



**Department of Conservation**  
*Te Papa Atawhai*

**To:** Aaron Fleming, Director Operations, Southern South Island, as Delegate of Minister of Conservation

**From:** Deidre Ewart, Business Support Manager - Planning, Permissions and Land (PPL) and Judi Brennan, Permissions Manager - Planning, Permissions and Land (PPL) as Delegates of Director General of Conservation

**Date:** 25 October 2019

**Submission Summary Recommendation Report**

This report is to the Decision Maker pursuant to section 49(2)(d) of the Conservation Act 1987. It provides a summary of all objections and comments received in response to public notification, and recommendations as to the extent to which they should be allowed or accepted.

**Concession Application**

**Concession Applicant:** NZSki Limited

**Permission Number:** 74167-SKI

The purpose of this report is to provide you with:

- A summary of the objections and comments received
- A recommendation as to the extent to which the objections and comments should be allowed or accepted
- A recommendation for the Minister to consider if further information is required to enable full assessment of the application.

For the purposes of this report, submissions which are ‘allowed’ are submissions which are relevant for you to consider pursuant to the Conservation Act 1987. Allowed submissions are then analysed as to the extent to which they should be ‘accepted’ by the Minister. This requires consideration of:

- Information provided under Part 3B of the Conservation Act 1987, and relevant statutory management planning documents under Conservation legislation; or
- Any new information or a perspective not previously considered.

The implications of allowed and accepted submissions are noted for you to assist you in forming a view *‘before deciding whether or not to proceed with the proposal’*, pursuant to section 49(2)(e) of the Conservation Act 1987.

I note any recommendation I, as the Director General’s delegate, make to you in no way fetters your discretion in considering relevant issues. You may have regard to, or choose to disregard recommendations made by me in making your final decision, subject to administrative law principles.

This Hearing recommendation report will form part of, and be embodied in the Decision Support Document (DSD).

## 1.0 BACKGROUND

### Summary of Proposal

#### 74167-SKI

This proposal involves existing activities within the Coronet Peak Ski Area with the inclusion of a new snow factory facility, installation of gondola cabins and summer activities for a 40 year period lease, licence and easement comprising:

1. The management and control of all activities related to the ownership, operation, repair and maintenance of the commercial skifield;
2. To install a snow factory facility within the lower slopes of the ski area;
3. To operate eight-seater gondola cabins on the Coronet Express chairlift;
4. To operate and manage summer activities (use of existing tracks for guided walks, sightseeing, nature interpretation, photography, picnicking and artificial snow-based activities).

**Concession Applied for:** Lease and Licence and Easement

Full details of the proposal are recorded under the following linked documents in table below:

Description	docCM
Application	<a href="#">DOC-5888922</a> (plus email <a href="#">DOC-5888904</a> )
DOC further information request 17/05/2019	<a href="#">DOC-5933003</a>
Applicant's response to further information requested 17/05/2019	<a href="#">DOC-5978672</a> , <a href="#">DOC-5978674</a> , <a href="#">DOC-5978675</a> , <a href="#">DOC-5978676</a> Consolidated email to DOC staff: <a href="#">DOC-5983066</a>
Applicant's response to further information requested on 17/05/2019	<a href="#">DOC-6007818</a> , <a href="#">DOC-6008123</a> , <a href="#">DOC-6008124</a> , <a href="#">DOC-6011127</a>
Letter from DOC dated 24/06/2019 requesting further information on Patch assessment of gondola cabins	<a href="#">DOC-5985966</a>
Applicant response to further information requested 24/06/2019 on Patch assessment of gondola cabins	<a href="#">DOC-5978675</a>

The application was publicly notified in the following newspapers:

- (a) Otago Daily Times and The Southland Times on Saturday, 3 August 2019; and
- (b) Mountain Scene on Thursday, 7 August 2019

The application was also notified on the DOC website.

Public notification occurred for 20 working days and closed on Friday, 30 August 2019. Submitter's were requested to submit on the Department's submissions comment form template by email or post.

1 submission (opposed) was made on the application and the submitter requested to be heard at the Public Hearing. The written submission is recorded as [DOC-6058445](#)<sup>1</sup>.

Table 1

Submission Number	Submitter	Submission Date (Received)
1	Inga Smith	30 August 2019

<sup>1</sup> Summary of submissions – spreadsheet summary recorded as [DOC-6058431](#); summary of submission for hearing recorded as [DOC-6065882](#)

## 2.0 DETAILS OF HEARING

**Date:** 12 September 2019

**Time:** 1:30 pm to 2:20 pm

**Location:** Whakatipu-wai-Māori / Queenstown Office, Cavells Building, 1 Arthurs Point, Queenstown

**Chair:** Deidre Ewart (Business Support Manager, Planning Permissions and Land Unit)

**Advisory Panel Members:** None.

**Attending DOC Staff:** Kelvin Brown - Permissions Advisor, Dunedin Service Centre (via skype); Lisa Nilsen (Community Ranger, based in Queenstown Office)

**Media presence:** Allied Press (Miranda Cook, Otago Daily Times reporter)

**Applicant attendee's:** Paul Anderson (NZSki Ltd CEO), Trish Gill (NZSki Ltd Consultant), Nigel Kerr (NZSki Ltd Manager, Coronet Peak ski field)

**Submitters that were heard (in order):**

Submitter Order	Submitter	Submission Number
1	Inga Smith	1

A written record of the oral submission is recorded as [DOC-6065882](#). The applicant has also supplied a written version of its right of reply from the Hearing, this is included at the end of Hearing Notes for oral submissions, recorded as [DOC-6066970](#).

### 3.0 ANALYSIS OF SUBMISSIONS

Both the oral and written submissions have been separated into key themes to enable easier assessment. There is an annotated copy of the written and verbal submissions identifying the key themes from the submitter (recorded as [DOC-6084557](#)). For ease of interpretation, reference will be made to the number allocated to the submission when it was submitted.

#### 3.1 The extent to which the submissions be allowed.

A submission can be allowed or accepted or rejected under the tests of the Conservation Act 1987.

Issue 1.1	Term
	<p>(a) I am concerned at the long nature (40 years) of the lease, licence and easement application, without periodic review. (written submission 1).</p> <p>(b) s.17Z - Applicant has sought 40 years. Inga Smith submitted <i>“It is not clear to me that exceptional circumstances have been shown to justify a 40 year lease, licence and easement. The application states that a 40 year term is necessary “to enable a reasonable return on such an investment” in facilities and infrastructure. I could not see anything in the 20 documents and folders that comprised the application that related to such a financial assessment, but I may have missed something there.”</i> (verbal submission 1).</p> <p>(c) Submitter stated that a shorter term, such as 20 year with a 10 year periodic review, should be considered as this is particularly important in a warming climate, where circumstances are likely to change markedly over the next 40 years. (verbal submission 1).</p> <p><b>Allowed</b> – The Minister must be satisfied that exceptional circumstances exist pursuant to s.17Z(1) and s.17Z(3)(a) for a term exceeding 30 years to be granted.</p> <p>The Decision Maker may wish to consider if it is appropriate for the term to be structured to enable ongoing consideration of environmental issues, including climate change, similar to how the term was determined for Whakapapa skifield<sup>2</sup>.</p> <p>This term consideration could be in accordance with the submitter’s contention that a 20 year term with a 10 year periodic review should be</p>

<sup>2</sup> Concession Number 40011-SKI

	<p>considered i.e. 20 years, plus one 10 year ‘extension’, with the extension subject to conditions.</p> <p>Likewise, as the applicant has sought a term of 40 years, pursuant to s.17Z(1)<sup>3</sup> and s.17Z(3)(a)<sup>4</sup> the Minister will need to decide, if the application is approved, whether it is appropriate to grant a 40 year term (for the concession duration) or, for example, structure as a 30 year term with either one 10 year or, two 5 year extensions; with the extensions subject to conditions.</p> <p>Note: the Minister will need to decide if exceptional circumstances exist to warrant a term of over 30 years (which term includes all renewals and/or extensions).</p>
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Issue 1.2	Snowfactory
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	<p>(a) I am also concerned about the “Snowfactory”, particularly the plan to operate this during the summer. Given the high alpine nature of Coronet Peak, with a lack of water on the mountain (water is diverted from streams and/or pumped to reservoirs), in a warming climate this seems a strange plan (written submission 1).</p> <p>A Snowfactory would allow summer snowmaking, not just winter snowmaking. In a warming climate summer snowmaking seems a strange plan. (verbal submission 1).</p> <p>(b) Although the report from e3 Scientific lists some implications for the local flora and fauna of pumping snow onto the ground regularly over summer, that report states that “In summer the snow would be deposited on the magic carpet learners slope, whereas the application states that “The snow made from the Snow Factory is proposed to assist in coverage of the areas over and around the magic carpets, the lower slopes of the M1 and cover Big Easy trail”; the latter reference might be a winter-only reference (it is not clear), but it is a bigger area than just the magic carpet area (written submission 1).</p> <p>(c) The “Snowfactory” is not a traditional snow-making facility. The sales brochures and technical information sheet for the manufacturer provided by the applicant makes it clear that refrigeration processes are at the core of the Snowfactory.</p>
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<sup>3</sup> s.17Z(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.”

<sup>4</sup> s.17Z(3)(a) “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:”

	<p>Traditional snow making does not involve the use of refrigerants; instead it involves water (usually with the added nucleating agent based on the bacterium <i>Pseudomonas syringae</i>) being sprayed into the air during favourable wet-bulb temperature conditions (that is, where both the air temperature and relative humidity level are conducive to snow-making. Traditional snow-making is therefore weather and climate dependent. <i>The submitter did include research information in the submission however, admitted that it was old and most probably out of date with possibly more recent projections available</i> (written submissions 1).</p> <p><b>Allowed</b> – Under s.17U and in particular s.17U(1)(a) “<i>the nature of the activity and the type of structure or facility (if any) proposed to be constructed.</i>” and s.17U(1)(b) when considering the “<i>effects of the activity, structure, or facility.</i>”. The Minister is to have regard to submissions regarding the adequacy of the information provided, any potential adverse effects of the proposed activities (such as the Snowfactory) on public conservation lands and waters. The Minister may request further information, especially when this information may impact on matters to be considered by the Minister under s.17U(2).</p> <p>(d) From the application it was not clear what the full environmental impacts of a Snowfactory would be. Reference made to s.17U and that an independent environmental assessment for the Snowfactory be carried out by DOC or one of its contractors, particularly with respect to the proposed summer operations of this equipment (Written submission 1).</p> <p><b>Allowed</b> – Under Section 17U(1)(e) the Minister must have regard to “<i>any relevant environmental impact assessment, including any audit or review.</i>”; and under s.17SE(1)(a) “<i>the Minister may, at the applicant’s expense - (a) commission a report or seek advice from any person (including the Director General) on any matters raised in relation to an application.</i>”. The Minister is to have regard to submissions regarding the adequacy of the information provided and may request or commission further information.</p>
Issue 1.3	Effect of global warming/climate change
	<p>(a) Shorter Term i.e. 20 year with 10 year periodic review in a warming climate. (written submission 1).</p> <p>(b) Traditional snow-making is weather and climate dependent and that under future climate change a reduction in the ability to carry out traditional snowmaking will occur (written submission 1).</p> <p><b>Allowed</b> – The Minister is to have regard to relevant submissions, especially with regard to Matters to be considered in s.17U, and the Otago Conservation</p>

	Management Strategy 2016 (“Otago CMS”), Part 3.25 Ski fields, in particular policy 3.25.2.
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#### 4.0 RECOMMENDATIONS

##### Recommendation 1 - Confirm the submission analysis

I recommend the above analysis of submissions, regarding what can and cannot be allowed or accepted under the Conservation Act 1987, be approved.

##### Recommendation 2 - Seek further information on the application

The submitter requested clarification on:

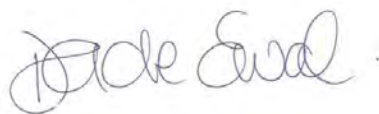
- the exact location and area of snow deposition from the Snowfactory over summer [Item 1.2(b)].

The submitter asserted that:

- an independent environmental assessment for the Snowfactory be carried out by DOC or one of its contractors [Item 3(c)].

With regard to the bullet-points above, the Decision Support Document (DSD) consolidates all relevant information on the application to allow the Minister to deliberate and make a decision. The DSD contains feedback from third parties such as iwi and Conservation Board, DOC district office and technical staff contributions and assessments, analysis of submissions and views heard at the hearing, and statutory analysis.

I recommend that consideration of any perceived incompleteness, insufficiency or inadequacy of the application be considered as part of the Minister’s consideration of the DSD, as the Minister would need to be satisfied that the provisions of Part 3B of the Act have been met, whether or not to proceed with the proposal pursuant to s.49(2)(e), and grant a concession under 17Q.



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**Deidre Ewart, Business Support Manager**

Planning, Permissions and Land (PPL)

Delegate of the Director General of Conservation as Chair of the Hearing Panel

Date: 25 October 2019





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**Judi Brennan, Permissions Manager**

Planning, Permissions and Land (PPL)

Delegate of the Director General of Conservation as Manager of the notification process

Date: 5 November 2019

Recommendations:

1. Note the summary of objections and submissions received during the public notification process:

Yes / ~~No~~

2. Note the recommendations as to the extent to which objections and submissions should be allowed, have regard to them, and consider the extent to which they are accepted:

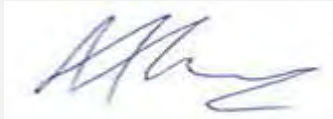
Yes / ~~No~~

3. Note the recommendations on further information to be considered:

Yes / ~~No~~

4. Note that in developing these recommendations neither the submitters nor panel had the benefit of any assessment or analysis of the application by DOC staff:

Noted (circle)



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**Aaron Fleming,**  
**Director Operations, Southern South Island**  
Delegate of the Minister of Conservation

Date: 07/11/19