 Treble Cone opposes any alternative provisions contrary to the outcomes sought above, and seeks alternative, consequential, or necessary additional relief to that set out in this appeal and to give effect to the matters raised generally in this appeal and Treble Cone's PDP submissions.

**Attachments**

The following documents are **attached** to this notice:

**Appendix A** – relief sought

**Appendix B** - A copy of the Appellant's submission and further submissions;

**Appendix C** - A copy of the relevant parts of the decision; and

**Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 19<sup>th</sup> day of June 2018



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Maree Baker-Galloway/Rosie Hill  
Counsel for the Appellant

### **Address for service of the Appellants**

Anderson Lloyd

Level 2, 13 Camp Street

PO Box 201

Queenstown 9300

Phone: 03 450 0700 Fax: 03 450 0799

Email: maree.baker-galloway@al.nz | rosie.hill@al.nz

Contact persons: Maree Baker-Galloway | Rosie Hill

### **Advice to recipients of copy of notice of appeal**

#### **How to become party to proceedings**

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the Appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

#### **Advice**

If you have any questions about this notice, contact the Environment Court in Christchurch.