

**Before the Proposed Te Tai o Poutini Plan
Hearings Panel**

IN THE MATTER

Of the Resource Management Act 1991

And

In the Matter of

A submission by Skyline Enterprises Limited (S250) on the Proposed Te Tai o Poutini Plan

AND

Topics 21 and 18: Residential Zones and Special Purpose zones (excluding the Franz Josef area); and topic Franz Josef Special and Settlement Zones

MEMORANDUM OF COUNSEL ON BEHALF OF SKYLINE ENTERPRISES LTD – HEARING PROCEDURE AND TIMETABLING

MAY IT PLEASE THE PANEL

Introduction

- [1] This memorandum of counsel is prepared on behalf of Submitter S250 (Skyline Enterprises Limited (**SEL**)) in respect of the Special Purposes Zones and Franz Josef hearing topics.
- [2] We have reviewed Minute 2 and Minute 27 relating to Hearing Procedures and Timetables from the Hearing Panel.
- [3] SEL respectfully seeks the following directions and accommodations from the Hearings Panel in relation to hearing timetabling and procedures.
- (a) Permission to present its evidence for the landscape chapter (topic 10B)¹ at the Franz Josef hearing (topic 18) to ensure a cohesive presentation of SEL's rezoning and supporting evidence and submissions;
 - (b) An extended period of time to present its case at the Franz Josef hearing (topic 18) of 4 hours; and
 - (c) That matters relating to the SEL submission addressed in the S42A report for the Special Purposes Zones topic (16 and 21) be transferred to, and deferred for, consideration in the Franz Josef hearing topic (18).
- [4] The reasons for these requested directions are set out further below.

Background to SEL submission

- [5] SEL has provided a comprehensive submission on the Te Tai o Poutini Plan (TTPP) seeking (in summary);

¹ It is noted that planning evidence for SEL was lodged on 12.02.2024 for the Natural Features and Landscapes Chapter Hearings. This will not be repeated in the Franz Josef hearing however may be referred to.

- (a) Opposing the mapping and related Objectives, Policies, and Rules of the TTPP that address development within the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley; and
- (b) The replacement of this zoning regime with a new 'Amenities Area' identified on planning maps, along with a bespoke special zone and plan provisions to facilitate and operate development of a proposed future aerial cableway.
- (c) Alternative, consequential, or other necessary relief has been sought across district-wide zone chapters in order to further this relief. However, SEL is in the process of refining its relief sought in the original submission.

Reason for requested directions

- [6] SEL has engaged experts in respect of landscape, economics, geotechnical and natural hazards, ecology, recreation, and planning, in the preparation of evidence to support the submission. SEL's planner Mr Dent was advised on 7th May 2024 that SEL's submission could be heard at either the Special Zones hearing or as the submission is a Franz Josef proposal, that it could be heard at the Franz Josef hearing and was advised that the dates for each hearing. Consequently, SEL considered that the relief would best fit within the Franz Josef hearing topic and additionally, the SEL expert witnesses all have availability (only) for the dates of the Franz Josef hearing².
- [7] SEL's expert planner, Mr Dent, has been liaising with various TTPP staff to date and also has a clear understanding that the SEL submission would be heard as a 'substantial re-zoning' in a hearing to be confirmed in the latter part of 2024.
- [8] Counsel yesterday received the S42A report prepared in respect of the Special Zones hearing topic (16 / 21). Pages 143 – 144 address the relief sought in the SEL Submission.

² Per attached email correspondence

[9] Counsel wishes to respectfully seek leave, that SEL instead will have its full hearing relief heard in the October Franz Josef hearing stream. The reasons supporting the merits of this request include:

- (a) The relief sought by SEL is principally concerned with the Franz Josef area and seeks to identify effectively a new zoning regime which is specific just to that locality. As noted in the S42A report, the relief sought is relevant to that community and landowners specifically, and it therefore makes sense to have it allotted within that hearing most closely aligned with the resources at hand.
- (b) While SEL has sought consequential and other relief if needed in order to give effect to the new special zone, that is essentially consequential or subsidiary to the main relief in seeking to rezone the land itself for an Aerial Cableway consenting pathway in the future. This means, any necessary 'higher order' or 'strategic' provision amendments to the TTPP (for example relating to landscape policies and objectives), should be considered at the same time, and in the round, with the substantive rezoning relief.
- (c) It would otherwise be inefficient for SEL to have had to attend or continue to attend multiple 'sub-issue' hearing streams on the whole of the TTPP.
- (d) SEL has been under the understanding, as a result of correspondence between its planner and TTPP administrators, that its relief would be set down and heard in a hearing topic for 'substantial re-zonings' and more recently, for the October Franz Josef Hearing stream. It instructed witnesses according to that timeframe and will otherwise be unable to present that evidence in time for the Special Zones hearing topic.
- (e) There would be no prejudice in granting the requested relief on the basis that the S42A matters already considered could simply be deferred / transferred to the Franz Josef topic. To the contrary, any Franz Josef public may be more likely to attend that hearing and gain a better appreciation of the SEL relief sought rather than through the Special Zone hearing.

- (f) There is only one further submitter in respect of the SEL Submission (from Forest and Bird). It is considered there would be no prejudice to that submitter by granting the relief sought, as this would allow more time for reparation and engagement by deferral of SEL relief to topic 18.
- (g) On the other hand, not granting the requested relief would significantly prejudice SEL as it had been of the understanding that it was able to elect for a hearing of its relief in the Franz Josef topic, and its experts will not be available earlier than the timetabled dates for that topic.

[10] In summary of the reasons above, the request from SEL is considered to be appropriate and fair, efficient, and not prejudicial to any party.

Time required to present submissions and evidence

[11] We estimate that the presentation of SEL's submission will take the following time and therefore respectfully request allowance of greater than 15 minutes presentation time for the whole of the SEL case:

- (a) Legal submissions – 1 hour
- (b) Corporate evidence – 30 minutes
- (c) Landscape (Nikki Smeetham) – 30 minutes
- (d) Economics (Fraser Colegrave) – 30 minutes
- (e) Geotechnical and natural hazards (Paul Faulkner) – 30 minutes
- (f) Ecology (Andrew Wells) – 30 minutes
- (g) Recreation (Rob Greenaway) – 30 minutes
- (h) Planning (Sean Dent) – 30 minutes.

Total = 4.5 hours

Summary of requests

[12] In summary, SEL respectfully requests the following:

- (a) Permission to present its evidence for the landscape chapter at the Franz Josef hearing to ensure a cohesive presentation of SEL's rezoning and supporting evidence and submissions;
- (b) An extended period of time to present its case at the Franz Josef hearing (topic 18) of 4 hours; and
- (c) That matters relating to the SEL submission addressed in the S42A report for the Special Purposes Zones topic (16 and 21) be transferred to, and deferred for, consideration in the Franz Josef hearing topic (18).

[13] Please let us know if you have any questions or require any further information.

Dated 6 June 2024



.....
R E Hill / B B Gresson
Counsel for the Submitter

Attached email correspondence

From: Michelle Conland <michelle.conland@wrc.govt.nz>
Sent: Tuesday, 7 May 2024 5:43 pm
To: Sean Dent
Subject: RE: Skyline Enterprises Limited - Franz Josef Amenity Area, Hearing

Good afternoon Sean

I've spoken to Lois Easton, Principal Planner, who reminded me that you have submissions on a variety of topics. Lois, who is writing all of the reports for these topics, has said that the Special Zones topic is where she has done the substantive analysis (since Skyline Enterprises asked for their own zone) and the other s42A reports that she is doing refer back to this analysis. So at this stage the Special Zones is the best hearing for SEL. Alternatively as this is a Franz Josef proposal, you may wish to be heard at the Franz Josef hearing.

The dates for these hearings are about to be confirmed in a minute from the Hearing Panel and the website will be updated accordingly. However, I can tell you that the Special Zones hearing is to be scheduled for 16-19 July at the WRC Council Chambers (in conjunction with Residential Zones), and the Franz Josef hearing is to be scheduled for 8-9 October at the Franz Josef Training Room. The Ecosystems and Indigenous Biodiversity hearing is to be scheduled for 26 and 27 August in Westport, and 29 and 30 August in Hokitika.

Please let me know which hearing or hearings you wish to attend or if you have any further questions.

Kind regards

Michelle Conland

TTPP Project Manager | West Coast Regional Council

✉ michelle.conland@wrc.govt.nz | ☎ 03 768 0466 ext. 9088



This email may contain information that is confidential, proprietary or subject to legal privilege. If you are not the intended recipient you are notified that any use, dissemination, distribution or copying of this message or data is prohibited. If you have received this email message in error, please notify the sender and erase all copies of the message and attachments.



From: Sean Dent <sean@southernplanning.co.nz>
Sent: Tuesday, May 7, 2024 3:28 PM
To: Michelle Conland <michelle.conland@wrc.govt.nz>
Subject: Skyline Enterprises Limited - Franz Josef Amenity Area, Hearing

Good Afternoon Michelle,

As you are aware from previous correspondence, we act for Skyline Enterprises who had submitted on the TTPP seeking an 'amenities area' for an aerial cableway in the Franz Josef valley. Our understanding was that this was classed as a 'substantial re-zoning' and would be heard in a separate hearing stream to the other plan provisions/chapters.

Looking at the hearing topic details/schedule on the TTPP website, it appears that ecosystems and indigenous biodiversity and "outstanding matters" are still to have hearing dates confirmed. Skyline's solicitor has asked me

to reconfirm that their re-zoning proposal falls within the “outstanding matters” topic and whether a hearing date is yet known as we have experts looking to take leave for extended periods later this year and we would like to work around that.

If you could come back to me at your earliest convenience it would be appreciated.

Thanks.

Sean Dent DIRECTOR



M 021 946 955 | F 03 409 0145
15D Old Sale Yard Road,
Cromwell, 9310

 Follow us

southernplanning.co.nz