

# QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on the Proposed District Plan

Report 15

Report and Recommendations of Independent Commissioners Regarding  
Ski Area Sub-Zones

Commissioners

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## PART A: INTRODUCTORY MATTERS

### 1. PRELIMINARY MATTERS

#### 1.1. Terminology in this Report

1. Throughout this report, we use the following abbreviations:

CARL	Cardrona Alpine Resort Limited
Council	Queenstown Lakes District Council
MCSL	Mt Cardrona Station Ltd
ODP	the Operative District Plan for the Queenstown Lakes District as at the date of this report
ONF	Outstanding Natural Feature(s)
ONL	Outstanding Natural Landscape(s)
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
PLS	Passenger Lift Systems
Proposed RPS	the Proposed Regional Policy Statement for the Otago Region Decisions Version dated 1 October 2016
RCL	Rural Character Landscape
RPS	the Operative Regional Policy Statement for the Otago Region dated October 1998
Rural Chapter	Chapters 21, of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
SAA	Ski Area Activities
SASZ	Ski Zone Sub Areas
Soho	Soho Ski Area and Blackmans Creek No 1LP
TCI	Treble Cone Investments Ltd

#### 1.2. Topics Considered

2. The subject matter of this hearing was the submissions and further submissions made on the Ski Area Sub Zone (SASZ) as applied on the Planning Maps (Hearing Stream 11). The SASZ are a sub zone of the Rural Zone, and, as often happens when considering the application of zones (or subzones), some fine-tuning of the text provisions were also at issue.

3. This SASZ report addresses the Panel's recommendation on those submissions seeking changes to the spatial extent of the SASZ as well as some of the SASZ provisions. The SASZ provisions were addressed at the Rural hearing, however as part of the SASZ hearings some submitters sought amendments to the SASZ provisions as alternative options to address their concerns. These included:
  - a. not extending the Sub-Zone but to the changing the activity status of PLS's outside of a SASZ;
  - b. extending the Sub-Zone, but imposing other more restrictive controls such as no build or earthworks areas; and
  - c. seeking greater clarity about what activities were permitted (e.g. avalanche control and snow grooming outside of SASZs).
4. Where we have found it appropriate to recommend amendments to the SASZ provisions in Chapter 21, our recommendations have been incorporated into Chapter 21 as recommended in Report 4A.

### 1.3. Hearing Arrangements

5. Stream 11 - SASZ hearings were heard on 8-10 May 2017 inclusive in Queenstown.
6. The parties we heard from were:

#### **Council**

- Sarah Scott (Counsel)
- Marion Read
- Glenn Davis
- Kelvin Lloyd
- Kim Banks
- Ulrich Glasner

#### **NZ Ski Limited<sup>1</sup>**

- Jane Macdonald (Counsel)
- Sean Dent
- Stephen Skelton

#### **Soho Ski Area and Blackmans Creek No 1LP (Soho)<sup>2</sup>, and Treble Cone Investments Ltd (TCI)<sup>3</sup>**

- Maree Baker- Galloway (Counsel)
- John Darby
- Hamish McCrostie
- Yvonne Pflüger
- Chris Ferguson

#### **Cardrona Alpine Resort Limited (CARL)<sup>4</sup>**

- Erik Barnes
- John Edmonds

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<sup>1</sup> Submission 572 and FS1229

<sup>2</sup> Submission 610 and FS1329

<sup>3</sup> Submission 613 and FS1330

<sup>4</sup> Submission 615

#### **Mt Cardrona Station Ltd (MCSL)<sup>5</sup>**

- Warwick Goldsmith (Counsel)
- Ben Espie
- Jeff Brown

#### **1.4. Procedural Issues**

7. The hearings proceeded on the basis of the pre-hearing directions made via minutes issued by the Chair in November 2016<sup>6</sup> and January 2017<sup>7</sup>.
8. On 2 February 2017 CARL was granted a hearing time after a late request was received. QPL was granted leave to present its submission concerning the Remarkables SASZ as part of the Queenstown Mapping hearings (Stream 13).
9. While MCSL appeared and presented legal submissions and evidence, this case was withdrawn in January 2018 and is therefore discussed no further<sup>8</sup>.
10. No other procedural issues arose during this hearing stream.

#### **1.5. Other Relevant Reports**

11. This report needs to be read in conjunction with a number of other reports, in particular:
  - a. Report 1 which sets out the Panel's general approach on statutory matters;
  - b. Report 4A relating to Chapter 21, Chapter 22, Chapter 23, Chapter 33 and Chapter 34. The relevant portions of that report are those relating to Chapter 21 - Rural. That report sets out the recommendations in relation to the Rural Zone provisions (Chapter 21) which include the objectives, policies and rules relating to the SASZs.
  - c. Report 3 relating to Chapter 3, Chapter 4 and Chapter 6. The relevant portions of that report are those relating to Chapter 3 - Strategic Directions and Chapter 6 - Landscape.
12. The references made to those reports in the following sections of this report are either to highlight matters of particular relevance or to avoid unnecessary duplication.
13. The reports listed above along with the recommended revised provisions address some of the overarching provisions of the PDP, and include those relating to economic development, recreational values, and protecting Queenstown's outstanding landscapes and features from the adverse effects of subdivision, use and development. They either apply across the entire District or are directly relevant to the SASZ provisions
14. As already mentioned the SASZs are a sub zone of the Rural Zone in the PDP. The relevant SASZ objectives, policies and rules 'reside' in the Rural section of the PDP, and hence the relevance of Report 4A.

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<sup>5</sup> Submission 407 and FS1153

<sup>6</sup> Minute Requesting Indication of Hearing Time Requirements issued 7 November 2016

<sup>7</sup> Sixth Procedural Minute issued 23 January 2017

<sup>8</sup> Memorandum of Counsel in Response to Minute Concerning Status of PLS Corridor, Mt Cardrona Station Ltd, dated 19 January 2018

1.6. Sections 32 and 32AA

15. Report 1 - Introduction - has set out the Panel's approach to section 32 and 32AA of the RMA. It states<sup>9</sup>:

46 *It is also noted that in discussing the section(s) as a whole and in considering each objective, policy and rule, the Hearing Panel's has in each case considered the provisions of the PDP in terms of section 32 of the Act. Where amendments are recommended, these have been specifically considered in terms of the obligation arising under s32AA of the Act to undertake a further evaluation of the recommended changes.*

47 *The approach taken in all of the reports in relation to sections 32 and 32AA is as follows:*

- a. *There is no separate s.32 evaluation document;*
- b. *There is no tabulated s.32 (or s.32AA) evaluation within the recommendation reports;*
- c. *Section 32 and s.32AA evaluation is contained within the discussion leading to our recommendations.*

16. We have taken the same approach in this report. Accordingly, we record that in our substantive consideration of the SASZ submissions, where we have recommended changes to the notified version of the rural provisions as they affect SASZs, our recommendations reflect an evaluation of our recommended changes in terms of section 32(1) – (4) and section 32AA. We also record that the detail in which the recommended changes have been considered reflects the scale and significance of the recommended change.

1.7. Overview of the SASZs

17. Particular zones in the PDP provide for specific issues or activities important to the social, cultural or economic wellbeing of the District. A number of zones have overlays or sub zones within them that either provide an alternative regulatory framework to enable specific activities or identify additional constraints. The SASZ in the Rural Zone is an example of the sub zone approach.

18. The SASZ provides an alternative regulatory framework to enable Ski Area Activities (SAA) to occur in defined locations. It also provides for some other activities via a consenting approach that, while providing for the economic benefits of tourism/recreational activities, also addresses environmental considerations. In summary, this approach enables SAA's to occur in the defined SASZ via a permitted or less restrictive consenting (generally controlled) framework than that applying to the underlying Rural Zone.

19. Report 4A has set out specific recommended changes to the SASZ's including their purpose, objectives, policies, rules and some definitions. The reports (and in some cases the recommended changes) on the Strategic Directions Chapter (3) and the Landscape Chapter (6) are also highly relevant to the context of how we have addressed the submissions on the specific SASZ's; their spatial extent as well as amended provisions to enable or provide for the SASZ's to function more efficiently. We address the 'higher order' strategic issues briefly below as part of the context for our recommendations on the specific submissions

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<sup>9</sup> Para 46 and 47

20. The Strategic Direction Chapter (Chapter 3) sets the overarching direction for the management of growth, land use and development in a manner that ensures sustainable and integrated management of the District's environment (including its landscapes), while providing for social, economic and cultural wellbeing. The Chapter 3 recommendation report set out that tourism plays a key economic role in the District's economy (highly relevant to the SASZ), but that this had not been sufficiently recognised. A new objective and policy have been recommended to more explicitly recognise the benefits of tourism activity to the District's economy. They are:

Objective -3.2.1.1

*The significant socioeconomic benefits of well designed and appropriately located visitor industry facilities and services are realised across the District.*

Policy 3.3.21

*Recognise that commercial recreation and tourism related activities seeking to locate within the Rural Zone may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values.*

21. While the provisions more explicitly recognise the role of tourism, the recommended Policy is that commercial recreation and tourism related activities should only occur where they would "protect, maintain or enhance landscape quality, character and visual amenity values". This is clearly important as much of the District's tourism is outdoors and recreational based, with a significant proportion of this being skiing/snowboarding related within outstanding natural landscapes. Protecting these landscapes while enabling SAA activities is critical to the 'tourism experience'.

22. Furthermore section 3.2.5 of the recommended version of Chapter 3 addresses the retention of the District's distinctive landscapes. It sets out the following policy at 3.2.5.1:

*The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.*

23. The policies which address this objective are located in Chapter 6 - Landscapes. Chapter 6 identifies the regulatory framework for the management of the District's natural features and landscapes, and implements Part 2 and in particular s6(b) of the RMA. The chapter sets out the relevant policies recognising that landscapes are a significant resource to the District and Region.

24. Recommended Policy 6.3.11 in Chapter 6 under the heading "Managing Activities in Outstanding Natural Landscapes and on Outstanding Natural Features" states:

*Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site the subject of application.*

25. However, also important with reference to SASZs, a policy (6.3.1) has been included which excludes the identified SASZs from being identified as an Outstanding Natural Feature(ONF), an area of Outstanding Natural Landscape (ONL) or Rural Character Landscape (RCL).It states: *Exclude identified Ski Area Sub Zones and the area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps from the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories applied to the balance of the Rural Zone and from the policies of this chapter related to those categories.*<sup>10</sup>
26. It is within the 'policy context' set out above that we have addressed submissions seeking either an extension to the SASZ or some be-spoke provisions sought to support the functioning of an SASZ and SAA's within in or outside of SASZs.
27. All of the spatial changes sought to the SASZ's by submitters (or their modified relief) were in areas identified as ONLs with one exception. NZSki's proposed Area B on the lower slopes at the Remarkables was covered by both ONL and RCL.
28. Given the significance of the landscape values and that their protection from inappropriate subdivision, use and development is a section 6 matter, and the landscape protection provisions in the PDP, we have carefully considered the changes sought by submitters in relation to the ONL and RCL's and what impact the submissions requests may have.
29. The purpose and regulatory framework applicable to SASZs are contained in Chapter 21 (Rural Zone). At a broad level, the activities anticipated within the SASZ are indicated within the zone purpose, in addition to the uses encompassed within the definition of "Ski Area Activities" (SAA). Also, Table 9 (Activities within the Ski Area Sub-Zone) of Chapter 21 contains the primary rule framework for activities that are anticipated and enabled within the Sub-Zone and within the definition of "SAA".
30. The purpose of the SASZ in the notified version of the PDP was to enable continued development of skiing, and activities ancillary to skiing, recognising the importance of these activities to the District's economy. The section 32 report for the Rural Zone (at page 20) identified that the notified provisions were intended to reinforce and encourage SAAs within the identified sub zones. The notified PDP made no substantial changes to the provisions in the ODP; and no zone extensions were made.
31. Activities falling within the scope of the definition of SAA were generally permitted within the SASZs. This was to recognise that these activities were anticipated within the sub-zone, and should be enabled without consent.
32. In the hearing on the text of Chapter 21 relating to the SASZs, a key matter discussed was broadening the purpose statement to reflect the diversifying of SASZs into 'year-round' commercial recreation facilities. This was to recognise the wider range of recreational activities other than snow skiing and boarding that currently occur in these locations (such as mountain biking, hiking, and paragliding).

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<sup>10</sup> We note that this incorporates notified Policy 6.3.8.3 which read: *Exclude identified Ski Area Sub Zones from the landscape categories and full assessment of the landscape provisions while controlling the impact of ski field structures and activities on the wider environment.*

33. The Hearing Stream 2 Panel has recommended in Report 4A to amend the zone purpose to include reference to year round tourism and recreational activities as set out below:

*21.1 Zone Purpose*

...

*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 development of Ski Area as year round destinations for ski area, tourism and recreational activities within the identified sub zones where the effects of the development are cumulatively minor.*

34. This broadening of the zone purpose is important as it changes the focus of the SASZ's and SAA's from only 'traditional' winter ski activities to year round tourism and recreational activities. This is also important from our point of view, in section 32 and 32AA terms, in relation to the appropriateness of some of the re-zoning requests given submitters seeking significant changes to the activities enabled with the SASZ's. The two most significant are explicitly providing for "Ski Area Sub Zone accommodation" (for workers and tourist) and for "Passenger Lift Systems". The Stream 2 Panel addressed these matters, but they were also raised in the SASZ hearings.
35. In relation to "SASZ Accommodation" the Stream 2 Panel recommendation is to provide for this within the SASZ as a Restricted Discretionary Activity (RDA) with a new policy to support its provision as well as a definition. This matter is not addressed further in this report
36. With respect to of Passenger Lift Systems (PLS), there is extensive coverage of this matter in the Report 4A. In summary the changes recommended are:
- a. a new policy to provide for provision of alternative (non-road) transport to and within SASZ (recommended Policy 21.2.6.4);
  - b. Specifying PLSs located inside SASZ as controlled activities (recommended Rule 21.12.3).
37. Based on the evidence heard in Stream 2 and the additional evidence we heard, has led the Panel to recommend that such activities be a restricted discretionary activity.
38. Given most of the SASZ submissions were concerned about the provisions of PLS, we have addressed this matter in some detail later in this report when addressing each submitter's requests.
39. We have considered the submitters' requests to expand the zones, provide for access provisions, or other provisions in the zone through the SASZ hearings in light of the significant change to the purpose of the Sub-Zone as well as the other changes to the activities and their activity status within the SASZs.

**1.8. Variation 2**

40. As notified, the SASZ provisions were generally exempt from the earthworks provisions. Table 7 - Standards for Ski Area Activities within the Ski Area Sub Zones specified at Rule 21.5.27 that construction, relocation, addition or alteration of a building was a controlled activity, with control reserved to include (amongst other matters) "*Associated earthworks, access and landscaping*". No other rules (relating to PLS) had earthworks as a matter of control or discretion.

41. Ms Banks, in her first Section 42A Report, set out at Section 5 that Plan Change 49 (Earthworks) was made operative on 29 April 2016 and replaced Chapter 22 of the ODP. Chapter 22 of the ODP only applies to Volume B of the District Plan, and not to Volume A land, which includes the SASZs.
42. Ms Banks set out that Rule 22.3.2.1(c) of the ODP exempted SASZs from the provisions of Chapter 22, and that any scale and location of earthworks could therefore be undertaken within the SASZ as a permitted activity, with no related performance standards. It is understood that this rule was carried over into PC49 from a previous rule contained within the
43. Rural General Zone, which also provided a blanket exemption for earthworks in the SASZ.
44. Ms Banks also set out in her report<sup>11</sup> that
- "Whilst there are currently no equivalent earthworks rules in the PDP, the possible scenario that earthworks may be exempt in the SASZs of the PDP has been considered within my analysis of submissions and recommendations made in my second statement of evidence" and "I note that while this status under the ODP can be considered as a comparison, I acknowledge that the future rule framework applicable to earthworks in the SASZ is at the time of writing this evidence, uncertain. However, I also consider that this has been an entitlement provided under the SASZ for some time under the ODP (prior to PC49) and it is reasonable to assume it may be carried over to the notified PDP SASZs in Stage 2".*
45. The QLDC has now notified Variation 2 and this includes "District Wide Chapter 25 - Earthworks", which, to a limited extent applies to the SASZ provisions. In this variation, Rule 25.3.4.2 Earthworks for Ski Area Activities within the Ski Area Sub Zones and vehicle testing facilities within the Wairau Ski Area Sub Zone are exempt from the earthworks rules, with the exception of the following rules that apply:
- a. Rules 25.5.12 to 25.5.14 that control erosion and sediment, deposition of material on Roads and dust;
  - b. Rule 25.5.20 setbacks from waterbodies; and
  - c. Rule 21.5.21 exposing groundwater
46. As it is proposed that the PDP control some aspects of earthworks in SASZs, we consider it appropriate when considering applications for PLSs to enable consideration of the proposed Chapter 25 provisions. We note that the earthworks variation is at an early stage (and that these rules may be the subject of submissions and may not be retained in their notified form depending on the decisions made by the Council). In our view, any reference to earthworks, as a matter of control or discretion (for controlled or restricted discretionary activities) in the SASZ, needs to be referenced to the provisions of Chapter 25.
47. For these reasons, we recommend that recommended Rule 21.12.3 contain, as a matter of control:
- "The extent of any earthworks required to construct the passenger lift system, in terms of the limitations set out in Chapter 25 Earthworks."*
48. This amendment has been included in Appendix 1 of Report 4A.

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<sup>11</sup> At paragraphs 5.4 and 5.5

49. We come to a similar conclusion in recommending provisions for PLSs as a restricted discretionary activity as discussed below in relation to the TCI submission.

#### 1.9. Existing Environment

50. All of the legal counsel who presented submissions at the hearing raised the issue of the "existing environment". This was extensively canvassed during the hearing and a number of case law decisions were tabled and discussed. The main cases included:

- a. *Queenstown Lakes District Council v Hawthorn Estate Limited* [2006] NZRMA 424
- b. *Shotover Park Limited and Remarkables Park Limited v Queenstown Lakes District Council* [2013] NZHC 1712
- c. *A & A King Family Trust v Hamilton City Council* [2016] NZEnvC 229

51. The issue of the existing environment was particularly relevant as the Council's experts, in their evidence (notably Dr Read - landscape and Ms Banks- planning), questioned whether unimplemented resource consents, particularly their effects on the ONLs, could or should be taken into account when determining the appropriateness of expanding the SASZs or enabling further development.

52. The submitters considered that this was a highly relevant and a significant issue. Much of their evidence was based on the existing actual modified environment and that which could be modified by consented, but unimplemented, resource consents. We address our findings in relation to matter below.

53. The Council is required, in making a district plan rule under section 76(3) of the RMA, to have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect. When reviewing legal submissions and the evidence it became apparent that what constituted the "environment", especially given all the extensions sought to the SASZ's were all within or partly within areas identified in the PDP as ONLs, was what existed as well as that consented and likely to be implemented.

54. Having heard from legal counsel, the only difference between the Council's counsel and submitters' counsel was that the Council's position was it was discretionary and not mandatory to consider those unimplemented resource consents; whereas the submitters' counsel considered it mandatory. All agreed that in considering unimplemented resource consents as part of the environment, it was relevant to determine if those consents were "likely" to be implemented.

55. We find that it is not necessary to determine if consideration of those consents was mandatory or not. This is because we have considered, irrespective of this, that it is appropriate to consider those unimplemented resource consents as part of environment (or the environment that would exist if they were implemented).

56. As a result, the issues we have focused on are: the likelihood of those consents being implemented, something Mr Goldsmith for MCSL and Ms Baker- Galloway for Soho and TCI, strongly emphasised; and what those consents enabled in terms of the impact on the environment. We record that this has been an important issue for us in determining to essentially recommend the relief sought by TCI and to a degree NZSki's extension above Lake Alta. This is addressed in more detail below.

## PART B: SPECIFIC SUBMISSIONS

57. We now turn to the specific submissions seeking extensions to, or changes to, the SASZ or their provisions. We address them in the following order:
- a. NZSki Limited (Coronet Peak)
  - b. *Cardrona* Alpine Resort Limited,
  - c. *Andersons* Branch Creek Limited,
  - d. NZSki Limited (Remarkables),
  - e. *Soho* Ski Area Limited and Blackmans Creek No. 1 LP,
  - f. *Treble* Cone Investments Limited.

## 2. NZSKI - CORONET PEAK – SUBMISSION 572

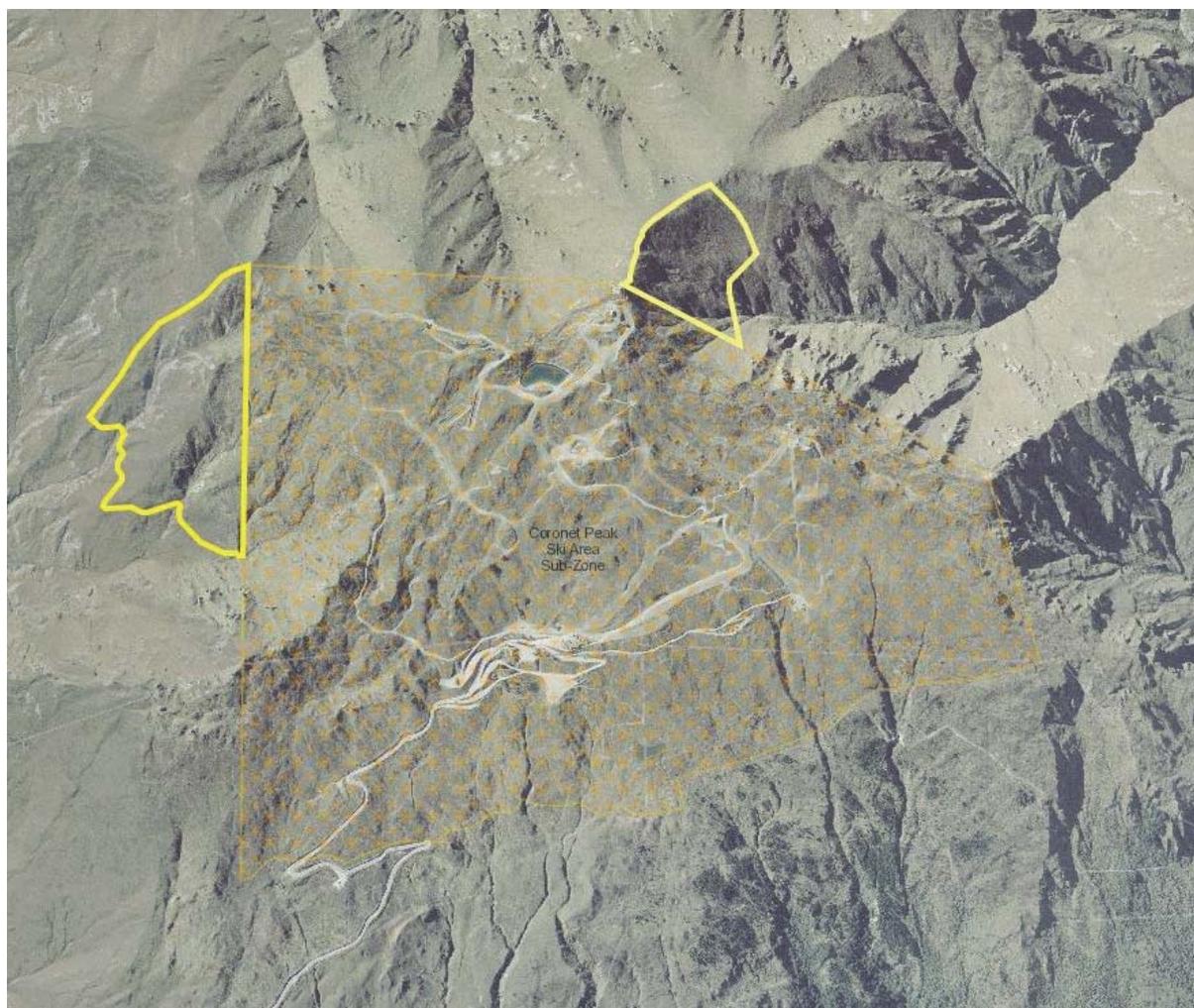


Figure 1: Coronet Peak notified SASZ showing the two areas sought to be included outlined in yellow.

### 2.1. Overview

58. NZSki Limited<sup>12</sup>sought an extension to the SASZ to incorporate the areas known as 'Dirty Four Creek' (adjacent to the western border of the SASZ) and 'Back Bowls' (adjacent to the north-eastern corner of the SASZ). This is shown above. The submission identified that minor expansions were also sought to accommodate areas presently used for ski area activities and to provide for future development opportunities.
59. NZSki noted that although these locations are outside of the current SASZ extent, skiers currently access these areas on their own accord. As a result of this NZSki undertakes avalanche control within these areas. One of the reasons sought by NZSki for the rezoning was to formalise this safety management activity and to potentially enable a ski patrol facility. The

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<sup>12</sup> Submission 572

submission also identifies planning for a future lift within the proposed 'Dirty Four Creek' extension.

60. The Council's experts (Ms Banks, Dr Lloyd and Dr Read) opposed the rezoning. In summary the reasons for this were:

## 2.2. Ecology

61. From an ecological perspective Dr Lloyd did not oppose the proposed extension into 'Dirty Four Creek' on the basis that this catchment had already been modified by ski field activities, and the landforms were less steep and less vulnerable to potential adverse effects.

62. However Dr Lloyd did oppose the extension into the 'Back Bowls' on the basis that this area was relatively intact and vulnerable to the adverse effects of ski field activities. As the Back Bowls is located on steep slopes, it was Dr Lloyd's opinion that the existing indigenous vegetation was likely to be vulnerable to the effects of intensifying ski field activities. He further noted that he did not think the discretionary status for vegetation clearance (notified Rule 33.5.10) would be sufficient to manage the relatively intact biodiversity values of this location.

## 2.3. Landscape

63. Dr Read's evidence set out the landscape attributes of these particular locations, being an ONL. She also addressed the possible effects of expansion of the SASZ and anticipated activities into these areas.

64. Dr Read, in relation to the Back Bowls, stated that this area was relatively unmodified and had high natural character. She considered that further physical ski field development works in this new catchment could significantly impact the unmodified topography of the upper catchment.

65. In relation to 'Dirty Four Creek', Dr Read described the wider natural value of Skippers Road and the Long Gully landscape as wild and rugged. Her evidence was that physical works (including earthworks) in this location, if it were an SASZ, would diminish the natural character and aesthetic coherence of the wider landscape and its heritage significance.

66. Dr Read did note that to some extent of the existing ski field development was visible from within this landscape, but that further development could potentially have cumulative adverse effects on this landscape.

## 2.4. Planning

67. It was Ms Bank's opinion, having regard to the expert evidence of Dr Read and Dr Lloyd, that the potential effects of a wider scope of activities enabled by the SASZ were better managed by the underlying rural and landscape provisions of the notified zone. She also set out that if changes she recommended to make it clear that skiing and ancillary activities including snow grooming and avalanche control were permitted irrespective of the underlying zoning, then the SASZ did not need to be extended. On this basis Ms Banks recommended

- a. Reject the proposed rezoning of 'Dirty Four Creek' to SASZ; and
- b. *Reject* the proposed rezoning of the 'Back Bowls' to SASZ.

## 2.5. NZSki's position

68. Ms McDonald, legal counsel for NZ Ski set out her legal submissions<sup>13</sup> that

*"NZ Ski is not presenting evidence and abides the decision of the Council regarding its submission seeking an extended SASZ over the Coronet Peak Ski area"*

69. Mr Dent, planner for NZSki set out in his evidence<sup>14</sup>the following:

*"With respect to the proposed expansion and/or addition of land into the Ski Area Sub-Zone ("SASZ") outlined in that submission four key areas of expansion were identified as follows:*

- a. Coronet Peak – Extension into Dirty Four Creek;→*
- b. Coronet Peak – Extension in the 'Back Bowls';→*
- c. Remarkables – Extension to ridgeline above Curvy Basin and Lake Alta; and→*
- d. Remarkables – Creation of a new SASZ over the site containing the lower access road. →*

*Since the lodgement of the submission and receipt of the Council's Section 42A reports both myself and Mr Skelton have been instructed by the submitter to limit the extent of our assessment to the areas of expansion directly associated with the Remarkables Ski Area and to accept the commissioners findings in respect of the re-zoning for Coronet Peak based upon the evidence presented to them by the Council officer and experts.*

*Accordingly, my evidence will not address the Coronet Peak SASZ areas in any capacity. "*

## 2.6. Recommendation

70. Given the submitters position; that they decided not to call expert evidence and accepted the Council's expert evidence, we recommend:

- a. Rejecting the proposed rezoning of 'Dirty Four Creek' to SASZ; and
- b. Rejecting the proposed rezoning of the 'Back Bowls' to SASZ.

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<sup>13</sup> Ms McDonald's legal submissions - para 2.

<sup>14</sup> Mr Dent, EiC paragraphs 10, 11 and 12.

### 3. CARDRONA ALPINE RESORT LTD - SUBMISSION 615

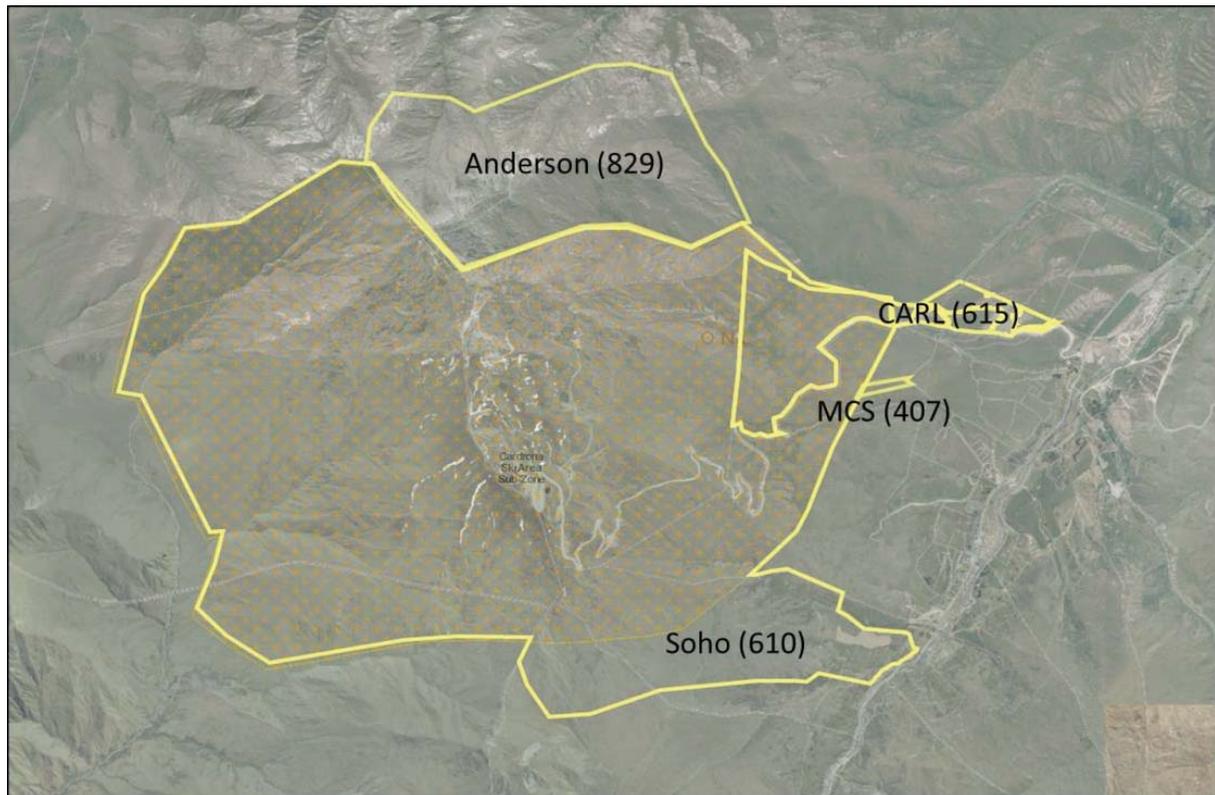


Figure 2: Notified Cardrona SASZ showing the areas sought to be modified by Anderson (Submission 829), CARL (Submission 615), MCSL (Submission 407) and Soho (Submission 610), outlined in yellow

#### 3.1. Overview

71. Cardrona Alpine Resort Limited (CARL)<sup>15</sup> sought an extension of the SASZ north-east of the notified zone, and that this area (inclusive of a portion of the notified SASZ) be renamed either the 'Cardrona Ski Area Sub Zone' or the 'Cardrona Alpine Resort Area' (effectively creating a new special zone). This area is shown above.
72. CARL's reasons given in the submission for the rezoning, and as addressed by Mr Barnes (Manager of CARL) at the hearing, was to enable the continued development and expansion of tourism activities and visitor accommodation within the SASZ. Mr Barnes, as set out in the submission, considered that the adverse effects of the development would be cumulatively minor.
73. The submission indicated that the rezoning would support the provision of "four season" tourism activities, and the development of new buildings and supporting infrastructure. Mountain biking and visitor accommodation were potential activities to be provided in the expanded zone.

<sup>15</sup> Submission 615, supported by FS1137, FS1105, opposed by FS1153

74. The further submission in support from the Valley Residents and Ratepayers Society Inc<sup>16</sup> was on the basis that the rezoning would enable the resort to develop, operate, maintain and upgrade its facilities and infrastructure, and invest in and grow new four season visitor attractions activities.
75. The Council's planning and landscape experts (Ms Banks and Dr Read) opposed the rezoning, while the Council's ecologist (Mr Davis) did not. In summary the reasons for this were:

### 3.2. Landscape

76. Dr Read described the Cardrona Valley as a historic gold mining landscape with remnant water races evident within the rezoning extent. It was her opinion that the possible nature of the development proposed under the SASZ framework (including earthworks) had the potential to significantly diminish the legibility of the landform and detract from its historical value.

### 3.3. Ecology

77. Mr Davis, the Council's expert, did not oppose the rezoning from an ecological perspective. He identified the area to be rezoned as being intensively developed for agricultural activity, resulting in a disturbed environment with a lack of indigenous vegetation cover. A wetland area was identified in the south-eastern corner of the rezoning extent.
78. Mr Davis confirmed that the area was devoid of indigenous vegetation cover with the exception of *Carex coriacea*, which would not be affected by the proposed activities. On this basis Mr Davis did not oppose the extension of the SASZ over the wetland area or the rest of the area sought to be SASZ.

### 3.4. Planning

79. Ms Banks set out that CARL sought the zone extension to enable the development of a "four seasons" tourism facility. She acknowledged the significant economic benefits provided to the District by such commercial recreation facilities, and in particular the objective of the PDP Strategic Direction which seeks to enable the socio-economic benefits of tourism.
80. She also noted that summer based activities were currently operating within the notified extent of the zone including mountain biking, carting and paragliding. Ms Banks also noted the supporting further submissions from Kay Curtis and the Cardrona Valley Residents and Ratepayers Society Inc which had recognised the benefits of these activities to the area and supported the zone extension on this basis.
81. However, Ms Banks was of the view that the range of activities that CARL sought to be enabled in the extended zone, and the possible effects of these, could not be adequately managed under the SASZ framework. Moreover no alternative or specific plan provisions were provided by CARL.

### 3.5. Submitter's Evidence

82. Mr Barnes, supported by Mr John Edmonds (Planner), appeared at the hearing. Mr Barnes gave a brief verbal presentation. Mr Edmonds did not produce any evidence, nor did he speak. Mr Barnes reiterated what was in the written submissions and focussed on the "four seasons" aspect of the submission, particularly the summer time activities including mountain biking.

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<sup>16</sup> FS1105

### 3.6. Discussion

83. We accept that the purpose statement of the SASZ has been recommended to be amended to include reference to "year round destinations for ski area, tourism and recreational activities". However the notified SASZ's are confined spatially, predominantly at elevations where skiing and ancillary activities will be the dominant use and landscape effects may be better mitigated.
84. CARL's submission, if allowed would extend this zone down to elevations lower than 600masl, near to the valley floor at Cardrona Valley Road, where activities such as visitor accommodation, car parking and a range of buildings, would be enabled under a SASZ. These could have significant adverse landscape and visual effects. The further submission of MCSL<sup>17</sup> opposed the extension of the zone down to this elevation for those reasons.
85. While the rezoning may appear to be partially integrated with the operative Mount Cardrona Station Special Zone, the operative structure plan for that zone has specifically accounted for landscape values in nominating appropriate activity areas. Conversely, the SASZ provides no mechanism for this and could enable the construction of buildings throughout as a controlled activity with limited consideration to landscape effects, as set out in the evidence of Dr Read.
86. Furthermore, given that the operative Mount Cardrona Station Special Zone provides for the establishment of residential and commercial uses, including visitor accommodation, it is likely to be more efficient to enable such activities in this zone. However, we note that we received no expert evidence on this matter, nor any landscape or planning evidence.
87. Overall, there is insufficient information from the submitter to 'justify' in section 32 terms that the SASZ, or an alternative set of planning provisions, are the appropriate planning framework for the area sought to be rezoned. The rezoning of this land as SASZ could give rise to an inappropriately broad range of activities and their associated effects. Furthermore in the absence of expert landscape evidence from CARL we rely on the expert evidence of Dr Read, who's opinion we have set out above.
88. Based on the above discussion, we agree with Ms Banks' recommendations that no extension to the SASZ be made.

### 3.7. Recommendation

89. Our recommendations are:
- a. Reject the proposed rezoning sought by CARL;
  - b. Reject the further submissions of Kay Curtis (FS1137) and the Cardrona Valley Residents and Ratepayers Society Inc (FS1105); and
  - c. Accept the further submission of MCSL (FS1153).

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<sup>17</sup> FS1153

#### 4. ANDERSON BRANCH CREEK LIMITED – SUBMISSION 829

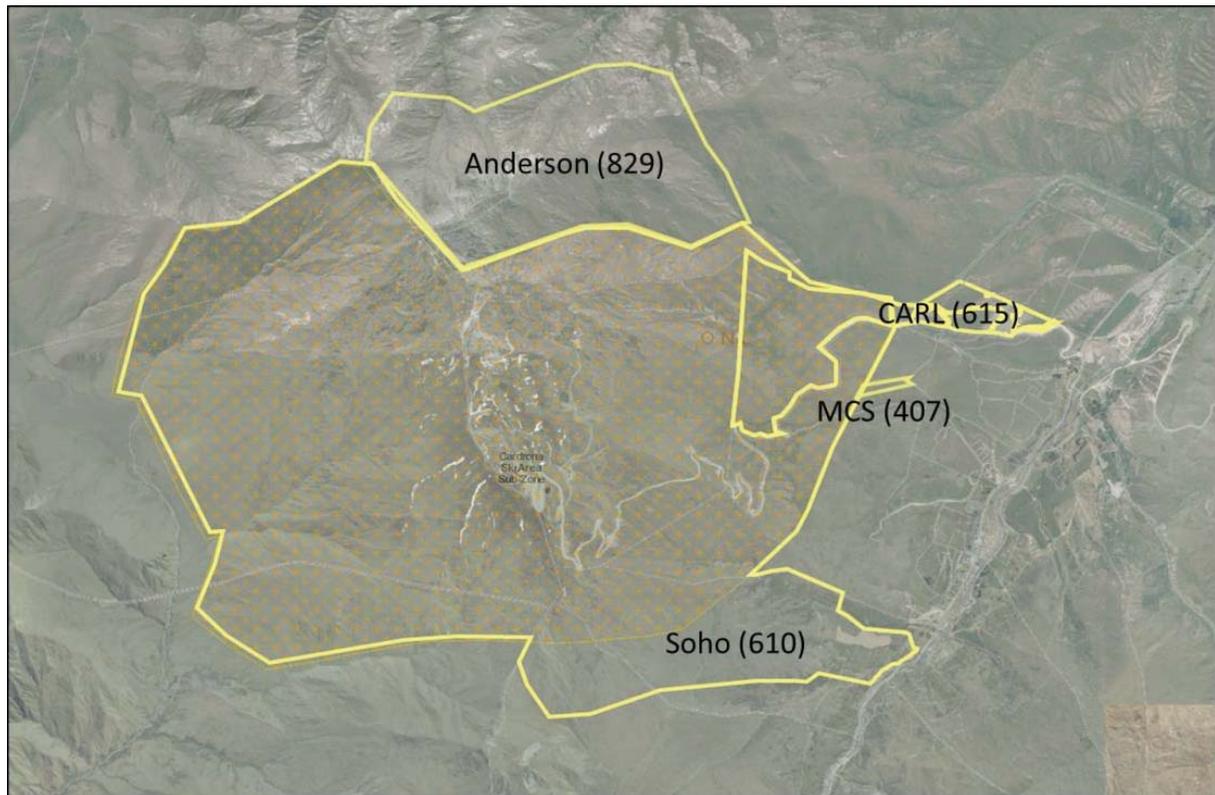


Figure 3: Notified Cardrona SASZ showing the areas sought to be modified by Anderson (Submission 829), CARL (Submission 615), MCSL (Submission 407) and Soho (Submission 610), outlined in yellow

##### 4.1. Overview

90. The submitter<sup>18</sup> sought that the SASZ be expanded to the north to include the whole of the upper area of boundary creek as shown above. The submitter did not attend the hearing or present any evidence. The only evidence we received was that from the Council.

91. The Council's experts (Ms Banks, Dr Read and Mr Davis) opposed the rezoning. In summary the reasons for this were:

##### 4.2. Landscape

92. Dr Read's evidence was that further development on this high alpine ridgeline had the potential to diminish the integrity of the landform.

##### 4.3. Ecology

93. Mr Davis' ecology evidence identified that this location was a relatively intact and fragile alpine environment which was likely to support a range of indigenous invertebrates, lizards and birds.

##### 4.4. Planning

94. It was Ms Banks' opinion that from a planning perspective it was not possible to recommend the extension to the zone. The reasons for this were:

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<sup>18</sup> Submission 829

- a. the submission of Anderson Branch Creek Limited provided limited explanation of the reasoning for the rezoning (other than the suggestion that the zone was understood to be previously larger);
- b. the submission was not supported by any ski operators (she was unsure if ski development was planned in this location);
- c. there was insufficient evidence to justify the need to enable the SASZ or SAA framework in this location; and
- d. the evidence of Dr Read and Mr Davis regarding the possible sensitivity of this environment to the effects of SAAs.

95. We agree with Ms Banks for the reasons set out above.

**4.5. Recommendation**

96. Reject the submission of Anderson Branch Creek Limited.

## 5. NZSKI – REMARKABLES SASZ – SUBMISSION 572

97. NZSki sought two separate areas to be SASZs. These were:-Remarkables – Extension to ridgeline above Curvy Basin and Lake Alta (referred to as Area A); and Remarkables –a new SASZ over the site containing the lower access road (referred to as Area B). We address each separately below.

### Remarkables – Extension to ridgeline above Curvy Basin and Lake Alta - Area A

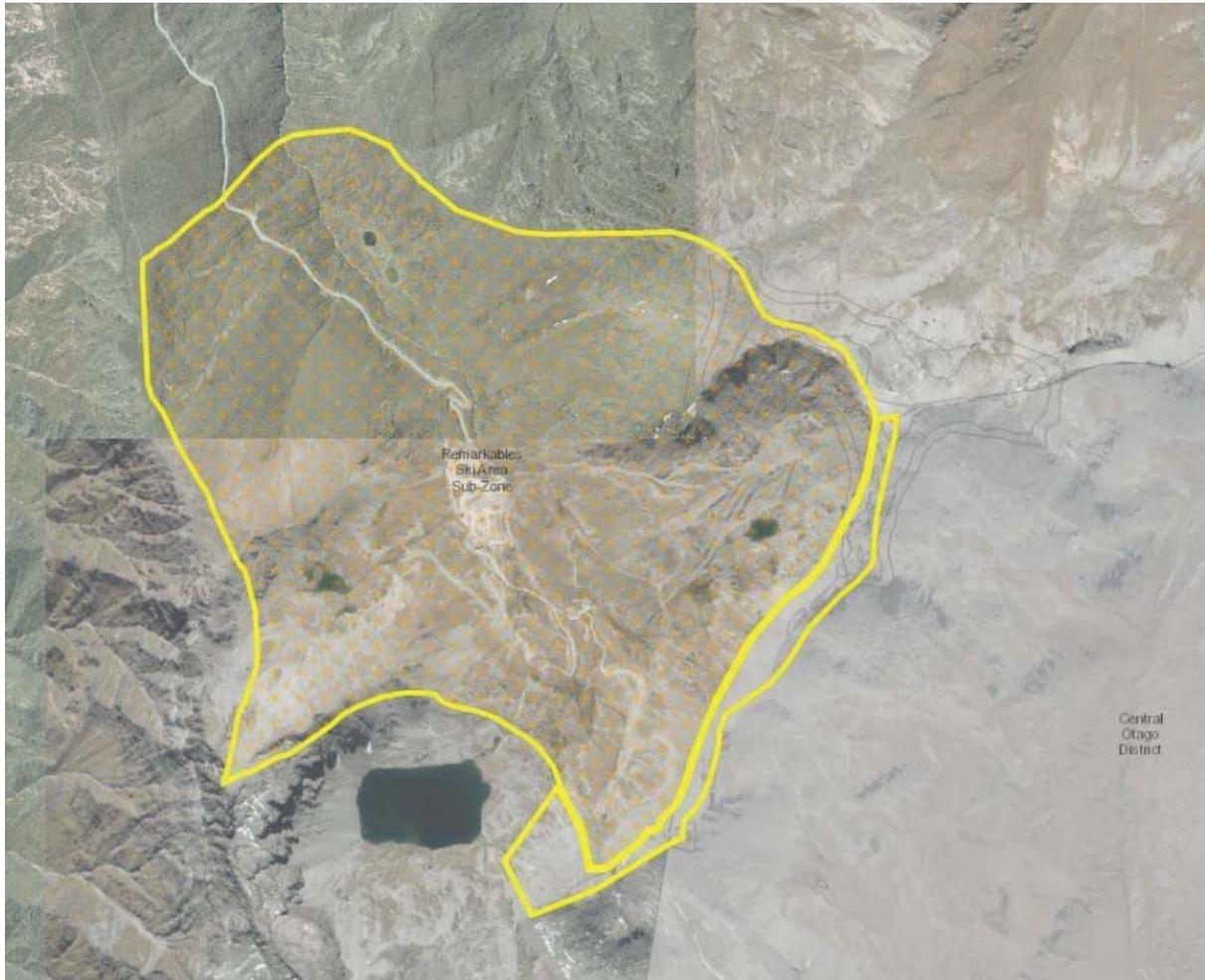


Figure 4: Notified Remarkables SASZ showing the area along the eastern margin sought to be included within the Sub-Zone – Area A.

#### 5.1. Overview

98. NZSki sought an extension to the SASZ at the upper eastern margin of the SASZ. This area of land was located between the existing and notified SASZ and the territorial boundary of Central Otago District, bordering the Department of Conservation Rastus Burn Recreation Reserve and within the Remarkables Conservation Area.
99. NZSki's submission identified that the expansion was sought to accommodate areas presently used for ski area activities and to provide for future development opportunities. In particular, NZSki identified a desire to expand into 'the Doolan's' catchment located within Central Otago District.

100. The submission, and evidence of NZSki, stated that although these locations were outside of the current SASZ, skiers already access these areas on their own accord, and NZSki undertook avalanche control within these areas. Another reason provided by NZSki for the rezoning was to formalise these safety management activities as permitted activities, and to undertake grooming of these slopes.
101. The rezoning sought by NZSki was supported by QPL (FS1097), and Grant Hensman and others (FS1337), and opposed by Ian Dee (FS1081). The further submission of Grant Hensman and others (FS1337) was primarily associated with the creation of 'Sub-Zone B' discussed below as 'Area B'. Ian Dee (FS1081) opposed the rezoning on the basis that it was a valued recreational landscape and physical works in this area could lead to the erosion of its pristine beauty.
102. NZSki divided the area they sought to be extended in to two sub areas - these being the area above Curvy Basin and the area above Lake Alta. This was shown in Attachment A of Mr Dent's evidence (the submitter's expert planner). The distinction was that NZSki proposed additional restrictions (prohibited activity) for earthworks and building in the area above Lake Alta. This was in response to the submitter's landscape architect's (Mr Skelton) assessment that this area was too vulnerable to landscape degradation and hence the proposed prohibited activity rule. We address this matter below.

## 5.2. Curvy Basin

103. It transpired during the hearing, and was confirmed by a supplementary statement from Mr Dent and the Council's Reply Statement, that the area above Curvy Basin sought to be rezoned was in fact in Central Otago District.
104. Ms Banks had highlighted this issue in her Summary of Evidence and addressed it in her Reply Statement. She stated that the error has occurred because the submitter's proposed rezoned area and evidence was prepared using Council's GIS District Plan Maps which contained the incorrect location of the Statistics NZ territorial authority boundary. Mr Dent confirmed this in his additional statement - Response to the Panel regarding CODC and QLDC territorial boundary dated 17 May 2017.
105. Given the above, we accept that there is no jurisdiction to consider this area and give it no further attention.

## 5.3. Lake Alta

106. The Council's experts (Ms Banks and Dr Read) opposed the rezoning. NZSki's experts (Mr Dent and Mr Skelton) supported the rezoning. The reasons for this are set out below.

## 5.4. Landscape

107. The evidence of Dr Read described the location of the rezoning as being within proximity of two distinct alpine cirques; the southern extent of which contained Lake Alta. She considered that the landscape had been compromised to a degree in the lower reaches of the area sought to be rezoned, however the walls of the two cirques and their joining wall were pristine in the higher reaches. She also noted that the Lake Alta Cirque had significant scenic and recreational value and this area was highly accessible to the public. Mr Skelton, NZSki's landscape architect agreed with Dr Read on these matters.
108. However Read considered that SAA and physical works within the proposed extension could result in adverse landscape effects. Overall, Dr Read considered that the extension of the SASZ in the location identified had the potential to result in significant adverse and cumulative

effects on the memorability and quality of the landscape<sup>19</sup>. For these reasons she opposed the zone extension in this area.

109. While Mr Skelton agreed with Dr Read's description of the landscape values, it was his opinion that the rezoning, with the rule overlay offered by NZSki prohibiting the erection of any structures or the undertaking of any earthworks, could be supported on landscape grounds. Under these circumstances he considered that the only effects of extending the SASZ over the Lake Alta Basin would be the temporary effects of avalanche control and the commercial use of the area for skiing<sup>20</sup>.
110. At paragraph 6.17 of his evidence-in-chief, Mr Skelton considered that the potential adverse effects of the SASZ extension would be appropriately controlled through the no build and earthworks rule which will "protect the amenity and character values of the Lake Alta basin and Wye Creek catchment". Mr Dent, from a planning perspective supported this outcome.
111. In Dr Read's rebuttal evidence she stated<sup>21</sup>:

*Mr Skelton states at his paragraph 6.3 that in response to the sensitivity of the Lake Alta Basin, restrictions on earthworks and building in this area are volunteered. Mr Dent proposes a new rule at paragraph 98 of his evidence that would prohibit the construction of buildings or infrastructure or the undertaking of earthworks in this area. This is a greater level of protection than is offered by the underlying Rural zoning.*

*In response to the preliminary reason for the rezoning, being to legalise avalanche control (a SAA), I understand that it was never Council's intention to restrict previously permitted activities such as avalanche control, skiing and boarding, ski patrols and related permitted activities to the SASZ. Ms Banks discusses this at paragraphs 12.30 to 12.38 of her Strategic S42A report and I adopt her position that amendment to Rule 21.4.19 (which she proposes) is appropriate. I also note that in paragraph 4.20 of her Specific 42A report she identified that these types of activities do not require consent.*

*Consequently, the justification provided by the submitter for the extension of the SASZ into the Lake Alta cirque is negated. At the same time, the extension plus the proposed prohibition on structures, buildings and earthworks with the proposed SASZ extension would provide a greater degree of protection to this part of the feature than its Rural zoning and ONL status. While this would clearly be positive from a landscape perspective, it would create something of an anomaly, providing a higher level of protection but only over a small part of the overall feature of the Lake Alta cirque. I remain of the opinion that the SASZ should not be extended into this area.*

112. It appears to us that Dr Read actually supported the rezoning on landscape grounds, particularly given her statement in the third paragraph above (second and third sentences). Her ultimate opinion that the SASZ should not be extended into this area appeared to be based on planning reasons and not landscape reasons. It was Ms Banks, not Dr Read, who was able to give an opinion on the appropriate planning response.

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<sup>19</sup> Dr Read, EiC, Paragraphs 7.6 - 7.8 - pg 26.

<sup>20</sup> Mr Skelton EiC, Paragraph 6.11 - pg 9.

<sup>21</sup> Dr Read, Rebuttal Evidence, Paragraphs 3.2 - 3.4.

113. Ms Banks, in her second statement stated<sup>22</sup>:

*I accept that there are possible economic benefits of expanding the SASZ and that promoting economic development and tourism is one of the objectives within Chapter 3 (Strategic Direction). Of the four SASZs subject to rezoning requests, I consider that the submission and rezonings proposed by NZSki are potentially the most consistent with the intended purpose of the zone, being primarily to accommodate skiing and ancillary activities. Further the proposed zone extensions are situated at an elevation where skiing can feasibly occur. There is however the potential under the SASZ for additional physical works to be undertaken (eg. earthworks, with associated erosion and sedimentation; passenger lift systems; road access), with a limited scope of matters which can be considered through the assessment.*

114. In her rebuttal evidence at paragraph 4.3 and at paragraph 9 of her summary statement Ms Banks continued to oppose the re-zoning of the area above Lake Alta. This was based on Dr Read's evidence and due to the amendments she had recommended in relation to avalanche control and ski patrol activities.

#### 5.5. Ecology

115. We note that that Dr Lloyd, for the Council, provided expert ecological evidence in relation to the rezoning request. He described the location being generally eroding rock tors, boulderfield and scree habitats. He set out that the species he identified were typical of high alpine habitats but none were classified as Threatened or At Risk. Dr Lloyd's evidence was that sparse vegetation was identified in 'stable' slopes within the area. He stated that he did not oppose the proposed extension on ecological grounds<sup>23</sup>.

#### 5.6. Findings

116. We find that the SASZ should be extended to the area above Lake Alta as requested by NZSki in the area that is within the Queenstown Lakes District boundary. The reasons for this are:

- a. the natural topography of this area, and the surrounding areas, is already used for commercial and non-commercial recreation (skiing and boarding);
- b. it is adjacent to an existing SASZ;
- c. while the issue of avalanche control and ski patrol has been addressed elsewhere (to make it clear it is permitted), the expansion will provide greater certainty that SAAs can occur,
- d. the submitter offered a rule prohibiting building and earthworks in the expanded area to ensure any adverse effects (landscape and ecological) were minimal;
- e. despite Dr Read's landscape concerns, she appeared to support the extension on landscape grounds, subject to the rule prohibiting building and earthworks as offered by the submitter,
- f. The Council's ecologist had no concerns with the extension,
- g. Ms Banks concerns were mainly on landscape grounds, as opined by Dr Read, and due to other plan amendments she proposed; and
- h. the extension would enable the efficient and more flexible use of the area for SAA's thereby supporting the strategic economic and recreational objectives of the plan, while having little if any adverse effects.

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<sup>22</sup> Ms Banks, Sub-Zone Specific Section 42A Report, paragraph 4.23, page 47

<sup>23</sup> Dr Lloyd, EIC, paragraph 5.13, page 16.

5.7. Recommendation

117. We recommend that the SASZ be extended above Lake Alta as sought by NZSki (within the boundary of Queenstown Lake District), subject to the inclusion of the following rule in Chapter 21 Table 9 as follows:

21.12.8	Earthworks, buildings and infrastructure within the No Building & Earthworks Line in the Remarkables Ski Area Sub-Zone.	PR
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- a. Accept the submission by NZSki;
- b. Accept the supporting further submissions from QPL (FS1097) and Grant Hensman and others (FS1337)- noting the further submission of Grant Hensman and others (FS1337) is primarily associated with the creation of 'Sub-Zone B' discussed below as 'Area 2'.
- c. Reject the opposing further submission by Ian Dee (FS1081).

### REMARKABLES SKI AREA

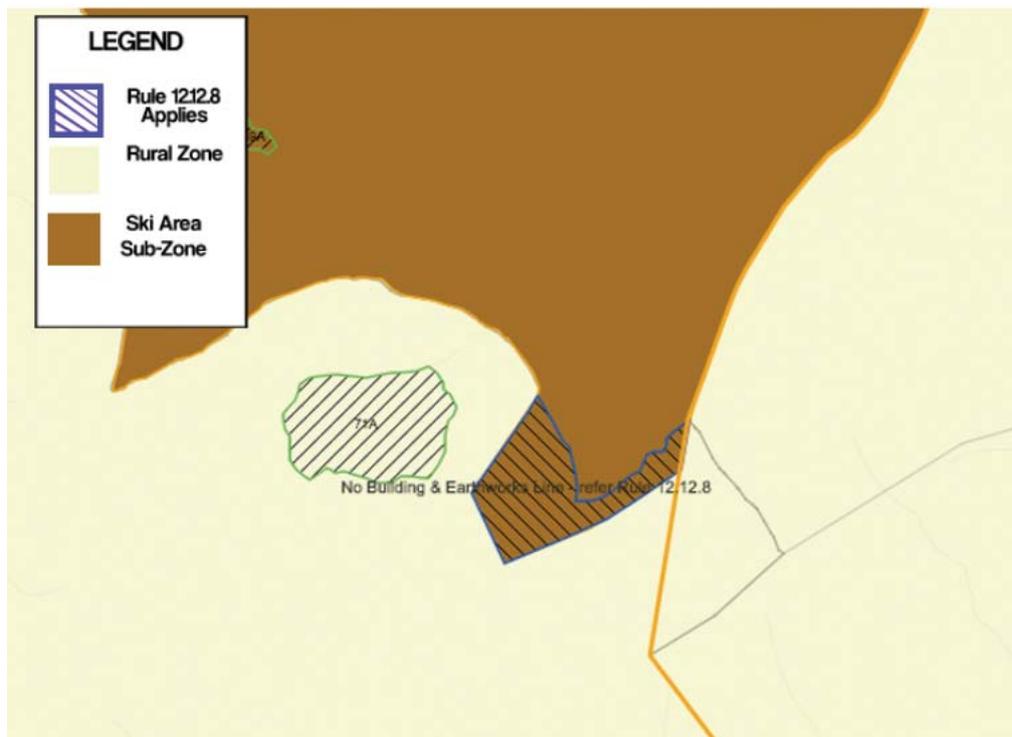


Figure 5: Area to be added to Remarkables SASZ and to be subject to Rule 12.12.8.

6. **NZSKI - REMARKABLES – CREATION OF A NEW SASZ OVER THE SITE CONTAINING THE LOWER ACCESS ROAD - AREA B**



Figure 6: New SASZ sought along lower access road to Remarkables SASZ – Area B

6.1. **Overview**

118. NZSki sought the establishment of SASZ over an area of approximately 21.6 hectares located at the base of the Remarkables Ski Field access road on the eastern side of State Highway 6 (as shown above). This area is referred to in the submission as 'Ski Area Sub-zone B', and is situated at elevations of 500masl and below at the base of the Remarkables.
119. The submission identifies that the subzone would "provide for the establishment of buildings, parking, storage, entranceway signage, commercial activities and accommodation ancillary to the continued operation of the Remarkables Ski Area". A set of provisions to apply to this new sub zone area was included in Attachment C to NZSki's submission.
120. This was further elaborated on in Mr Dent's evidence in chief, and succinctly set out in his Executive Summary of Evidence (9 May 2017) presented at the hearing. At paragraph 1.5 of the Executive Summary of Evidence he stated:

*"In regards to the proposed SASZ B the proposed zoning and applicable provisions I have recommended will not enable SAA to occur within this area of land and neither would SAA be physically possible given the low altitude of the proposed Sub-Zone. The zoning and provisions are directed only at providing for buildings and activities that directly support the continued operation of the Remarkables Ski Area."*

121. Mr Dent has made it clear that while a new SASZ is sought, it is in fact to be a new 'spot' zone to enable activities such as buildings, parking, storage, entranceway signage, commercial activities and accommodation ancillary to the continued operation of the Remarkables Ski Area (including workers accommodation).

## 6.2. Background to the Site

122. The subject site, owned by the submitter, contains the Remarkables Ski Area access road which commences from State Highway 6 approximately 375m south of the intersection of Boyd Road and Kingston Road (SH6). An existing car park area was developed in 2016 following the grant of resource consent<sup>24</sup> which authorised earthworks and landscaping to create a larger car park adjacent to the State Highway.

123. A further resource consent<sup>25</sup> has been granted for the establishment of a port-a-com building and signage within the car park area and to undertake a commercial activity being the hiring of snow chains and the selling of tickets for and operation of a bus shuttle service between the car park and the Remarkables Ski Area. In addition to the existing car park, signage, building, commercial activity and the access road the subject site also contains an existing outdoor storage area for ski equipment located almost centrally within the subject site near the northern boundary. This outdoor storage area was approved in 1997<sup>26</sup>.

124. NZSki's original submission identified that a proposed Ski Area Sub-Zone B be overlain on the subject site to provide for the establishment of buildings, parking, storage, signage, commercial activities and accommodation that are ancillary to the operation of the Remarkables Ski Area. With the exception of accommodation these activities are already present on the subject site as described above. The submission sought to apply this zoning to the entire site which extended to a height of approximately 520masl. The PDP maps demarcate the boundary between the RCL and ONL landscape categories dissecting the subject site and including much of it within the ONL (including the existing outdoor storage area described above).

125. The Council's experts (Ms Banks and Dr Read) opposed the rezoning. NZSki's experts (Mr Dent and Mr Skelton) supported the rezoning. The reasons for this are set out below.

## 6.3. NZ Ski's rationale for the re-zoning

126. Mr Dent set out the rationale for the rezoning request in this evidence<sup>27</sup>. He considered that there was a need for NZSki to be able to develop the ski field itself efficiently, but there were space and logistic limitations to being able to do this in the SASZ at the ski field. Accordingly NZ Ski were seeking to provide related activities on land it owned on the lower slopes of the mountain.

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<sup>24</sup> RM151081

<sup>25</sup> RM170207

<sup>26</sup> RM960686

<sup>27</sup> S Dent, EiC, paragraphs 126 to 174, pages 32 to 38.

127. As set out by Mr Dent<sup>28</sup>, the site was too small to be utilised for any productive agricultural/pastoral purpose of the type envisaged by the Rural Zone. Given that, it was his opinion that this site was a logical location to consider re-zoning to enable future proposals of a similar nature to those already existing on the land.
128. Mr Dent set out the PDP's Landscape Classification (ONL and RCL) and opined that the provisions related to these classification within Chapter 21 – Rural would make the utilisation of the site for the proposed purposes very difficult; being Discretionary Activities for any building and for Visitor Accommodation and Non-Complying for commercial and retail activities.
129. Mr Dent also addressed infrastructure and servicing of the site. He understood and accepted the Council's evidence<sup>29</sup> that if the site were to be developed, the developer would need to provide on-site services. In this regard Mr Dent stated:<sup>30</sup>

*"Accordingly, any future development of the site will put the onus on the submitter to demonstrate and pay for any extension and increased capacity of Council reticulated services or the provision of on-site facilities (water bores and waste water disposal)."*

130. We discuss the ecological and landscape issues below under those headings. However in summary Mr Dent disagreed with Dr Read's position of opposing the re zoning on landscape grounds, and preferred Mr Skelton's evidence, who can support the proposal provided development is outside of the area he considered to be an ONL. Mr Dent agrees with the council's ecologist that ecological matters were not grounds to reject the re-zoning proposal.
131. Overall, relying on his planning expertise, and the landscape evidence of Mr Skelton, Mr Dent recommends that the site be re-zoned as requested.

#### 6.4. Landscape

132. Dr Read discussed in her evidence that this location at the base of the ski-field forms a part of the wider foreground of the western face of the Remarkables Range, and is important to the visual coherence of those views. She does however acknowledge the site itself has areas of lower landscape value when viewed in isolation, but overall considers that this area has an important relationship to the visual coherence of the wider ONL landscape of the Remarkables Range.
133. In her rebuttal evidence Dr Read considered that Mr Skelton failed to appropriately consider the types of activity that could be anticipated on the site should the SASZ be extended. Buildings up to 8m in height and ancillary retail activities would be controlled activities. She stated<sup>31</sup>

*It is possible that NZSki, were it to exploit the proposed zoning fully, could create something of a node of ski related activities within this site which would be incongruous within the*

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<sup>28</sup> ibid, paragraph 130

<sup>29</sup> Provided by Mr Glasner- Chief Engineer at the Council

<sup>30</sup> S Dent, EiC, paragraph 159, page 37

<sup>31</sup> Dr M Read, Rebuttal evidence, paragraph 3.17, page 7.

*surrounding landscape. Such a node would have an adverse effect on the character and quality of the surrounding landscape and on the visual amenity of members of the public, in particular.*

134. Dr Read opposed the proposed 'sub-zone B' rezoning.
135. Mr Skelton had a different view to Dr Read. He set this out in his evidence-in-chief and summary statement, but essentially considered that the site could absorb the anticipated development subject to being outside of the area he considered to be ONL and with the planning provisions provided by Mr Dent. We address this briefly below.
136. Mr Skelton considered that with regards to the proposed SASZ on the lower parts of the Remarkables Road, that this land was mostly within the RCL<sup>32</sup> landscape category and less open and more modified than the adjoining slopes of the Remarkables. He also considered that that there was potential for appropriate development to be located within pockets of the subject site which would not adversely affect the existing landscape values.
137. He acknowledged that while no actual development was proposed as part of the rezoning proposal, he considered that future proposals within Area B would be subject to the zone provisions. He considered that those provisions would adequately ensure any development would be appropriate and would not adversely affect the landscape and visual amenity values.

#### 6.5. Ecology

138. The Council's expert, Dr Lloyd, provided a description of the indigenous vegetation and biodiversity values of the proposed rezoning area. He identified that the area comprises a former sparse shrubland that has been extensively invaded by exotic trees and shrubs, including seedlings of wilding conifer species and numerous exotic grass and herb species.
139. Dr Lloyd stated that the ecological values of terrestrial indigenous vegetation and habitat that remained within the subject site were low, and did not pose any issues or constraints for SAAs (permitted), Passenger Lift Systems (controlled), or provision of visitor accommodation (as a restricted discretionary activity under the Council's provisions).
140. Overall, Dr Lloyd's evidence was that the ecological value of the site were low. On this basis he did not oppose the rezoning of 'sub-zone B'.
141. In response to this, Mr Dent concluded that re-zoning the subject site to SASZ would not have a significant adverse effect on indigenous vegetation and biodiversity values, and was consistent with the relevant Strategic and Indigenous Biodiversity provisions of the PDP. We agree.

#### 6.6. Findings

142. We acknowledge that the landscape evidence of Dr Read and Mr Skelton find that there would likely be some ability of this site to accommodate some development in terms of its effect on the landscape. We also acknowledge that the rezoning was not opposed by Dr Lloyd from an ecology perspective. We agree with Ms Banks that the consideration of this proposal turns on what is the most appropriate planning mechanism in section 32 terms; is it to create a SASZ, a new zone, or rely on the resource consent process?

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<sup>32</sup> Mr Skelton disputed where the ONL line should be, considering it in the wrong location. He acknowledged that no submissions had been made to change the ONL line.

143. Mr Dent acknowledged that the SASZ is not the appropriate zone. In this evidence-in-chief he stated<sup>33</sup>

*The proposed addition of the SASZ B is unique. The purpose of the SASZ is not the provision of Ski Area Activities - by virtue of the sites maximum altitude of 520masl this would be impossible.*

*Rather, the proposed SASZ B is sought to provide for land in close proximity to the Remarkables Ski Area which can be utilised for buildings and activities ancillary to the operation of the Remarkables Ski Area.*

144. It is clear to us that the established SASZ framework is not what the submitter is seeking. What NZSki is seeking is essentially a different zone to 'support' the operation of the Remarkables Ski Area, and have attempted to retro-fit a set of proposed provisions into the established framework. We find that what is proposed would essentially create a 'spot' zone. Furthermore, to consider this now would require a much greater analysis to determine how this fits into the overall PDP, and whether it was an appropriate plan response given the other policy and rule changes recommended to the PDP as have been indicated at the beginning of this report.
145. It would also be necessary, given the landscape evidence, to determine if this site/location is well integrated with current developments occurring on the western side of the state highway within Jacks Point and Hanley Downs. It is our view, that while we accept the site is owned by NZSki and has good access to the Remarkables Road and Ski Area, it is somewhat 'isolated', and hence the spot zone issue identified above, and may result in further deterioration of the landscape values and amenity of the base of the Remarkables.
146. Mr Dent provided, at Appendix C of his this evidence, a marked up version of the changes he sought to the Rural Zone provisions. These include a new objective relating to the Remarkables Ski Area, as well as changes to, and the addition of, new policies and rules (including a specific set of rules applying to Ski Area Sub Zone B).
147. A number of the matters in the revised objectives, policies and rules have been addressed in the Rural hearings, including the provision of visitor accommodation. It is our view that these changes to the PDP will address some of the concerns of NZSki in being able to provide for a wider range of activities, for example visitor/worker accommodation; something NZSki is seeking to enable.
148. We were also concerned that the Ski Area "Sub-Zone B" activity status framework proposed by NZSki, utilising controlled or restricted discretionary status for the majority of listed activities, could potentially render the landscape assessment matters of Chapter 6 not applicable in this location. We accept that the provisions provided by NZSki did recognise the need to maintain landscape character and visual amenity and that Mr Dent accepted at the hearing that additional matters of control or discretion could be added to the rules. We find that if we were to accept the zoning proposal of NZSki it would require more work to ensure appropriate plan provisions.

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<sup>33</sup> S Dent, EiC, paragraph 126 and 127, pages 32 and 33.

149. We also note that the site has a number of resource consents as set out above. These enable a portion of the activities that NZSki are seeking to be undertaken. As set out by Mr Dent, NZSki are seeking to provide visitor/workers accommodation and we acknowledge this is an issue identified by a number of parties. It was also an issue canvassed at the Rural hearings, and a number of recommendations have been made to provide for this activity (see the Report on Chapter 21 - Rural).
150. It is the Panel's view that in section 32 terms, given the reasons set out above, the recommended changes to the rural and other plan provisions in combination with the resource consents this for site, it is more efficient to rely on the resource consent process (to say establish visitor/workers accommodation), rather than re-zone the site.
151. Furthermore we find that accommodating the rezoning of 'Sub-Zone B' would likely result in the need for detailed, site specific and bespoke provisions for which the PDP's SASZ framework does not provide. Also the provisions provided for 'Sub-Zone B', while recognising landscape as a matter of control, do not contain sufficient detail to enable adequate assessment of applications or clarity around built form outcomes; particularly given the range of land uses which could occur from 'storage' to 'accommodation' and 'commercial activities'.
152. In summary, we agree with Ms Banks' reasons for not re-zoning the site, being:
- "I consider that the Rural Zone is more appropriate in this instance, to manage the range of possible and uncertain effects that may arise from the type of zoning and framework promoted by NZSki"*<sup>34</sup>
- "At this time the Rural zone framework, in combination with the provisions of Chapter 6 (Landscape) provides the appropriate framework to address s6(b), s7(b), (c) and (f) of the RMA, in addition to Goal 3.2.5 to protect the ONL from inappropriate subdivision, use and development, better provides for the appropriate analysis of non-skiing activities in these areas, including landscape effects."*<sup>35</sup>
153. While we support in principle the concept of the activities that support the operation of the ski field to be located in proximity to it, we do not find for the reasons above that the zoning proposed is the most efficient in section 32 terms. This is not to say the concept is not one worth exploring further. The Council will need to determine if it is an appropriate approach and then undertake the required section 32 analysis, and proceed by a variation or plan change process later if it determined this was appropriate.

## 6.7. Recommendation

154. Our recommendation is:
- a. Reject the proposed rezoning of 'Sub Zone B' by NZSki (572);
  - b. Reject the further submission of Grant Hensman and others FS1337;
  - c. Reject the further submission of QPL (FS1097); and
  - d. Accept the further submission of Ian Dee (FS1081).

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<sup>34</sup> K Banks - Reply Statement, Paragraph 8.1

<sup>35</sup> *ibid*, Paragraph 8.2

## 7. SOHO – SUBMISSION 610

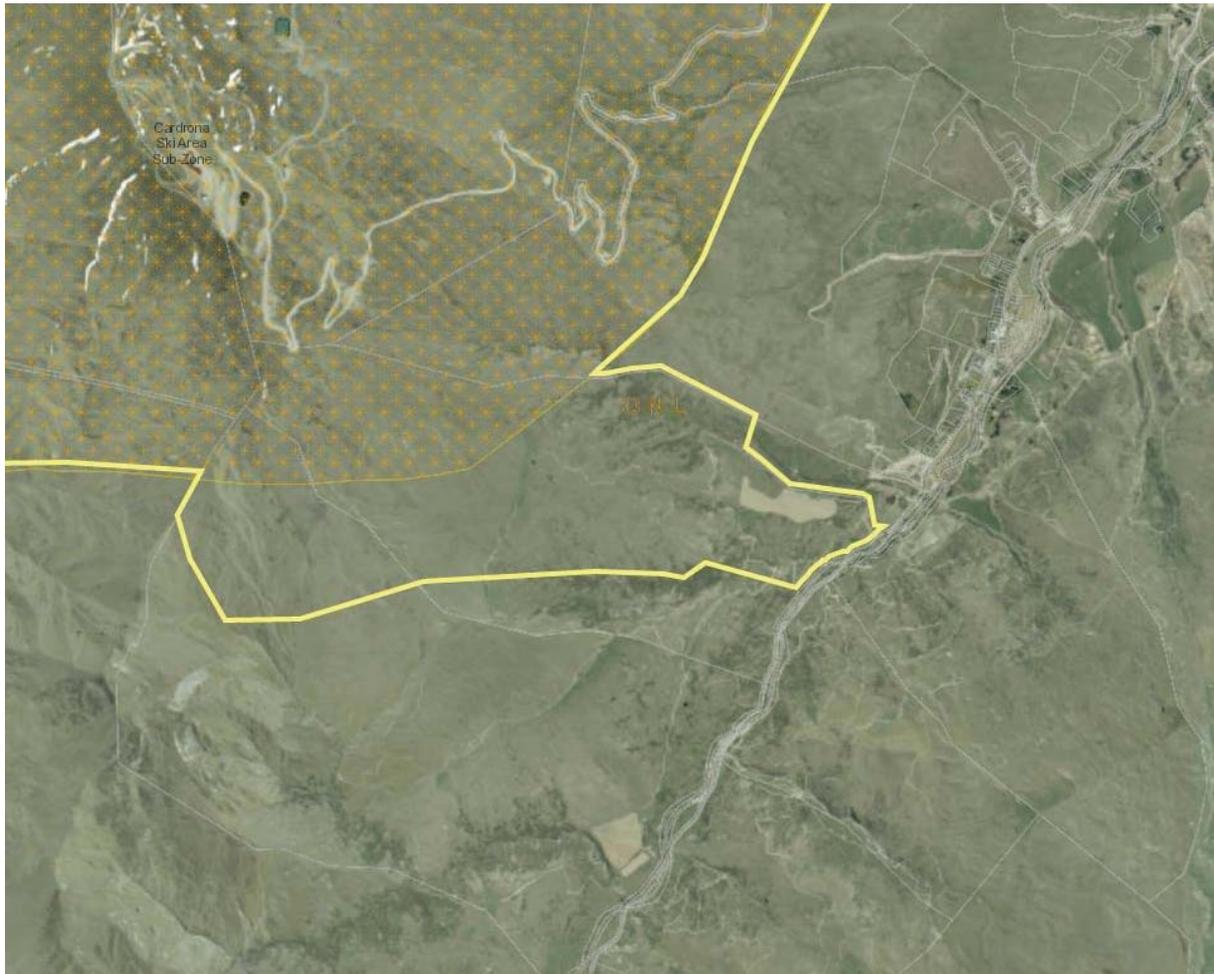


Figure 7: Extension to Cardrona SASZ sought by Soho

### 7.1. Overview

155. Soho's submission sought that the SASZ be expanded to the south-west, extending down to Cardrona Valley Road (identified in the image above). The submission identified that the reason for the rezoning was to "address a key issue relating to the connection between the SASZ's and the surrounding transportation network".
156. The submission also identified that Soho wished to expand offerings within the SASZ to include commercial activities and on-mountain visitor and residential accommodation.
157. The rezoning was supported by QPL<sup>36</sup> and opposed by MCSL<sup>37</sup>. MCSL opposed the zone extending down to the valley floor and below the normal "winter snowline". MCSL stated that it was logical for a zone extension to be enabled for transportation connections to the SASZ (as sought by MCSL<sup>38</sup>), but not to enable "off-mountain" visitor and residential development. MCSL further stated this would enable urban scale development in areas not anticipated for urban development.

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<sup>36</sup> FS1097

<sup>37</sup> FS1153

<sup>38</sup> Submission 407

158. At the hearing Soho, via legal submissions of Ms Baker- Galloway and evidence of Mr Ferguson, reduced the extent of rezoning to the upper reaches of the Callaghans Creek and Blackmans Creek Basin (mostly above the snow line at 1100masl). The reason given for this was to provide opportunity for skiing. The reduced area is as shown below in Figure 8. This report only addresses the reduced area sought by Soho.

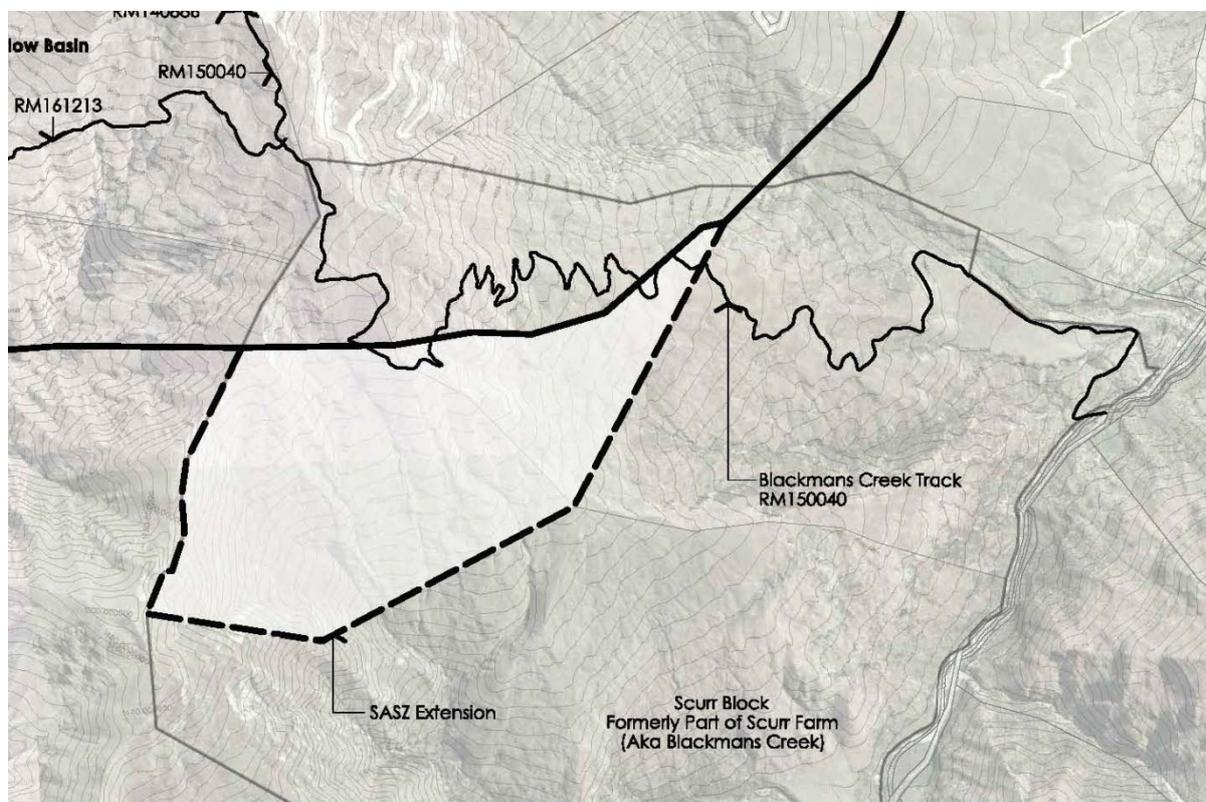


Figure 8: Amended extension presented by Mr Ferguson for Soho

## 7.2. Scope

159. We address the issue of scope first, as our findings on this have determined the extent of the area that we are able to consider and recommend to be extended.
160. As shown Figure 8, the area sought to be extended has been significantly reduced, and now seeks an extension to the SASZ at the higher elevations. A part of the 'reduced area' shown above is beyond that which was requested in the original submission. This was acknowledged by Ms Baker- Galloway in her legal submissions<sup>39</sup> where she stated.

*"In terms of jurisdiction, the extension appended to Mr Ferguson's evidence does extend beyond the boundary of the original extension proposed, but is significantly smaller (in order of 102ha less). It is all contained on private land, and is restricted to higher elevations associated with skiable terrain. The nature and scale of effects associated with the proposed extension are materially less than that originally sought".*

161. We accept that the total area now sought is smaller than that originally requested. Notwithstanding this, we have determined that we have no scope to recommend an extension

<sup>39</sup> Ms Baker-Galloway, legal submissions, para 18, pages 4 and 5.

to that portion of the SASZ that was not part of the original submission, irrespective that the nature and scale of effects associated with the proposed extension overall may be materially less than that originally sought.

162. We now address the 'in-scope' extension as requested. We note that with some caveats the Council's position is to support the extension sought (that which is in-scope) as set out in Ms Banks Reply Statement.

### 7.3. Landscape

163. The landscape evidence of Dr Read described the area of the proposed rezoning (the full area originally sought) as being located within the visual catchments of the Cardrona Valley and, in its upper reaches, the Arrow River Valley and parts of the Wakatipu Basin. She considered that although there were some parts of this area that may have the ability to absorb development, the range of earthworks and activities that could be undertaken in the zone (if supported) could be visible to a new visual catchment, and have a significant adverse effect on the landscape. Dr Read was not asked to comment on Soho's amended proposal.

164. Ms Pflüger, landscape architect for the submitters, presented evidence-in-chief and a supplementary statement. The supplementary statement addressed the revised and reduced SASZ now sought.

165. She stated the following:<sup>40</sup>

*5 Subsequent to finishing my evidence in chief the submitters developed an alternative approach which is summarised in Mr Ferguson's Supplementary Evidence. This includes a much smaller extension to the Cardrona SASZ than originally proposed..."*

*10 ... for Soho an overlay was proposed under the full extension of the SASZ to the Cardrona valley floor to ensure that the landscape effects, as they would be experienced from the Cardrona highway and other places within the valley can be managed. Again, this would in my view lead to similar outcomes as the proposed alternative with a reduced spatial extension to the SASZ in combination with a restricted discretionary activity status for a gondola outside the SASZ.*

*11 The much reduced extension area to the Soho SASZ (180ha), as proposed as an alternative, is located high in the Blackmans Creek Basin, extending down to approximately the 900m contour. This basin is visually relatively contained due to the existing topography created by surrounding ridgelines. The upper basin, which would be included in the alternative SASZ extension, is relatively low in gradient, compared to the lower steep valley slopes incised by Blackmans Creek and its tributaries. I consider that ski related activities within this basin would be unlikely to cause high visual effects, given the topography and recessed location of the high-lying basin.*

166. We agree with Ms Pflüger in terms of the landscape effects of the reduced SASZs

### 7.4. Ecology

167. Mr Davis' ecological evidence considered the area of the proposed rezoning (the full extent) to be representative of a developed agricultural environment. However, defined areas of shrubland communities have been identified within Little Meg Creek and Callaghans Creek. A

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<sup>40</sup> Y Pflüger, Supplementary Evidence, parasgraph 5, 10 and 11, pages 3 and 4.

number of indigenous species were identified in the shrubland communities, including the 'at risk – declining' *Olearia lineata* and these areas provided habitat for the eastern falcon listed as 'at risk-recovering'.

168. Mr Davis considered that these defined areas should be excluded from the zone extent. Provided the shrubland communities were excluded, Mr Davis did not oppose the remainder of the proposed rezoning. It is apparent from the various plans and maps provided to us by the Council and the submitter, that the shrubland communities are excluded from Soho's revised SASZ extension.

#### 7.5. Findings

169. We find for the reasons set out above that that the reduced SASZ extension sought by Soho (mostly above the 'snow line' at 1100masl), excluding that area which is out of scope, meets the purpose of the SASZ and will enable SAAs within this area. Any landscape and ecological effects will be no more than minor. Moreover the extension does not create the need for a range of bespoke rules in order to manage possible effects.

#### 7.6. Recommendation

170. That we recommend:

- a. Accepting the revised (reduced SASZ within scope) proposed rezoning of Soho (610) as shown in Figure 9 below;
- b. Accepting in part the further submission of Queenstown Park Ltd (FS 1097); and
- c. Accepting in part the further submission of MCSL (FS 1153).

### CARDRONA SKI AREA SUB-ZONE - SOHO

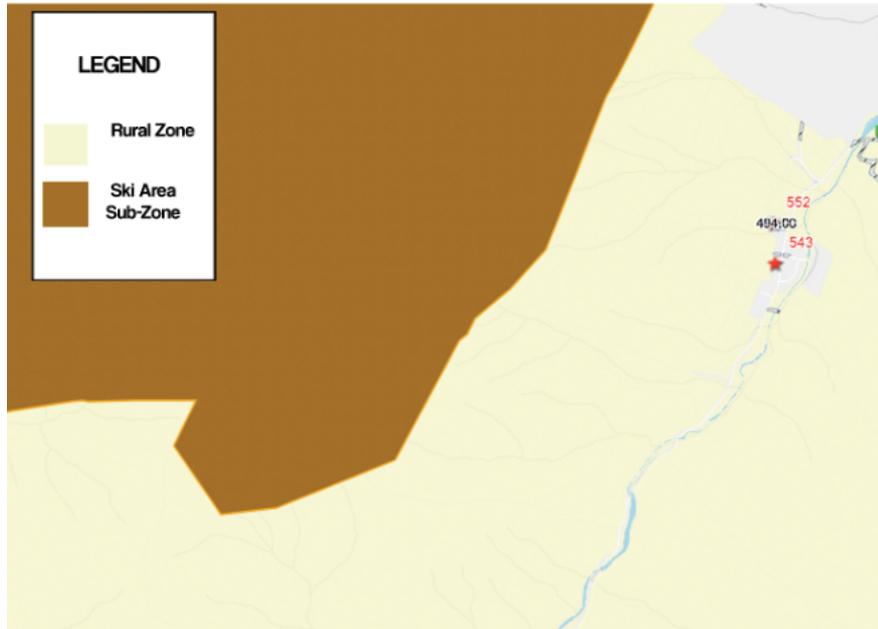


Figure 9: Cardrona SASZ as recommended.

## 8. TREBLE CONE INVESTMENTS LIMITED – SUBMISSION 613

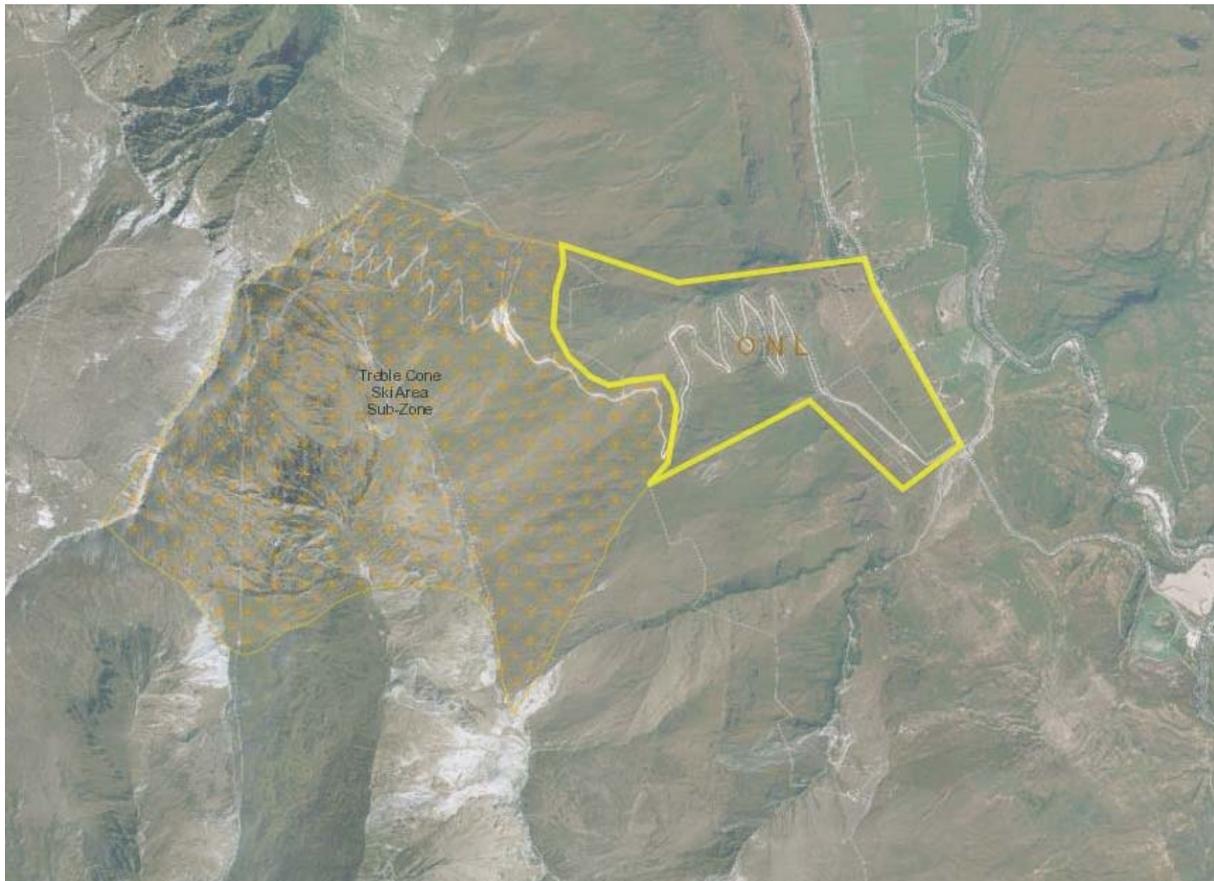


Figure 10: Notified Treble Cone SASZ with the extension sought outlined in yellow

### 8.1. Overview

171. TCI sought to extend the SASZ, as shown in the image above. It was to include the land from the beginning of the ski field access road to the lowest elevation of the notified extent of the SASZ at approximately 1100 masl. The submission was supported by NZSki (FS1229), however the support was primarily identified for the provisions applying to the SASZ (addressed through Stream 2 – Rural) and was unrelated to the rezoning extent.

172. At the hearing TCI offered an alternative approach that would satisfy their concerns. This was to largely to agree with the Council's reply position as presented at the Rural hearings and in these hearing specifically in relation to SASZs. The 'offer' was that PLS and other transportation systems (eg roading) be Restricted Discretionary Activities (RDA) outside of SASZs. On this basis no extension to the Treble Cone SASZ would be sought.

173. Ms Baker- Galloway set out in her legal submissions for TCI that<sup>41</sup>

*Having now had the benefit of reviewing the Council's position as set out in its rebuttal evidence lodged 20 April 2017, along with the "full package" set out in Council's replies to other relevant hearing streams, the Submitters have carefully considered the points made*

<sup>41</sup> Ms Baker- Galloway, paras 9 and 10, pg 3.

*and can now largely support the position advanced by Council as another option that achieves the Submitters' objectives. To be of assistance the Submitters have therefore refined the package in support of Council's position that involves ..... no extension to the Treble Cone SASZ, along with consequential changes to the plan provisions. It is submitted this option could equally achieve the Submitters' objectives in respect of enabling access to the SASZs in a manner that meets the relevant tests and that gives effect to the objectives and policies of the PDP.*

*To be clear, the Submitters' relief package submitted in their experts' evidence in chief is not being withdrawn, and is still supported as one suitable alternative to achieve sustainable management and the Submitters' core objectives. However to be of assistance, the Submitters can also now support the alternative promoted by Council, subject to minor changes.*

174. Mr Ferguson, in this supplementary evidence dated 5 May 2017 stated:

*In light of the Council's Rebuttal Evidence Soho and Treble Cone have considered further the mapping of these SASZs. The main objective for Treble Cone and Soho with respect to the mapping of the SASZs has been to secure through an appropriate rule framework the provision of land based vehicle access and/or passenger lift access to both ski areas. This objective stems from the clear direction provided within the Proposed District Plan ('PDP') to encourage the growth, development and consolidation of ski area activities and the disconnect in planning terms with the provision of the necessary access to such areas through the rural zone.<sup>42</sup>(emphasis added)*

175. He further set out<sup>43</sup>

*In the event the Panel find that the approach outlined in this Supplementary Evidence to the management of access to the SASZs is the most appropriate method to achieve the objectives of the plan relating to the growth development and consolidation of the Treble Cone and Soho ski areas, the revised relief contained within Appendix 2 sets out the basis under which this could be achieved ..."*

176. Mr Ferguson's supplementary evidence then went on to set out the wider framework of provisions relating to the SASZs which were part of the earlier hearing streams. He also included (in Appendix 2 to his evidence) a set of revised provisions that he considered appropriate. For the purpose of this report, he included an RDA rule for "Passenger Lift Systems or other transportation system or land based vehicle access used to convey passengers to and from a Ski Area Sub Zone"<sup>44</sup>

177. Ms Banks, in her Reply Statement largely agreed with the submitters and provided a set of provisions similar to those proposed by Mr Ferguson, but in a different format (for example Ms Banks provided two separate RDA rules for PLSs and other transportation system or land based vehicle access used to convey passengers to and from a Ski Area Sub Zone, where as Mr Ferguson had them as one). Ms Banks, as part of the wider amendments to the SASZ provisions, recommended the deletion of Rule 21.4.19 which stated that SAA outside the SASZ

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<sup>42</sup> C Ferguson, Supplementary evidence para 4, pg 2.

<sup>43</sup> *ibid* para 10, page 3.

<sup>44</sup> *ibid*, Appendix 2 - rule 24.1.19

are a non-complying activity; a necessary change given the recommended changes in the Rural and SASZ hearing recommendations.

178. We note here that we agree with TCI that what it has proposed would achieve TCI's main objective of securing an appropriate rule framework to provide for land based vehicle access and/or passenger lift access to both ski areas. This approach would give effect to the clear direction provided in the PDP to encourage the growth, development and consolidation of ski area activities and the disconnect in planning terms with the provision of the necessary access to such areas through the rural zone.
179. The Rural Hearing Panel has addressed the issue of the appropriate plan provisions for SASZ's (see that report). To 'support' the position by more specifically providing or PLS and other forms of access to and from the SASZ's, that Panel has recommended the additional policy below

*Provide for appropriate alternative (non-road) means of transport to and within Ski Area Sub Zones, by way of passenger lift systems and ancillary structures and facilities.<sup>45</sup>*

180. This policy, along with the 'package' of recommended changes made to the Rural and SASZ provisions better ensure that SASZs can function as the PDP envisages they should. It will also 'achieve' other strategic objectives of enabling economic development, enhancing recreational use, while also protecting/managing outstanding and other landscapes.
181. In terms of the SASZ hearings, we find that having heard all of the evidence, which we briefly addresses below, not extending the SASZ but providing for PLS and other access as an RDA with appropriate matters of discretion is a more efficient approach and method in section 32 terms. This approach avoids establishing SASZ's on the lower slopes (generally below 1100masl), and the potential adverse effects of enabling SAA's at these lower altitudes.
182. We also accept the evidence (Mr Darby and others) that the consent held by TCI for a gondola is likely to be exercised, and we have considered this within the context of the existing environment. We address this briefly below also.

## 8.2. Landscape

183. Dr Read's evidence described the location of the proposed rezoning as a combination of valley floor and mountain side landscapes. She noted the valley floor was modified pasture whereas the mountainside landscape is steep with indigenous grasses and shrubs with patches of remnant beech in gullies. Dr Read considered that the area has high natural character and is highly memorable, but that the ski field access road was a prominent visual feature on the mountainside which detracted from its natural character and aesthetic coherence.
184. Dr Read was of the opinion that the range of activities and physical works anticipated in the SASZ could have significant adverse effects on the landscape. She also considered that the existing consent for the gondola, as opposed to extending the SASZ, was a better way to mitigate any adverse effects. On this basis Dr Read opposed the proposed rezoning.
185. Ms Pflüger's landscape evidence for TCI provided a detailed description of the existing landscape character and values found within the existing Treble Cone SASZ and the proposed

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<sup>45</sup> Recommended Policy 21.2.6.4

extension to it. Her assessment, unlike Dr Read's, concluded that the landscape's ability to absorb change within the Treble Cone extension area was relatively high. This was due to the existing modifications in the ski areas and the existing access to the ski areas. In coming to this view, she had taken into account the existing access road and the consented gondola alignment including an identified base station area, as part of the existing environment.

186. We agree with Ms Pflüger that the landscape could absorb some change for the reasons she set out, including the consented gondola as part of the existing environment.

### 8.3. Ecology

187. Mr Davis, Council's ecologist, identified the extent of the rezoning to be highly modified, having being subject to extensive pastoral activity including oversowing and top dressing, with indigenous beech forest and shrubland habitat in a defined area at the northern area of the proposed rezoning. Mr Davis was of the opinion that this area of beech forest and shrubland should be excluded from any SASZ, but otherwise did not oppose the proposed rezoning.

188. No other expert ecological evidence was provided. Given our acceptance of not expanding the SASZ but providing for PLS's as a RDA with ecology as one of the matters of discretion, we are satisfied that any ecological issues would be adequately addressed.

### 8.4. Findings

189. We have set out our recommendation already above. However we wish to record that we accept Mr Darby's evidence that it is likely that the existing gondola consent will be given effect to, and how important the gondola access is to the future of the Treble Cone ski field.

190. This is encapsulated in Mr Darby's summary statement, where he states<sup>46</sup>:

*The consented gondola to the Treble Cone ski area is a critical part of the development plan for the long terms security of the ski area. It is anticipated that the current access road will reach carrying capacity, and the gondola is the solution to addressing the growth and safety matters arising from that carrying capacity. Also the consented gondola is necessary to reduce the current risk associated with access being dependant on the ski access road, which is vulnerable to closure from time to time.*

191. As already mentioned above, we accept the gondola consent forms part of the existing environment.

192. As part of the 'package' of controls sought by TCI, Mr Ferguson proposed the following matters of discretion for the PLS and other access methods:

- a. The route of the passenger lift system and the extent to which the passenger lift system breaks the line and form of the landscapes with special regard to skylines, ridges, hills and prominent slopes.
- b. Impacts on landscape values from the alignment, surface treatment and design of any vehicle access, including measures that can mitigate effects on visual quality and amenity values of the landscape.
- c. Whether the materials and colours to be used are consistent with the rural landscape of which the passenger lift system will form a part.
- d. Whether the geotechnical conditions are suitable for the passenger lift system or vehicle access and the extent to which they are relevant to the route.

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<sup>46</sup> Mr Darby, Summary Statement, para 10, pg 3.

- e. Lighting.
  - f. The ecological values of the land affected by vehicle access, structures and activities and any proposed ecological mitigation works.
  - g. Balancing environmental considerations with operational requirements and economic viability of Ski Area Activities.
  - h. The positive effects arising from directly linking settlements the District's transportation network with ski area sub zones and providing alternative non-vehicular access.
193. Ms Banks proposed a similar set of provisions (worded differently) but also included light reflectivity and erosion and sediment control.
194. We have recommended a rule more similar to Mr Ferguson's provisions, particularly having one rule addressing both PLS and other access methods, whereas Ms Banks had them as two rules. The recommended plan provisions are set out at the end of this report and in Chapter 21 – Rural as shown in Appendix 1 to Report 4A.
195. It was discussed at the hearing if the phrase "and economic viability of Ski Area Activities" - should remain in the matters of discretion. In a different context, Mr Goldsmith, for MCSL, set out in his legal submissions (at Appendix 2) matters about financial and commercial viability, and why these were not relevant. We agree.
196. Mr Darby considered that this phrase was important (along with other matters of discretion, including the positive effects of any development of PLS's). He stated:<sup>47</sup>
- "...I recommend the matters of discretion include reference to important matters such as operational requirements, positive effects, and implications for the economic viability of ski area activities, to ensure the restricted discretionary assessment of any proposal covers matters that are critical to the development of a ski area. We are operating in an international market and to ensure long term sustainability of the ski are industry in this district, we need to ensure the ski areas continue to develop and remain attractive and viable".*
197. While we understand what is being sought - i.e. that the overall viability of a ski field may well be enhanced by a PSL, we do not think a Council should have to 'inquire' into the economic viability (balancing or otherwise with other factors). We find that it is appropriate to consider the positive effects of the proposal, and applicants may provide information that shows that one of the positive effects is the greater viability of the ski area.
198. We also support, Ms Banks' suggestion of the inclusion of earthworks provisions (erosion and sediment control). As has been addressed earlier in this report, the Council has now notified, as part of Variation 2, Chapter 25 - Earthworks, and that we recommend the inclusion of earthworks as a matter of control and discretion with reference to Chapter 25.
199. Overall we agree that PSLs and other access options outside of SASZs, where they provide access to and from a SASZ should be more enabled than the notified PDP. The submitter and the Council both agree that this can be achieved by an appropriately draft RDA rule, along with the other 'package' of amendments to the PDP as have been addressed in the Rural recommendation report and this report.

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<sup>47</sup> Mr Darby, Summary Statement, para 13, pg 4

**8.5. Recommendation**

200. We recommend the following:

- a. Accept in Part the submission by TCI (407)
- b. Accept in Part the submission by TCI (407).
- c. Accept in Part the further submission of NZSki (1153)

201. Insert the Rule 21.4.24 in Chapter 21 as set out below:

Rule Number	Activity	Activity Status
21.4.24	<p>Passenger Lift Systems not located within a Ski Area Sub Zone</p> <p>Discretion is reserved to:</p> <ul style="list-style-type: none"> <li>a. The Impact on landscape values from any alignment, design and surface treatment, including measures to mitigate landscape effects including visual quality and amenity values.</li> <li>b. The route alignment and the whether any system or access breaks the line and form of skylines, ridges, hills and prominent slopes.</li> <li>c. Earthworks associated with the construction the Passenger Lift System.</li> <li>d. The materials used, colours, lighting and light reflectance.</li> <li>e. Geotechnical matters.</li> <li>f. Ecological values and any proposed ecological mitigation works.</li> <li>g. Balancing environmental considerations with operational requirements of Ski Area Activities.</li> <li>h. The positive effects arising from providing alternative non-vehicular access and linking ski area sub zones to the roading network.</li> </ul>	RD

## PART C: SUMMARY OF RECOMMENDATIONS

### 9. NZSki – Coronet Peak – Submission 572

202. Our recommendation, set out in Section 2.6 above, is:
- a. Reject the proposed rezoning of 'Dirty Four Creek' to SASZ; and
  - b. Reject the proposed rezoning of the 'Back Bowls' to SASZ.

### 10. Cardrona Alpine Resort Ltd – Submission 615

203. Our recommendation, set out in Section 3.7 above, is:
- a. Reject the proposed rezoning sought by CARL;
  - b. Reject the further submissions of Kay Curtis (FS1137) and the Cardrona Valley Residents and Ratepayers Society Inc (FS1105); and
  - c. Accept the further submission of MCSL (FS1153).

### 11. Anderson Branch Creek Ltd – Submission 829

204. Our recommendation, set out in Section 4.5 above, is to reject the submission of Anderson Branch Creek Limited.

### 12. NZSki – Remarkables SASZ – Submission 572

205. Our recommendation, set out in Section 5.7 above, is that the SASZ be extended above Lake Alta as sought by NZSki (within the boundary of Queenstown Lake District), subject to the inclusion of the following rule in Chapter 21 Table 9 as follows:

21.12.8	Earthworks, buildings and infrastructure within the No Building & Earthworks Line in the Remarkables Ski Area Sub -Zone.	PR
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- a. Accept the submission by NZSki;
- b. Accept the supporting further submissions from QPL (FS1097) and Grant Hensman and others (FS1337)- noting the further submission of Grant Hensman and others (FS1337) is primarily associated with the creation of 'Sub-Zone B' discussed below as 'Area 2'.
- c. Reject the opposing further submission by Ian Dee (FS1081).

### 13. NZSki – Remarkables – Creation of a New SASZ Over the Site Containing the Lower Access Road – Area B

206. Our recommendation , set in Section 7.6 above, is:
- a. Reject the proposed rezoning of 'Sub Zone B' by NZSki (572);
  - b. Reject the further submission of Grant Hensman and others (FS1337);
  - c. Reject the further submission of QPL (FS1097); and
  - d. Accept the further submission of Ian Dee (FS1081).

### 14. Soho – Submission 610

207. Our recommendation, set out in Section 7.6 above, is:
- a. Accept the revised (reduced SASZ within scope) proposed rezoning of Soho (610);

- b. Accept in part the further submission of Queenstown Park Ltd (FS 1097); and
- c. Accept in part the further submission of MCSL (FS 1153).

15. Treble Cone Investments Ltd – Submission 613

208. Our recommendation, set out in Section 8.5 above, is:
- a. Accept in Part the submission by TCI (407)
  - b. Accept in Part the submission by TCI (407).
  - c. Accept in Part the further submission of NZSki (1153)
  - d. Insert Rule 21.4.24 in Chapter 21 as set out below:

Rule Number	Activity	Activity Status
21.4.24	<p>Passenger Lift Systems not located within a Ski Area Sub Zone</p> <p>Discretion is reserved to:</p> <ul style="list-style-type: none"> <li>a. The Impact on landscape values from any alignment, design and surface treatment, including measures to mitigate landscape effects including visual quality and amenity values.</li> <li>b. The route alignment and the whether any system or access breaks the line and form of skylines, ridges, hills and prominent slopes.</li> <li>c. Earthworks associated with the construction the Passenger Lift System.</li> <li>d. The materials used, colours, lighting and light reflectance.</li> <li>e. Geotechnical matters.</li> <li>f. Ecological values and any proposed ecological mitigation works.</li> <li>g. Balancing environmental considerations with operational requirements of Ski Area Activities.</li> <li>h. The positive effects arising from providing alternative non-vehicular access and linking ski area sub zones to the roading network.</li> </ul>	RD

**For the Hearing Panel**



**Denis Nugent, Chair**  
**Date: 29 March 2018**