



# Permission Decision Support Document

Redacted version of approved Decision Support Document (for public release)

## Notified concessions

### Application Details

Decision Maker	Aaron Fleming, Director Operations, Southern South Island Region
Applicant	NZSki Limited
Permission Number	69588-SKI
Permission Type	Notified concession (Lease and Licence and Easement)

### 1. Task Register

*Redacted from this version of approved Decision Support Document for public release.*

### 2. Purpose

To make a decision on the application.

### 3. Context

Establish a replacement passenger lift system within the Sugar Basin locality at the Remarkables Ski Area at Rastus Burn Recreation Reserve, Queenstown.

The proposal involves earthworks and indigenous vegetation clearance to build new ski trails, installation of a bottom station/base terminal and utility hut, installation of a top station/top terminal and service hut, towers, lift cables, ski lift chairs, utility services, snow making infrastructure, and removal of the decommissioned Sugar Bowl Chairlift (including rehabilitation of the ground area of the drive stations and tower foundations).

Note: As the installation of the bottom station/base terminal and utility hut will be constructed within an authorised lease<sup>1</sup> area, this part of the proposal will be considered for consent in accordance with provisions contained within this lease. It is to be included in this notification to give context to the entire proposal.

The applicant has submitted a request for the Department's RMA affected party approval at the same time as submitting the application for the proposed works.


Approval for the proposed works being sought under this application and the departments RMA affected party approval are being considered together, as consideration of works here forms the basis for any RMA affected party approval.

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<sup>1</sup> Concession Number: PAC-13-06-42; lease recorded as [DOCDM-207343](#); Variations [DOCDM-207346](#) & [DOCDM-207328](#)

## Location/s

The activity has been applied for at the following location/s:

Conservation area	Description of location (if applicable)	Land status	District Office	Activity
<p>Rastus Burn Recreation Reserve (F41055) NaPALIS ID: 2804656 As show in blue below</p> 	<p>Section 1-2 Survey Office Plan 22561 and part Section 1 Block X Kawarau Survey District.  Contained in title CFR OT8D/636, being 700 hectares more or less</p>	<p>Held as recreation reserve under s.17 of the Reserves Act 1977</p>	<p>Whakatipu-wai-Māori / Queenstown Office</p>	<p>Establish a replacement passenger lift system within the Sugar Basin locality at The Remarkables Ski Area (see section 3. Context for full description)</p>

Approximate GPS NZTM: E1270492 N5002604 to E1271564 N5002813.



## Characteristics of the Application Area

The Otago Conservation Management Strategy outcomes and policies are referred to in section 6.5.2 in this Report. In summary the distinctive features are:

- The Remarkables Ski Area is in the Western Lakes and Mountains/Ngā Puna Wai Karikari a Rākaihautū (the Place).
- Area of spectacular glaciated mountain ranges, with a core of permanent snow and ice. Below the snowline, a complete sequence of indigenous vegetation exists from high alpine fellfield and low-alpine snow tussock lands, through to mixed shrublands and beech forest to tussock grassland on the flat valley floors.
- Mountain crests, such as The Remarkables, form a transition between the broader, semi-arid landscape of Central Otago and the continuous chain of snow-capped mountains, deep valleys, and extensive beech forests of the main divide of the Southern Alps/Kā Tiritiri o te Moana.
- The Remarkables and Tāpuae-o-Uenuku/Hector Mountains include several large conservation areas, and the Rastus Burn Recreation Reserve in which the Remarkables ski field is located.
- The Remarkables and Tāpuae-o-Uenuku/Hector Mountains contain high ecological values due in part to the area's location in a transition zone between the wetter west and the drier Central Otago mountains and valleys. Tussock grasslands are extensive and largely unmodified. The alpine and subalpine vegetation includes the eastern extent of several species including mountain snow tussock, cut-leaved alpine buttercup and Birleys hebejeebie. The area has a wide range of habitats-rock bluffs, boulderfields, cushionfields, tussockland, wetlands, lakes, forest and shrubland-extending from 350 m to 2320 m.
- The highest level of recreational use occurs in and around The Remarkables ski field. The ski field road provides access to The Remarkables and Tāpuae-o-Uenuku/Hector Mountains year round.

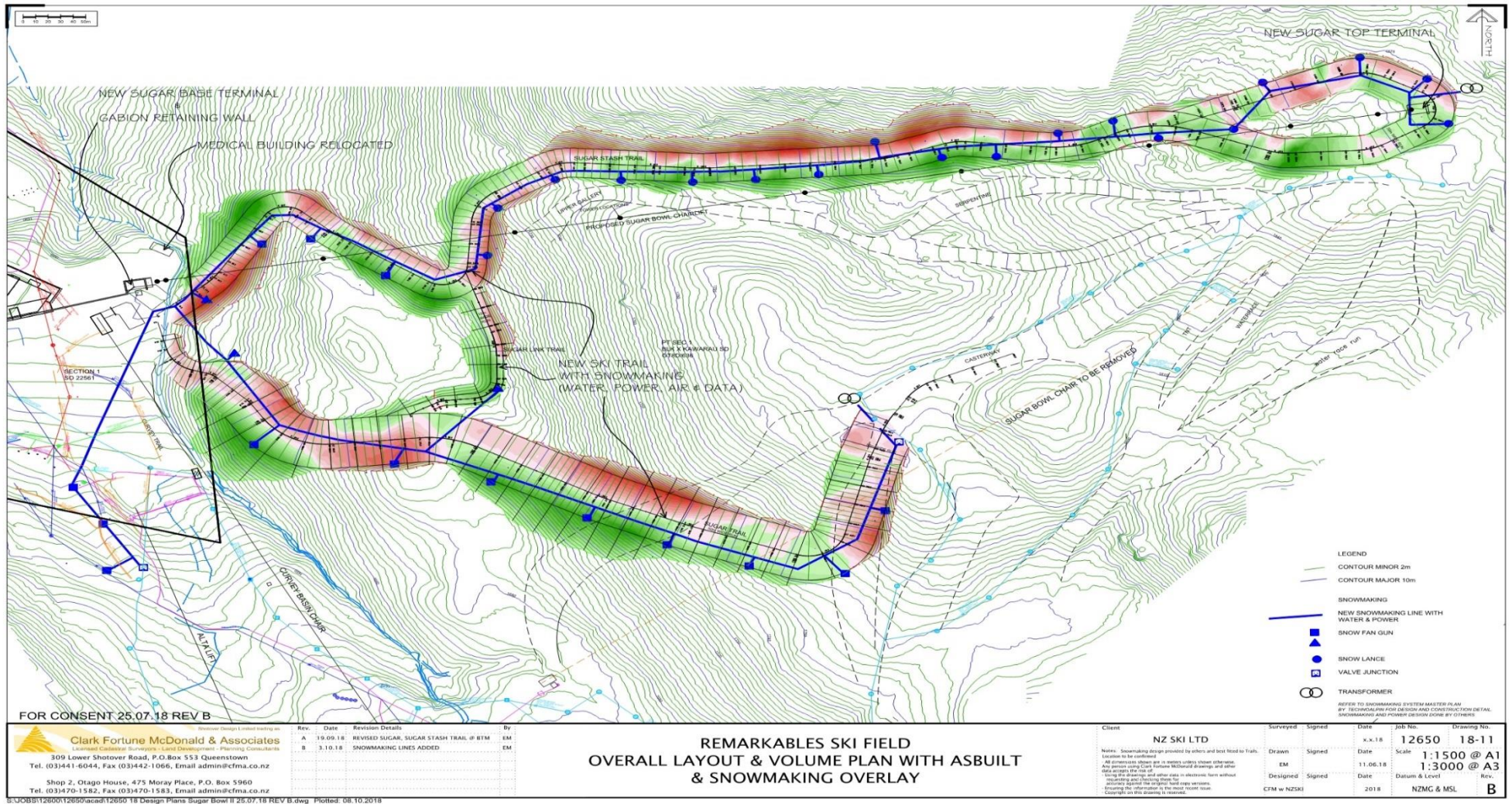


Figure 1: Original plan – cut areas (in red), fill areas (in green) (see figure 2 also)



## **Relevant details about the Applicant**

*Redacted from this version of approved Decision Support Document for public release.*

## **4. Critical Issues**

*Redacted from this version of the approved Decision Support Document for public release.  
Incorporated in Section 6 in this Report under Statutory Analysis.*

## **5. Consultation with Treaty Partners**

*Redacted from this version of the approved Decision Support Document for public release.  
Incorporated in Section 6 in this Report under Statutory Analysis 6.1.12.2.*

## **6. Contributions**

*Sections redacted from this version of the approved Decision Support Document for public release. Incorporated in Section 6 (Statutory Analysis) and Section 7 (Proposed Operating Conditions) in this Report.*

### **Summary of Submissions**

**Provided by Kelvin Brown, Permissions Advisor, Dunedin Service Centre on behalf of David Griffin, Acting Permissions Manager, Dunedin Service Centre**

- (i) Submissions received recorded as [DOC-5647333](#)
  - Document containing all submissions as they were received (No's 1-25)
- (ii) Summary of submissions received recorded as [DOC-5641447](#)
  - This is a summary of submission No's 1-25
- (iii) List of Submitters recorded as [DOC-5626377](#)
  - This is a spreadsheet showing submitters details and other data in relation to submissions

### **Summary of Hearing**

**Provided by Kelvin Brown, Permissions Advisor, Dunedin Service Centre, on behalf of David Griffin, Acting Permissions Manager, Dunedin Service Centre**

- a) Hearing Agenda: [DOC-5651249](#)
- b) Hearing Notes: [DOC-5651358](#)  
Oral submissions summarised on hearing agenda document in (i) above.
- c) Hearing Report: [DOC-5654241](#)  
Report under s.49(2)(d) summarising all objections and comments received and a recommendation as to the extent to which they should be allowed or accepted.

The Hearing report is referred to in the Statutory Analysis below.



**Statutory Analysis: Notified Concession under Part 3B of the Conservation Act 1987**  
**Kelvin Brown, Permissions Advisor**

**S17S: Contents of application**

To be complete (s17S(1)), an application for a concession must include:

- A description of the proposed activity;
- A description of the locations for the proposed activity;
- A description of the potential effects of the proposed activity and proposed action to avoid, remedy, or mitigate adverse effects;
- The proposed term and reasons for that term;
- Relevant information about the application (as requested in the application form).

**Criteria for decision:**

- Does the application include all the required information as per s17S?

Yes

**Discussion:** *Hearing report Issue 1.1 & 1.2(b) – views range from one submitter believing that the application fails to adequately describe the application and lacks some key information, such as more comprehensive maps and ecological assessment on the impact of the proposal (including the success of current and previous restoration work), to several other submitter’s belief that it is a carefully crafted application prepared in consultation with experts.*

The Minister should be satisfied that the applicant has included all the required information pursuant to s.17S however, it will be up to the Minister to decide, during deliberations (in particular under s.17U in this Report), if there is sufficient information in the application for the Minister to decide if it is both lawful and appropriate to grant a lease, licence, or easement pursuant to s.17S(g)(ii).

**S17SC: Process for complete application**

The intention to grant a concession must be publicly notified it meets any of the following criteria:

- The concession type is a lease – this is for exclusive use of public conservation land;
- The term of the concession exceeds ten years (unless it is an easement – an easement may be granted for a term exceeding ten years without public notification);
- The effects of the activity mean it is appropriate to do so.

**Criteria for decision:**

- Is public notification required?

Yes

**State why public notification is required:** The Minister must publicly notify every application for a lease; or a licence for a term (including renewals) of more than 10 years pursuant to s.17SC(1). Also, the Minister’s delegate has determined that having regard to the effects of the easement, considers it appropriate to notify the easement pursuant to s.17SC(3).

**S17U(1) and (2): Analysis of effects**

Briefly discuss the positive and adverse effects of the proposed activity, drawing on information from:

- The application form, as provided by the Applicant;
- The contributions described in the context and check in meetings and outlined in this document.

Any adverse effects identified that are not managed by a standard condition for the activity may require a site/activity specific special condition to either avoid, remedy, or mitigate the adverse effect. Include the condition proposed and a description of how it avoids, remedies, or mitigates the adverse effect, and list the condition in the Proposed Operating Conditions section of this document.

Note that only information relevant to the activity on public conservation land can be considered – if information about effects of the activity is included in the above sources that is outside of this scope, note why it is not a relevant consideration under the Conservation Act (for example, economic benefits to an area).

#### Criteria for decision:

- Is the application consistent with s17U(1) and (2) of the Conservation Act?

Yes

**Discussion:** Section 17U(1) requires the Minister to have regard to the effects of the activity as well as the measures that can be imposed to avoid, remedy or mitigate adverse effects. This section of the report considers the effects of the activity from a number of perspectives which can generally be categorised as follows:

- Effects on conservation values + methods to manage and/or special conditions required
- Effects on cultural values + methods to manage and/or special conditions required
- Effects on existing and future users + methods to manage and/or special conditions required
- Cumulative effects of adding this activity to current activity on site + methods to manage and/or special conditions required.

When analysing the effects of the proposed activities, this Report considers the following material:

- (a) Environmental Impact Assessment (EIA) included in application
- (b) Submissions received and the outcome of the Hearing
- (c) Contributions from Departmental staff (refer to section 6 in this Report)
- (d) Feedback received from Otago Conservation Board (refer to section 6.1.12.1 in this Report)
- (e) Feedback received from iwi (refer to section 5 and 6.1.12.2 in this Report)

In addition to the material noted in the preceding paragraph, this Report also assesses the application by reference to the relevant conservation planning documents, including:

1. Conservation General Policy (May 2005)(CGP) (refer to section 6.5.1 in this Report).
2. Otago Conservation Management Strategy 2016 (“Otago CMS”) (refer to section 6.5.2 in this Report)

## 6.1 Effects on Conservation Values

### 6.1.1 OVERVIEW

#### New Sugar Basin Passenger lift system

The passenger lift system is approximately 1.05 km long and rises approximately 264m in elevation.

#### Bottom station/terminal, operator building and towers (2)

The proposed bottom station/terminal, operator building and two towers (including gabion and retaining wall) of which establishment will be considered for consent under the Head lease, is in an already heavily

modified area - located in the existing car park drop off area adjacent to the base building at an altitude of approximately 1,611 masl - 6.921m in height above finished ground level. The site is readily accessible using trucks, diggers and cranes from the main access road.

Significant excavation will be required for the foundations (approximately 185m<sup>3</sup>) and spoil will be redistributed either within the Head Lease area or reused in fill areas in relation to this proposed activity.

The canopy structure over the passenger lift system is 9.890m wide and 21.990m long and the separate lift operator building to service the base station/terminal structure - 3.7m high, 4m wide and 6m long.

#### Top station/terminal and operator building

The top station/terminal and operator building is at approximately 1,870 masl. Access to this site will be primarily by helicopter due to accessibility, and transport/storage of materials will need to be managed accordingly. Delivery of the concrete for the foundations will be by helicopter depending on conditions. It is intended that there will be no need to remove excavated material (of approximately 134m<sup>3</sup>) from the immediate area by reusing spoil in fill areas, where possible.

An upper top station/terminal building at altitude of 1,870 masl - 6.921 high above finished ground with a canopy structure over the passenger lift system 9.890m wide and 21.990m long.

The top station/terminal operator building is to be 3.7m high, 8m wide and 6m long.

#### Chairlift towers

There are to be 10 new lift towers. These will be generally taller and larger than current towers to accommodate the wider 6-seater detachable chair lift (supplied by Doppelmayr Lifts NZ Ltd), replacing the current 4-seater lift. Plans supplied indicate a maximum height of the top tower being approximately 1,870 masl with others variably lower.

The amount of earth to be excavated for each tower will vary, and is estimated to range from 26m<sup>3</sup> to 58m<sup>3</sup>. Work will occur with an excavator using existing tracks wherever possible or as new trails are formed. Blasting may be required at some sites.

Concrete footings will be created and excavated material, either vegetation or rocks, will then be replaced after the tower has been erected or utilised in fill areas.

The towers are shipped as individual components and full onsite assembly is required. The towers will be pre-assembled to a maximum liftable weight for installation then transported to individual sites.

The tower shafts that have limited access (T3, 4, 5, 6, 7, 8, 9) will be fabricated in sections with a maximum weight of 1500 kgs per section for helicopter lifting. The towers in close proximity to the stations will be installed by crane (T1, 2 & 10).

Concrete will be poured, and the towers installed, by either crane or helicopter depending on the accessibility of the location.

#### Other infrastructure

Total distance of the extension to the snow making system is 2.3 km over 2 main lines and connections to support 14 fan snow making guns and 18 lances (stick type) snow making guns. Trenching and burying ductile water pipe (80-250mm diameter), polythene pipe for air supply (63-140mm diameter), copper communication cable and fibre optic cable, 38 concrete inground pits (1.6m long x 1.2m wide x 1.6m high), 2 new transformers. Connection to the existing system will be made in the Learners area up hill and south of the base lodge.

Earthworks (see table 1 below and figure 2)

- a. The establishment of 3 new trails identified as “Sugar Trail”, “Sugar Stash”, “Sugar Link” – approximately 1.870 long (2.190m less 320m for removal of lower sugar stash trail from proposal) involving:
- (i) clearance of alpine habitats – snow tussock grassland, cushion fields, fell fields and scree habitats;
  - (ii) removal and possible relocation of plant species, some threatened
  - (iii) modification of streams (rip rapping and filling)
  - (iv) Disturbance to 3 streams and seepages - rip rapping and filling of several crossings
  - (v) Snow making infrastructure trenched under the new trails.

Table 1: Establishment of Trails

Trail name	Approx. elevation (masl) <sup>2</sup>	Length (m)	Max. Width (m)	m <sup>2</sup> /ha	Cut m <sup>3</sup>	Max. cut heights (m)	Fill m <sup>3</sup>	Max. fill heights (m)
Sugar Trail	1,800	770	50	49,000 m <sup>2</sup> / 4.90 ha	77,000	11.5	67,000	9.5
Sugar Stash	1,860	920 (1,240 - 320)	30	53,200 m <sup>2</sup> / 5.32 ha  (72,200 - 19,000 Est)	68,000  (93,000 - 25,000)	11.4	57,000  (98,000 - 41,000)	12.6
Sugar Link	1,700	180	10	1,800 m <sup>2</sup> / 0.18 ha	3,000	4.7	7,000	7.7
<b>Totals<sup>3</sup></b>	<b>1700 masl – 1,860 masl</b>	<b>1,870m</b>	<b>10m – 50m</b>	<b>104,000 m<sup>2</sup> / 10.40 ha</b>	<b>148,000m<sup>3</sup></b>	<b>4.7m – 11.5m</b>	<b>131,000 m<sup>3</sup></b>	<b>7.7m – 12.6m</b>

Decommissioning of old Sugar Bowl Chairlift

- a. Decommissioning the existing Sugar Bowl Chairlift<sup>4</sup> with removal of 12 towers
- b. Removal of a buried communications cable
- c. Restoration of Land

Medical facility relocation

Relocating the medical facility. Note: This will be considered under the existing Head lease.

Helicopter access

The Construction Management Plan submitted with the application states that all helicopter operations are to be approved by DOC via a landing permit. The Otago CMS (Table 3.6.2) states that *NZ Ski controls aircraft access within the ski field lease area.*

Helicopter movements must take place during construction hours i.e. between the hours of 7am to 6pm Monday to Friday, and 7am to 5pm on Saturdays, and away from the public wherever possible.

<sup>2</sup> masl = metres above sea level

<sup>3</sup> These revised figures reflect the modification to the Sugar Stash trail as shown in figure 1 and 2.

<sup>4</sup> Concession Number PAC-13-06-42-04; Remarkables chairlift easement, letter “N” on SO 22561 (recorded as [DOC-2799758](#))

Refer to discussion of helicopter use in section 6.5.2 (Otago CMS; 3.6 Aircraft), inclusion of helicopter use in section 7.1 Concession Activity, and hours of work proposed special condition 7 in section 7.2 in this Report.

#### Colours

All buildings and structures (including roofs) e.g. the station/terminal and operator building, will be made of non-reflective materials and colours as described on pages 11-12 in the application. The colour of the towers will be commensurate with existing towers within the Remarkables ski area.

#### Construction timeline

Reference:

General construction details (recorded as [DOC-5603174](#))

Chairlift specific construction (recorded as [DOC-5603186](#))

Establishment of the new passenger lift system is projected to take 8 months.

All heavy machinery is to be off the site by May 1<sup>st</sup>

#### Rehabilitation Protocol

DOC and the applicant have an agreed set of revegetation protocols called “*Protocol for the rehabilitation of natural alpine environments following ski area development*”<sup>5</sup> which establish the agreed expectations for revegetation of any areas in which works occur. Further species and site specific details (as recommended by the DOC ecologist post site visit) are included in proposed special conditions in section 7.2 in this Report.

#### DOC ecological assessment

A detailed ecological assessment<sup>6</sup> was carried out by DOC’s Technical Advisor Ecology. Refer to section 6 in this Report.

#### Site visit (6 November 2018)

Selected photos and narrative description to be read in conjunction with plan of areas in Figure 3 below.

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<sup>5</sup> Refer to section 7.2 in this Report (Schedule 3A)

<sup>6</sup> Recorded as [DOC-5620007](#)





Figure 5: Area A - Proposed location of lower Sugar Trail looking towards base building (Photo 026)

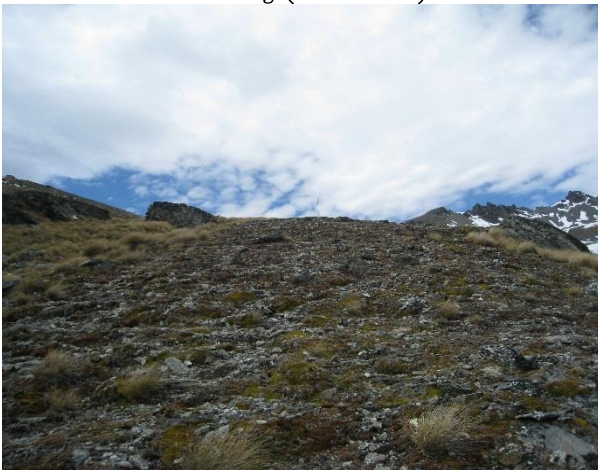


Figure 6: Area B - Proposed location of Sugar Trail (Photo's 022 & 023)



Figure 7: Area B - Proposed location of Sugar Trail. The proposed track follows the existing track to past the snow fence and then turns left up the hill. (Photo 028).



Figure 8: Area B - View from Casterway Trail to proposed Sugar Stash Trail (in background) (Photo 036)





Figure 9: Looking down towards base building and location of proposed bottom station/terminal in carpark behind medical building (to be relocated) (Photo 055)



Figure 10: Area C - Looking towards base building over proposed lower Sugar Stash Trail (Photo 051)



Figure 11: Area C – Proposed lower Sugar Stash Trail with Sugar Bowl chairlift to be decommissioned in background (Photo 047)



Figure 12: Area D – Proposed location of mid Sugar Link Trail (on left) with wetland area behind the rock. (Photo 049)



Figure 13: Area E – View from near proposed new Sugar Top station / terminal down Sugar Trail alignment (Photo 042)



Figure 14: Top of Sugar Bowl chairlift and associated structures to be decommissioned (Photo 038)



Figure 15: Example of tower to be removed as part of decommissioning Sugar Bowl chairlift (Photo 031)

### 6.1.2 Geotechnical (land stability)

Stantec prepared a Natural Hazards Assessment<sup>7</sup> for the applicant. The report confirms that the snow conditions are well managed and there is no significant snow avalanche risk, no evidence of risk from erosion, debris flow or flooding.

Also reinforces that the applicant has experience in operating in an alpine environment with the necessary health and safety policies in place.

### 6.1.3 Earthworks

*Submitter Issue 1.2(c) - One submitter stated that the impacts of changing the topography through the cutting of ski trails and creation of access tracks cannot be adequately remedied or mitigated and the application should be declined.*

Note: the applicant has modified the application and removed the lower section of the Sugar Stash trail (refer to Figure 2<sup>8</sup>).

There are significant earthworks associated with this proposed activity.

The earthworks for the bottom station/terminal, operator building and two towers (including gabion and retaining wall) will be considered under the Head Lease, in an already heavily modified area.

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<sup>7</sup> Sugar Bowl Lift replacement Natural Hazards assessment - Stantec (July 2018)

<sup>8</sup> Figure 1 is the route included with the original application.

The slope contouring (which includes cut and fill works) to establish the trails associated with the new passenger lift system (see Figure 2) is the largest single area of disturbance. The reshaping works are required to ensure sufficient clearance above the ground for the chairlift, for the formation of new trails and trails to connect with existing trails. The fill would be used to create a more natural contour across an area which has previously been partially modified and to link up with existing trails. The slope will need to be revegetated and it is likely some nursery stock will be required for this.

The fill which cannot be used for reshaping the slope would be deposited within areas where modification has previously been authorised, such as on roads where it can be used for maintenance and re-surfacing, or removed off-site.

#### Trail widths

In section 5 in this Report the DOC Technical Advisor (Ecology) recommends:

*“That the trail width of the Sugar Trail in the lower section (i.e. lower 2/3 from near to the intersection with the existing Sugar Basin chair lift) is reduced in width from 50 m width to 30m width (i.e. the same width as the Sugar Stash Trail).”*

The width of the trail was discussed further with the applicant (Remarkables Skifield Manager) by the Senior Community Ranger, Wakatipu. The Manager provided the following additional context as to why a 50m wide trail was required:

- The trail is to facilitate lower abilities and therefore the width is required to enable skiers/boarders to take a gentler line down the slope with more turns. A narrower width would result in a more difficult trail.
- A 40m width may be workable but there will be knock-on effects with regard to the berms etc associated with the trail construction.
- There are specific sections of the trail which could be narrowed lower down the slope, but the start of the trail would need to be as wide as possible for skiers/boarders exiting the lift.

It is recommended, if a concession is approved, that there be a degree of flexibility allowed for the Sugar Trail to be “up to 50m”. Refer to description of Concession Activity in section 7.1, and proposed special conditions 1(d), 3(b) and 3(e) in section 7.2 in this Report.

#### **6.1.4 Access to the site**

As the lift and trails are in new terrain the primary method of access will be along the trails that are to be created. Access will need to be closely managed by the independent monitor<sup>9</sup> to ensure best practice is occurring and the most appropriate lines are being selected, especially when using a 20 tonne excavator.

Although much of the access route is across rock, excavator tracking will disturb vegetation. The proposed route of access disturbs similar values as those previously authorised in numerous other developments within the ski area such as the Curvey Basin chairlift.

With respect to vegetation disturbance to tall tussock and rock communities along the route of excavator access, the applicant accepts the specific additional recommendations contained in the E3 report:

- tracking across rock wherever possible (the proposed route has been chosen to maximise this opportunity).

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<sup>9</sup> Refer to proposed special conditions 1(g) and 3(c) in section 7.2 in this Report.

- temporarily place rocks into the excavators path to reduce damage to vegetation that cannot be avoided. Remove immediately after transit.
- identify any presence of *Aciphylla lecomtei* along the proposed route and if found remove them, reinstate on completion and follow up 12 months later to determine survival and any other measures required.
- ensure photo monitoring points are established to track the progress of reinstated vegetation.

With respect to excavator access, the application has been reviewed by a DOC Technical Advisor (Ecology). This review provides assurance that the application has correctly identified the representativeness of species likely to be disturbed by this proposal and their ecological significance.

Effects on landscape values with respect to the excavator access are likely to be short lived as the natural restoration of tussock communities, and the rehabilitation protocol are well practised and understood. This includes Remarkables sourced tussocks that are grown off site from seed and re-introduced to supplement the immediate replanting.

#### **6.1.5 Sediment control**

A site settlement control plan was included in the application (recorded as [DOC-5603182](#)).

There is the potential for sediment from the earthworks and construction activities to be released into the environment. The applicant lists a number of measures to minimise the risk of this occurring, including minimising the area of disturbance and keeping spoil away from drainage routes. Work will not occur during periods of heavy rain, and fabric fences, sandbags and silt traps will also be used.

The applicant has experience in managing sediment run off from previous excavation works. Any runoff here as the development progresses is not expected to be significant.

Refer to proposed special conditions 12 and 13 in section 7.2 in this Report.

#### **6.1.6 Effects on ecological and geological values (general)**

*There was a range of views given by Submitters (Hearing report Issues 1.5 a-d, f, j, l-o) of the effects on ecological and geological values, generally. Several of the general submissions are summarised below, and others are dealt with under the relevant conservation value below.*

- (a) *Downgrade of natural environment due to earthworks and indigenous vegetation clearance.*
- (b) *You cannot rehabilitate an alpine ecosystem back to its original state.*
- (c) *No further expansion of man-made ski field infrastructure in the alpine ecosystem.*
- (d) *Erosion problems.*
- (f) *Agree that ecological values of the area to be disturbed are ranked as high while the threatened avifauna are ranked as “very high to moderately high.*
- (j) *The Sugar Bowl Basin is described as spectacular and significant, ecologically.*
- (l) *New trail development massive – lead to excessive loss + effects on biodiversity.*
- (m) *Proposed activities are substantial and have significant environmental and landscape impacts which cannot be mitigated to the point where they could be described as less than minor.*
- (n) *Taken together and despite the proposed mitigations all of these impacts will significantly degrade the natural environment, landscapes and natural character of the Rastus Burn Recreational Reserve.*
- (o) *It is not possible to mitigate the long term and permanent impact of terrain modification.*

The application included:

- an ecological assessment by E3 Scientific titled *Lower Sugar Bowl Trails Ecological Assessment, E3 Scientific, NZ Ski Limited (May 2018)* (“E3”); and
- a landscape assessment and associated visual simulations<sup>10</sup> (recorded as [DOC-5629756](#)).

Throughout this section of the report it has been highlighted (with one submitter in particular maintaining) that both the E3 ecological assessment and the landscape assessment were “inadequate”. It will be up to the decision maker to decide if there are deficiencies in these reports and whether or not sufficient information to supplement these reports has been provided in contributions by operational and technical staff (including proposed conditions), not to warrant (1) a reassessment of the E3 ecological assessment and/or (2) review of the landscape assessment by a third party.

#### **6.1.6 Effect on wetlands**

*Hearing report Issues 1.5(q) & (s) - The removal of lower Sugar Stash Trail will reduce the extent of earthworks and vegetation clearance and may avoid passing through significant regional wetlands.*

All wetlands are to be avoided.

See also sediment control discussion in section 6.1.5 in this Report, and proposed special condition 11 in section 7.2 in this Report.

#### **6.1.7 Effects on wildlife**

*Hearing report Issue 1.5(n) - contended that the E3 assessment was inadequate with respect to effects on wildlife.*

*Applicant’s right of reply (Hearing) - to submission “it is not clear whether the assessment team included invertebrate & herpetological experts”. Documented in the E3 report is reference to previous surveys carried out as recently as 2017 which included research by Carey Knox within the Rastus Burn Basin. They did not document it but in an earlier report by him he acknowledged no sign of lizards above 1600m, they used this as a reference in points 4.2.2 & 4.2.3 of report.*

The proposed earth disturbance area traverses habitat of threatened lizard and bird species.

New Zealand pipit and exotic bird species were noted as present by the applicant, there is also the potential for kea and falcon (a photo of a falcon was included in application) to be found in the area. Based on previous nearby DOC surveys a number of invertebrates, lizards, skinks and birds are present in the Remarkables habitat generally. These include kea, pipit, common skink, cryptic skink, McCanns skink, green skink, large Otago gecko, Southern mini gecko, giant speargrass weevils, high alpine moths, alpine cicadas, flightless chafer beetles, alpine spiders and velvet worm.

As there will only be temporary removal of habitat, and even though the proposed activity is small relative to the overall Rastus Burn Recreation Reserve, the effect of this particular development on the bird’s habitat is considered to be more than minor. An indirect effect of the proposed activity is nest abandonment by alpine bird species resulting from earth disturbance activities such as excavator use and helicopter movements.

There is a risk that birds and lizards could be disturbed by the works and conditions have been proposed which require a survey be carried out by a suitably qualified ecologist/herpetologist prior to disturbing any wildlife habitat and to implement any resulting recommendations. If birds or herpetofauna/lizards are identified and cannot be avoided a Wildlife Act permit from DOC will be required.

<sup>10</sup> Landscape assessment – Remarkables Sugar Bowl Lift Replacement – NZSki Limited – Patch (July 2018)

In the context of area to be disturbed, temporary displacement habitat available, the surveys offered and known habitat rehabilitation methods employed by the applicant, that effect to wildlife as a result of this proposal, whilst considered more than minor, is able to be mitigated by conditions.

The E3 report has been reviewed by a DOC Technical Advisor (Ecology). As a result of this review the Technical Advisor (Ecology) has made the following recommendation:

- That in light of additional species information that DOC staff are aware of some additional work is undertaken. In particular:
  - That further field assessment is undertaken to confirm whether geckos (particularly Orange-spotted gecko (*Mokopirirakau* “Roys Peak”)) is present.

Refer to proposed special conditions 1(b), 1(c), 3(a) and 3(e) in section 7.2 in this Report.

### 6.1.8 Effects on vegetation

*Hearing report Issues 1.5(e, g-i) - Concerns raised primarily by two submitters opposing the application maintaining that:*

- (i) *there should be a need to protect vulnerable cushionfield vegetation;*
- (ii) *the proposal to safely transplant certain alpine species are likely to be fraught with difficulty;*
- (iii) *transplanting of cushionfield vegetation is unlikely to be successful;*
- (iv) *seedling of locally sourced native species in unlikely to be successful;*
- (v) *Snow tussock appears to translocate well but only the tussock species, not the full complement of tussock grassland species which do not translocate well;*
- (vi) *as the Aciphylla and Anisotome have long tap roots it is unlikely they will translocate, and it may be more effective to collect seed and raise these from seedlings for planting.*
- (vii) *fellfields and cushion communities are challenging to restore and are likely to suffer high losses.*

*Applicant's right of reply (Hearing) - to submission:*

- *“Transplanting cushion field vegetation is unlikely to be successful.” We acknowledge this factor but are still willing to (where possible) minimise the impact of transplanting plants in these environments by large digger bucket pick up and single movement placement into a new location.*
- *“Seeding of locally sourced native species is unlikely to be successful” is correct if no options are considered. We have proved previously that hand harvesting of seed sources on site and hand propagation of those seed applications has and is successful. The critical factor here is ‘Time’.*

The Rastus Burn has a long history of modifying terrain and restoring vegetation cover. The current methods, as identified in the protocol, are relevant to the Remarkables and have had success where good contractor supervision and external monitoring is applied.

Due to the variety of ecosystems involved, it is recognised that the degrees of success in revegetation will vary. Cushion plant communities of the upper Sugar Basin are likely to take many years to re-establish even with translocation and re-seeding.

The E3 assessment in the application identifies a number of plant species affected in this zone (both cushion plant and rock-field communities).



The ecological significance of these is examined in the E3 assessment and the E3 assessment assessed the ecological effects as being very high on conservation values that warrant avoidance and /or extremely high intensity mitigation and remediation.

This acknowledges that these communities have a high value in terms of their degree of representativeness and as such disturbance may be considered a high ecological impact. However, these effects are seen in the report as able to be significantly reduced to a level that may be considered minor, provided contemporary construction and restoration methods adopted by the applicant are employed.

Current re-vegetation/restoration management practices on site by the applicant are well developed and include such measures as careful stripping, silt management, storing and re-instatement; as well as cushion plant seed collection and dispersal over disturbed rocky ground.

Experience has shown that where material is stripped, there can be a shortage of material to replant into the disturbed ground. This shortfall is made up in three ways:

- (i) with tussocks, seed is being collected from the Remarkables and grown at a nursery off site for later replanting of shortfall areas;
- (ii) with cushion plant material, seed is collected and distributed into bare and rocky ground; and
- (iii) where material is unlikely to be available or successful, some rock landscaping has been used to good effect. This mirrors sections of rock landscape naturally found.

With respect to re-instating *tussock* communities, experience has shown that subject to good contractor methods, oversight and growing seasons, tussock landscape values can be reasonably restored in 3-5 years. There are several examples of this, notably the many new snowmaking lines with associated buried pipes and cables, the works beside the 4WD access road to the top of the Alta Chair, the new Curvey Basin Chairlift and the recent trenching to bury the pipeline to the edge of the Rastus Burn Recreation Reserve, and most recently burying the pipeline up to Lake Alta.

There is no doubt that disturbed cushion plant communities require additional methods and take longer to fully recover. The extent of cushion plant communities to be disturbed by this current proposal, and the current techniques used on site to strip, store and replant material, the ongoing collection and dispersal of seed and the availability of rock on site to immediately landscape any remaining exposed earth, provides enough assurance that the long-term effects resulting from this proposal to vegetation will not be significant, however, it may take many years, likely decades to complete.

With respect to vegetation disturbance to cushion and rocky areas in the alpine basin, the applicant accepts the specific additional recommendations contained in the E3 assessment:

- that an ecologist survey the area of earth disturbance prior to works commencing to identify and remove (for later reinstatement) any *Anisotome lanuginose*, *Anisotome lanuginose*, *Aciphylla lecomtei* and *Brachyscome montana*, plus check on their survival and follow up mitigation if required in 12 months time.
- establish photo monitoring points to track the progress of reinstated vegetation.

The E3 report has been reviewed by a DOC Technical Advisor (Ecology). This review provides assurance that the E3 assessment has correctly identified the representativeness of species likely to be disturbed/removed by this proposal and their ecological significance. During the site visit on 6 November 2018 there was much evidence of the success of the ongoing rehabilitation programme at The Remarkables.

DOC Technical Advisor (Ecology) recommendations:

- That in light of additional species information that DOC staff are aware of some additional work is undertaken. In particular:
  - To survey for and mark the location of *Aciphylla simplex* plants. (Note this is in order to undertake “best endeavours” of avoidance for this species within the high altitude rock fields.)
- To consider an appropriate ecological mitigation package to be associated with the proposed activity.
- Appropriate conditions to reduce ecological impacts and ensure rehabilitation/revegetation best practice need to be developed to accompany any approval document that may be given.
- That an independent ecologist is utilised to input to ecological issues associated with construction, impact minimisation and restoration/revegetation works.

There is a comprehensive list of proposed special conditions in section 7.2 in this Report, for example, proposed special conditions 1(a), 1(d), 3(a), 3(b), 3(e), 9, 10, 12-13, 15-17, 20, 21(a), 22-25, 27, 31, 57-58, 70-71. It is considered that these proposed special conditions, in conjunction with the existing rehabilitation protocol (as previously agreed with the applicant) as shown in Schedule 3A, will be sufficient to manage the effects of the proposal on vegetation.

Of note, is that as part of this rehabilitation protocol an independent monitor (who is an ecologist with significant experience in skifield rehabilitation) monitors works to ensure that implementation during construction restoration/revegetation works occur as planned, over time.

#### 6.1.9 Effects on landscape values

The applicant has provided a Landscape Assessment and associated visual simulations<sup>11</sup> (recorded as [DOC-5629756](#)).

*Hearing report Issue 1.4 – The feedback from Submitters ranged from the effect on landscape values being minimal to considered more than minor. One submitter stated that the Patch landscape assessment was inadequate and presented the following information in support of this:*

1. *The landscape assessment is overly narrow. It is focused on visual impacts and does not adequately address the biophysical, aesthetic values and associative dimensions of the landscape. The purpose of recreation reserves includes protection of the natural environment and beauty of the countryside with an emphasis on the retention of open spaces and outdoor recreational activities including tracks.*
2. *Forest and Bird would have expected the landscape assessment to have assessed the qualities of the reserve which contribute to its pleasantness, harmony and cohesion of the natural environment and how the proposals will impact on these values, as per s.17(2)(c) of the Reserves Act 1977.*
3. *The Landscape Assessment does not adequately address the cumulative effects on the outstanding natural landscape and how these may be avoided, remedied or mitigated (Otago CMS Policy 2.3.22).*
4. *The Assessment has not considered the impact of the proposed developments on public use and enjoyment of the Recreation Reserve and surround public conservation lands in the summer time or other users during the ski season.*

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<sup>11</sup> Landscape assessment – Remarkables Sugar Bowl Lift Replacement – NZSki Limited – Patch (July 2018)

5. *Landscape effects consist of the temporary effects of the construction and revegetation phases, and the permanent effect of the larger facility, notably the top station/terminal and operator building and towers.*

*Applicant's right of reply (Hearing):*

- The top station is only 5m vertical higher than the existing top station and within 50m of the existing top terminal.*
- At no point do the towers break the ridge line when viewed from the Wakatipu basin. There is a point when on the road up to RE that T5 may break the ridge line and this is only possible when persons are at the 10km mark on the road.*
- Adequacy of mitigation of the impacts of the proposals on the landscape values. "The impact of ridge line towers being viewed from the Wakatipu Basin" this statement is an inaccurate fact. At no point do the towers break the ridge line when viewed from the Wakatipu basin. There is a point when on the road up to RE that T5 may break the ridge line and this is only possible when persons are at the 10km mark on the road.*

The applicant and submitters (Hearing report Issue 1.4) have correctly identified that earthworks and vegetation clearance in this area could damage landscape values if not undertaken with a high degree of sensitivity.

Landscape effects consist of the temporary effects of the removal of existing chairlifts, construction and revegetation phases, and the permanent effect of the chairlift itself and the two new trails (Sugar Stash and Sugar Trail).

Temporary effects with respect to the construction would be limited to the period of the construction. Landscape effects from the disturbed ground will take longer to mitigate as experience has shown that revegetation works can take years/decades to complete (mainly in the case of cushion plants in the Sugar Basin), and the variety of ecosystems present have different degrees of success, as per the comments contained in the ecological assessment by DOC Technical Advisor (Ecology).

It cannot be refuted that natural ridgelines and an area that is currently relatively free of structures and tracks where nature dominates (being an area identified as of high natural character) will be affected by this proposed activity. Towers 3-5 break a ridgeline and introduce structures to a natural ridge line which is viewable from part of the Wakatipu Basin and possibly from the track into Lake Alta. These towers will intrude on the natural symmetry of the ridgeline.

In addition, the cutting of ski trails and providing access for machinery will create unnatural slopes, and permanently change the topography. Rehabilitation through replanting of vegetation will partly mitigate these impacts.

As for the impact of the ridge line towers and the chair lift and new trails on the pleasantness, beauty, harmony and cohesion of the natural environment, the scale of development and the permanent effects of this proposed activity on the landscape need to be considered in the wider context: that the proposed activity is still within the Rastus Burn Recreation Reserve, is part of the Remarkables ski area, comprising significant facilities, with large areas already highly modified by trails, roads, lifts and buildings and snowmaking infrastructure.

Landscape effects resulting from disturbed ground will take longer to restore/rehabilitate as experience has shown that revegetation works can take several seasons to complete.

Restoration methods currently used indicate that the medium to long term landscape effects here will persist but restoration works will mitigate much of this effect.

The relatively large extent of cushion plant disturbance and the large extent of rock found on site along the proposed development is of note. This lends itself well to mitigation of the landscape effects by replacing the disturbed rock with similar rock found on site to mirror that found naturally (as done successfully by the applicant on occasion within the ski area).

The two trails (Sugar Trail and Sugar Stash) are considered to be the more significant change as the chairlift is a replacement of an existing facility which is in place (albeit on a different line). The rockfield areas are sparsely vegetated and it is considered the landscape effect here will be most noticeable as the trails traverse through rockfields of large boulders which will be modified to smaller substrate. This will create a visual change to the current landscape, which will affect summer visitors as it will further modify the landscape which they experience when walking or climbing.

It is recognised that landscape is not just the visual effect of an activity but also the character of the place, and this is where it is important to note that the Remarkables is a working skifield with significant trails and infrastructure already in place. It is also relevant that all works are within the basin of the Rastus Burn Recreation Reserve and any breaches of intermediary ridgelines are from the skifield road when accessing the area. The ridgelines and mountains when viewed from the valley floor remain unchanged.

The conclusion from the applicant with regard to the landscape effects is as follows:

*While the Ski Area Sub-Zone is well contained within the Rastus Burn catchment, the proposal will present a higher level of visible ski area infrastructure. Some of the proposed lift towers will be visible from a small portion of the Wakatipu Basin and from parts of the Remarkables Ski Area Access Road. From the more distant locations, these towers and the bottom station will barely be legible. While the proposed lift towers, especially lift tower 5 may be visible from parts of the Remarkables Ski Area Access Road and could potentially breach a skyline as viewed from the road, this type of infrastructure is expected in the Ski Area Sub-Zone. Proposed earthworks will result in some adverse effects on natural character, but the natural character of the wider alpine environment will remain dominant. Overall the proposal will result in no more than low adverse effects on visual amenity and landscape character.*

The District Office stated in section 6 (contribution) in this Report that -

*“The full report from the applicant is attached and shows the extent to which structures and trails will be visible. It is considered that this document, along with District staff knowledge of the area, is sufficient to inform this decision with respect to the other elements of the application, and that a formal review of this work or an independently commissioned further assessment for those matters would not add significant value to that already presented.*

*It is accepted that the new trails will create a permanent and cumulative effect to the visual elements of the landscape however they are considered minor in the context of:*

- 1) the existing ski area developments*
- 2) the expectations provided for use and development of this land for the purpose for which it is held (Recreation Reserve).”*

External Landscape Architect report

As part of the Decision Makers deliberations, an external report<sup>12</sup> was commissioned by the Decision Maker to provide comment on the natural character and landscape elements in regard to the Sugar Basin lift and trail works, following a site inspection on February 19, 2019.

The recommendations and conclusions in the report are:

1. The RB basin overall retains a reasonably high degree of natural character despite over 30 years of skifield use and development.
2. Development creep and gradual erosion of natural character, plus lack of information on the landscape resource of the RB Basin and the absence of a comprehensive long term development/management plan are issues and make it difficult to assess individual applications.
3. The location of the Sugar Bowl replacement chairlift appears operationally a logical redevelopment and can be absorbed within the RB Basin without overwhelming natural character and landscape values or tipping the balance of cumulative effects.
4. The trail modification works represent the higher threat to natural character and landscape values in particular the lower trail sections but also the upper Sugar Stash section. It is recommended that options for reducing the extent of trail modifications are further explored including those outlined in this report.

Further to item 4 above (trails), the report raised several questions to consider:

- Are major trail works acceptable/appropriate within the RB Basin? In recent years this appears to have been relaxed.
- Are the lower trails location the best and only option for the trail (operationally and environmentally) and are there other options?
- Are two trails down to the base lift station justified? Could the Sugar Stash trail link more significantly with the Sugar Trail and delete the lower Sugar Stash section (this would significantly reduce the overall impact).

The applicant's comments on the Landscape Architects report are included in section 8 in this Report.

Refer to proposed special conditions 1(d), 1(e), 1(f), 3(a), 3(b), 3(e), 4-6, 20, 48-49, 57-58 in section 7.2 in this Report.

Note: proposed special conditions 57-58 include a recommendation to include a landscape assessment (along with an ecological assessment) of the entire Rastus Burn Recreation Reserve (700 ha).

#### **6.1.10 Effects on amenity and recreation values**

*Hearing report Issues 1.3 and 1.9 – Views ranged from concerns that there is already enough development, that infrastructure will be intrusive and further degrade the experience of walking; will lead to further experiences of crowding (road access, parking, on-piste); a need to consider access by road users during construction; investment will ensure better access, while also enhancing the overall experience for mountain users.*

The current chairlift has been in place for approximately 32 years. The applicant states that the enhanced lift will have a positive effect as having a higher capacity, more reliable chairlift is critical to providing skiers with

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<sup>12</sup> Philip Blakely, Registered Landscape Architect, Blakely Wallace Associates dated 25 February 2019 (full report recorded as [DOC-5730343](#))

an improved experience, and will enable the applicant to use the most advanced safety features available for aerial ropeways.

As with landscape effects, during construction the effects to recreational values through the operation of machinery, noise and a loss of amenity values will be significant and unavoidable. These effects will need to be mitigated through good communication and modification of public expectation during this time through such channels as media and signage.

Once construction is complete and restoration is progressing, the effects on recreation are likely to be minor and, in fact, may enhance recreational opportunities.

### 6.1.11 Decommissioning of old Sugar Bowl chairlift

References:

[DOC-5603199](#) Aerial view of existing sugar chair

[DOC-5603174](#) Decommissioning process

The old Sugar bowl chairlift will be removed as per the applicant's standard maintenance procedures (this will occur at the end of summer). Towers 1, 2, 4, 10, 11, 12, top to bottom stations can be accessed from existing trails. Towers 6, 7, 8 and 9 can be accessed with purpose designed mats temporarily laid across the existing ground to spread the loading and prevent tyres/ tracks damaging vegetation.

The applicant did request that for removal of towers 3 and 5 on the slope face that temporary access tracks be cut due to the slope gradient. The recommendation is that all removal be carried out by helicopter, i.e. no temporary access tracks (refer to discussion in section 8, and proposed special condition 26(c) in section 7.2 in this Report).

Decommissioning will be followed by rehabilitation of the ground in the area of the drive stations and tower foundations.

Refer to proposed special conditions 26-29 and 31 in section 7.2 in this Report.

### 6.1.12 Third party consultation

#### 6.1.12.1 Otago Conservation Board

Consultation recorded as [DOC-5610980](#)

Full response recorded as [DOC-5648219](#)

The summary response from the Board is as follows:

*Following consideration of the above points the board believes that:*

- *The application is consistent with the Reserves Act Section 17 Recreation Reserves, Conservation General Policy and the Otago CMS 2016.*
- *The department, as part of its approval, require the applicant to develop detailed mitigation measures for new trails, towers, lift cables, ski lift chairs, utility services, and snow making infrastructure.*
- *That subject to the above, the application by NZ Ski Ltd for a Replacement Chairlift in Sugar Basin, Remarkables Ski Area, Rastus Burn Recreation Reserve be approved.*

In essence the Board were comfortable that the proposal was consistent with the purpose for which the land was held and the Otago CMS but believed the Department needed to require detailed mitigation measures, and potentially a performance bond, for any approval.

Of significant concern was the potential effects of the two main trails. It was felt that these would be visually intrusive due to the need to cut into uphill side of the contour and fill on the downhill side. It was also felt that some of the proposals for revegetation were not necessarily realistic.

Refer to discussion of bond in section 7.4.4 in this Report.

#### 6.1.12.2 iwi

iwi consultation letter recorded as [DOC-5611609](#)

Response from Puketeraki recorded as [DOC-5649548](#)

Email response received from Puketeraki on 11/12/18:

*“I wish to confirm that Kāti Huirapa Runaka ki Puketeraki have considered the above application and provided there is a high standard of environmental rehabilitation, as outlined in the protocol that was attached to the consultation documentation, have no objection to the granting of the Concession Application from NZSki Limited.”*

#### **6.1.13 Effect on other users**

*Hearing report Issue 1.9(a) - Does not adequately address the impact on natural quiet and current recreational users as per policy 2.3.21 Otago CMS.*

*Hearing report Issue 1.13 – two submitters stated that “Applicant already taken over most of the area” and “Applicant has already downgraded this alpine environment”.*

During construction, public access will be affected and there will be noise and visual intrusion from the works and vehicle/helicopter movements. The applicant states all works will take place between the hours of 7am to 6pm Monday to Friday, and 7am to 5pm on Saturdays. Helicopters will select the most direct flying route to minimise time in the air, and during the summer they will avoid flying over the busier public areas.

The Remarkables ski field has existed at this location for approximately 32 years and modification of the terrain and landscape has occurred in the past commensurate with the operation of a ski field; and may be required into the future which is clearly allowed for and reinforced in part 3.25 “ski fields” of the Otago CMS.

#### **6.1.14 Positive effects**

*Hearing report Issues 1.9(b-i) – Improved facilities will:*

- *benefit all skiers,*
- *add to the ease of use and flow of people*
- *increase of groomed terrain will improve the experience*
- *continue to build a world class facility in order for continued growth in participation*
- *people getting benefit from DOC estate and experiencing landscape*
- *encourage and cater for more people to participate in skiing*

*Hearing report Issues 1.5(r, t-aa), where several submitters (including those against the proposal) recognise the applicant’s reputation for the work undertaken over many years, with due care for the alpine environment, to mitigate adverse effects of any development work and undertake successful restoration/rehabilitation work.*

*Hearing report Issue 1.5(p) – One submitter did state that ecological/environmental impacts should be minimised with respect to new chair lift and removal of existing.*

*Hearing report Issue 1.8 – One submitter stated that applicant has an excellent record to rehabilitate disturbed land over many years.*

During the preceding 32 years that the ski area has operated, the experience of skiing at The Remarkables or gaining access to the conservation land via the road is likely to have benefited hundreds of thousands of visitors through recreational opportunities and facilitating an appreciation for the alpine environment. Providing opportunities for greater participation in recreation on public conservation land is a statutory purpose of the Department and also one of the Departments 'Intermediate Outcomes' specified in its current 'Statement of Intent' (2016-2020).

There is obvious benefit for skiers in the approval of this concession activity. Recreational opportunities are also available to non-skier visitors who are able to take advantage of rapid access via the ski field road to an elevated alpine environment, that would otherwise be inaccessible, to participate in recreation activities such as recreational walking.

While it is true that the ski area landscape is a heavily modified environment, the ability to view and experience the wider, natural surroundings from this vantage point enables an appreciation of the natural world and facilitates rapid access to the broader unmodified alpine environment e.g. Lake Alta. This non-commercial recreation opportunity can be enjoyed by both able bodied and less mobile visitors who would not normally be able to gain access to this type of environment.

The applicant has demonstrated through discussions with the Department that it takes responsibility for the role of custodian of part of the Recreation Reserve seriously and seeks to operate its business in a manner that minimises adverse environmental effects yet maximises the opportunity to be a successful business and meet the recreational aspirations of its customers.

#### **6.1.15 Cumulative effects**

*Hearing report Issue 1.5(n) - Inadequacy of the E3 Scientific ecological assessment with respect to cumulative impacts (as well as direct impacts) i.e the full extent of the existing infrastructure and trails with all the new infrastructure over laid. Consider that the adverse effects on the outstanding natural landscapes and ecological values, including the cumulative effects, cannot be adequately avoided, remedied or mitigated. The planned mitigation will not replace or restore the habitats that are to be lost and will not create extra habitat, so that the proposal will result in a net loss of ecological values.*

Overall, the granting of a concession will result in both positive and negative effects however, it is considered that there will be no significant new effects over and above those already known for this historic activity at this location as there has already been significant modifications to the landscape generally within the upper Rastus Burn Recreation Reserve due to previous ski area developments, and that any potential adverse effects of the activity can be managed by conditions.

Refer to discussion of s.17U(2)(b) in section 6.1.16.6 in this Report.

#### **6.1.16 Any other relevant information**

##### 6.1.16.1 Applicants ability to carry out works

*Hearing report Issues 1.12(a-c); 1.14 –*



- 1.12(a) *applicant has implemented many environmental initiatives over the years and shown environmental responsibility*
- 1.12(b) *the applicant is committed to the highest standards of avoidance, remediation and mitigation of the effects of the installation of this new facility on the environment*
- 1.12(c) *invested in new Curvey Basin Lift, a new Base Building and a major upgrade of the access road with much of it sealed – now a world class facility*
- 1.14(a) *financially strong and responsible company who will undertake this development in the correct manner.*

*Applicant's right of reply (Hearing) – to submission: “batters and trails and the changes caused by earthworks” – yes modifications to the topography are true, our mitigation methods of continued re-vegetation of areas where minimal vegetation left some terrain open is our recognised responsibility and we do have a track record of committing to this process until all parties are satisfied.*

As a well-established Concessionaire, the applicant has a range of procedures, processes and plans in place for all aspects of its operation to which it is required to adhere to.

In addition, the applicant is required to comply with legislative requirements related to the storage, transport and refuelling of vehicles with liquid fuels, as well as the use, transportation and storage of explosives.

The existing development and activity at the site has resulted in moderate to heavy modification of the natural environment. Should a concession be granted the approval will be subject to conditions that ensure that any future adverse effects caused by the activity (and in particular approved modifications) are managed accordingly.

#### 6.1.16.2 Professional membership

The applicant has membership with Ski Areas Association of New Zealand (SAANZ) which provides self-regulation of the industries' activities through the Ski Area Management Safety Strategy (SAMSS) document.

#### 6.1.16.3 Climate change

*Hearing report Issue 1.16 – Global warming and predicted reduced snowfalls and risks associated with possible impact of climate change.*

*Applicant's right of reply (Hearing) - Submission “climate change altering snow pack levels”. Evidence from reports presented by NIWA to the Ski Areas Association of New Zealand emphasise possible more intense events and precipitation at altitude only. This would mean more moisture in the air resulting in more snow events for RE. I would happily make this available to all parties as another source of information when referencing “climate change”.*

*Applicant's right of reply (Hearing) – Submission “given the serious threat of the implications of global warming and predicted reduced snow falls on the mountains east of the main divide.” I can also make reference to studies that have been done which indicate otherwise, which indicates to me that one could argue that other benefits to the environment could be assisted with earthworks & infrastructure modifications with this factor in mind. At all times we must stick to the application in front of us.*

It was evident that there were opposing views and opinions on the effect of climate change and global warming on the proposal. The decision maker should consider Part 3.25 in the Otago CMS (section 6.5.2 in this Report), in particular policy 3.25.2 in relation to the proposal which states (in part) “...considering that the ski field is likely to be operational for many more years, despite potential climate change effects, and any concession, if granted will include provisions to remove facilities and remediate the land should the ski field cease to operate.” (underline added for emphasis).

#### 6.1.16.4 Ecological assessment

*Hearing report Issue 1.20 – There is need for a long-term management plan that includes the identification of the remaining ecological, natural character and landscape values in addition to the remaining regionally significant wetlands and sets out how these will be protected.*

*Applicant’s right of reply (Hearing) – NZSki acknowledges the lack of a “complete vegetation and habitat map of the Rastus Burn recreation area” and is committed to supporting DoC to carry out a survey to gain a more thorough understanding of the flora and fauna established within the Rastus Burn Basin which will also assist with any future proposals. RE did voluntarily carry out the only Wetlands Survey of the Rastus Burn and Doolans basin by Wildlands Group, the only one done to date for the Remarkables and Hector Ranges.*

Refer to proposed special conditions 57-58 in section 7.2 in this Report for the completion of an ecological assessment for the entire Rastus Burn Recreation Reserve (700ha).

#### 6.1.16.5 Resource Management Act

The effects of the proposal are to be considered also through the RMA process. For the purposes of the RMA consent considerations, as the site is within a ‘ski area sub zone’ internal RMA planning advice notes that the activity will be considered as a Controlled Activity which offers less ability for consideration of the matter under the RMA than were it outside that sub-zone (see relevant policies below); however landscape is still an issue which can be taken into account.

Any approval by the Decision Maker here should be mindful of avoiding and mitigating these wider effects and be consistent with the 2016 Otago Conservation Management Strategy.

#### Queenstown Lakes District Plan relevant policies

Section 5.3.3.2 Controlled Activities:

##### **iii Commercial Recreation Activities**

- (a) Ski tows and lifts within the Ski Area Sub-Zones as shown on the District Plan Maps, in respect of their location, external appearance, alignment and methods of construction; and*
- (b) Night lighting in Ski Area Sub-Zones in respect of times, duration and intensity.*

Section 5.4.2.3 Assessment Matters General:

##### **vi Controlled Activity - Commercial Recreation Activities and buildings in Ski Area**

- (a) Whether the ski tow or lift or building breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes.*
- (b) Whether the materials and colour to be used are consistent with the rural landscape of which the tow or lift or building will form a part.*
- (c) Balancing environmental considerations with operational characteristics.*
- (d) Potential effect on surrounding environment.*
- (e) Impact of lighting on the enjoyment of an adjoining property.*

#### 6.1.16.6 Section 17U(2)(b)

*Hearing report Issue 1.2(c) – “The impacts of changing the topography through the cutting of ski trails and creation of access tracks cannot be adequately remedied or mitigated and the application should be declined.*

It is considered, pursuant to s.17U(2)(b), that there are no adequate methods or no reasonable methods for fully remedying, avoiding, or mitigating the permanent adverse effects of establishing a new passenger lift system requiring significant earth disturbance (cut and fill) for the formation of trails.

However, the provision in section 17U(2) also states that the Minister may decline any application. With regard to this discretion, the effects of the Remarkables ski area within the Rastus Burn Recreation Reserve have been long established, as it has provided public recreation, benefit and enjoyment since circa 1985, and the effects of a ski field operating at this location are well known and understood by the applicant and the Department of Conservation. While the proposal will result in permanent modification to the landscape, it is recognised, due to the nature of a ski area at this location, that ongoing improvements and modifications consistent with the operation of a ski area will result, as reflected in this Report and the relevant parts of the Otago CMS (section 6.5.2 in this Report). Whilst the permanent impact of the proposal on conservation lands and waters cannot be fully remedied, avoided, or mitigated, the proposal can be managed by conditions (based on similar proposals carried out by the applicant at this location), in particular, the proposed establishment special conditions (including restoration/rehabilitation of the land) referred to in section 7.2 in this Report.

### **6.2 S17U(3): Purpose for which the land is held**

A concession shall not be granted if the proposed activity is contrary to the purpose for which the land is held.

#### **Criteria for decision:**

- Is the activity not contrary to s17U(3) of the Conservation Act? (That is, consistent with the purpose for which the land is held – although note that ‘not contrary to’ is not as high as a test as ‘consistent with’).

Yes

**Discussion:** *Hearing report Issues 1.2(a) & 1.2(d) – Views range from several submitters believing that application is consistent with the use of the area as a Recreation Reserve, and one submitter contending that it is contrary to the Act and the purpose for which the land concerned is held in respect to recreational use and protecting the natural environment.*

The Rastus Burn Recreation Reserve is held as Recreation Reserve under s.17 of the Reserves Act 1977.

Recreation reserves are held “..., for the purpose of providing areas for the recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, with emphasis on the retention of open spaces and on outdoor recreational activities, including recreational tracks in the countryside.”

The principal or primary purpose of the Rastus Burn Recreation Reserve is for the existence and management of the Remarkables ski area under the Reserves Act 1977. In conjunction with this principal or primary purpose there are administrative provisions to consider under s17(2) of the Act with regard to public access s.17(2)(a) and conservation values such as “where scenic, historic, archaeological, biological, geological, or other scientific features or indigenous flora or fauna or wildlife are present on the reserve, those features or that flora or fauna or wildlife shall be managed and protected to the extent compatible with the principal or primary purpose of the reserve:” s.17(2)(b), and “those qualities of the reserve which contribute to the pleasantness, harmony, and cohesion of the natural environment and to the better use and enjoyment of the reserve shall be conserved.” s.17(2)(c), “to the extent compatible with the principal or primary purpose of the reserve, its value as a soil, water, and forest conservation area shall be maintained.” s.17(s)(d). (Note: underline added for emphasis).

Furthermore, the general purpose of the relevant Act (being the Reserves Act 1977) is:

**“3      *General purpose of this Act***

- (1) *It is hereby declared that, subject to the control of the Minister, this Act shall be administered in the Department of Conservation for the purpose of—*
- (a) *providing, for the preservation and management for the benefit and enjoyment of the public, areas of New Zealand possessing—*
- (i) *recreational use or potential, whether active or passive; or*
  - (ii) *wildlife; or*
  - (iii) *indigenous flora or fauna; or*
  - (iv) *environmental and landscape amenity or interest; or*
  - (v) *natural, scenic, historic, cultural, archaeological, biological, geological, scientific, educational, community, or other special features or value;*
- (b) *ensuring, as far as possible, the survival of all indigenous species of flora and fauna, both rare and commonplace, in their natural communities and habitats, and the preservation of representative samples of all classes of natural ecosystems and landscape which in the aggregate originally gave New Zealand its own recognisable character;*
- (c) *ensuring, as far as possible, the preservation of access for the public to and along the sea coast, its bays and inlets and offshore islands, lakeshores, and riverbanks, and fostering and promoting the preservation of the natural character of the coastal environment and of the margins of lakes and rivers and the protection of them from unnecessary subdivision and development.*
- (2) *In the exercise of its administration of this Act, the Department may take any action approved or directed from time to time by the Minister so far as it is consistent with this Act or is provided for in any other Act and is not inconsistent with this Act.”*

Section 3(2) of the Reserves Act states that *“In the exercise of its administration of this Act, the Department may take any action approved or directed from time to time by the Minister so far as it is consistent with this Act or is provided for in any other Act and is not inconsistent with this Act.”* (underline added for emphasis).

In addition, the Conservation Act requires that a concession is not granted under circumstances in which the proposed activity would be contrary to purposes for which the land is held.

There is provision in s.59A of the Reserves Act 1977, where the Minister may, in accordance with [Part 3B](#) of the Conservation Act 1987, *grant a concession in respect of any reserve vested in the Crown* - discussed in detail below. The mandatory nature of the wording in s.17(1) of the Reserves Act 1977 and Part 1, s.2(1)<sup>13</sup> of the

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<sup>13</sup> **“conservation** means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.”

Conservation Act 1987 suggests that the proposed activity may be inconsistent with/contrary to the provisions of the Acts. However, the provisions contained within Part 3B of the Conservation Act 1987, in particular s.17U of the Act require the Minister to also consider a number of other matters, including the effects of the proposed activity, the conservation values to be protected, and to question whether the granting of the application, with or without conditions (comprising safeguard and mitigation measures) would provide protection of those resources and more specifically the administrative provisions in s.17(2). This consideration gives effect to the wording in s.59A of the Reserves Act 1977, in particular s.59A(1) “*The Minister may, in accordance with [Part 3B](#) of the Conservation Act 1987, grant a concession in respect of any reserve vested in the Crown...*”, and s.17Q(1) of the Conservation Act 1987 “*...the Minister may grant a concession in the form of a lease, licence, permit, or easement in respect of any activity.*”

Accordingly, the proposed activity is consistent with/not inconsistent with the relevant Act (Reserves Act), not contrary (Conservation Act) to the purposes for which this Recreation Reserve is held (especially in its current state), along with its principal or primary purpose being the existence and management of the Remarkables ski area, if a concession was granted to allow this proposal to be authorised, subject to conditions.

For the purposes of section 3 of the Reserves Act 1977 and section 17U(3) of the Conservation Act 1987, there are no provisions of the Acts that would be breached by the granting of a concession (lease and licence and easement).

#### **6.3 S17U(4): Can a structure or facility be reasonably undertaken elsewhere?**

A concession to build or extend a structure or facility shall not be granted if the activity could reasonably be undertaken in another location that is outside conservation land or in an another conservation area where the potential adverse effects would be significantly less, or if the activity could reasonably be undertaken in an existing structure.

#### **Criteria for decision:**

- Is the activity consistent with s17U(4) of the Conservation Act? (That is, the activity cannot reasonably undertaken at another location or in an existing structure?

Yes

#### **Discussion:**

##### ***“17U Matters to be considered by Minister***

- (4) The Minister shall not grant any application for a concession to build a structure or facility, or to extend or add to an existing structure or facility, where he or she is satisfied that the activity—*
- (a) could reasonably be undertaken in another location that—*
- (i) is outside the conservation area to which the application relates; or*
- (ii) is in another conservation area or in another part of the conservation area to which the application relates, where the potential adverse effects would be significantly less; or*
- (b) could reasonably use an existing structure or facility or the existing structure or facility without the addition.”*

*Hearing report Issue 1.2(e) - A submitter stated that the “application provides no evidence as to why the chair lift cannot be replaced in the same position. It appears that the proposal is for providing enhanced access to new areas within the Sugar Basin rather than a replacement or extension of the existing structure. Before this consent can be granted the Minister has to be satisfied that the activities cannot reasonably be undertaken on*

*the existing line of the passenger lift and on the existing trails. This would mean that the potential adverse effects would be significantly less and largely avoided.”*

*Hearing report Issue 1.6 – two submitters maintained that the applicant should replace existing Sugar Basin lift at current alignment [Issues 1.6 (a-b)]. Eleven Submitters supported the proposal to replace the Sugar Bowl chairlift within the Rastus Burn Recreation Reserve at the new proposed location primarily due to the applicant’s need to replace an old “not fit for purpose” chairlift, the need to invest to ensure infrastructure is kept to a high standard to remain competitive (both locally and internationally), and upgrade facilities to improve customer service (visitor experience) and safety [Issues 1.6 (c-o)].*

*Hearing report Issues 1.7 (a-c) – Two submitters stated that no new trails should be permitted/allowed and one submitter maintained that the impacts of the proposed development could largely be avoided if the applicant replaced the existing lift in the existing location and utilise the existing trails.*

*Applicant right of reply (Hearing) –*

- In response to the Submission “I consider that such trails are not essential for safe and/or enjoyable skiing” are not at all accurate. The whole reason for constructing the trails are to alleviate already congested trails, provide safe access on purpose built trails and with the right incline and width to facilitate an enjoyable experience.*
- Being 50m wide, it also creates a safe and enjoyable experience for lesser ability visitors and has been designed that way.*
- In response to the submission “replacement of the existing chair should stay where it is” does not improve the visitor experience and more importantly if it was a straight replacement the operation is greatly hindered if Curvey Basin chairlift does not operate. Visitors cannot easily access Sugar Bowl lift from the base area while it is in it’s current location. Another reason the new location from the base area alleviates congestion mid ski area, directs traffic flows away from already congested areas, improves safety margins for skiers with less traffic on existing trails and provides direct access out of the base area into Sugar Bowl.*
- The option of replacing like for like does not improve the winter visitor experience and in fact compromises it with on trail congestion, existing trail difficulty, both of which impact on overall safety.*
- The replacement of Sugar Bowl chairlift is essential to operate and maintain the facility in good substantial repair, and for the safe and competent operation of the service.*
- It is necessary for taking all practical steps to protect the safety of visitors to the recreation reserve and eliminate any dangers, and as a responsible concessionaire be satisfied that the facility and equipment meets the safety standards/requirements, codes of practice and legislative requirements for operation.*
- “In recognition of the status of the recreation reserve and aligning with Section 17U(3) NZSki do wish to provide areas for recreation and sporting activities . . . within our concession area. With the installation of Curvey Basin from the base area having Sugar Bowl positioned along side it at the base area makes total common sense operationally. Guests have choice of direction they can travel in to gain access to skiing trails without hold up or inconvenience if one of those lifts fails to operate. If the new chairlift was positioned back in it’s exiting position the inconvenience if Curvey Basin lift failed to operate and*

*getting to Sugar Bowl would be a massive inconvenience for all guests on site, limit operations and devalue the experience of guests in this environment.”*

With respect to s.17U(4)(b), the applicant could not reasonably use an existing structure or facility as it has aged, needs replacing, and is no longer fit for the applicant’s operational purpose.

In addition, this is a new application to establish a replacement passenger lift system at a new location within the Rastus Burn Recreation Reserve to which the applicant has sought (a longer, faster more direct lift line from the base building area and associated trail earthworks) to provide for:

- Access to the Sugar Basin direct from the base building area, instead of the current arrangement of transiting to Sugar Basin via riding up the main Curvey lift first, then skiing down to the current Sugar Basin loading station mid-way up the main Rastus Burn Basin and getting on there
- Servicing additional skier capacity by way of a larger and faster (6 seat) chairlift
- An improved intermediate level skier experience in the existing Sugar Basin

Pursuant to s.17U(4)(a)(ii), it is unreasonable to expect the current chairlift (being smaller and starting mid-way up the main Rastus Burn Basin) and current trail alignments to provide for the above activities being sought, even though there will be additional effects associated with this new alignment.

It is therefore considered that the statutory test as required under s.17U(4), in particular s.17U(4)(a)(ii) and s.17U(4)(b), has been met.

#### **6.4 Appropriateness of Granting a Lease or Licence or Easement**

The Applicant sought three classes of concession in the Application. These included a lease, a licence and an easement. The dimensions of each of these areas is set out in section 6.4 in this Report and are more particularly described in the application.

In general, this Report agrees with the approach taken by the applicant that three classes of concession be granted:

- (a) A lease to correspond with the footprint of the top station/terminal and service building;
- (b) A licence for the skiable terrain; and
- (c) An easement for ancillary infrastructure as detailed in section 6.1.1 in this Report.

##### **6.4.1 Recommendations on dimensions and definition of the Lease, Licence and Easement Areas**

###### **Proposed Lease and Licence Area**

It is considered that a lease is appropriate as the proposal relates to 1 or more fixed structures and facilities [s.17U(5)(a)] and accordingly the lease footprint has been identified below in the “Lease, Licence and Easement Areas defined” section of this report. Exclusive possession is considered appropriate over certain buildings and structures for:

- reasons of public safety, for example a passenger lift return system and associated building where the public are physically excluded from the site to protect them from hazards that may result from operating machinery [s.17U(6)(a)]; and
- for the purposes of safety or security of certain assets (buildings and structures) [s.17U(6)(b)]; and
- to ensure that the applicant can operate the activity competently as they have a significant investment in buildings and related infrastructure [s.17U(6)(c)].

It is also considered appropriate to grant a licence for areas around the defined lease area for the purposes of safety or security at the location [s.17U(5)(b)(i)(A)] and to clearly define an area that is an integral part of the

activity on the land, being the main ski field area/skiable terrain (slopes) [s.17U(5)(b)(i)(B)]. This will not only allow the applicant to operate effectively but, will also allow public access for non-ski recreational opportunities.

It is noted that the applicant has appropriate health and safety processes in place to ensure public safety, in general, is maintained over non-leased areas.

The Minister should be satisfied that the grant of a lease and licence granting an interest in the land is essential to enable this proposed activity to be carried out [s.17U(5)(b)(ii)].

### **Lease, Licence and Easement Areas Defined**

Applying s17U of the Act, the Department considers the types of activities related to this application can be defined and categorised as detailed below, and as described in the overview in section 6.1.1 in this Report and Figure 2 plan.

#### **Proposed Lease Area**

Footprint of structures and facilities being approximately 265 m<sup>2</sup> comprising:

- Top station/terminal (approximately 6.921m high above finished ground; canopy 9.890m wide x 21.990m long)
- Top station service hut (approximately 3.7m high x 8m wide x 6m long).

#### **Proposed Licence Area**

The proposed licence area will result from the formation of the 3 trails being approximately 104,000m<sup>2</sup><sup>14</sup> (10.4 ha) and comprise:

- ski field terrain (slopes).

#### **Proposed Easement Area**

The easement area of approximately 10,133m<sup>2</sup> (1.0133 ha) will comprise:

- Utilities and services (above and below-ground infrastructure) (approximately 4,600m<sup>2</sup><sup>15</sup>; 0.46 ha);
- Ancillary equipment (above and below-ground infrastructure) such as snow making and pumping equipment (wands/snow guns), towers/pylons, lift cables, ski lift chairs [approximately 5,533m<sup>2</sup><sup>16</sup>; 0.5533 ha).

#### **Dunedin Service Centre Recommendations**

This Report recommends that a lease be granted in relation to proposed structures because the tests set down in s17U(5)(a) and s.17U(5)(b)(i)(A) and s.17U(5)(b)(ii) are met. The Department is also satisfied, pursuant to s.17U(6), that exclusive possession is necessary over certain buildings and structures.

In addition to creating a lease in relation to the existing structures it is proposed to include a clearly defined licence area for the skiable terrain immediately proximate to the structures as this is an integral part of the activity [s.17U(5)(b)(i)(B)].

In considering which area or areas around the structure or facility should be within this licence area, regard has been had to the application.

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<sup>14</sup> See table 1

<sup>15</sup> From section 6.1.1 in Report: 2.3 kms = 2,300m<sup>2</sup> x easement corridor of 2m = 4,600m<sup>2</sup>

<sup>16</sup> From section 6.1.1 in Report: 38 concrete in ground pits 1.6m long x 1.2m wide x 1.6m high = 72.96m<sup>2</sup>; Towers (10) 6 x 6m each = 360m<sup>2</sup>; overhead cables 1.05km less 0.03 (within Head lease area) = 1.02 km = 1,020m x easement corridor 5m wide = 5,100m<sup>2</sup>. Therefore 72.96m<sup>2</sup> + 360m<sup>2</sup> + 5,100m<sup>2</sup> = 5,532.96m<sup>2</sup>.



### 6.5 S17W: Relationship between concessions and conservation management strategies and plans

A concession shall not be granted unless the proposed activity is consistent with any established conservation management strategy, conservation management plan, and/or national park management plan.

#### Criteria for decision:

- Is the activity consistent with all relevant statutory planning documents?

Yes

#### Discussion:

Where a conservation management strategy or conservation management plan exists for a particular location a concession can only be granted if doing so is consistent with the management strategy or plan (s17W).

In this case a conservation management strategy does affect the area to which the application relates. The relevant management strategy is the *Otago Conservation Management Strategy 2016* (“*Otago CMS*”). The *Otago CMS* is subservient to the Conservation General Policy 2005 in so far as it must implement the general policies set out in the 2005 document and it must not derogate from the general policies. Where a conservation management strategy is silent on an issue reference can be made to the Conservation General Policy for direction.

There is no longer a relevant conservation management plan for the area.

#### 6.5.1 Conservation General Policy (May 2005)(CGP)

With regard to *Part 9. People’s Benefit and Enjoyment*, in particular relevant policies 9.1(a) to 9.1(h); in particular 9.1(f) below:

*9.1 (f) Recreational opportunities at places should be managed to avoid or otherwise minimise any adverse effects (including cumulative effects) on:*

- natural resources and historical and cultural heritage where required by the relevant Act;*
- the qualities of peace and natural quiet, solitude, remoteness and wilderness, where present; and*
- the experiences of other people.*

With regard to *Part 11. Activities Requiring Specific Authorisation (not covered elsewhere)*, in particular relevant policies 11.1(a) to 11.1(e), and *Part 11.3 Utilities* and policies 11.3(a) to 11.3(e); in particular 11.1(a)-(c) below:

*11.1 (a) Any application for a concession or other authorisation will comply with, or be consistent with, the objectives of the relevant Act, the statutory purposes for which the place is held, any other conservation management strategy or plan.*

*11.1 (b) All activities on public conservation lands and waters which require a concession or other authorisation should, where relevant, avoid, remedy or mitigate any adverse effects (including cumulative effects) and maximise any positive effects on natural resources and historical and cultural heritage, and on the benefit and enjoyment of the public, including public access.*

*11.1 (c) The Department and all concession and other authorisation holders should monitor the effects of authorised activities on natural resources, historical and cultural heritage, and the benefit and enjoyment of the public, including public access, to inform future management decisions.*

After considering the discussions in relation to s.17U *Matters to be considered by the Minister* in this Report and the *Otago CMS* below, the Minister should be satisfied that the proposed activity is consistent with the CGP.

## 6.5.2 Otago Conservation Management Strategy 2016 (“Otago CMS”)

Provisions relevant to this matter are found in Parts One, Two (Places) and Three (Specific policy requirements).

To guide decision making the pre-amble to Part Two (Places) notes:

- Outcomes describe the future state of a Place, including its values, and reflect the expected changes at that Place over the 10-year term of the CMS. They will be used for conservation management and when making decisions, including in the absence of a relevant specific policy for a Place.
- Policies describe the course of action or guiding principles to be used for conservation management and when making decisions. Policies refer to public conservation lands and waters within a Place unless they are addressing matters of advocacy.
- Milestones are specific actions that are measurable steps towards achieving the outcomes and policies.

Part Two must be read in conjunction with Parts One and Three. Where the provisions in Part Two are more specific than the provisions in Part One and/or Part Three, the more specific provisions in Part Two prevail.

Analysis of the Otago CMS with respect to this proposal is provided alongside individual CMS provisions (in *italics*) relevant to this matter in the body of the table below, with comments.

The conservation land affected by the application is referred to in Part 2.3 of Otago CMS (pages 57 to 74).

- Extracts taken from *Part One* (pages 17 to 44), parts 1.5 and 1.5.3 of Otago CMS; Objectives 1.5.1.1, 1.5.3.1, 1.5.3.12
- Extracts taken from *Part Two – Places*, part 2.3 of Otago CMS (pages 57 to 74); Outcome, Policies 2.3.2, 2.3.7, 2.3.21 – 2.3.22;
- Extracts taken from *Part Three – Specific policy requirements for Otago* (pages 121 to 156); Parts 3.1, 3.2, 3.6, 3.10 & 3.25 of Otago CMS; Policies 3.1.11, 3.2.12, 3.25.1 – 3.25.6

Extracts taken from *Part One* (pages 17 to 44); part 1.3 of Otago CMS

### *1.5 Otago by 2026*

#### *1.5.1 Natural heritage*

#### *Objectives*

*1.5.1.1 The diversity of New Zealand’s natural heritage is maintained and restored, with priority given to:*

- c) conserving threatened species to ensure persistence,<sup>9</sup> with an emphasis on those species listed in Appendix 5;*
- e) conserving significant geological features, landforms and landscapes, including those listed in Appendix 9, where they are on public conservation lands and waters.*

Given the ecological assessment recording a number of Threatened plants within the proposed redevelopment site, objective 1.5.1.1.c applies.

The Remarkables are considered a significant landscape and whilst Appendix 9 does not identify Rastus Burn Recreation Reserve specifically, it does identify the Remarkables Conservation Area.

It is considered that subject to the application of the proposed conditions and the DOC/NZSki Rehabilitation Protocol, the provision of recreation opportunity proposed here is not inconsistent with objectives 1.5.1.1 c) and e).

### **1.5.3 Recreation**

#### **OBJECTIVES**

*1.5.3.1 Understand demand for outdoor recreation and provide recreation opportunities where:*

- a) the recreation opportunities are consistent with:
  - i) the protection of indigenous natural, historic and cultural resources; and*
  - ii) the purpose for which the lands and waters concerned are held; and**
- b) demand is evident; and*
- c) demand is expected to be sustained.*

Importantly, with respect to the purposes for which this land is held, The Remarkables Ski Area is within the Rastus Burn Recreation Reserve, set aside in 1980 to allow for the development of a ski area in the early 1980's, and added to since then. The ski area has flourished since then with continued ongoing investment and increased visitor numbers. Demand is clearly evident and expected to be sustained.

*1.5.3.12 Encourage recreation opportunities on public conservation lands and waters that are consistent with outcomes for a Place and that meet one or more of the following:*

- a) emphasise access close to urban and holiday accommodation areas, and State Highways;*
- b) integrate recreation opportunities on and off public conservation lands and waters;*
- c) integrate recreation opportunities across Otago and with neighbouring public conservation lands and waters;*
- d) integrate recreation opportunities with objectives in sections 1.5.1-1.5.5;*
- e) provide education benefits to schools and educational groups;*
- f) have been subjected to thorough environmental impact assessment and landscape design processes, and are likely to have minimal environmental and landscape impacts; and*
- g) are supported or enabled by facilities that are able to be maintained into the future.*

Subject to consistency with Part Two Places discussed below, the proposal is not inconsistent with these provisions.

Importantly, environmental impact assessment, landscape design processes and suggested conditions of any approval have been provided by the applicant and reviewed by the Department. Additional conditions have been proposed to minimise the effects on the natural heritage (see following sections).

Extracts taken from *Part Two – Places* (pages 57 to 74); part 2.3 of Otago CMS

The Remarkables Ski Area is in the Western Lakes and Mountains/Ngā Puna Wai Karikari a Rākaihautū (the Place) (Section 2.3). Several outcome statements relate to this proposal:

#### *OUTCOME*

*The mountains, lakes and rivers are cherished natural wonders that draw international and domestic visitors and provide an outstanding backdrop to and locations for a wide range of outdoor adventures and activities while supporting distinctive indigenous ecosystems and species...*

*Further local extinctions have not occurred and populations of threatened and at-risk species are improving within their natural range, and are becoming more common sights...*

*Prominent landscape and geological features (ridgelines, and mountain tops) remain in their natural state, or are unmodified beyond their state at the time of becoming public conservation lands and waters. Within public conservation lands and waters away from prominent landscapes and geological features, structures may be present where well-blended into the landscape or where buildings already exist.*

*More people enjoy a wide range of recreational opportunities and experiences within the recreation setting across the Western Lakes and Mountains/Ngā Puna Wai Karikari a Rākaihautū Place, provided by the Department, the community and many commercial providers. The range of experience and opportunities enables people to choose between remote, quiet and tranquil locations and busy, highly visible sites...*

*The Remarkables, Coronet Peak and Treble Cone ski fields provide for intensive use and are highly valued recreation and tourism opportunities enabling access to high-altitude areas. Recognition of the ski fields' location on public conservation lands and waters, and conservation interpretation, are readily apparent to visitors. Ski fields are managed in a precautionary approach in terms of new and additional structures and terrain modification. Further development of existing ski fields may occur, in preference to any new ski fields. Disturbed areas are restored to an agreed standard comparable with that which was present prior to any development.*

#### ***Remarkables-Hector***

*The outstanding natural landscapes and ecological values of The Remarkables and Tāpuae-o-Uenuku/Hector Mountains are intact and enjoyed by more people. Wilding trees and feral goats are being controlled to zero density by sustained control.*

*A range of recreational experiences is available in the Remarkables-Hector area ranging from largely unmodified environments where a sense of solitude and remoteness can be found in a largely unmodified environment (Wye Creek valley), to the Remarkables busy ski field.*

Assessment of these Outcome statements is as follows:

This proposal is for development of an existing ski field, as recognised by and consistent with the specific Outcome statement for ski fields. Within the proposed activity development area/footprint, disturbed areas are to be restored to an agreed standard comparable to that prior to development.

It is considered that, subject to the application of the proposed conditions, the proposal is not inconsistent with a precautionary approach as it is the replacement and upgrade of

existing infrastructure; and will be subject to existing construction and restoration protocols.

The general Outcome statement requiring prominent ridgelines and mountaintops to remain in their natural state, or unmodified beyond the time of becoming public conservation lands and waters, needs to be interpreted in the context of the specific Outcome for ski fields. The former acknowledges that modifications have occurred prior to the Department acquiring and administering the land, and the latter, that new and additional structures and terrain modifications can occur.

From the time the Rastus Burn Recreation Reserve came under the Department's administration, modification of the reserve has occurred, more recently by the Curvey Basin lift station immediately below the ridgeline.

The more specific ski field Outcome should be applied, but consideration should be given to minimising the adverse effects of the proposed development on the landscape. As a replacement/upgrade (albeit at a new location within the reserve) to the existing structure, this proposal is for a larger, more visible top terminal within the Rastus Burn Recreation Reserve, compared to infrastructure already there and accepted for 30 plus years in that location.

The proposal is consistent with the other general Outcome statements as it provides for a wide range of recreational opportunities for international and domestic visitors.

### ***POLICIES***

*2.3.2 Should allow motorised vehicle, mountain bike and electric power-assisted pedal cycle use only as identified in Table 2.3, and Policies 3.2.1-3.2.12, 3.3.1-3.3.8 and 3.4.1-3.4.5 in Part Three.*

*2.3.7 Should allow over-snow vehicle use only for the purpose of ski field management within ski field lease/licence areas subject to the provisions of the lease/licence and in accordance with Policies 3.2.12 and 3.25.6.*

Refer to bullet-point in section 7.1 in this Report (Concession Activity) "Use of vehicles to carry out establishment and operational activities;"

### ***Remarkables-Hector***

*2.3.21 When considering, applications for new utilities, structures or facilities throughout this Place (with the exception of the upper Wye Creek valley), should have particular regard to the potential adverse effects on:*

- a) natural ecosystems, landscapes and natural character, particularly in areas where structures and facilities are currently absent;*
- b) catchment water quality and quantity, including in Lake Alta;*
- c) priority ecosystem units and threatened species;*

d) *natural quiet;*

e) *current recreational uses; and*

f) *opportunities available for such structures or developments off public conservation lands and waters.*

Refer to section 6.1 in this Report for analysis of part 2.3.21(a)-(f).

2.3.22 *May allow further development and/or expansion of the Remarkables ski field (with the exception of the upper Wye Creek valley) in accordance with Policies 3.25.1-3.25.6 in Part Three, provided that adverse effects (including cumulative effects) are avoided, remedied or mitigated on the following values:*

a) *the outstanding natural landscapes and ecological values of The Remarkables and the Tāpuae-o-Uenuku/Hector Mountains;*

b) *the landscape and ecological (including water quantity and quality) values of the priority ecosystem unit at Lake Alta;*

c) *the recreational experiences of other users; and*

d) *the ability of users to access the area year round.*

Refer to discussion of Part 3.25 below, and s.17U(2)(b) in section 6.1.16.6 in this Report for analysis of policies 2.3.22(a)-(d).

Extracts taken from *Part Three – Specific policy requirements for Otago* (pages 121 to 156); parts 3.1, 3.2, 3.6, 3.10 and 3.25 of Otago CMS

### **3.1 General**

#### **Authorisations**

*Unless enabled by other legislation (<sup>45</sup>examples are the Electricity Act 1992 and Cadastral Survey Act 2002), anyone wishing to undertake an activity for specific gain or reward (including carrying out a trade, occupation or business) on public conservation lands and waters..., or the construction of a structure, requires an authorisation. The most common authorisation is a concession under Part 3B of the Conservation Act 1987. The Department aims to allow for a range of authorisations that are consistent with relevant legislation and policy, the protection of natural resources and historic and cultural values, and the recreational settings and planned outcomes and policies for specific Places (Part Two).*

*Three ski fields (Coronet Peak, Treble Cone and The Remarkables) have authorisation to operate on public conservation lands and waters (see 3.25 Ski fields).* (underline added for emphasis).

#### **Policies**

*3.1.11 Should not grant authorisations that are inconsistent with the objectives, outcomes and policies in Part One, the outcomes and policies for Places in Part Two-Places, or the policies in Part Three.*

See summary below.

### **3.2 Vehicles**

*Over-snow vehicles are used in the day-to-day management of ski fields, including search and rescue.*

#### **Policies**

*3.2.12 The use of over-snow vehicles for the purpose of ski field management within ski field lease/licence areas is permitted and subject to the provisions of the lease/licence and in accordance with Policy 3.25.6.*

The proposal's use of over snow vehicles is not inconsistent with 3.2.12. If the proposal is approved, the use of vehicles will be authorised in the Concession Activity of any contract (refer to 7.1 in this Report).

### **3.6 Aircraft**

The proposal is within the orange Aircraft Access Zone.

*3.6.1 Should apply (but not be limited to) the following criteria when assessing concession applications for all aircraft landings.<sup>48</sup>*

- a) is consistent with the outcome and policies for the Place in which the activity is proposed to occur and Table 3.6.1;*
- b) is consistent with the aircraft zoning provisions in this CMS and the aircraft access zones on Map 4;*
- c) is consistent with the purposes for which the lands and waters concerned are held;*
- d) adverse effects on conservation values including adverse effects on natural quiet are avoided, remedied or mitigated;*
- e) adverse effects on other visitors (taking into account the size of zone and the proximity of other ground users) are avoided, remedied or mitigated;*
- f) the need for monitoring the activity using global positioning systems and newer technologies;*
- g) landings near tracks, huts and car parks (unless otherwise specified in an outcome or policy for a Place) are avoided; and*
- h) the need to hold and comply with certification in a noise management scheme approved by the Department, in specified locations.*

*3.6.5 May grant, concessions for aircraft landings in the Orange Zone that meet the criteria (a) and (c)–(h) in Policy 3.6.1 and as set out in Table 3.6.2. Any heli-skiing concession that is approved should be on a one operator per block basis, and may be allocated via a limited opportunity process.*

Table 3.6.2 Orange Zone Criteria

CONSERVATION AREA(S)	ORANGE ZONE CRITERIA–TO BE MANAGED
<p><i>Remarkables Conservation Area (part), Rastus Burn Recreation Reserve and Conservation Area– Ben Nevis Scenic Reserve</i></p>	<p><i>For heli-skiing in part of this area For regular landings with specified daily limits per operator based on visitor management zones as follows: – For frontcountry sites, 10 per operator per day – For backcountry sites, 5 per operator per day – For remote sites, 2 per operator per day Some sites have seasonal restrictions on landings Wye Creek ice wall–for climbers’ access to the ice wall only Concessionaire landing site for servicing heli-biking operations One-off landing concessions considered on a case-by-case basis NZ Ski controls aircraft access within the ski field lease area</i></p>

The Department of Conservation controls aircraft access within the Rastus Burn Recreation Reserve. NZ Ski controls aircraft access within the ski field lease area. Concession is required for hovering and landing of aircraft outside the lease area for the construction work identified in the proposal in line with the above policies. The use of helicopters has been discussed in section 6.1.1 (helicopter access) in this Report. If the proposal is approved, the use of helicopters will be authorised in the Concession Activity of any contract (refer to 7.1 in this Report).

**Section 3.10 Structures and utilities**

*Structures and utilities can be temporary or intended for long-term use. They can share space (usually a public facility) or require exclusive occupation of space (usually a private facility). Both may be either commercial or non-commercial in nature.” (underline added for emphasis).*

*3.10.1 Should apply the following criteria when considering applications to erect or retain structures or utilities or for the adaptive reuse of existing structures on public conservation lands and waters:*

- a) the purposes for which the lands and waters concerned are held;*

The proposal is within the Rastus Burn Recreation Reserve, initially set aside in 1980 and added to since, to accommodate the skifield development. The activities proposed are consistent with the purposes of a recreation reserve (section 17 Reserves Act 1977). Refer to section 6.2 in this Report.



*b) the outcomes and policies for the Places where activity is proposed to occur;*

See Part Two analysis above.

*c) whether the structure could reasonably be located outside public conservation lands and waters;*

The proposed skifield structures are inside the Rastus Burn Recreation Reserve and ski area. They cannot be reasonably located off public conservation lands and waters.

*d) whether the structure could reasonably be located in another location where fewer adverse effects would result from the activity;*

This is the replacement and upgrade of the Sugar Bowl lift in a different location within the Rastus Burn Recreation Reserve. It is unreasonable to locate it elsewhere, other than in the Rastus Burn Recreation Reserve. Refer to further discussion in section 6.3 in this Report.

*e) whether the structure adversely affects conservation, including recreational values;*

As discussed in section 6.1 in this Report, the proposal will have an adverse effect (to varying degrees) on a range of ecological and geological conservation values such as wildlife, vegetation, landscape, amenity and recreation (refer to section 6.1 for detailed discussion). There will be significant earth disturbance and modification of the natural terrain resulting from the formation of the 3 new trails, visual disturbance from towers in a different location and a bigger, more visible top station. Landscape values will be mitigated in part by the decommissioning of the old Sugar Bowl chairlift.

As discussed in section 6.1.10 in this Report, submitter's and the applicant provided a range of views on the effects on amenity and recreational values<sup>17</sup>.

The applicant states that the enhanced lift will have a positive effect as having a higher capacity, more reliable chairlift is critical to providing skiers with an improved experience, and will enable the applicant to use the most advanced safety features available for aerial ropeways. Several submitter's agreed that improved facilities will benefit skiers e.g. ease of use and flow of visitors.

During construction, the effects to recreational values through the operation of machinery, noise (impact on natural quiet) and a loss of amenity values will be significant and unavoidable. This will include a need to consider road users during construction. These temporary effects will need to be mitigated through good communication and modification of public expectation during this time through such channels as media and signage.

As for the permanent modification of the landscape resulting from the formation of, in particular, the 3 new trails. There will be possible adverse effects on off-season recreational

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<sup>17</sup> Issues 1.3 and 1.9 in Hearing report.

values such as movement of boulders and earthworks that will affect the aesthetic values for non-skier visitors such as trampers. As contented by two submitter's, "*proposed infrastructure will be intrusive and further degrade the experience of walking*" and "*extensions to capacity could lead to experience of overcrowding.*" However, other submitter's believe that the proposal "*will allow easier access to the ridgeline*" and "*better accessibility while enhancing the overall experience for mountain users.*"

Once construction is complete and restoration is progressing, the effects on recreation (except for any possible adverse effects from the permanent modification of the landscape) are likely to be minor and, in fact, as discussed above, may enhance recreational opportunities.

Reasonable methods to manage the adverse effects on conservation values resulting from the proposed activity as discussed in this Report, can be achieved by conditions.

*f) whether the structure is readily available for public use;*

Yes

*g) whether the structure is consistent with the visitor management zone on Map 3 and as described in Appendix 12;*

The recreation reserve is zoned Frontcountry. The proposal is not inconsistent with this zone subject to conditions to avoid or mitigate adverse effects (Appendix 12 – Setting: Preferred concessions effects management).

*h) whether the activity promotes or enhances the retention of a historic structure;*

Not applicable.

*i) whether the activity is an adaptive reuse of an existing structure;*

No, but it is for all intents and purposes the replacement, upgrade and relocation of the existing Sugar Bowl chairlift infrastructure, including the formation of three new trails within the Rastus Burn Recreation Reserve.

*j) whether the policies for private accommodation and related facilities should be applied (see Policies 3.11.1 and 3.11.6); and*

Not applicable.

*k) whether any proposed road in a national park is provided for in the relevant national park management plan.*

Not applicable.

### **3.25 Ski fields**

*Policies (page 155)*

*3.25.1 May allow further development of existing authorised ski fields, where their natural values are already modified, in preference to the development of new ski fields.*

This is the development of an existing ski field with already highly modified natural values.

*3.25.2 Should in considering the development of new and existing authorised ski fields apply a precautionary approach to the approval of new structures, accommodation facilities and terrain modification and consider both the likely effects of water use (for snow-making), the likely longevity of the field in the face of climate change, and any appropriate land remediation and facility removal costs should the ski field cease to operate.*

A precautionary approach is applied here as the proposal is: being undertaken on or in the vicinity of already heavily modified terrain, or is the replacement and upgrade of existing infrastructure; and subject to existing construction and restoration protocols. The ski field is likely to be operational for many more years, despite potential climate change effects, and any concession, if granted will include provisions to remove facilities and remediate the land should the ski field cease to operate. See also section 6.1.16.3 in this Report for discussion on climate change.

The applicant has an easement for a water intake structure from Lake Alta for snowmaking<sup>18</sup>.

*3.25.3 Process all applications for renewals of existing authorisations for ski fields as concessions.*

This is not a renewal of an existing ski field authorisation, rather approval for new works under Part 3B of the Conservation Act 1987.

*3.25.4 Where practicable, encourage non-skier and/or non-ski season visitor use, and visitor use beyond the ski field consistent with the outcomes at Place.*

Not relevant to the proposal.

*3.25.5 Should provide opportunities for conservation education and interpretation.*

Applicant provides opportunities under current concessions at this location and this will apply to this proposal.

*3.25.6 Should allow over-snow vehicle use for the purpose of ski field management within ski field lease/licence areas subject to the provisions of the lease/licence and in accordance with Policy 3.2.12.*

Over snow vehicles are used for the purpose of ski field management within the existing Remarkables ski area lease/licence authorisations, and this vehicle use will apply to this proposal.

Refer to bullet-point in section 7.1 in this Report (Concession Activity) "Use of vehicles to carry out establishment and operational activities;"

*Hearing report Issue 1.2(f) - One submitter stated that not enough assessment and analysis was carried out by the applicant in relation to various sections and policies of the Otago CMS in relation to the Remarkables Ski Area located within the Western Lakes and Mountains Place in the Otago CMS 2016 and recreation use within the Remarkables Hector Area in relation to:*

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<sup>18</sup> Concession Number 49957-SKI.

- (i) *Remarkables- Hectors (p62-65)*
- (ii) *Taking a precautionary approach in terms of new and additional structures and terrain modification*
- (iii) *Policies on p69-70, 155, in particular policies 2.3.21, 2.3.22 and 3.25.1-3.25.6*

Within the various provisions of Parts One, Two and Three, the three key statutory matters are:

- the Western Lakes and Mountains Place Outcome statements that relate to the increase to the existing modification of the Rastus Burn Recreation Reserve ridgeline; and applying the required precautionary approach to the approval of new structures and associated earthworks.
- Policy 3.25.1 *May allow further development of existing authorised ski fields, where their natural values are already modified, in preference to the development of new ski fields.*
- Policy 3.25.2 requiring a precautionary approach to the approval of new structures and terrain modification on ski fields.

With respect to these matters:

- the proposal would unavoidably increase the extent of the existing encroachment within the Rastus Burn Recreation Reserve
- despite this, the proposal demonstrates a precautionary approach as it is the replacement, upgrade and relocation of the Sugar Bowl chairlift (which requires replacement), and will be carried out using construction methods suited to an alpine environment and restoration protocols
- the proposal is a further development of an existing ski field where, it's natural values are already highly modified.

In summary, with reference to the sections of the Otago CMS above, when applying the relevant policies and subject to conditions (if a concession is granted), it is considered that the decision maker should be satisfied that, in conjunction with the analysis and assessment provided by the applicant, and contributions from Departmental staff with significant experience in the establishment and operation of ski fields at this location, that the proposed activity, as applied for, is consistent with the Otago CMS.

## 7. Proposed Operating Conditions

### Conditions

Standard conditions applicable to the proposed activity:

The concession template document (for reference purposes only) is recorded as [DOC-5668341](#). The concession is broken into distinct parts.

1. The first portion of the concession document sets out the operative parts of the lease and licence and easement document; includes the names of the parties; contains their signatures; and provides the background.
2. The second part of the concession contains Schedule 1. Schedule 1 sets out many of the key terms used elsewhere in the concession.

3. Schedule 2 contains the standard conditions applied to most concessions.
4. Schedule 3 would contain the special conditions that have been prepared specifically for this application. The draft special conditions recommended by this report are set out in section 7.2 below.
5. Subsequent schedules contain maps or plans depicting the concession area(s), bond agreement, and in the case of the easement document; rights and powers implied in easements.

**This portion of the Report considers the content of Schedule 1 of the proposed concession(s) and makes recommendations as to the drafting of some of the key terms.**

**7.1 Concession Activity:**

In light of the findings of this Report, it is considered appropriate to issue one concession for the three co-dependent concession activities comprising the following elements:

“Concession Activity” in respect of:

The establishment and operation of the Sugar Basin passenger lift system and related ski trail development and operation within the Rastus Burn Recreation Reserve, in accordance with the plan in Schedule 4<sup>19</sup> comprising:

- Installation and maintenance of a top station/terminal;
- Installation and maintenance of a top station service building;
- Formation of ski trails;
- Installation and maintenance of utilities and services – water, air (airburst system) electricity, telecommunications and computer media cabling; transformers (2);
- Installation and maintenance of ancillary equipment - snow making and pumping equipment (wands/snow guns), pylons, lift cables, ski lift chairs;
- Decommissioning and removal of the existing passenger lift system (known as Sugar Bowl);
- Use of vehicles to carry out establishment and operational activities;
- Helicopter operations for activities associated with the establishment and operation of this Concession;
- Operation of snow making and snow grooming machines.

**Lease Land**

being the footprint of structures and facilities:

- top station/terminal;
- top station service building.

**Licence Land**

being the ski area comprising:

- skiable terrain (slopes).

Trail name	Max. Width (m)
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<sup>19</sup> Figure 2 plan

Sugar Trail	up to 50m <sup>20</sup>
Sugar Stash	up to 30m
Sugar Link	up to 10m

### Easement Land

- (a) a right to store and convey water;
- (b) a right to convey compressed air;
- (c) a right to convey electricity;
- (d) a right to convey telecommunications and computer media;

Associated with:

- utilities and services (above and under the ground infrastructure) for water, air (airburst system) electricity, telecommunications and computer media;
- ancillary equipment (above and under the ground infrastructure) such as snow making and pumping equipment (wands/snow guns), pylons, lift cables, ski lift chairs.

### 7.2 Special conditions relevant to this application:

Note: The proposed special conditions below have been adopted, in part, from the proposed conditions suggested by district office in section 6 (contributions) in this Report.

### GENERAL SPECIAL CONDITIONS

### ESTABLISHMENT OF THE REPLACEMENT SUGAR BASIN PASSENGER LIFT SYSTEM AT RASTUS BURN RECREATION RESERVE

#### Prior to establishment of the Concession Activity

1. Prior to establishment of the Concession Activity, the Concessionaire, at its cost, must:
  - (a) Enlist the services of an ecologist/botanist approved by the Grantor to survey and identify all individual *Aciphylla lecomtei*, *A. simplex*, *Anisotome lanuginose* and *Brachyscome montana* plants within the Concession Activity area as shown on the schematic plan in Schedule 4<sup>21</sup>; and
  - (b) Enlist the services of an ecologist/ornithologist approved by the Grantor to survey and identify any nesting pipit or kea within the Concession Activity area as shown on the schematic plan in Schedule 4; and
  - (c) Enlist the services of a herpetologist approved by the Grantor to carry out a herpetofauna/lizard survey within the Concession Activity area as shown on the schematic plan in Schedule 4; and
  - (d) Mark on the ground the approximate final outline of cut and fill areas identified by two different coloured fluorescent marker pegs (red for cut, green for fill)

<sup>20</sup> Refer to discussion in section 6.1.3 in this Report

<sup>21</sup> Figure 2

for the Grantor’s inspection. For clarification purposes, the maximum width of each trail is to be in accordance with the table below; and

Trail name	Maximum width
Sugar Trail	up to 50 metres
Sugar Stash	up to 30 metres
Sugar Link	up to 10 metres

- (e) Mark on the ground with marker pegs construction access routes; and
- (f) Mark on the ground with pegs an outline of the top station/terminal and operator building, and lift towers for the Grantor’s inspection; and
- (g) Confirm the name of the independent monitor with the Grantor.

Independent monitor appointment

- 2. The appointment of the independent monitor in clause 1(g) of this Schedule will be agreed between the Grantor and Concessionaire. In the event that agreement cannot be reached, clause 23 in Schedule 2 “*How will disputes be resolved?*” will be followed.

Commencement of work

- 3. Establishment of the Concession Activity as described in clause 1 in this Schedule must not proceed until the Grantor:
  - (a) Has received a copy of the reports in clauses 1(a)-(c) in this Schedule, and confirms in writing that any recommendations have been implemented satisfactorily; and
  - (b) Has carried out a site inspection of the Concession Activity as described in clauses 1(d)-(f) in this Schedule; and
  - (c) Has confirmed the independent monitor named and agreed to in clause 1(g) and clause 2 in this Schedule is acceptable to the Grantor; and
  - (d) Has confirmed the timeline for the commencement and completion of the Concession Activity establishment works is satisfactory; and
  - (e) Has given written approval (email notification acceptable) to the Concessionaire that works to establish the Concession Activity may commence.

**Establishment of the Concession Activity**

Construction timeframes

- 4. The following construction timeframes must be complied with:
  - (a) Prior to the commencement of each stage of development, the Concessionaire must submit a plan of works to the Grantor and the independent monitor. The plan of works is to include a timeline of works to be undertaken during that stage, the machinery to be used and the expected monitoring requirements.
  - (b) A briefing must be provided by the independent monitor to contractors and the Concessionaire’s staff prior to each key construction stage.

- (c) All development and rehabilitation works impacting the natural environment must be completed by May 1<sup>st</sup> each year. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.
- (d) Should the Concessionaire desire construction be staged over two or more years the project plan is to account for remediation measures for unfinished works that may become redundant due to changing circumstances.

#### Construction guidelines

- 5. Ensure that all establishment work is in accordance with the “*Doppelmayr Lift NZ Ltd Construction Method Statement Sugarbowl 6-CLD//The Remarkables Ski Area Version 1.0: May 2018/HGA*” included in the Concessionaire’s application.

#### Contractor selection

- 6. The Concessionaire must ensure that only contractors with a demonstrated ability in alpine earthworks and restoration are used.

#### Hours of work

- 7. Establishment work must only take place between 7am to 6pm Monday to Friday, and 7am to 5pm on Saturday. If work is required on Sunday between the hours of 7am to 5pm, the Concessionaire must seek prior approval from the Grantor (email acceptable) no later 5pm Thursday, on a weekly basis.

#### Public access and safety

- 8. The Concessionaire must comply with the following conditions:
  - (a) The Concessionaire must ensure the public is able to pass freely and safely through the licence and easement Land, whenever possible.
    - (i) Public access may be restricted temporarily to the extent necessary to avoid harm to the public, but only with prior written agreement of the Grantor. Suitable alternative access is to be provided. Any restrictions on public access are to be publicly notified by the Concessionaire at its expense;
    - (ii) The Concessionaire is to install signage for the duration of the works, at its expense, advising the public as to the nature of the work.

#### Vehicle and machinery access

- 9. The Concessionaire must ensure that:
  - (a) Excavator access route is in accordance with the schematic plan in Schedule 4.
  - (b) All machinery enters and exits work sites from existing roads or on proposed trails, whichever is closer.
  - (c) Machinery does not disturb terrain, other than as authorised in this Concession.



- (d) Platforms are placed over the cushion field vegetation along access routes to help minimise the damage to fragile vegetation.

Weed and pest mitigation

- 10. The Concessionaire must ensure that:
  - (a) Machinery and equipment entering the Land is cleaned and checked for soil that could contain seeds or exotic plants, and take all practicable steps to avoid the introduction of exotic seeds or plants; and
  - (b) No imported soil is brought onto the Land. Where the Concessionaire plans to deposit soil over the surface of the newly contoured slopes or batters, this soil must be from the Concession Activity work area; and
  - (c) No soil is moved upslope from lower areas (to prevent the further spread of weeds).
  - (d) Any exotic plant species which are introduced through the course of the works are controlled/removed.

Wetland protection

- 11. The Concessionaire must comply with the following conditions:
  - (a) All wetlands are to be avoided.
  - (b) When working or using accessways above any wetland, any runoff is to be contained to avoid the risk of sedimentation.

Control of surface runoff and silt

- 12. Suitable drainage, cut-outs and silt traps are to be installed to control new surface flows into lower areas of vegetation, wetlands and watercourses.
- 13. Where areas of surface or sub-surface drainage are unable to be avoided, suitable provision for maintaining their flow and quality is to be installed eg. coarse rock, geocloth, piping, silt traps.

Watercourse

- 14. No alteration to the existing path, flow or direction of any watercourses is to occur.

Vegetation protection during establishment

*Aciphylla lecomtei*

- 15. Where it is not possible to avoid *Aciphylla lecomtei*, the Concessionaire, at its cost, must remove each plant individually, and prepare it for re-planting. Once work is completed removed plants must be re-planted and plantings maintained until re-establishment.

*Aciphylla simplex*

16. The rocky upper section of the Sugar Stash trail, chairlift tower sites and adjacent areas are to be surveyed for *Aciphylla simplex*. All plants are to have their location marked and counted. Best endeavours are to be employed to avoid *Aciphylla simplex* plants. Information on the number of plants found and the number proposed to be destroyed is to be provided to the Grantor before any disturbance to plants occurs.

*Anisotome lanuginosa*

17. Where it is not possible to avoid *Anisotome lanuginosa*, the Concessionaire, at its cost, must either:
- (a) remove each plant individually and prepare for re-planting. Once work is completed removed plants must be re-planted and plantings maintained until re-establishment; or;
  - (b) The snow tussock grassland which contains the *Brachysome montana* species is to be uplifted, stored in a manner that is likely to ensure its survival and successful re-planting and reinstated as soon as possible after earthworks are complete.
  - (c) Where the developed trails (Sugar Trail, Sugar Stash and Sugar Link) pass through rock field, and revegetation is not possible, trails should be finished with coarse rock rather than smaller gravel sized material.

Colours

18. All buildings and structures (including roofs) must be made of non-reflective materials and painted using recessive colours.

Completion of establishment works

19. The Concessionaire must advise the Grantor when all work to establish the Concession Activity has been completed.

**Post establishment of the Concession Activity**

20. After establishment of the Concession Activity, the Concessionaire must, at its cost:
- (a) Establish photo monitoring points, in consultation with the Grantor, in order to track the progress of reinstated vegetation in clause 24 in this Schedule; and
  - (b) Ensure all areas of disturbed rock-fields are reinstated to reflect their natural appearance prior to construction, to the Grantor's satisfaction; and
  - (c) Enlist the services of an ecologist/botanist to prepare a report on all individual *Aciphylla lecomtei*, *Aciphylla simplex*, *Anisotome lanuginosa* and *Brachysome montana*. one year after establishment of the Concession Activity to determine survival rates. Undertake further or alternative measures if required to achieve no net loss of *these plants* in the Reserve. The report must be provided to the Grantor.

Monitoring

21. The Concessionaire must undertake the following monitoring:

- (a) Monitoring of silt control, re-vegetation and all works is to occur by the independent monitor (as agreed by the Grantor and the Concessionaire in accordance with clause 3(c) in this Schedule) at a frequency of an average of one site visit per week for the duration of the works. All costs are to be at the expense of the Concessionaire. Reports are to be provided to both parties within three working days of the site visit.
- (b) Monitoring of other works may be conducted by the Grantor. All costs are to be at the expense of the Concessionaire.
- (c) The Concessionaire, at its cost, must carry out geotechnical monitoring of the works in accordance with the *Stantec Geotechnical Assessment of Effects (July 2018)* included in the Concessionaire's application.

### Restoration work

#### Re-vegetation protocol

- 22. All works must be in accordance with the "*Protocol for the rehabilitation of natural alpine environments following ski area development*" attached as Schedule 3A.
- 23. If there is a conflict between this Schedule and the protocol in Schedule 3A, this Schedule prevails.

#### Removal and storage of vegetation

- 24. The Concessionaire must comply with the following conditions:
  - (a) Vegetation is to be stripped and stored locally as construction progresses. It must be stripped and stored with enough surrounding soil and humus and in a manner that is likely to result in successful replanting and long term survival.
  - (b) Stripping may be by machine or by hand, whichever will provide the best chance for success given the nature of the vegetation.
  - (c) Watering of vegetation material may be required, at the direction of the Grantor or its nominated independent monitor, to ensure its survival while stored.

#### Re-vegetation

- 25. When re-vegetating disturbed areas, the Concessionaire must comply with the following conditions:
  - (a) Vegetation is to be replanted using locally sourced material, including that stripped and stored under clause 24(a) in this Schedule, as soon as possible following completion of works at individual sites such as individual tower sites or trenches. Follow-up maintenance of re-vegetated areas to enhance their chances of re-establishment must be undertaken prior to the end of the growing season;

- (b) Where there is sufficient plant material and humus to allow survival, stripped material can be split. To supplement re-vegetation works split material may also be sourced from other areas in the Remarkables ski area, provided it does not result in additional adverse ecological effects on the source areas;
- (c) The snow tussock grassland which contains the *Brachysome montana* species is to be uplifted, stored in a manner that is likely to ensure its survival and successful re-planting and reinstated as soon as possible after earthworks are complete;
- (d) Geotextile cloth is to be laid over any areas where there has been insufficient planting by May 1<sup>st</sup>. This is to be removed in the following spring and re-vegetation works continued;
- (e) Plant spacing should be adequate to ensure revegetation of the site to a sufficient vegetation cover, with additional density detail as specified by the independent monitor on site;
- (f) To intensify re-vegetation of tussocks, nursery reared plants, sourced from appropriate seed, may be used where there is insufficient existing vegetation available for transplanting. The rearing and planting of any plants to be brought on site must be to the satisfaction of the Grantor;
- (g) The seed of appropriate species sourced from the Rastus Burn Recreation Reserve or similar location should be broadcast to promote vegetation growth in the rock areas, between transplanted/planted tussocks and to assist revegetation of fellfield areas.
- (h) Where there has been insufficient replanting by May 1<sup>st</sup>, any exposed topsoil must be managed to avoid erosion losses until replanting can be restarted in the following spring;
- (i) All disturbed areas that have existing vegetation cover are to be re-vegetated, including new chair lift tower sites, decommissioned Sugar Bowl chairlift, new ski trails, ski trail batters and sites associated with the snow making infrastructure;
- (j) Clauses 25(a) to 25(i) in this Schedule requiring re-vegetation are complied with only once the Grantor has confirmed in writing that the relevant areas have been re-vegetated to the Grantor's satisfaction.

Decommissioning redundant Sugar Bowl chairlift

*Decommissioning and removal of the redundant Sugar Bowl chairlift (top and bottom stations, towers and associated infrastructure).*

26. The Concessionaire must ensure that removal is in accordance with the following requirements:
- (a) top and bottom stations and towers 1, 2, 4, 10, 11, 12 may be accessed from existing trails;

- (b) towers 6, 7, 8 and 9 may only be accessed with purpose designed mats temporarily laid across the existing ground to spread the loading and prevent tyres/tracks damaging vegetation;
  - (c) towers 3 and 5 on the slope face must be removed by helicopter only.
27. Rehabilitation of the land once the top and bottom stations, towers and other infrastructure is removed is to be in accordance with restoration clauses 22 to 25 in this Schedule, and making good is to be to a standard commensurate with the surrounding environment and to the satisfaction of the Grantor.
28. The Concessionaire must notify the Grantor when decommissioning and making good is completed, so that a final inspection can be carried out by the Grantor.

#### **Remediation of works**

29. Where the Grantor identifies any requirement for remediation following monitoring or inspection, the remediation is to be carried out as specified by the Grantor at the Concessionaire's cost.

#### **Suspension of works**

30. The Grantor, at its sole discretion, may require all works to be suspended until suitable remediation is completed.

#### **Satisfactory completion of works**

31. Confirmation that re-vegetation and any other remedial works (including the decommissioning of redundant Sugar Bowl chairlift and associated infrastructure) has been completed satisfactorily is to be at the discretion of the Grantor.

#### **Other consents, approvals and assessments**

32. This Concession approval does not replace or supersede any other lawfully required consents, approvals and assessments from other agencies. This includes (but is not limited to) geotechnical, engineering, district and regional resource consents, and building consents. Copies of these approvals are to be provided to the Grantor prior to works commencing.

#### **In respect to Ngāi Tahu**

33. The Concessionaire is requested to consult the relevant Papatipu Rūnanga (as set out below) if it wishes to use Ngāi Tahu cultural information. If the Concessionaire wishes to use the Tōpuni or statutory acknowledgement information contained in schedules 14-108 of the Ngāi Tahu Claims Settlement Act 1998, or any interpretative material produced by the Department of Conservation in respect to Ngāi Tahu cultural information, the Concessionaire is requested to notify the relevant Papatipu Rūnanga, as a matter of courtesy.
34. The Concessionaire must, as far as practicable, attend any workshops held by the Department of Conservation for the purpose of providing information to Concessionaires, which includes Ngāi Tahu values associated with Tōpuni areas.

35. The Concessionaire must ensure its employees are requested to recognise and provide for Ngāi Tahu values in the conduct of their activities.

#### Interpretation Materials and Cultural Values

36. If the Concessionaire intends to undertake any written interpretation materials (panels, brochures etc) that include Māori/iwi values of the area, then this shall be done in partnership with Ngāi Tahu. The Concessionaire should contact the Papatipu Rūnanga (as set out below) and Te Rūnanga o Ngāi Tahu.

Office of Te Rūnanga o Ngāi Tahu  
PO Box 13 046  
Christchurch 8141  
Phone: 0800 524 8248  
email: [info@ngaitahu.iwi.nz](mailto:info@ngaitahu.iwi.nz)

#### Accidental Discovery Protocol

37. The Concessionaire must take all reasonable care to avoid any archaeological values on the Land which includes (but is not limited to) historic sites and protected New Zealand objects on the Land. In the event that archaeological sites or other features with heritage values are found during any approved earth disturbance work on the Land:
- (a) Work must cease immediately until further notice and advice must be sought from the Grantor;
  - (b) If it is an archaeological site as defined by the Heritage New Zealand Pouhere Taonga Act 2014 then Heritage New Zealand must be contacted and its advice sought;
  - (c) If it is an archaeological site relating to Māori activity then the Papatipu Rūnanga must be contacted and their advice sought;
  - (d) If it is an artefact as defined by the Protected Objects Act 1975 then the Ministry for Culture and Heritage must be notified within 28 days;
  - (e) If it is human remains the New Zealand Police should also be notified;
  - (f) In the event of cessation of approved work because of discovery of potential historical artefact or archaeological site the Concessionaire must not recommence work until permitted to do so by the Grantor.

#### Works

38. The Concessionaire must provide an annual summer work programme to the Grantor for written approval (no later than 3 months following the end of the previous ski season). The Grantor may request plans, drawings, diagrams and/or specifications, scope of work and an assessment of its potential effects (and any other information required) for consideration for approval and the Grantor (at its entire discretion) may require changes to be made to any submitted material. The information to be provided is to include, but is not limited to:
- (a) any building or asset modifications requested by the Concessionaire;
  - (b) proposed terrain modification or other earth disturbance activities;

- (c) appropriate restoration or preventative maintenance the Concessionaire may require;
- (d) any works proposed as part of any development plan subject to concession conditions;
- (e) any revegetation, remediation or reinstatement measures to be performed by the Concessionaire and required by the Grantor to the Land;
- (f) expected commencement and completion dates of any such works.

#### **Operation of plant, machinery and equipment**

- 39. The Concessionaire must operate all plant, machinery (including snow tows) and equipment on the Land to required standards, codes of practice and legislative requirements. The Concessionaire shall at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.
- 40. Plant, machinery and equipment used in conducting the Concession Activity must be maintained at all times to prevent leakage of oil and other contaminants onto the Land.

#### **Fuels, hazardous materials, chemicals and waste**

- 41. Any waste or rubbish must be disposed of in an approved manner off the Land at a Council approved site. Waste held on the Land prior to its removal must be stored in a manner so as to ensure it does not become a contaminant or is not blown by wind or present a potential hazard to wildlife.
- 42. At the completion of any approved works programme, the Concessionaire must remove all construction related waste and fill from the Land and dispose at a resource recovery centre, Council landfill or other authorised facility.
- 43. The Concessionaire must ensure that all site personnel are trained in hazardous material, waste and fuel handling and spill contingency and emergency procedures.
- 44. The Concessionaire must ensure that all vehicles, machinery, and hazardous materials including paints, fuels and other chemicals are stored in a secure enclosed facility onsite, including the provision of any spill cleanup kits used to contain and/or absorb all hazardous substances used in the Concession Activity.
- 45. The Concessionaire must use clean fuels in preference to fossil fuels wherever possible.
- 46. In the event of any hazardous substance spill the Concessionaire must:
  - (a) Take all practicable measures to stop the flow of the substances and prevent further contamination onto the Land or water;
  - (b) Immediately contain, collect and remove the hazardous substances and any contaminated material, and dispose of all such material in an appropriate manner / authorised facility;
  - (c) Notify the Grantor as soon as practicable;
  - (d) Undertake any remedial action to restore any damage to the land; and
  - (e) Take all measures to prevent any reoccurrence.

#### **Freshwater pests**

47. The Concessionaire must comply and ensure its clients comply with the Ministry for Primary Industry (MPI)'s "Check, Clean, Dry" cleaning methods to prevent the spread of didymo (*Didymosphenia geminata*) and other freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at - <http://www.biosecurity.govt.nz/cleaning>. The Concessionaire must regularly check this website and update their precautions accordingly.

#### Monitoring and compliance

48. If the Grantor determines that the conditions of this Document or the effects of Concession Activity should be monitored, the Concessionaire shall meet: either the full costs of any monitoring programme that is implemented; or, if the Grantor determines that the costs should be apportioned among several Concessionaires who use the same locations, part of the costs of the monitoring programme. These costs will include the Department's standard charge-out rates for staff time and the mileage rates for vehicle use associated with the monitoring programme.
49. Where the Concessionaire has been required by the Grantor to provide documentary evidence of compliance the Concessionaire must provide such documentation to the Grantor within thirty (30) days of the date of any written notice requesting the documentation, or such timeframe mutually agreed between the Grantor and Concessionaire.

#### Signage

50. Clause 12.1 in Schedule 2 is amended to read:

*"12.1 The Concessionaire may erect or display any signs or advertising on the Lease Land and may erect or display any signs that relate to the safe and efficient operation of the activity on the Licence Land and Easement Land without the prior approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal."*

#### Public access, safety and education

51. The Concessionaire must clearly define, mark and control areas deemed unsafe for the public on the Land, and educate paying visitors about the danger of skiing or going outside these areas.
52. The Concessionaire must take reasonable care to manage any approved works, structures or landscaping on the Land to ensure that users of conservation land are not adversely impeded.
53. The Concessionaire must allow access to members of the public through the Land who are passing through the Land to conduct their own, not-for-profit recreational activities, but without guns and animals.
54. Clause 14.6(d) in Schedule 2 is replaced with the following:



*The Concessionaire must:*

- (a) *Report to the Grantor all accidents involving serious harm that are reportable to WorkSafe in accordance with the Concessionaire's health and safety plan and applicable legislation;*
- (b) *Provide the report within 3 days of providing a report to WorkSafe;*
- (c) *Provide to the Grantor at the Grantor's request any weekly or monthly reports generated by the Concessionaire and derived from the Concessionaire's accident reporting database.*

55. In order to comply with its obligations under the Health and Safety at Work Act 2015 to eliminate or minimise risks to health and safety so far as is reasonably practicable, the Concessionaire may, when undertaking activities such as slope safety, road safety, snow grooming and avalanche control work, control, limit or restrict public access to the specific area of the Land where the activity is to be carried out for a period not exceeding 2 days.

56. If the particular activity in clause 55 in this Schedule will require more than 2 days or if the Concessionaire considers an extension beyond the period of 2 days is necessary, the Concessionaire must advise the Grantor of the time sought and the reasons for it and comply with any directions the Grantor may give concerning the matter.

#### **Ecological and landscape assessment**

57. Pursuant to section 17X(a) of the Conservation Act 1987, the Concessionaire (at its cost), and in consultation with the Grantor, is required to commission an ecological assessment/survey (by a qualified ecologist approved by the Grantor) and landscape assessment (by a qualified landscape architect approved by the Grantor) of the entire Rastus Burn Recreation Reserve, being approximately 700 hectares. The ecological assessment/survey is to comprise, but is not limited to:

- (a) documentation and mapping (as much as is practical) the extent of Ecosystems and communities/habitats that are present;
- (b) inventory of the flora and fauna of the area;
- (c) recording the habitat and distribution of threatened and notable flora and fauna (particularly avifauna and lizards).

58. A copy of the ecological and landscape assessments must be forwarded to the Grantor within one year of the commencement of this Concession.

#### **Other**

59. The Concessionaire and its agents must take reasonable and proper care not to damage any property of the Grantor or other authorised Concessionaires. Should any damage occur which is attributable to the actions of the Concessionaire or its agents, the Concessionaire must promptly repair any such damage at its cost.

60. After any approved works have been completed, the Concessionaire must reinstate the Land in accordance with the protocols in Schedule 3A, and generally maintain the Land in a tidy condition to the satisfaction of the Grantor.

#### **LEASE SPECIFIC CONDITIONS**

### **Lease area**

61. The lease area land under this Concession is as described in Item 1 of Schedule 1 and shown on the plan in Schedule 4.

### **Structures and facilities**

62. The Concessionaire must (at its cost) operate, maintain and repair buildings, equipment sheds, utility huts, lift infrastructure and other similar devices and apparatus on the Land to required standards, codes of practice and legislative requirements. The Concessionaire must at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

### **Maintenance**

63. The Concessionaire is authorised to perform the following maintenance work under this concession on the Land:
- (a) Ongoing interior maintenance and modification of any building;
  - (b) The exterior maintenance of any building, stationary plant item or structure on the Land where such maintenance does not alter the external appearance of that building or structure, and where consent from the Grantor is not otherwise required under this Concession.

## **LICENCE SPECIFIC CONDITIONS**

### **Licence area**

64. The licence area land under this Concession is as described in Item 1 of Schedule 1 and shown on the plan in Schedule 4.

### **Main ski field area (skiable terrain)**

65. The Concessionaire must (at its cost) operate and maintain the main ski field area (skiable terrain) on the Land to required standards, codes of practice and legislative requirements. The Concessionaire must at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

### **Snow-making and grooming**

66. The Concessionaire is permitted to use *e.g. Snomax*<sup>®</sup> for snow-making purposes and may undertake snow grooming activities, provided that this causes minimal adverse effects to natural values on the Land.

### **Use of explosives**

67. The Concessionaire may use explosives for the purposes of operational snow area safety management.

68. The Concessionaire may only use explosives for approved terrain modification activities on written approval from the Grantor, which may be subject to conditions.
69. The Concessionaire's safety plan must address risks associated with all explosives activities and include means to avoid, remedy or minimise adverse effects. The Concessionaire must ensure that explosive charges are placed so there is minimal potential for adverse effects to be caused to natural features and wildlife present on the Land.

#### **Weed and pest management**

70. The Concessionaire must maintain all creeks, drains, ditches and water courses and keep them clean and clear of weeds and obstructions, while ensuring that fish passage (if relevant) is maintained.
71. To minimise the introduction of weed species, the Concessionaire must ensure that all machinery, tools and equipment used on the Land is cleaned and weed free prior to being brought onto the Land. Any gravel, other materials and construction material used for any approved works must be sourced from an approved weed free source.

#### **Terrain modification**

72. All terrain modification is to be set out in the approved works programme in clause 38 in this Schedule. No other terrain modification works may occur.
73. The Concessionaire may perform the maintenance of any water table, culvert or other runoff water control device on the Land.
74. Any vegetation removal and soil disturbance necessary to undertake any approved terrain modification described in the approved works programme in clause 38 in this Schedule must be kept to a minimum.

### **EASEMENT SPECIFIC CONDITIONS**

#### **Easement facilities**

75. The Concessionaire must (at its cost) operate, maintain and repair snow making and pumping equipment (wands/snow guns), pylons, lift cables, ski lift chairs and utilities (water, electricity, telecommunications and computer media) on the Land to required standards, codes of practice and legislative requirements. The Concessionaire must at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

#### **General**

76. The Right and Powers implied in easements under the 4<sup>th</sup> Schedule of the Land Transfer Regulations 2018 as set out in Schedule 5 of this Concession are varied as follows, the rights and powers in:
- (a) Regulation 1 is amended by replacing the word, "grantee" with "Concessionaire"

- (b) Regulation 10(1)(b) is amended by adding at the end the words, “after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement.”
- (c) Regulations 13 and 14 are deleted.

## SCHEDULE 3A

### PROTOCOL FOR THE REHABILITATION OF NATURAL ALPINE ENVIRONMENTS FOLLOWING SKI AREA DEVELOPMENT

Between

DEPARTMENT OF CONSERVATION and NZSKI LTD.

#### 1. Introduction

The protocol sets out practical means of achieving a high standard of environmental rehabilitation during and following development works at either Coronet Peak or The Remarkables Ski Areas. NZSki will require its staff and contractors to act in accordance with the protocol.

The scope includes any work that results in any environmental disturbance including (not not limited to) the indigenous vegetation, native fauna, soil, wetlands, streams, lakes and natural landforms of the ski area. Works may only be exempted from the protocol with prior agreement from DOC.

DOC staff will conduct regular monitoring to observe progress and assess effectiveness of the measures. This will include providing advice, troubleshooting unexpected problems, adjusting management approaches and, if necessary, require corrective action to ensure the objectives of the protocol are met.

#### 2. Objectives of the protocol

To ensure that during the course of ski area developments there is a minimum of interference with the natural environment, and avoidance of disturbance to areas outside approved work areas;

To ensure that any indigenous vegetation disturbed by development is restored as near as possible to its original density and diversity, within the shortest practical timeframe;

To minimise the erosion and sedimentation of exposed soils (and soil among transplanted vegetation), optimising the longer term regeneration of indigenous vegetation through natural dispersal;

To otherwise replicate a high standard of natural appearance to any ground not occupied by permanent structures or required to regularly bear mechanised traffic; and

To establish a clear understanding between the staff and contractors of both the Department of Conservation (DOC) and NZSki on the required standards for:

- Work site control measures;
- Removal and replacement of vegetation and top soil;
- Management of soil erosion and sediment control;
- Ongoing monitoring and maintenance of rehabilitated areas;

- Contracted monitoring; and
- DOC's ability to suspend works.

**3. Work Site control measures:**

- Only machinery operators with a demonstrated ability in low impact earthworks and vegetation rehabilitation in an alpine setting are to undertake construction;
- Prior to works NZSki shall ensure that a briefing occurs between its staff, contractors and DOC to ensure a common understanding of how works will be conducted;
- NZSki must minimise disturbing non target areas when accessing and working within development sites. If machinery is required to move off existing tracks the least damaging route must be used and any disturbed vegetation must be rehabilitated when works are completed;
- The risk of soil erosion over denuded areas must be carefully managed until rehabilitation works are undertaken and soil is no longer exposed;
- Works must be conducted to ensure no contaminants are discharged onto the land or into watercourses (directly or indirectly). All vehicles, machinery, equipment and aggregate material must be cleaned of weeds, seeds and soils before entering the works area. Refuelling must be undertaken on hard surfaces away from watercourses and vegetation.
- Sensitive natural features including streams, wetlands, tarns, lakes and rare habitats are not to be disturbed, either for development works or access to development sites. Where disturbance is unavoidable prior approval must be sought and additional environmental protection measures may be required;
- All development and rehabilitation works impacting the natural environment must be completed by the 1<sup>st</sup> May. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.

**4. Removal and replacement of vegetation and top soil:**

- Vegetation must be carefully removed in a manner to minimise damage to both the above ground plant and to protect as much soil material around the roots as possible;
- The remaining topsoil must also be removed before excavation of rock material may commence. If not used quickly with the replanting of vegetation this topsoil may be stockpiled for later use;
- All vegetation removed should be quickly replanted into areas where works have already been completed. This will usually occur through progressive reinstatement on completed formations behind the main work "face";
- Priority for replanting shall be given to areas prone to erosion;
- Individual plants or clumps of vegetated material ("sod") shall be reinstated by careful use of a digger bucket. Spacing should be no greater than 1 metre, unless directed otherwise by DOC.
- Final positioning of transplanted vegetation and sods should be conducted by hand tools, with top soil packed around each plant or sod to maximise

survivorship and to achieve a result that closely resembles the surrounding natural areas;

- g. When transplanted plants and sods are insufficient to cover the disturbed area additional vegetation may be sourced through splitting indigenous vegetation from adjacent areas. This should only be done where there is sufficient plant and humic material to allow survival of both 'parent' and 'split' plants.
- h. Nursery reared plants (usually tussocks) may also be used to supplement transplanted vegetation and sods. Only locally sourced seeds may be used to grow plants for the ski area. Nursery reared plants are susceptible to rapid die off and browsing and must be handled carefully as follows:
  - Fertiliser is to be placed in the root well prior to planting;
  - Plants must be well bedded to lessen risk of uprooting by feral animals; and
  - Plants may be treated with suitable chemicals to deter browsing by feral animals.
- i. Locally sourced seed of appropriate species may be broadcast to promote vegetation growth between transplanted vegetation and sods. Exotic seeds may be spread only with prior approval;
- j. Special care must be taken when replanting on steep slopes between 30 and 45 degrees:
  - Plants should be transplanted quickly, steep slopes require plants to be in the healthiest possible condition;
  - Indented troughs or depressions should be formed to create "bedding" for the tussocks or sods to be transplanted. Replanting should not occur on sheer surfaces;
  - Replanting should be as close together as practical, leaving little exposed ground;
  - Large heavy plants and sods should be staked for support where possible;
  - Steep slopes should be closely monitored and any plants or sods released from the slope quickly retrieved, split into smaller, lighter clumps and replanted back into the slope as described above;
  - Consideration should be provided to planting small nursery reared plants where possible;
  - Attempts at replanting vegetation on slopes steeper than 45 degrees should only proceed with prior approval;
- k. The vegetation removed at one site may be used at another development site within the ski area only with prior approval;
- l. If no areas are available for a quick reinstatement, vegetation may be temporarily stored in designated areas with prior agreement;
  - All handling of vegetation for longer term storage must be done with great care to minimise cumulative damage to plants;
  - Vegetation may only be stockpiled up to one metre high to avoid die off resulting from smothering and crushing; and
  - All vegetation temporarily stored must be watered when protracted dry conditions may impact on survivorship.

- m. If NZSki expects to have a surplus of vegetation and/or topsoil at the end of works, this must be replanted /spread over other areas of rehabilitation, under direction from DOC.
- n. Any surplus rock material must not be stockpiled and/or spread over nearby terrain without prior approval.
- o. NZSki will actively eradicate any noxious weeds from all development and rehabilitation areas; and
- p. No rock landscaping may be used as a substitute for vegetation unless by prior agreement.

**5. Management of soil erosion and sediment control**

- a. The surface of vehicle tracks, formed ski trails and any other disturbed ground without a cover of indigenous vegetation will be managed to improve water infiltration, minimise rilling and sheet erosion, reduce suspension of sediment and provide micro sites for wind borne seed to settle. Control measures include;
  - shaping / crowning the surface;
  - applying an appropriate gravel surface in problem areas;
  - forming of earth, rock or vegetation bunds;
  - Ripping or roughening soils perpendicular to the slope angle; and
  - Constructing water tables/swale drains to intercept and divert surface flows.
- b. Where the slope angle exceeds 30 degrees natural features such as rocks could be incorporated into the slope where this lends to the stability of the site; this would require prior approval from DOC and potentially the support of geotechnical experts. This solution would be considered on a site by site basis.
- c. Water tables/swales must have a catchment area no greater than 2,000m<sup>2</sup>. Ski trails must have functioning swales no less than 60m apart. All water tables/swales must be clear of sediment and able to convey water.
- d. Water tables and swales must lead to an appropriately designed and armoured settlement pond to capture sediment so only clear water disperses into the surrounding landscape.
  - These ponds must be large enough to ‘settle’ the flow and allow sediment to be deposited, particularly from heavy rainfall events. Precise dimensions will depend on the area and erosion potential of catchment above, however, these may be graduated areas 1m wide x 2m long x 1m deep. They should be armoured with rocks or surrounded by soil mounds and tussocks or geotextile materials.
  - Sediment captured by settlement ponds are to be redistributed to assist re-vegetation of disturbed areas, whether previous or planned earthworks e.g. used to fill gaps between transplanted tussocks or to improve the mineral soil content when planting nursery tussocks.
  - Settlement ponds must be maintained such that they provide a means of monitoring the effectiveness of control measures thereby assist adjusting management approaches to reduce the potential for recurrent erosion.

- e. To protect wetlands and wetland vegetation from sediment no surface water carrying sediment must be allowed to run into wetland areas. Settlement ponds must not exit onto wetland areas. Water tables and swales must be designed to maintain the hydrological integrity of adjacent seepages and wetlands.
- f. Areas requiring erosion control measures are to be prioritised based on the following criteria:
  - Vulnerability to erosion (e.g. slopes > 20 degrees, unconsolidated soils, disturbed ground adjacent to compacted soils)
  - Saturated soils on cut faces where seepages have been intercepted,
  - Remediation of slips or slumped land and stabilisation of land to prevent further or repeated slope failures.
  - Settlement areas that require armouring or treatment in order to filter water,
  - Stabilisation works required to facilitate revegetation.
- g. Areas identified for erosion control and soil conservation work may vary from year to year as revegetation occurs and slope and soil stability is achieved. Areas prioritised for erosion control in the 2015 – 2016 works programme are outlined in **Attachment A** below.
- h. Significant developments will have a soil conservation and erosion control plan in place prior to the commencement of works. This plan will demonstrate how the objectives of this protocol will be achieved.

**6. Ongoing monitoring and maintenance of the rehabilitated area**

- a. The purpose of the monitoring is to assess the progress of rehabilitation and advise NZSki how to prevent or minimise risks to re-growth becoming self sustaining;
- b. All development and rehabilitation works will be monitored at least once prior to the commencement of work and again at completion of works. Interim monitoring may be required, depending on the nature of work. Following completion, regular monitoring will continue until DOC resolves, at its sole discretion, that the rehabilitation of the natural environment can progress unaided;
- c. Additional monitoring of erosion and sediment control measures will be made during or following significant periods of rainfall.
- d. Where monitoring establishes significant risks to rehabilitation, DOC will require NZSki to take any reasonable steps to rectify the situation and return the area to its desired condition. Any additional work required will be carried out at the cost of NZSki;
- e. In the event that an area is not rehabilitated following works, monitoring will continue until rehabilitation works have begun. Attention will be paid to preventing erosion during any lay period;
- f. DOC should reserve the right to recover the actual and reasonable costs of monitoring work.

**7. Contracted monitoring:**

DOC may contract monitoring to an external person/s. This approach not only provides time savings, but can also source specialist expertise on how to



rehabilitate the sensitive alpine vegetation. This expertise is also vital to advise on appropriate remedial actions for any issues, and to provide expert input to planning processes. Contracted monitoring will take place as follows;

- a. The contractor is generally tasked to monitor the implementation of this protocol during any ski area development work that disturbs the natural environment;
- b. The monitor is to resolve any concerns of a routine nature directly with NZSki. Issues should be referred to DOC when problems are recurrent, significant in scale, unconventional or if a mutual agreement cannot be reached;
- c. To advise both DOC and NZSki whenever their action (or inaction) may present a problem for ski area environment, whether related to a specific development or any other activity;
- d. The monitor is to immediately advise DOC and NZSki if unauthorised works may be occurring, of significant risks to the natural environment that warrant suspension of works, and of any concerns with geotechnical hazards and/or public safety;
- e. Monitoring visits are to be scheduled in consultation with NZSki and DOC at a frequency of no more than once a week and no less than three times a summer (depending on nature of works over summer);
- f. If agreement on scheduling cannot be reached, DOC will make a final decision and notify NZSki of when monitoring is to occur;
- g. A brief written report of each monitoring visit is to be forwarded to DoC and NZSki in a timely manner. Reports should take a broad approach to assess overall performance, record agreements reached on site and highlight unresolved issues. Reports should take advantage of photo monitoring where possible;
- h. The time required for visits (and reports) are to be appropriate to the works in progress. The monitor is to notify and seek agreement from NZSki on where the combined time required for site visits and reporting is likely to exceed 5 hours;
- i. Support tasks supplementary to monitoring and reporting (eg research and meetings) are to be agreed with DOC and NZSki prior work occurring;
- j. The time spent on monitoring visits, reporting and support work will be billed directly to NZSki at a rate equivalent to DOC's current hourly rate for field staff, plus gst. Disbursements are to be billed separately.
- k. All monitoring reports and discussions between the contractor, NZSki and DOC will be kept confidential.

**8. Right to suspend works**

- a. DOC will, at its sole discretion, suspend any development work or activity should contracted monitoring, public feedback or DOCs own observations determine there are unexpected and/or significant impacts on the natural environment that are not being adequately rehabilitated.

- b. Any suspension shall remain in place until a response plan is agreed with NZSki.

## ATTACHMENT A

### The Remarkables: Priority Areas for erosion control measures and monitoring 2015 - 2016:

In the 2013 – 2014 and 2014 – 2015 substantial development occurred at the Remarkables Skifield. As a result, the following areas have been prioritised for soil erosion control works in 2015 – 2016 growth season (November – April).<sup>22</sup>

#### Curvey Basin Trail

- Curvey A trail from chainage 60m through to 360m.
- Curvey B trail from chainage 60m through to 360m.
- Curvey main trail chainage 360m through to 600m.
- Curvey main trail chainage 600m through to 800m.
- Curvey main trail triangle at 820m through to 860m.
- Curvey main trail 'old road' 860m through 1040m.
- Curvey main trail 'Ford' 1040m through 1072m.

#### Lower Alta Green trail

- Trail chainage 0m through to 72m

#### Summer access road

- Road on Alta Green trail elevation 1,660m asl down to 1,640m asl.
- Road up Turquoise trail including elevations 1,660m asl to 1,726m asl.

#### Learners Area

- Elevations between 1,607m asl and 1,624m asl.

### Description of Planned Soil Conservation Measures (2015 – 2016)

#### Curvey Basin Trail

- Curvey A trail from chainage 60m through to 360m.
  - 4 swales crossing the trail left to right (looking downhill)
  - Settlement area at the end of the swale
  - Swales need to be maintained in good working order
- Curvey B trail from chainage 60m through to 360m.
  - swales in the lower section of this area. The trail material is very porous here as it was all fill in course aggregate
  - Swales need to be maintained in good working order
- Curvey main trail chainage 400m through to 640m.
  - swales running right to left<sup>23</sup>
  - 1 swale running left to right at the 640m chainage
  - All have settlement areas at their terminals
  - Swales need to be maintained in good working order

<sup>22</sup> Where chainage details are provided, refer to the approved Cut and Fill Plans prepared by Clark Fortune McDonald for the development of the Curvey Trail.

<sup>23</sup> Orientation – facing down the trail/ track

- Curvey main trail chainage 640m through to 800m.
  - swales running left to right
  - All have settlement areas at their terminals
  - Swales need to be maintained in good working order
- Curvey main trail triangle at 800m through to 860m.
  - Once the slope was reshaped it was roughened across the exposed area to mitigate downhill run off.
  - Tussocks have been planted / transplanted here, although currently sparse these will mature to provide ground cover over the next 5 years.
- Curvey main trail 'old road' 860m through 1040m.
  - The road has been reinstated back to natural landscape with areas of rock scree where vegetation was scarce.
  - Ground slopes and the seepage flows were reinstated as near as practicable to pre-development condition.
- Curvey main trail 'Ford' 1040m through 1072m.
  - Surface water from the development of Curvey trail has been contained within a swale drain and flows into the Rastus Burn immediately upstream of the Ford.
  - Scoured land east of the Ford to be smoothed over/ re-contoured by hand and planted.
  - The access road to the base of Sugar Bowl chair requires another 300mm depth of surface material on it to help control surface flow and reduce scouring of the ford in this area. Raising the access track level will enable water to drain into the swale above the Rastus Burn Ford.

#### Lower Alta Green trail

- Trail chainage 0m through to 72m
  - Natural drainage from Turquoise trail and the tank farm runs across the summer access road and into depression north of Tower 6 of the Curvey Chairlift. A bund was formed using earth and tussocks to prevent sediment carrying beyond this point. The bund has suffered a minor breach with sediment extending down slope which requires repair and maintenance.
  - The area needs to be monitored to make sure run off is still retained and sediment settles within the intended area.
  - Build up of sediment in this area may require removal to retain the integrity of the structure until such time as surface runoff and sediment flow are reduced.
  - Water tables and Swales on the Turquoise trail need to be maintained in good working order, this will follow maintenance of the summer access road – see below.

#### Summer access road

- Road on Alta Green trail elevation 1,660m asl down to 1,640m asl.
  - water tables are in place to remove surface water from the track.
  - Currently there are no effective settlement areas to capture/ retain sediment flows. These need to be introduced in a manner that prevents sediment from entering the Alta Green wetland.
  - Roding material about 300mm deep is to be placed, compacted and shaped on the road with a design that will eliminate any transfer of sediment from the road to the off-site areas in the future.
  - Swales designed to reduce the erosive potential of water carried off the access road need to be maintained in good working order; these may require rock

armouring. These need to be designed such that they prevent sediment from entering the Alta Green wetland.

- Road up Turquoise trail including elevations 1,660m asl to 1,726m asl.
  - water tables exist across the road access running left to right.
  - The outflow runs into tussock
  - Minimal transfer of sediment occurs here since road surfacing has been laid, shaped & compacted.
  - Swales need to be maintained in good working order

#### Learners Area

- Elevations between 1,607m asl and 1,624m asl.
  - Once final landscaping is complete the area, roughly 16,000m<sup>2</sup>, will be ripped and roughened across the trail.
  - A seed mix of Chewing Fescue (*Festuca rubra*) will be broadcast to secure short term cover. Sowing rates should be light such that Fescue does not form a competitive thatch that inhibits natural regeneration of native herbs.
  - Additional broadcasting of native seed harvested from site will also occur.
  - Consideration is being given to applying a spray on mulch to assist in protecting the soil until such time as grasses and native cover can be established.

#### **Summary:**

The protocol and prioritised soil conservation works are intended to prevent loss of soil from site and enable the successful revegetation of disturbed areas.

Soil erosion control measures additionally aim to avoid or minimise sedimentation of adjacent wetlands and tussock grasslands during and following earthworks.

#### **Monitoring**

Extensive monitoring will be carried out by both an independent monitor appointed by the applicant, and Department of Conservation staff. Refer to proposed special conditions 1(g), 2, 3(c), 21, 48-49 in section 7.2 in this Report.

#### **7.3 Term**

##### **17Z Term of concession**

- “(1) A lease or a licence may be granted for a term (which term shall include all renewals of the lease or licence) not exceeding 30 years or, where the Minister is satisfied that there are exceptional circumstances, for a term not exceeding 60 years.*
- (2) A permit may be granted for a term not exceeding 10 years but shall not be renewable.*
- (3) An easement may be granted for a term not exceeding 30 years, but—*
- (a) in exceptional circumstances, the Minister may grant a term not exceeding 60 years:*
  - (b) where the easement provides a right of way access to a property to which there is no other practical access, the term may be for such longer period as the Minister considers appropriate:*
  - (c) where the easement is for a public work (as defined in the [Public Works Act 1981](#)), the term may be for the reasonably foreseeable duration of that public work.”*

**Term:** The applicant stated on application Form 3c, B. Term that “A term of 40 years is proposed to ensure that the Easement<sup>24</sup> covers the reasonably expected life frame of the Passenger lift system (noting the existing Sugar Lift is 30 years old).”

The only submission received in relation to term is recorded under *Hearing report Issue 1.10(a)* - “40 years is too long in the face of needing to be precautionary in the face of climate change.”

The applicant needs to demonstrate and satisfy the Minister that “exceptional circumstances” exist to justify a 40 year term pursuant to s.17Z(1) and s.17Z(3)(a) for the Minister to exercise this statutory power.

It is considered that the applicant has not demonstrated in their application that “exceptional circumstances” exist to satisfy the Minister to consider a term not exceeding 30 years.

In addition, the Head Deed of Lease for The Remarkables ski area is for a term of 33 years from 1 March 1989, with a right of renewal provision. Upon expiry on 28 February 2022, any consideration for a new lease will be in accordance with Part 3B of the Conservation Act 1987. It would therefore seem appropriate that if a concession is granted for this proposed activity that it be for a term to correlate with the Head lease i.e. have a final expiry date of 28 February 2022. This is reinforced by the fact that if a concession is approved for this proposed activity that part of the key infrastructure will be within the Head lease area i.e. the bottom station/terminal, utility building and two towers. In addition, upon expiry it will give the opportunity for consolidation of the Head lease and numerous other concessions that have been issued for the Remarkables ski area over the years, into one concession (under Part 3B) with updated conditions. It will also avoid the need to set a separate annual concession fee under this concession.

Recommendation: that it is considered appropriate to consider a term with a final expiry date of 28 February 2022 to correlate with the Head lease initial 33 year term of 1 March 1989 to 28 February 2022, pursuant to s.17Z(1) and s.17Z(3).

#### 7.4 Fees

*Hearing report Issue 1.2(g) - No mention of payment of compensation for any adverse effects of the activity to compensate for the permanent damage to the landscape and outstanding natural environment.*

Section 17Y enables the Minister to require the Concessionaire to pay any specified rents, fees or royalties and also any levies or charges imposed on an occupier of land. In setting the rent, fee or royalty the Minister may set the amount according to market value. Section 17Y (2) also requires that regard shall be had to:

- (a) *Any circumstances relating to the nature of the activity; and*
- (b) *The effects of the activity on the purposes of the area affected; and*
- (c) *Any contractual conditions, covenants or other encumbrances placed upon intrinsic resources, natural resources, or historic resources by the concession.*

#### 7.4.1 Concession Activity Fee

It is recommended that the Concession Activity Fee be in accordance with the following:

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<sup>24</sup> The original application amended by the applicant to Lease and Licence and Easement.

*“For this concession, there will be no fees charged in addition to the rent that is required in accordance with the Deed of Lease dated 30 August 1993 or such successor or replacement of that lease as may exist from time to time.”*

#### **7.4.2 Environmental Premium Fee**

It is appropriate to consider the imposition of an Environmental Premium Fee. This to reflect the environmental impact i.e. compensates for the visual and noise impact, reduction in recreational use, and loss of vegetation associated with the Concession Activity on the Land. This is consistent with the Environment Compensation Factor i.e. compensation for the environmental damage the activity will cause in the Department of Conservation’s “Concession Activity Fee Pricing Book”.

The Environmental Premium is to be calculated by multiplying the Concession Fee by the appropriate environmental percentage factor as follows:

##### **Land Classification**

###### Category 1 – Environment Factor 40 %

National Park, nature reserve, ecological area, national reserve, wilderness area, wildlife sanctuary or sanctuary area

###### Category 2 – Environment Factor 25%

Conservation (forest) park, scientific reserve, historic reserve, wildlife management reserve, scenic reserve or wildlife refuge

###### Category 3 – Environment Factor 10%

Recreation reserve, government and local purpose reserve, other reserves, stewardship areas, water course areas or marginal strips

###### Category 4 – Environment Factor 0 %

Open pasture under grazing in Category 3 land status and unprotected or non reserve land held for administrative purposes

Recommendation: that an Environmental Premium Fee be charged as a one-off payment of \$ (*redacted from this version of approved Decision Support Document*) (i.e. 10% of the Head lease’ last annual concession activity fee invoiced totalling \$ (*redacted from this public version of the approved Decision Support Document*) plus GST, pursuant to s.17Y.

The applicant made the following comment on the draft abridged DSD in section 8 in this Report:

*“We don’t agree to the imposition of an “Environmental Premium Fee”. This is the first time this has been included any conditions and the calculation appears to be arbitrary. We are unaware of the purpose of such a fee and what the funds would be used for if it is levied. We note that the new lift is expected to increase visitation and revenue and therefore DOC will also receive an increase in the concession fee it already receives from NZSki. Further to that concession fee and further to normal revegetation work, NZSki has committed funds to a substantial conservation programme at all three of its ski areas. For this reason we believe the Environmental Premium Fee is not required.”*

As the comparative Environment Compensation Factor is optional, it is recommended, after considering the applicant's feedback, that the imposition of an Environmental Premium Fee be included as recommendation 5 in section 9 in this Report, for the decision maker to decide whether or not to impose this optional fee.

#### 7.4.3 Concession Management Fee

The Management Fee represents a fee to recover administrative costs of managing the concession during its term. The management fee covers matters such as responding to general enquiries about the concession, invoicing, reviews and the like.

Section 59 of the Setting of Concession Fees SOP guidance document [DOCMD-596529](#) recommends the following standard Management Fee components:

- (i) Basic Rate \$150 per annum + GST
- (ii) Rent/Fee Review \$100 per annum + GST
- (iii) Activity Return \$150 - \$200 per annum + GST
- (iv) Recovery of the processing of rates \$100 per annum + GST

It is recommended that the Concession Management Fee be in accordance with the following:

*“For this concession, there will be no fees charged in addition to the rent that is required in accordance with the Deed of Lease dated 30 August 1993 or such successor or replacement of that lease as may exist from time to time.”*

#### 7.4.4 Bond

The Conservation Act 1987 states that:

***17X Power of Minister to impose and enforce conditions***

*In granting any concession, the Minister may impose such conditions as he or she considers appropriate for the activity, structure, or facility, including (but not limited to) conditions relating to or providing for-*

- (e) the provision by the concessionaire of bonds-*
  - (i) to cover any costs incurred by the Minister in carrying out work that the concessionaire has failed to carry out and that was required by the concession document to be carried out; or*
  - (ii) to mitigate any adverse effects arising from but not authorised by the concession or not reasonably foreseen at the time the concession was granted:*

Likewise, the Otago CMS states under policy 2.2.9(c) *in respect of ski fields that:*

- a) should, in considering the development of existing authorised ski fields, take a precautionary approach to the approval of new structures and terrain modification and consider both the likely longevity of the field in the face of climate change, and any land remediation and facility removal requirements should the ski field cease to operate;*

In considering whether or not a bond should be imposed, the Department recognises the following:

- The applicant has a proven track record with the Department with respect to timely payment of concession fees; and

- the applicant and Department have historically worked together well, and ensure adverse effects have been reasonably foreseen and addressed by both the applicant and Department; and
- the Department will be actively monitoring the ski area; and
- Based on previous experience with application as a holder of numerous concessions, the Department has a high level of confidence in the applicant's ability to fulfil its obligations and to remove infrastructure and rehabilitate the land in the highly unlikely event that the company fails and/or the ski area becomes inoperable e.g. result of a major climatic event; and
- adverse effects have been identified and addressed by the Department, and therefore the risk of there being major unforeseen adverse effects is considered to be low; and
- any change in ownership that necessitates an assignment of the concession, the Grantor, as a condition of the assignment, can impose a bond or bank surety on the Assignee if this is deemed necessary.

It could be considered that the only issue the Department may have for requiring a financial safeguard in the form of a bond for this application would be if the activity ceases for any reason, and the applicant may not be in a position to remediate the site to the Departments satisfaction – to which the applicant has provided supporting evidence to the contrary.

Recommendation: It is recommended that the Minister should be satisfied, if a concession is granted, that a bond not be imposed (refer to recommendation 4 in Section 9.0 in this Report).

#### 7.4.5 Environmental Monitoring Contribution Fee

Not required.

#### 7.4.6 Ecological Compensation

The Technical Advisor (Ecologist) suggested in section 6 in this Report that an ecological compensation payment (or imposition of a condition) to require *“Additional revegetation of 1000 nursery grown plants per year is undertaken to address residual effects of previous development works. That a 5 year plan is to be prepared for this work. This plan shall prioritise an sites for which restoration planting is to occur. Note: This could be for a 5 year term or ongoing.”*

It is recommended that this is outside the scope of this application and relates more specifically to development plan clauses in the Head lease.

It is considered that there are appropriate ecological compensation type fees and conservation gain/mitigating conditions proposed in this Report, for example:

- the proposed environmental premium fee of \$ *(redacted from this public version of the approved Decision Support Document)* + GST (section 7.4.2 in this Report); and
- ecological assessment of the entire Rastus Burn Recreation Reserve of 700 ha (proposed special conditions 57 & 58 in section 7.2 in this Report).

## 8. Applicant Comments

### Comments received from Applicant



Abridged version of draft DSD sent to applicant on 1 February 2019 (recorded as [DOC-5705872](#))

Applicant's response dated 4 February 2019 (recorded as [DOC-5705875](#)):

- (a) *In general we are comfortable with the proposed conditions (exceptions noted below). We note that the Decision Support Document records NZSki's track record of environmental rehabilitation in the Rastus Burn as well as the agreed protocols for such rehabilitation. We remained totally committed to meeting and exceeding these protocols in all parts of our operations. We also note that we have worked exhaustively with expert advisers to alter our original proposal in order to mitigate the environmental impact.*
- (b) *You comment at the top of page 26 regarding the positive effects of the new chairlift should record that by installing a new modern chairlift, this will enable NZSki to use the most advanced safety features available for aerial ropeways. This is an important positive aspect of our proposal.*
- (c) *For the avoidance of doubt, where the conditions mention agreement or approval from the Grantor, we assume this will be delegated to staff in the local office. Please advise if this is incorrect.*
- (d) *General Special Conditions - 4(c). We request that this clause should be amended to read "All works involving heavy machinery are to be completed by May 1st each year". This enables work on continue on aspects such as technical commissioning but ensures all construction work involved is completed so as to minimise environmental impact from working with heavy machinery when the ground is wet.*
- (e) *General Special Conditions - clause 7. We request that this condition is amended to allow work 7 days per week if necessary. Whilst we try to avoid this, at some times it may be necessary to work seven days per week to catch up for any time lost in the programme and to avoid working in poor weather on the other days.*
- (f) *General Special Conditions - clause 60. We suggest this condition is amended to reflect that the works will cause the land to be modified and rehabilitated consistent with our agreed protocols. For example "The Concessionaire must reinstate the Land consistent with the protocols agreed with the Granter and generally maintain the land in a tidy condition to the satisfaction of the Grantor".*
- (g) *Fees - clause 7.4.2. We don't agree to the imposition of an "Environmental Premium Fee". This is the first time this has been included any conditions and the calculation appears to be arbitrary. We are unaware of the purpose of such a fee and what the funds would be used for if it is levied. We note that the new lift is expected to increase visitation and revenue and therefore DOC will also receive an increase in the concession fee it already receives from NZSki. Further to that concession fee and further to normal revegetation work, NZSki has committed funds to a substantial conservation programme at all three of its ski areas. For this reason we believe the Environmental Premium Fee is not required.*

*We note the following errors in your report that you may wish to address:*

- (h) *Figures 8 and 13 contain incorrect images. If you wish to replace these, Ross could provide correct images.*

- (i) *Pages 68-71 contain a number of items referring to Curvey Basin – this is not relevant to this application.*
- (j) *Page 54 - clause 21 (c). This mentions Tonkin and Taylor whereas the geotechnical report was provided by Stantec.*

**General statement about process by Applicant redacted from this version of approved Decision Support Document for public release.**

### **Discussion**

Item (a) – General statement by applicant; no further comment required.

Item (b) – added the following text “..., and will enable the applicant to use the most advanced safety features available for aerial ropeways.”

Item (c) – Agreement or approval from the Grantor will be sub-delegated to the Wakatipu Operations Manager.

Item (d) – In consultation with District Office staff, proposed special condition 4(c) in section 7.2 in this Report is amended to read:

*4(c) All development and rehabilitation works impacting the natural environment must be completed by May 1<sup>st</sup> each year. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.*

This is consistent with Schedule 3A, clause 3g of protocol.

Item (e) – In consultation with District Office staff, due to the scale of work and short work period available at The Remarkables, proposed special condition 7 in section 7.2 in this Report is amended to read:

*7. Establishment work must only take place between 7am to 6pm Monday to Friday, and 7am to 5pm on Saturday. If work is required on Sunday between the hours of 7am to 5pm, the Concessionaire must seek prior approval from the Grantor (email acceptable) no later 5pm Thursday, on a weekly basis.*

Item (f) – In consultation with District Office staff, proposed special condition 60 in section 7.2 in this Report is amended to read:

*60. After any approved works have been completed, the Concessionaire must reinstate the Land in accordance with the protocols in Schedule 3A, and generally maintain the Land in a tidy condition to the satisfaction of the Grantor.*

Item (g) – Section 7.4.2 in this Report has been updated to expand on the environmental premium fee, and incorporate the applicant’s feedback.

Item (h) – The text describing Figures 8 and 13 has been reviewed and amended.

Item (i) – Clarified with applicant. To be noted only.

Item (j) – Amended to Stantec geotechnical assessment.

### Questions to applicant (20 February 2019)

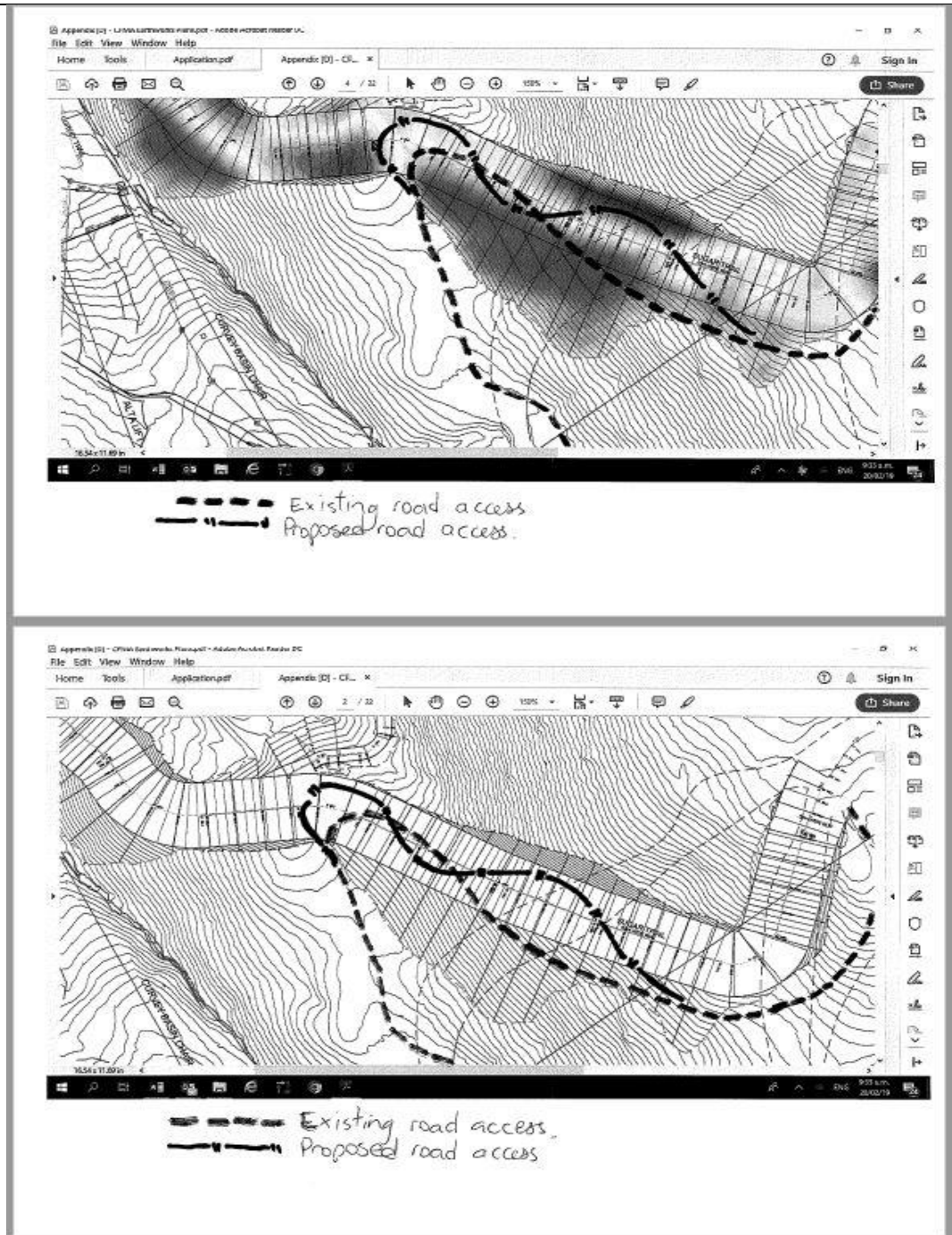
The decision maker asked the applicant 3 questions (see below) relating to trail works associated with the replacement passenger lift system within the Sugar Basin, and decommissioning of the Sugar Bowl chairlift. Response from applicant received 20 February 2019 in *italics* below (recorded as [DOC-5730600](#)).

1. What is the final proposed width of the trail connecting the end of the new Stash trail with the new Sugar trail?

*The outlined finished trail width for the "Sugar Link" as identified on page 18 of the application is 10m wide.*

2. Would the bottom of the new Sugar trail go over the top of the existing road leading up from the near the magazine to the upper Sugar Bowl (ie. the road would be incorporated into the new trail?)

*I enclose drawings which I have added lines representing the current road access and our proposed access once the trail is developed. The new road access will join the existing road access from below and again above proposed trail development. Any question on this please contact me direct.*



3. Current understanding is that the removal of the existing lift line requires the cutting of an additional access line. Is this correct and if so can this removal process be done by helicopter?

*Yes this is correct for towers 3, 4, 7, 8 & 9. The lift construction company are expecting to utilize a heavy lift helicopter for the erection of some of their componentry on the new lift and this could be utilized to lift out old towers at the same time but only if the timing aligns. As the helicopter concerned is being brought in from off shore.*

With respect to question 3. The Decision Maker has determined that no temporary access track is to be cut, and proposed special condition 26(c) in section 7.2 in this

Report is amended to read “*towers 3 and 5 on the slope face must be removed by helicopter only.*” Refer also to discussion in section 6.1.9 in this Report.

Applicant’s comments on Landscape Architects report (1 March 2019)

The applicant made the following comments<sup>25</sup> on the external Landscape Architects report commissioned by the Decision Maker, as discussed in section 6.1.9 in this Report. Note: reference to Philip in text below is report writer Philip Blakely).

- *The proposed trails have been designed to ensure on-trail skier densities enable us to manage skier traffic in a safe manner. It is important that there is sufficient trails with sufficient width to reduce the risk of guest collisions when the ski area is at capacity. We have carefully modelled the required space and have since made modifications following feedback from the ecological assessments. This includes deleting the lower 300m of the lower Sugar Stash trail (also noted in Philip’s report)*
- *Philip appears to lack an understanding of ski trail capacity requirements and the functions of different trails. His comments in relation to combining Serpentine and Upper Sugar Stash ignore the fact that Serpentine is a terrain park and therefore attracts only certain guests. The Sugar Stash trail is more suited for beginner to intermediate guests.*
- *The comments around avoiding access trails to remove towers on the old lift ignore the fact that these areas have already been modified when these towers were installed (ie. Access tracks were formed). We take pride in the rehabilitation works we have completed that restores these temporary accesses so that they are now invisible.*

*The fundamental reason for the trail design is to ensure skier capacity can be accommodated in a safe manner. Less ski trails means higher skier density and thus a higher risk of collision and injury.*

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<sup>25</sup> Recorded as [DOC-5734615](#).

## 9. Decision Making

### Recommendations

It should be noted that one submitter asserted that several aspects of the application are either incomplete or inadequate, being:

1. *“it lacks key information”* pursuant to s.17S(a), and it *“fails to adequately describe the application”* pursuant to s.17S. This has been discussed in the statutory analysis part of section 6 in this Report.
2. the Patch Landscape assessment is inadequate – refer to section 6.1.9 in this Report; and
3. the inadequacy of the E3 Scientific ecological assessment with respect to cumulative impacts (as well as direct impacts) – refer to section 6 in this Report, in its entirety.

As highlighted in this Report, it is recommended that consideration of any perceived incompleteness, insufficiency or inadequacy of the application be part of the Minister’s consideration of the entire contents of this report, as the Minister would need to be satisfied that the provisions of Part 3B of the Act have been met.

### Section 17U(2)(b) - section 6.1.16.6 in this Report

It is considered that there are no adequate methods or no reasonable methods for fully remedying, avoiding, or mitigating the permanent adverse effects of establishing a new passenger lift system that requires significant earth disturbance (cut and fill) for the formation of trails.

However, the provision in section 17U(2) also states that the Minister may decline any application. With regard to this discretion, the effects of the Remarkables ski area within the Rastus Burn Recreation Reserve have been long established, as it has provided public recreation, benefit and enjoyment since circa 1985, and the effects of a ski field operating at this location are well known and understood by the applicant and the Department of Conservation. While the proposal will result in permanent modification to the landscape, it is recognised, due to the nature of a ski area at this location, that ongoing improvements and modifications consistent with the operation of a ski area will result, as reflected in this Report and the relevant parts of the Otago CMS (section 6.5.2 in this Report). Whilst the permanent impact of the proposal on conservation lands and waters cannot be fully remedied, avoided, or mitigated, the proposal can be managed by conditions (based on similar proposals carried out by the applicant at this location), in particular, the proposed establishment special conditions (including restoration/rehabilitation of the land) referred to in section 7.2 in this Report.

### Width of Sugar Trail

In consideration of discussions in section 6.1.3 in this Report, it is recommended, if a concession is approved, that the Sugar Trail be “up to a maximum width of 50m”. This is further reinforced by the description of the Concession Activity in section 7.1 in this Report, and proposed establishment special conditions 1(d), 3(b) and 3(e) in section 7.2 in this Report.

It is considered that the proposed activity is consistent with/is not inconsistent with the relevant Reserves Act 1977 (s.3(2)), is not contrary to the purpose for which the land is held nor with other provisions of the Conservation Act 1987 (s.17U3), and is consistent with the Conservation General Policy (CGP) and Otago CMS (s.17W(1)).

In conclusion, any effects of the proposal on conservation values such as biodiversity, historic, social and amenity values are well understood due to the historic nature of the applicant’s

activities at this location, and the Minister needs to be satisfied that the provisions of Part 3B of the Act have been met, before deciding to proceed with the proposal pursuant to s.49(2)(e), and grant a concession under s.17Q.

**Decision: Notified Concession under Part 3B of the Conservation Act 1987**

1. Deem this application to be complete in terms of s17S of the Conservation Act 1987:

Agree / ~~Disagree~~

2. Noted that the application was publicly notified.

Noted (please circle)

3. Agree that if a concession is granted, that the final expiry date correlate to the Head Lease for the Remarkables ski area of 28 February 2022:

Agree / ~~Disagree~~

4. Agree that a bond pursuant to s17X(e) is not required:

Agree / ~~Disagree~~

5. Agree that a one-off Environmental Premium Fee of \$ (*redacted from this public version of the approved Decision Support Document*) plus GST be imposed pursuant to s.17(Y):

Agree / ~~Disagree~~

6. Approve the granting of a Concession (Lease and Licence and Easement) to NZSki Limited subject to the standard concession contract and the special conditions listed below:

Approve / ~~Decline~~

Special conditions to be included:



Signed by Aaron Fleming,  
Director Operations, Southern South Island Region

Pursuant to the delegation dated 8 September 2015 / 9 September 2015

06/03/2019  
Date



## Decision Maker comments

I approve this notified application with the following to be noted:

- I have completed a site assessment.
- Our statutory assessment does not prevent this proposal from proceeding.
- I accept that the permanent impact of the proposal cannot be fully remedied or avoided but it can be mitigated by conditions. This is consistent with how NZSki have managed other development for the Remarkables skifield at Rastus Burn Recreation Reserve. Impacts of the proposal are consistent with previous and existing works with the area being an active skifield.
- Supplementary assessments to those provided by the applicant by a DOC ecologist and an external landscape architect provide me with the view that this proposal can proceed, subject to appropriate conditions.
- To further support knowledge of, and decision making for, the Rastus Burn Recreation Reserve I have included a special condition for the applicant to complete both an ecological and a landscape assessment for the 700ha Rastus Burn Recreation Reserve within 12 months.
- Based on technical advice 50 metres is not an appropriate width for some parts for the cut and fill of the new ski trail. The trails, stations and construction access routes will need to be pegged and agreed by the Department prior to commencement of work.
- The removal of the Lower Sugar Stash trail, as proposed by NZSki in discussion with the Department to improve ecological outcomes of the proposal, is supported.
- The installation and removal of chairlift towers is to be by helicopter only so no temporary construction access trails are required for this work.
- Work is approved for Monday – Saturday. It may be appropriate for a Sunday to be worked to manage the site. This will require prior approval from the Whakatipu-wai-Maori District Operations Manager.
- For a development of this scale, it is appropriate for a one-off Environmental Premium Fee to be applied as per the Concession Activity Fee Pricing Book.
- The expiry of this concession is 28 February 2022 to align with Head Lease for the Remarkables Ski Area.