

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-

Under the Resource Management Act 1991 (**RMA**)

In the matter of An appeal under clause 14(1) of Schedule 1 of the RMA in relation to the proposed Queenstown Lakes District Plan

Between **Soho Ski Area Limited and Blackmans Creek No.1 LP**

Appellant

And **Queenstown Lakes District Council**

Respondent

Notice of Appeal

19 June 2018

Appellant's solicitors:

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To The Registrar
Environment Court
Christchurch

- 1 Soho Ski Area Limited and Blackmans Creek No.1 LP (**Soho**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Soho made a submission (#610) and further submission (#1329) on the PDP.
- 3 Soho is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Soho received notice of the decision on 7 May 2018.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 3 Strategic Direction;
 - (b) Chapter 6 Landscapes;
 - (c) Chapter 21 Rural;
 - (d) Chapter 27 Subdivision;
 - (e) Chapter 33 Indigenous vegetation and Biodiversity;
 - (f) Planning Map 10.
- 7 Reasons for appeal and relief sought.

Background

- 8 Soho owns and operate the Soho Ski Area. This area is located within the Ski Area Sub Zone (“SASZ”) of the operative and Proposed Queenstown Lakes District Plans.
- 9 The Soho Ski Area is located on the south and western facing slopes of the mountain range extending north of the Crown Range, including Mount Sale and Mount Cardrona and runs roughly parallel to the Cardrona Valley Road. This area has long been associated with heliskiing and more recently has become an established cat-skiing operation. It obtained resource consents for the construction of a chair lift within the Soho Basin, a groomer shed in the Willow

Basin and staff access to the area from Cardrona Valley Road over an adjoining parcel, known as the Blackmans Creek freehold land. The Soho Ski area comprises part of the Glencoe pastoral leasehold land, from which Soho Ski Area Ltd holds a Recreation Permit to undertake ski area activities and part of an adjoining freehold land parcel known as the Blackmans Creek land. The Soho ski area land is legally described as follows:

- (a) Blackmans Creek freehold – Lot 1 DP 475309 and Section 5 Block I Knuckle Peak Survey District, being 885.4226 hectares in area and contained within the Computer Freehold Register identifier 654603; and
 - (b) Glencoe Station Pastoral Lease - Section 1, Section 3, Section 6, Section 8-9, Section 11-17 and Section 19 Block VII Kawarau Survey District, Section 4 Block X Shotover Survey District, Run 25, Run 39, Section 29-30 and Section 7 Block X Shotover Survey District and Run 37, being 8,579 hectares in area and contained within the Computer Interest Register identifier OT386/62.
- 10 The planned investment in infrastructure as part of the ski area development is significant. It contributes to the range of outdoor recreation activities available within the District and enhancing its reputation as a major national and international tourist destination.

Chapter 3 Strategic Direction

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

Chapter 6 Landscapes

- 15 Soho opposes those policies relating to the preference for farming as the means to protect landscape values as these are disproportionately weighted towards the protection of agriculture and fail to provide for those rural landscapes where pastoral farming does not occur such as within the conservation estate or other land held for recreation purposes including ski areas. Farming is one method for using rural resources productively, but its long term sustainability is uncertain particularly in this district, and there are other uses of rural land that are compatible with the protection of landscape values. Other natural factors, processes and human activities have shaped the landscape of the district in addition to farming.
- 16 Soho opposes those landscape provisions which establish a more than minor threshold or transience of effects into the determination of what is appropriate development in a landscape. This is a higher standard than that which is provided for in section 6(b) of the Act and is unjustified where the legislature has provided that such landscapes are only required to be protected from 'inappropriate' development. What is appropriate or inappropriate in a particular landscape, and based on a particular proposal may be a broader question than simply a more than minor effects assessment.
- 17 Soho considers that the PDP is fundamentally flawed in recognising that over 97% of the District is classified as a section 6(b) landscape and requests that landscape mapping be undertaken from a first principles landscape basis, applying the criterion that such landscapes to qualify must be 'outstanding or preeminent within the District'.
- 18 The specific provisions of Chapter 6 and the relief sought by Soho are set out in **Appendix A** to this Appeal.

Chapter 21 Rural

- 19 Specific amendments are sought to ski area provisions within the Rural Zone to provide for their ongoing viability and recognised benefits to tourism and recreation within the District. Amendments are sought to provisions to enable and encourage ongoing road access to the SASZs and connections to the wider District road network. Ski areas are currently reliant on roads as the primary access to ski fields (although provision should also be made for future access through gondola and other access options).
- 20 The default activity status for ski area activities outside of SASZs should be amended from non-complying to discretionary as there is an interconnection between development of SASZs which is enabled and recognised in Chapter 21, and adjacent rural land (which is usually identified as ONL). There is no

justification for a non-complying activity status in adjacent rural zones where the development enhances and is connected to the Ski Area Subzone.

- 21 The definition of Passenger Lift System specifically excludes base and terminal buildings. Any application for a gondola for example will include the base and terminal building attached to the gondola and associated bundling would render the entire gondola non-complying, rather than restricted discretionary. This renders the restricted discretionary provisions for gondola outside of SASZ redundant (21.4.25). The status of non-complying for these specific buildings is also more stringent than the status of any other buildings in the Rural zone, with no justification. There is no scope to specify that base or terminal buildings of a gondola outside SASZ is non-complying
- 22 The specific provisions of Chapter 21 and the relief sought by Soho are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision

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

Chapter 33 Indigenous Vegetation and Biodiversity

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

Planning Map 10

- 29 A minor extension is sought to the south western corner of the SASZ boundary as it relates to Soho land, The Decision incorrectly excluded the area in the extension based on a determination it was out of scope. The relief sought to correct this is the SASZ boundary as shown on **Appendix A1**.
- 30 If the primary relief sought to the definition of Passenger Life System, and rules 21.4.24 and 21.4.25 set out in Appendix A is not granted, the alternative relief sought is extension of the SASZ to encompass the intended boundary of a gondola and base facilities area, as shown on **Appendix A2**.

Further and consequential relief sought

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

Attachments

- 32 The following documents are **attached** to this notice:
- (a) **Appendix A** – relief sought
 - (b) **Appendix A1** – revised planning map to correct ski area boundary
 - (c) **Appendix A2** – alternative SASZ extension relief
 - (d) **Appendix B** - A copy of the Appellants' submission and further submissions;
 - (e) **Appendix C** - A copy of the relevant parts of the decision; and
 - (f) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 19th day of June 2018



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Advice to recipients of copy of notice of appeal

How to become party to proceedings

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

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

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

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

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

Advice

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