

In the Matter of

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

And

In the Matter of

The Proposed Te Tai O Poutini Plan
– Natural Features & Landscapes
Chapter

Statement of Evidence of
Sean Tristan Dent
for Skyline Enterprises Limited

(Submitter 250)

Dated: 12 February 2024

INTRODUCTION

Qualifications and Experience

1. My full name is Sean Tristan Dent.
2. I am a resource management planning consultant and a Director of Southern Planning Group (2017) Limited (Southern Planning Group). I live in Cromwell, Central Otago.
3. I hold the qualification of Bachelor of Resource Studies from Lincoln University which I obtained in 2005 and I am an Associate Member of the New Zealand Planning Institute. I have been a resource management planning consultant with Southern Planning Group for almost 17 years. Prior to this, I was employed as a resource consent processing planner and compliance officer with Lakes Environmental (formerly CivicCorp) for approximately two years.
4. Throughout my professional career, I have been involved in a range of resource consent and policy matters. I have made numerous appearances before various District and Regional Councils, and the Environment Court.
5. Of relevance to the submission of Skyline Enterprises Limited (**SEL**), I have acted for SEL since 2016 to prepare their resource consent applications and present expert evidence before the Environment Court for the direct referral of Queenstown Lakes District Council (**QLDC**) consents RM160647 and RM171172 for the redevelopment of the Queenstown gondola and construction of an ancillary 448 space car parking building¹.
6. I have also acted (and continue to do so) for SEL since August 2015 presenting submissions and evidence through the QLDC Proposed District Plan (**PDP**) to identify a commercial recreation and tourism sub-zone (now identified in the PDP as Open Space and Recreation Zone, Informal Recreation Zone, and Ben Lomond Sub-Zone) over the Queenstown gondola, lower terminal, car park building, and restaurant building that sits atop Bob's Peak.
7. Since 2015 I have also acted for SEL regarding the Department of Conservation's review of the Westland Tai Poutini National Park Management Plan (**Draft Management Plan**). This has involved liaison with the Department of Conservation prior to notification of the Draft Management Plan, to have an 'Amenities Area' identified in the notified version of the Draft Management Plan for the purpose of providing for consideration of a Concession application for a future aerial cableway/gondola. I have also prepared a submission on the Draft Management

¹ *Direct Referral Applications ENV-2016-CHC-107 and ENV-2018-CHC-14*

Plan but note that this process has been placed on hold by the Department of Conservation since February 2019.

8. Since 2012 I have also acted for Totally Tourism Limited and their subsidiary companies that hold Concessions from the Department of Conservation for aircraft landings, and alpine guiding in Westland Tai Poutini National Park and the Franz Josef Valley. On behalf of Totally Tourism Limited, I have prepared several Concession applications for commercial activities in this area and represented them in the 2014 partial review of the Westland Tai Poutini National Park Management Plan, and the Draft Management Plan notified in 2018.
9. Through my breadth of experience as previously described, I have acquired a sound knowledge and experience of the resource management planning issues that are relevant to the submission of SEL.

Code of Conduct

10. I confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. This evidence is within my area of expertise, except where I state that I am relying on material produced by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

SCOPE OF EVIDENCE

11. The topics covered in my evidence are as follows:
 - (a) background and involvement;
 - (b) comments on the S42A Report; and
 - (c) conclusion.

BACKGROUND AND INVOLVEMENT

12. As identified above, I was first engaged by SEL in early 2015 to provide planning advice with respect to the statutory approvals needed to establish an aerial cableway/gondola, in the Franz Josef Valley.
 13. The idea of an aerial cableway in the Franz Josef Valley had been 'floated' by others in the past. However; due to the loss of foot access to the glacier in 2012, and the glaciers continued retreat, SEL with their expertise in such infrastructure, saw merit in assessing the viability of establishing an aerial cableway/gondola to enable continued public access to views of the Franz Josef Glacier and the neve above.
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14. I was involved in early liaison and meetings with Department of Conservation staff to confirm the planning approach that needed to be progressed under the National Parks Act 1980 and Conservation Act 1987 to enable a pathway for a Concession to be considered for an aerial cableway/ gondola at Franz Josef.
 15. On the 21st of October 2016 I notified the Department of Conservation on behalf of the submitter, as part of the 'pre-draft consultation' on the Draft Management Plan, of SEL's intention to pursue an Amenities Area within the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley.
 16. The Department of Conservation notified the Draft Management Plan in 2018 and the submission period closed on 04th February 2019. The Draft Management Plan included the option for an Amenities Area as sought by the submitter in a 'discussion box' for public feedback.
 17. On 04th February 2019, on behalf of the submitter, I lodged a formal submission on the Draft Management Plan supporting the inclusion of the Amenities Area and suggesting a proposed objective and policy framework.
 18. Very shortly after the lodgement of the submission, the Department of Conservation, in consultation with Ngāi Tahu and the West Coast Conservation Board, agreed to suspend the review. The review was placed on pause in February 2019 to consider the implications of the Ngāi Tai ki Tāmaki Supreme Court decision. This decision clarifies that DOC and Ngāi Tahu have an important role in giving effect to the Treaty of Waitangi principles. The review of the Draft Management Plan has not recommenced at the time of preparing this evidence.
 19. Subsequently, the Te Tai O Poutini Plan (**TTPP**) was notified on 14 July 2022. On behalf of SEL, I prepared and lodged submission #250 seeking that the same Amenities Area identified in the Draft Management Plan be incorporated into the TTPP plan maps with a specific objective, policy, and rule framework to enable consideration of a future resource consent for an aerial cableway/gondola.
 20. The submission broadly opposed all objectives, policies, and rules of the TTPP that addressed development in the Franz Josef Valley and without derogation from this wider scope, the following specific chapters/matters:
 - Rural General Zone.
 - Natural Open Space Zone.
 - Sites of Significance to Māori (SASM145).
 - Outstanding Natural Landscapes.
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➤ Outstanding Natural Features (ONF16).

21. I have not submitted any evidence or appeared before the Hearings Panel on any matters related to the SEL submission at the date of writing this evidence. It is my understanding of the Hearing Panel's minutes and advice from the Project Manager, that SEL submission is a 'substantial re-zoning' and that "*all rezonings will be heard separate to the zone provisions*²".
22. Accordingly, SEL and I were surprised to see that their submission points related to the Landscape and Natural Features Chapter were addressed in the Section 42A report for this hearing stream. It was my understanding that rather than attend multiple hearings and present multiple briefs of evidence, that these matters would be heard collectively as part of the 'substantial re-zoning' hearing.
23. Further, my understanding of Minute 2 and the hearing schedule contained therein was that 'substantial re-zonings' were intended to be heard in Topic 21 which, at the time Minute 2 was issued, stated on page 13 that these dates were 'To be confirmed'. Based on the schedule for other hearing topics this looked like the hearings would be in late 2024.
24. However, an e-mail was received from the Hearings Support Officer³ stating that 'technical expert evidence' for "Special Zones" would need to be submitted by 8th March 2024.
25. This e-mail was queried by me as it stated that 'technical expert evidence' was due by the above date and includes items such as geotechnical or natural hazards reports, landscape or ecological studies, traffic, or utilities servicing studies. However, in Minute 2 the table at paragraph 87, row 1, indicates that 'expert evidence' for any substantial re-zoning is required 90 working days before the relevant hearing topic commences. The minute does not use the term '*technical expert evidence*' as the e-mail does. Accordingly, I sought confirmation whether the Hearings Panel, expected ALL expert evidence i.e. including but not limited to planning evidence, needed to be lodged by 8th March 2024.
26. In the subsequent e-mail correspondence in reply, it was confirmed to me that "*not all expert evidence needs to be provided by 8th March*" and that the "*early filing of evidence is not mandatory*".
27. Accordingly, the purpose of my evidence is to:

² E-mail correspondence from Rachel Vaughan, Project Manager TTPP dated 14th August 2023.

³ E-mail from Tayla Mehrrens, Hearings Business Support Officer TTPP, dated 16th January 2024.

- Have it placed on the record that the submitter has been advised it was not necessary to attend every hearing stream to address the individual chapters affected by a 'substantial re-zoning'.
 - Have it placed on the record that the submitter has been advised that provision of any expert evidence 90 days in advance of the hearing topic for substantial re-zoning's is not mandatory.
 - To confirm that the submitter does not intend to provide expert evidence regarding their 'substantial re-zoning' by the 8th of March (non-mandatory) deadline. Due to other commitments and timeframes for assessment, and because it is not mandatory to provide the evidence 90 days in advance, the submitters experts will file their evidence following receipt of the Section 42A report.
 - Respond to comments in the Landscapes and Natural Features Section 42A report relating to the appropriateness of seeking recognition in the TTPP provisions for an aerial cableway / gondola which has not yet been confirmed acceptable in the Draft Management Plan.
28. My evidence will not address the specific provisions for the Landscapes and Natural Features Chapter as these will be addressed in my future planning evidence for the substantial re-zoning.
29. Further, it is intended that this evidence be taken as read as it is not considered necessary to travel and articulate the above matters to the Hearings Panel in person.

COMMENTS ON THE LANDSCAPES AND NATURAL FEATURES S42A REPORT

30. As noted above, I don't intend to respond to the statements relating to the proposed zoning and provisions that should apply to the Franz Josef Glacier Valley and the views on the submission of SEL in relation to these matters. As outlined above, it is expected that these matters will all be addressed in the substantial re-zoning hearing in due course.
31. However, I would like to comment on the Section 42A report writer's comments relating to the different processes between the RMA TTPP development and the National Parks Act 1980 and Conservation Act 1987 process for review of the Draft Management Plan and other planning documents. Specifically, the Section 42A report makes the following comments:

"51. Skyline Enterprises Limited (S250.004) seeks that the proposed aerial cableway at Franz Josef should be identified within the provisions in the Natural Features and Landscapes – Ngā Āhua me ngā Horanuku Aotūroa

chapter to enable consideration of such a development. I do not support this submission. **The proposed aerial cableway is just that – a proposal that is being considered as part of the review of the Westland National Park Management Plan.** Based on my understanding of what is proposed, it is likely to be a Discretionary Activity under the proposed Plan rules. I consider that is appropriate and that no specific provision for this activity is required.” [My emphasis added].

“239. Skyline Enterprises Limited (S250.004) are concerned that construction of an Aerial Cableway in an ONFL is not considered a Conservation Activity and is not covered by the Permitted Activity rules. They seek specific recognition of such as cableway within the rules. I do not support this submission. **Such a cableway has not been designed, and the Westland/Tai Poutini National Park Management Plan has not yet been finalised so there is no clarity about whether such a proposal is supported within the National Park.** Regardless such an activity would be expected to have significant visual effects, and I consider the likely Discretionary Activity status under Rule NFL – R15 is entirely appropriate.” [My emphasis added].

32. Both the above-mentioned paragraphs appear to be placing weight on the processing and outcome of the Department of Conservations Draft Management Plan as to whether it is appropriate for there to be reference to an Amenities Area/aerial cableway in the TTPP provisions.
33. In my opinion, the author of the report and the Hearings Panel should not be reliant on the outcome of the long drawn out, suspended, and overdue processing of the review on the Draft Management Plan by the Department of Conservation.
34. As identified in the SEL submission, there are several statutory processes to go through before applications for an aerial cableway / gondola may be able to be sought under the RMA and National Parks Act 1980 and the Conservation Act 1987. Whilst I appreciate the repetition, it is important to set out these steps for the Hearings Panel as follows:
35. The General Policy for National Parks specifies that Aerial Cableways should be confined to Amenities Areas and existing ski fields. Specifically, General Policy 10.5 states:

10.5 Aerial cableways

10.5(a)

The erection and operation of aerial cableways should be confined to defined amenities areas and existing ski fields except where required as part of the core track network maintained by the Department or for necessary natural hazards monitoring.

36. Accordingly, to realise their proposed development aspirations, SEL's first step in the statutory process was to identify an Amenities Area in the Draft Management Plan. Should this be successfully incorporated into the final operative version of the Management Plan, the Amenities Area would then need to be set apart pursuant to Section 15(1) of the National Parks 1980 by notice in the Gazette.
 37. Once notified in the Gazette, Section 15(2) of the National Parks Act 1980 provides that within an Amenities Area, the development and operation of recreational and public amenities appropriate for the public use and enjoyment of the park may be authorised in accordance with the Act and the Management Plan.
 38. Once an Amenities Area is gazetted, the principles applicable to National Parks, notwithstanding Section 4 of the National Parks Act, would apply only so far as they are compatible with the development and operation of such amenities and services.
 39. Under Section 15(3) of the National Parks Act, consideration of National Park values, such as preservation of natural heritage, is secondary to providing recreational and public facilities.
 40. Further to the above, if the Draft Management Plan is adopted with the Amenities Area included an amendment to the West Coast Te Tai o Poutini Conservation Management Strategy 2010 – 2020 (**the CMS**) will also need to be made to provide for an Amenities Area.
 41. In this regard, it is understood that initial planning for the review of the CMS has commenced but the draft CMS has not been notified by the Department of Conservation at the current time despite being overdue for its full statutory review in accordance with Section 17H(4)(b) of the Conservation Act 1987.
 42. In addition to the abovementioned processes under the Conservation Act 1987 and National Parks Act 1980, it has always been acknowledged by the SEL that any aerial cableway/gondola would require resource consent under the Resource Management Act 1991 and that acknowledgement of the Amenities Area should be included in the review of the Westland District Plan (now the TTPP).
 43. It was hoped that by the time the Draft Management Plan and CMS reviews had been completed, any zoning for an Amenities Area that may have been approved in those documents, could be considered, and incorporated into the RMA planning documents.
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44. Unfortunately, due to the delays in the Department of Conservation's processes, the order of incorporation of the Amenities Area into the statutory planning documents has changed, and as outlined in the original submission, SEL seeks to provide for the Amenities Area within the TTPP.
45. It is my opinion that the Hearings Panel is not required to wait on the outcome of the Department of Conservation's planning processes before deciding whether to provide provisions in the TTPP for an Amenities Area and aerial cableway / gondola.
46. Similarly, and notwithstanding Section 74(2)(b)(ii) of the RMA, the Hearings Panel is not obligated to come to the same conclusions as the Department of Conservation (and vice versa) when deciding on the appropriate provisions for the TTPP.
47. Essentially, it is a 'chicken and egg scenario' as to whether the RMA plan review process is completed before the Department of Conservation plan review(s). In a perfect world, working through the Department of Conservation process first may have provided some helpful insight into the RMA plan process (particularly as per Section 74(2)(b)(ii)), but despite having started almost six years ago, and with no imminent date for recommencing that process, it is my opinion that it is appropriate and necessary for the Hearings Panel to make their own conclusions on whether to incorporate an Amenities Area and associated provisions in to the TTPP.
48. However, I do consider it important to point out that the Department of Conservation was not required to include the submitters proposed Amenities Area in the notified version of the Draft Management Plan, however they have included the proposal for public comment⁴.
49. Further, the Department of Conservation is a submitter and further submitter on the TTPP⁵. The Department of Conservation further submission does not oppose the inclusion of an Amenities Area and provisions that were identified in the SEL submission. In fact, SEL have only been served one further submission that opposes their suggested Amenities Area⁶.

CONCLUSION

50. Overall, I would like to re-iterate that SEL intends to present expert evidence to the Hearings Panel on its submission for a proposed Amenities Area. As it has been confirmed that it is not mandatory to pre-circulate expert evidence by the 8th of March 2024, the experts engaged by SEL will file their evidence following receipt of the S42A report on 'substantial re-zonings'.

⁴ *Draft Westland National Park Management Plan September 2018, pages 122 – 126.*

⁵ *Submitter # 602 and Further Submitter # 122*

⁶ *Further Submitter #34 Forest and Bird.*

51. SEL has no ability to dictate the timing of the review of the management documents under the jurisdiction of the Department of Conservation. While I agree it would have been helpful to have had both the Draft Management Plan and the CMS progress through their respective reviews before the commencement of this RMA TPPP process, this is entirely out of SEL's control.
52. However, the lack of decision making on the Department of Conservation's review processes does not prevent or restrict decisions being made by the Hearings Panel under the RMA and the TPPP being an entirely sperate statutory process.
53. Accordingly, I will look forward to presenting evidence to the Hearings Panel alongside the other experts engaged by SEL later this year.



Sean Tristan Dent

12 February 2024
