

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

IN THE MATTER of the Resource Management Act 1991
(**RMA**)

AND

IN THE MATTER of a further submission to the Stage 1
Proposed Queenstown Lakes District Plan
by ZJV (NZ) Limited (**Further Submission
1370.1**)

SUMMARY OF LEGAL SUBMISSIONS FOR ZJV (NZ) LIMITED

**HEARING TOIC 13 – QUEENSTOWN MAPPING
Stream 1A – Queenstown Business and Industrial**

9 June 2017

**BROOKFIELDS
LAWYERS**

J D Young / R S Ward
Telephone No. 09 979 2155

P O Box 240
DX CP24134
AUCKLAND

MAY IT PLEASE THE PANEL:

1. INTRODUCTION

- 1.1 ZJV (NZ) Limited, trading as Ziptrek Ecotours (**Ziptrek**) filed a further submission (1370) on the Proposed Queenstown Lakes District Plan (**PDP**), opposing submission 574 lodged by Skyline Enterprises Limited (**Skyline**).
- 1.2 In summary, Ziptrek opposes the liberal controls and the specific area of coverage of the proposed Commercial Tourism and Recreation Sub-zone (**CTR Sub-zone**).
- 1.3 The CTR Sub-zone, as currently proposed by Skyline, will not assist the Queenstown Lakes District Council (**QLDC**) in carrying out its functions to achieve the purpose of the RMA, is inconsistent with Part 2 of the RMA, and is not the most appropriate way to achieve the objectives of the PDP.

2. SUBMISSION 574

- 2.1 Skyline's submission 574 seeks the establishment of a new CTR Sub-zone, which it proposes would encompass the facilities operated by Skyline on Bob's Peak (and in areas would extend further than Skyline operations). As discussed in the planning evidence of Jeffrey Brown on behalf of Ziptrek, this area is zoned Rural in the PDP, is an Outstanding Natural Landscape (**ONL**), is within two designated recreation reserves and is within the jurisdiction of the Ben Lomond and Queenstown Hill Reserve Management Plan 2005 (**RMP**).
- 2.2 The proposed CTR Sub-zone introduces liberal activity status controls for the future development of commercial tourism operations, increases noise controls and excludes landscape categories in the District Plan from applying.

3. LEGAL FRAMEWORK

3.1 The broad legal framework against which the Panel must evaluate a proposed plan and submissions on it was summarised in **A & A King Family Trust v Hamilton City Council**¹. When examining a provision under the RMA the Panel must consider:

- (a) Whether it will assist the QLDC carrying out its functions in order to achieve the purpose of the RMA;
- (b) Whether it is in accordance with Part 2 of the RMA;
- (c) In regards to a rule, whether it achieves the objectives and implements the policies of the plan;
- (d) Whether the provisions are the most efficient and effective way to achieve the objectives of the proposed plan, having regard to the benefits, the costs and the risks of not acting.

3.2 In addition, the Council is required to have regard to the RMP when preparing its district plan under section 74(2)(b)(i) of the RMA.

4. ASSESSMENT

4.1 Skyline's submission 574 states that the CTR Sub-zone would recognise and enable the continued development of commercial tourism and recreation in the Bob's Peak area, and that the potential adverse effects of such future development will be cumulatively minor. We disagree that it is possible to make such a conclusion at this point, based on the broad liberal provisions and lack of specificity contained in the proposed sub-zone.

4.2 In our submission the proposed CTR Sub-zone provisions:

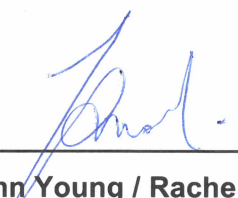
- (a) Do not promote sustainable management under section 5 of the RMA;

¹ [2016] NZEnvC 229 at [10].

- (b) Are inconsistent with section 6 of the RMA, most notably subsection (b) relating to the protection of ONLs from inappropriate use and development;
- (c) Are inconsistent with section 7 of the RMA;
- (d) Are inconsistent with the RMP, and therefore risk being inconsistent with section 74(2)(b)(i) of the RMA;
- (e) Will not assist the QLDC in carrying out its functions to achieve the purpose of the RMA, most significantly because of the reduced control the QLDC will have over protection of the reserve within the sub-zone; and
- (f) Are not the most efficient and effective way to achieve the purpose of the proposed plan.

4.3 While Ziptrek accepts that the environment of the Bob's Peak area has been altered by commercial tourism activities, the scale of development proposed by the CTR Sub-zone is far greater than that envisaged by the RMP, or indeed in our submission, any public reserve under the Reserves Act 1977.

Dated: 9 June 2017



John Young / Rachel Ward
Counsel for ZJV (NZ) Limited