Before Queenstown Lakes District Council

In the matter of	The Resource Management Act 1991
And	The Queenstown Lakes District proposed District Plan Topic 11 Ski Area Subzones mapping

LEGAL SUBMISSIONS FOR

Soho Ski Area Limited and Blackmans Creek No. 1 LP (#610)

Treble Cone Investments Limited (#613)

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MAY IT PLEASE THE COMMISSIONERS

Introduction

1 These legal submissions are prepared on behalf of the named submitters, Soho Ski Area Limited and Blackmans Creek No. 1 LP ("**Soho**") and Treble Cone Investments Limited ("**Treble Cone**") or together referred to as the Submitters.

2 The Submitters have presented previously in the following Hearing Streams:

(a) Hearing Stream 01 in respect of Strategic Direction and Landscape chapters 3 and 6 in particular

(b) Hearing Stream 02 in respect of Rural and Indigenous Vegetation chapters 21 and 33 in particular

(c) Hearing Stream 4 in respect of Subdivision chapter 27.

3 The Submitters also adopt the district wide submission of Darby Planning LP (#608).

4 This hearing stream 11 represents the final part of the case to be presented for the Submitters.

5 In summary, the Submitters represent 2 important ski areas that make up part of the Queenstown District's world class ski areas. The ski areas are a critical component of the District's economy and the areas' ability to continue to attract large numbers of tourists, not just over winter now, but year round.

6 The Submitters' case in general on the DPR has been to ensure provisions enable adaptability, innovation and certainty on planning and environmental fronts. In hearing stream 11, the focus is primarily on ensuring the ability to access the ski areas is enabled through an appropriate planning framework.

Revised Relief Package

7 The Submitters provided comprehensive evidence in chief for this Hearing Stream in support of the requested extensions to both the Soho and Treble Cone Ski Area Subzones ("**SASZs**"). The objective of the relief in the evidence in chief is to enable integrated access through the extended SASZs to the notified SASZ with an appropriate suite of controls to provide for matters such as landscape effects and amenity.

8 The resulting package proposed was a split regime within the SASZ, whereby the permissive regime for Ski Area Activity ("SAA") development within the

SASZs (as notified) was largely retained, and within the extension areas sought and below 1100masl two 'sub areas' were created, named the Passenger Lift Corridor, and the Ski Area Facilities Overlay. Within these 'sub areas' Passenger Lift Systems and Buildings, respectively, would become controlled activities, and outside of those areas (within the extension area), those activities become restricted discretionary. A summary of this proposal is included within the evidence of Mr Ferguson at para 4.7 of his evidence in chief dated 28 March 2017.

9 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 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 a much smaller extension to the Soho area covering primarily skiable terrain, and 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.

10 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.

11 These submissions therefore focus on the further revised proposal that is primarily in support of the position advanced by Council's experts, which is now the Submitters' preferred option. In summary this position involves:

(a) A smaller extension to the Cardrona SASZ, incorporating additional skiable terrain on Soho freehold land.

(b) No extension to the Treble Cone SASZ.

(c) Ski Area Activities ("**SAA**") outside of the SASZ are discretionary, with the exception of passenger lift systems and road access to SASZ, which are restricted discretionary.

12 The revised relief option that generally supports the position of the Council's experts on rebuttal, is explained and attached to Mr Ferguson's Supplementary Evidence dated 4 April 2017, filed in conjunction with these legal submissions. Mr Ferguson's evidence appends the plan showing the much smaller extension

to the Cardrona SASZ into the upper reaches of Callaghan's Creek only as his Appendix 1. The extension area sits within the original extension sought, and covers additional skiable terrain on freehold land.

13 Mr Ferguson's appendix 2 sets out the provisions as promoted by Soho and Treble Cone that largely support the Council's position on rebuttal, with some consequential amendments that he explains.

Soho Extension Sought

14 The much smaller extension now sought reflects the core purpose of the SASZ, being to provide for skiing and activities ancillary to that activity.[1] The original extension sought was 283ha and extended all the way down to the road. The extension now sought is in order of 181ha, and covers the higher elevations of primarily skiable terrain.

15 The primary purpose of this part of the extension area is discussed in para 23 of Mr McCrostie's evidence in chief as follows:

> *Within the freehold portion of the Soho ski area extension sought, and above 1100masl, skiing and associated winter activities are able to be undertaken. The Submitter has undertaken feasibility assessments in these areas as to the ability to commercially ski this land in the future. This area of the extension encompasses approximately 97ha of skiable terrain. This is mostly intermediate terrain, which could potentially support approximately 1200-1500 skiers at any one time.*

16 Summary evidence from Mr McCrostie and Mr Darby will provide additional comment on the potential the smaller extension area holds, for the Soho ski area development.

17 It is submitted that the evidence clearly establishes this area is entirely appropriate for inclusion in the SASZ, and there is no evidence as to adverse effects associated specifically with utilising this area in accordance with SASZ provisions that establishes the inappropriateness or otherwise of the use of the area for SAA. The continued anticipated and appropriate development of the Cardrona SASZ in the Soho ski area would be best given effect to by the extension of the SASZ now sought.

18 In terms of jurisdiction, the extension appended to Mr Ferguson's evidence does extend beyond the boundary of the original extension proposed, but is

[1] Referring to the section 42a report of Ms Banks dated 10March 2-17 (planning strategic overview) at para 11.16 which provides 'the purpose of the SASZ, at a strategic level, is to enable continued development of skiing, and activities ancillary to skiing, recognising the importance of these activities to the District's economy.

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.

Treble Cone

19 In terms of the alternative position now advanced by the submitters largely in support of the Council's position, no amendment to the Treble Cone SASZ would be required.

Points of Law

20 There are two key legal questions that are relevant to this hearing stream that are addressed next in these submissions.

21 Firstly the question of the relevance of existing unimplemented resource consents is addressed in the section below. This is relevant due to the existing but unimplemented consents for the Treble Cone gondola, and the Snowfarm gondola in the Cardona valley.

22 Secondly, the question of financial viability of potential gondolas has been raised by Council witnesses, and as a matter of law is addressed in these legal submissions.

The existing environment and proposed district plans

23 This section of legal submissions relates to the relevance of existing consents. For Treble Cone, it is relevant to how the existing consent for the gondola is referenced as part of the existing environment when considering the appropriate plan provisions and boundaries. For Soho, it is relevant to how the existing consent for the Snowfarm gondola is assessed as part of the existing environment and the potential for cumulative effects.

24 In summary, it is submitted that:

(a) In respect of the Treble Cone gondola consent, the evidence from Mr Darby and Mr McCrostie is that it is likely to be implemented. That consent therefore forms part of the existing environment including the future environment as it may be modified by the implementation of resource consents. Therefore, if considering the extension to the SASZ, this is clearly relevant. And when considering the alternative now proffered in respect of a specific restricted discretionary rule for road access and passenger lift systems outside of the SASZ, it is also a relevant part of the existing environment for the Treble Cone site.

(b) In respect of the Snowfarm gondola consent, it is submitted there is no evidence that consent is likely to be implemented. Therefore the weight that can be placed on any potential cumulative effect arising from a gondola to Soho in combination with a gondola to the Snowfarm is minimal. Furthermore and as addressed in more detail below, on the evidence even if this cumulative effect were considered to be relevant, it is not likely to have a significant adverse effect, and is appropriate for the area.

25 The legal submissions below set out in detail the reasoning and analysis that supports the above conclusions.

26 To avoid unnecessary repetition, I refer the Commission to my earlier legal submissions made in respect of the future environment in a district plan review, submitted in Hearing Stream 02.[2] Those Submissions, at section 2, refer to High Court authority which supports the notion that a territorial authority, in preparing its district plan under ss 31 and 32 of the Act should do so with reference to the future environment as considered in *Hawthorn Estate Ltd.*[3]

27 I note that although the High Court in *Shotover Park*[4] stated at para [115] that:

> *[115] In my view, the Court of Appeal in Hawthorn intended [84] to be a real world analysis in respect of resource consent applications. The setting of the case was of application for resource consents, under s 104, not the application of ss 31 and 32.*

The judgment however then went on to further consider the Environment Court's[5] distinguishing of *Hawthorn* on the facts, in that the aspect of the *Hawthorn* test not to apply in the context of a plan review was the utilisation of rights to carry out permitted activities under the District Plan.[6] This reference is **only** in respect of one limb of the Hawthorne test, and did not extend to the second limb, being the assessment of resource consents granted and likely to be implemented. The High Court's analysis from para 122 onwards then went on to assess why, in those particular circumstances, the Environment Court did not have to take into account the resource consents in question because they could not make the finding they were likely to be implemented.

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[2] S0608-Darby Planning Ltd – T02 – Baker-GallowayM – Legal Submissions

[3] *Queenstown Lakes District Council v Hawthorn Estate Limited* [2006] NZRMA 424

[4] *Shotover Park Limited v Queenstown Lakes District Council* [2013] NZHC 1712

[5] *Foodstuffs (South Island) Ltd v Queenstown Lakes District Council* [2012] NZEnvC 135

[6] Ibid, at [116]

28 Justice Fogarty considered the Environment Court's earlier predicament in determining how to account for unimplemented consents. In that case, the unimplemented consents in question were the subject of appeals, the outcome of which were uncertain, but could potentially result in those resource consents not being granted. Justice Fogarty considered that given this uncertainty, the Environment Court had no choice but to 'keep going'[7] (i.e. it could not delay its plan change decisions based upon the outcome of concurrent appeals of resource consents in question), but also left the door open for future decisions of that Court to take into account the consents in the receiving environment, if reinstated, as 'likely to be implemented'.[8]

29 The High Court did not overturn the Environment Court's explicit reasoning as follows:

> *[122] In a plan change proceeding, a grant of consent may be relevant to an assessment of the environment, which we find would include the future environment as it may be modified by the implementation of resource consents held at the time the plan change request is determined and in circumstances where those consents are likely to be implemented. Unlike Hawthorn Estate Ltd (cited to us by SPL and Foodstuffs) this court is not concerned with how the environment may be modified by the utilisation of rights to carry out permitted activities under the District Plan. Indeed the proposed modification of the existing environment is the subject matter of these plan change proceedings. Hawthorn Estate Ltd is therefore distinguishable on its facts.*
>
> *[123] The likelihood of the consents being implemented is a question of fact and this is difficult to determine, but not because these particular consents are contingent upon the gaining of other consents and approvals. (While this will take time we were told of no compelling reason why these would not ultimately be forthcoming).*
>
> *[124] Rather, the question is difficult because it involves speculation as to the outcome of the High Court appeals. Subject to the High Court's decisions, it may be open to the other division of the Environment Court to confirm the grants of consent with or without modification or (possibly) to reject the applications. Given this, we are not in a position to determine the likelihood that these consents will be implemented.*
>
> *…*

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[7] Ibid, at [132]

[8] Ibid, at [134]

[126] The consideration of unimplemented resource consents as forming part of the future environment is important when we come to consider the integrated management of the effects of use, development or protection of land. Section 31(l)(a) provides:

> *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
>
> *(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.*

The resource consents are also relevant under section 32 (which we summarised earlier).

…

Outcome

[131] While we find that the Environment Court decisions Foodstuffs (South Island) Ltd v QLDC and Cross Roads Properties Ltd v QLDC are relevant, we are unable to assess whether the consents (if upheld) will be implemented and therefore decline to consider the consents as forming part of the environment.

30 Also of assistance is the Environment Court's decision of *Milford Centre v Auckland Council*, in which Judge Smith confirmed:

> *[120] For practical purposes, we can see no proper basis to draw a distinction between the environment for the purpose of resource consent and a Plan Change, and accordingly, adopt the approach of Queenstown Lakes District Council v Hawthorn in the Court of Appeal. In this regard we suspect Mr Brown may have retained the existing environment in mind for residential, rather than the more intensive residential environment that will eventually predominate.*[9]
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> [Footnotes omitted]

31 This Environment Court decision has however not been referred to in higher court authority since 2014, and nor does it rely on the *Shotover Park* decision regarding the same point of law.

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[9] *Milford Centre v Auckland Council* [2014] NZEnvC 23, at [120].

32 It is submitted the Environment Court's declaration recently in respect of the Proposed Auckland Unitary Plan is also of some assistance, in considering the relevance of *Hawthorne* in a plan review, in particular that the application of the test is nuanced, and depends upon 'likelihood' of implementation of existing consents (rather than being of blanket application):

> *That said, we do not necessarily agree with Auckland Council's unqualified submission that consents granted under the legacy planning instruments are of enduring relevance. The relevance of any resource consent is nuanced. This is implicitly recognised in Auckland Council's submission in relation to the assessment criteria that "planners will need to consider any approved framework consents (or equivalent framework consents), which are a part of the receiving environment (as per Hawthorn Estates Limited v Queenstown Lakes District Council [2006] NZRMA 2014 at [84])". The Court of Appeal is talking about the future state of the environment as it might be modified by the implementation of resource consents where it appears likely that those consents will be implemented: per Hawthorn Estates Limited v Queenstown Lakes District Council at [84]. We recognise consent authorities are challenged on a daily basis by the requirement to reach an informed view as to the likelihood of resource consents being implemented*[10].

33 In the *A & A King Family Trust* decision released in 2016, in which Judge Harland noted:

> *[78] The unimplemented supermarket consent has not, in our view, reached the stage where it could be considered as a permitted baseline, which in any event is not a relevant consideration when considering a plan change appeal. In terms of this appeal, however, we do not agree that it should be used as a springboard for further commercial activity, or that the fact that consent was granted for it under a more permissive planning regime means it should be given any particular weight when assessing which proposal is the most appropriate*[11].

34 There are two issues with relying on the *A & A King Family Trust* decision in this context:

(a) Firstly, Judge Harland's decision makes only a passing comment in respect of the **permitted baseline** concept, without reference to any

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[10] *Re Auckland Council* [2016] NZEnvC 65 at [41].

[11] *A & A King Family Trust v Hamilton City Council* [2016] NZEnvC 229, at [78].

higher court authority in this regard, nor does the decision refer to the High Court's *Shotover Park* judgment referred to above in respect of the **receiving environment** in a plan change context. It is also questionable whether the permitted baseline concept has been applied correctly, in that it concludes the existing consent (which was at the time unimplemented) had not yet 'reached the stage of a permitted baseline'. This was based upon an assessment of the conditions of the consent, which required the submission of landscaping plans and access plans to Council prior to implementation of the consent. This does not assess the dismissal of the discretionary permitted baseline test, according to the provisos provided by *Arrigato Investments*.[12]

(b) It is important to not conflate the concepts of the permitted baseline and the receiving environment, the former relating to a comparison of effects within the same subject site of a proposal under consideration, and the latter being an assessment of the future receiving environment, beyond the site. This distinction was recently summarised by the court of Appeal in *Far North District Council v Te Runanga-A-Iwi O Ngati Kahu:*

[91] In the RMA context, the environment and the permitted baseline concepts are critically different. Both are discrete statutory considerations. The environment refers to a state of affairs which a consent authority must determine and take into account when assessing the effects of allowing an activity; by contrast, the permitted baseline provides the authority with an optional means of measuring – or more appropriately excluding – adverse effects of that activity which would otherwise be inherent in the proposal.[13]

(c) The "permitted baseline" concept isolates, and make irrelevant, the effects of activities on the environment that are permitted by a district plan, or have already been consented to. Such effects cannot then be taken into account when assessing the effects of a particular resource consent application. When analysing the permitted baseline concept more closely, it makes sense that it is not applied in a plan review process, given that it is a comparison of like for like activities. The future environment test is however broader, and applies beyond the site, and therefore I rely on the above submissions in respect of the

[12] *Arrigato Investments v Auckland Regional Council* [2002] 1 NZLR 323, [2001] 7 ELRNZ 193.

[13] *Far North District Council v Te Runanga-A-Iwi O Ngati Kahu* [2013] NZCA 221, at [90].

application and relevance of *Shotover Park* in the context of a plan review.

35 When assessing the relevance of the existing Snowfarm gondola consent one must therefore take into account the "likelihood of implementation' test required when assessing the receiving environment. No evidence has been presented that the Snowfarm gondola consent is likely to be implemented, therefore the weight to be placed on it and consequent cumulative effects is minimal.

36 Putting aside the technical issues of whether or not the Snowfarm gondola consent is relevant, when it comes to the merits and actual potential effects, Ms Pfluger has assessed the potential for cumulative effects associated with the likely gondola route to the Soho area with the consented Snowfarm gondola route as being overstated by Dr Read. Dr Read herself stated that the cumulative effects of the potential Snowfarm gondola and potential Soho gondola are "adverse" but has not explained how that is, and to what degree.[14] Nor has she assessed in her evidence in chief or rebuttal the degree to which she considers both potential gondola to be visible. In the absence of having gone through this visibility analysis, there is no foundation for a determination of degree of potential adverse cumulative effects. By way of contrast, Ms Pfluger has undertaken an analysis of the visibility of the 2 potential gondola[15] and on that basis concludes Dr Read's concerns in respect of cumulative effects are overstated.

37 From the above, it follows that the potential 'cumulative effects' of multiple gondolas in one location is not a valid consideration in this plan review. The huge costs and infrastructure necessary for construction of any gondola within the Cardrona Valley means also that in reality, it would be extremely unlikely that more than one gondola would ever be constructed to the Cardrona ski area. I submit that the final location and construction of any gondola here would be ultimately determined by the market, and that the cumulative effects risk is so remote and uncertain it cannot rightly form the basis of a justification to oppose zoning in this instance.

38 In this regard, either of the options put forward by the applicant are appropriate – either an extension to the SASZ with a corridor for access, or the revised provisions and specific rule allowing for passenger lifts or road access to SASZ as a restricted discretionary activity.

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[14] Dr Read, Evidence in Chief 10 March 2017, paragraph 5.32

[15] Ms Pfluger, Evidence in Chief, 28 March 2017, paragraph 62 onwards, and paragraph 66 specifically with respect to the Snowfarm gondola.

39 It must be remembered that the SASZ at Cardrona in particular is already in place. The SAA activities and the significant benefits they provide are therefore already deemed appropriate in this landscape, and logically, the associated effects of extending the SAA over further skiable terrain, and accessing the SAA are similarly contemplated as appropriate in the landscape, with the right controls.

Financial Viability and the RMA

40 The section 42a Report (analysis of submissions) from Ms Banks refers to the uncertain commercial 'viability' of a Gondola link as proposed by Soho as one reason why, in the report writer's opinion, a gondola link in this location is considered inappropriate.:

> *With regards to provision of a gondola, there is no evidence to confirm that a gondola is feasible or commercially viable in this location. I note that an existing resource consent (RM070610) provides for a gondola link to Snow Farm Park, providing access to the Waiorau Pisa SASZ. This consent was approved in May 2008 and expires in May 2018. This resource consent has not been given effect to, and while I am not aware of the reasons why, I consider that it would be inappropriate to provide for a second gondola link in this location which may lead to cumulative effects on the landscape*.[16]

41 There is a wealth of case law confirming the inappropriateness of considering financial viability of a proposal in considering its overall merits or appropriateness. This is distinct from the positive economic benefits which may arise as a result of a proposal:

42 Justice Greig's seminal decision in the case of *NZ Rail v Marlborough District Council* began this line of case law by determining that:

> *Financial viability in those terms is not a topic or a consideration which is expressly provided for anywhere in the Act. That economic considerations are involved is clear enough. They arise directly out of the purpose of promotion of sustainable management. Economic well-being is a factor in the definition of sustainable management in s 5 (2). Economic considerations are also involved in the consideration of the efficient use and development of natural resources in s 7 (b). They would also be likely considerations in regard to actual and potential effects of allowing an activity under s 104 (1). But in any of these considerations it is the broad*

[16] Para 2.43, Second Statement of Evidence of Kim Banks on behalf of Queenstown Lakes District Council Ski Area Subzones – Mapping, Annotations, and Rezoning requests, dated 10 March 2017

aspects of economics rather than the narrower consideration of financial viability which involves the consideration of the profitability or otherwise of a venture and the means by which it is to be accomplished. Those are matters for the applicant developer and, as the Tribunal appropriately said, for the boardroom.[17]

43 Justice Greig's statements were recently summarised by Judge Borthwick's division in respect of Queenstown Airport's proposed Notice of Requirement, which was opposed by parties on the basis of, among other matters, the efficient use of resource under section 7(b) of the Act: Justice Borthwick noted:

> *"Decisions on costs and economic viability, or profitability or a project are not matters for the court. As Justice Wild in Friends and Community of Ngawha Inc and Others v Minister of Corrections said, these matters should:*
>
> > *…sensibly be regarded as decisions for the promoter of the project. Otherwise, the Environment Court would be drawn into making, at least second-guessing, business decisions. That is surely not its task."*[18]

44 On this basis it is submitted that the financial viability of potential passenger lift systems accessing any of the SASZs is not a matter which can or should be taken into account in the manner it has been by the Council.

Hearing Process

45 As will now be apparent, in the context of this primarily "mapping" hearing, the Submitters have been able to review the position advanced by Council's experts on rebuttal, in combination with the position of Council in its right of reply to key hearing streams that have gone before (most importantly being Hearing Stream 02 on the Rural chapter 21). Consequently, it has become apparent on our assessment that there is this alternative position that the Submitters can support, that is largely in support of Council's position, subject to some minor changes to the text.

46 Based on procedural directions and the indications of the Chair during previous appearances, it is submitted that consequential changes to text arising from this iterative process are anticipated.

47 At the commencement of the hearings process for the District Plan Review ("DPR") it was noted by the Chair that:

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[17] *NZ Rail Ltd v Marlborough District Council* [1994] NZRMA 70 at page 22.

[18] *Re Queenstown Airport* [2012] NZ EnvC 206 at [211], and upheld on appeal by the High Court in *Queenstown Airport Corporation Limited v Queenstown Lakes District Council* [2013] NZHC 2347.

> *Hearings will be held grouped by topic. For submissions on the Plan text, each topic will be a single chapter or a group of chapters. For submissions seeking changes to the planning maps, the Hearing Panel will hear these grouped into geographic areas*[19].

48 In the Commission's second procedural Minute, it was further clarified:

> *The Hearing Panel proposes to hear submissions on the notified text of the Proposed District Plan first, and then deal with amendments sought to the maps. This will mean that where a submitter seeks to amend the provisions of a zone, and also seeks to amend the extent of that zone, the submitter will be heard in two different topic hearings.*[20]

49 Counsel has reviewed the various procedural minutes subsequently issued and has not been able to find clarification on the process for presenting evidence and submissions in respect of consequential amendments to the text of the Proposed Plan ("PDP") in the course of mapping hearings. On the basis that hearing stream 02 on the Rural chapter 21 is adjourned, it is apparent however that consequential changes arising from responses to the council's experts in later streams such as this one, can be considered.

50 This iterative process whereby earlier hearing streams are informed by later directly relevant hearing streams is understood to be the basis of the decision to issue the decision on Stage 1 of the DPR after all hearing streams have been completed and evaluated.

51 The Submitters are not re-litigating matters heard already (primarily in respect of Hearing Stream 02 (Rural) as well as Hearing Stream 04 (Subdivision) and Hearing Stream 10 (Definitions)) however note that it is critical to consider the provisions of these parts of the text alongside the mapping relief sought. As presented in these Submissions and the Submitters' revised relief package, it is clear that the text and the zoning maps can work together and provide effective alternative outcomes to promote the social and economic wellbeing that derives from successful ski areas, while ensure effects and mitigated to an appropriate level. This can be achieved with either the extensions of SASZs to the roads as originally sought along with comprehensive plan provisions, or by way of the alternative package tabled today that is largely in support of Council's position.

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[19] Minute and Directions of Hearing Commissioners dated 25 January 2016, at page 3.

[20] Second Minute on Procedural matters dated 05 February 2016, at page 13.

Dated this 5th day of May 2017

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