

**BEFORE THE HEARINGS PANEL
FOR THE PROPOSED TE TAI O POUTINI PLAN**

UNDER the Resource Management Act 1991
IN THE MATTER OF of a submission in a Plan Change under
clause 6 of Schedule 1 of the Act
BETWEEN **SKYLINE ENTERPRISES LIMITED**
Submitter

STATEMENT OF EVIDENCE OF SEAN TRISTAN DENT

Dated: 9 September 2024

Introduction

Qualifications and Experience

- [1] My name is Sean Dent. 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.
- [2] 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 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.
- [3] 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.
- [4] 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 397 space car parking building.¹
- [5] 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, Queenstown.

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

- [6] 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. I have also prepared a submission on the Draft Management Plan but note that this process has been placed on hold by the Department of Conservation since February 2019.
- [7] 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 including in 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.
- [8] 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

- [9] I confirm I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2023 and that I have complied with it when preparing my evidence. Other than when I state I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

- [10] I have been engaged by SEL to provide expert planning evidence with respect to their proposed rezoning of land within the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley (**Franz Josef Valley**) to enable a potential consenting pathway for a future Aerial Cableway.

[11] The topics covered in my evidence are as follows:

- (a) Detailed Description of the Proposed Re-Zoning
- (b) Statutory Considerations
- (c) Assessment of Effects of the Proposed Re-Zoning
- (d) National Policy Statement on Indigenous Biodiversity
- (e) National Policy Statement for Freshwater
- (f) West Coast Regional Policy Statement 2020
- (g) Objectives and Policies of the TTPP
- (g) Department of Conservation Management Plans
- (h) Further Submissions
- (i) Iwi Management Plans
- (j) Section 32AA Evaluation
- (k) Conclusion

Detailed Description of the Proposed Re-Zoning

The Subject Site and Surrounds

- [12] The subject site and receiving environment is well described in the evidence and assessment prepared by Ms Smetham. The receiving environment is broadly confined to the Waiho River Valley approximately 4.0 km from the Franz Josef township and south of the SH6 bridge. It extends approximately 14 km up to the upper snowfields of the Southern Alps above the Franz Josef Glacier. The Waiho Valley trends north - south and is a typical U-shaped glacial valley with a flat valley floor enclosed by sheer rock walls to the east and west. The southern end of the valley is dominated by the terminal face of the Franz Josef Glacier, the glacier itself and the steep ridgeline and peaks of the Southern Alps.
- [13] The climate is severe. Wind, temperature and visibility change quickly. The prevailing wind is westerly and brings moisture laden airstreams from the Tasman Sea to the mountains where rain is released. Rainfall is high with as much as 5 metres per year with total precipitation over 10m per year with much of this falling as snow. The climatic conditions result in rapid erosion and dynamic physical changes to the landscape.
- [14] The Waiho Valley contains a wide range of ecosystems, with much of it in a natural condition. The vegetation sequence is especially dramatic starting from the mixed podocarp forest and grassed river flats, forested lower slopes to steep rock faces, deep crevices, low growing alpine vegetation and extensive scree slopes. Snow fields are permanent in some areas and extend over the scree and upper slopes on a seasonal cycle.
- [15] Ms Smetham identifies three separate landscape character units that will be affected by the proposed re-zoning. The first comprises the Waiho Valley floor and river corridor which is an active alluvial fan with the aggrading valley. Several glacial landform features exist along the valley floor including various moraines and the distinctive erosional features of the Sentinel Rock and Teichelmann Rock roche moutonee. Other glacial features include Peters Pool and Lake Wombat accessed from the valley floor and are examples of kettle lakes formed by ice melt

into steep sided basin shaped holes. Vegetation is diverse within the lowland podocarp forest. The Waiho Valley floor and river corridor provides direct access to Franz Josef via an access road along the true left of the Waiho River. The Waiho Valley Road and car park (~ 200 car parks) provides easy access to the Douglas Walk, Roberts Point track and the Douglas suspension bridge, Peters Pool Walk, Sentinel Rock Walk, the Te Ara a Waiau Walkway / Cycleway the Forest Walk, Chamois Track and the Franz valley glacier access.

- [16] The valley floor also provides starting points for the longer walks across the valley slopes including Lake Wombat, Alex Knob and Roberts Point track. The popular Sentinel Rock walkway is a relatively short walk from the car park and rises 900m to offer impressive views of the glacier valley and Waiho River.
- [17] The second landscape character unit is the valley side slopes. Ms Smetham describes these areas as being highly expressive of their glacial formation being almost vertical and in places, particularly the western side slopes, consisting of scoured rock walls free of vegetation.
- [18] Several walking tracks traverse this area. The 12 km Roberts Point track starts at the car park and follows the Peters Pool track. An alternative route starts opposite the carpark at the Lake Wombat track entrance. The Roberts Point track crosses the Douglas swing bridge and the Callery River swing bridge before heading up the Waiho Valley following the contours along the eastern slopes and true right of the Waiho Valley
- [19] The track winds through sections of forest and across sections of exposed rock pavement scoured smooth by glacial action. The track terminates at Roberts Point at 640 masl and from the viewing platform the Franz Josef glacier is visible. Historic sites along this walk include Hende's Hut and Hendes Gallery and the Callery and Douglas suspension bridges. The Alex Knob track traverses the west valley slopes and branches off the Lake Wombat Walk.
- [20] Overtime vegetation has established over the lower slopes demonstrating an altitudinal sequence of vegetation types that has been disrupted by glacial and river activity.

- [21] The third landscape character unit comprises the upper snowfield and basins. The upper snowfields and glacial basins sit between 1600 – 3000 masl and form the head of the Waiho Valley comprising the mountain ridgeline and peaks, large continuous high-altitude snowfields (Chamberlain, Davis, Geikie and Salisbury) and the Almer, Agassiz, Melchior, Blumenthal and Franz Josef glaciers.
- [22] The Franz Josef Glacier is described as a temperate maritime glacier descending to approximately 350 masl and 20 km from the coastline. It exhibits a cyclic pattern of advance and retreat driven by differences between the volume of meltwater at the foot of the glacier and volume of snowfall feeding the neve. Records show the glacier is currently retreating rapidly.
- [23] The land cover comprises year-round snow cover, rock outcrops and scree. Vegetation is scarce at these elevations and limited to alpine low growing plants including mosses and lichens.
- [24] The proposed area of re-zoning traverses all three of the landscape character units described above. Specifically, the proposed FJAAZ comprises an area of approximately 430Ha and comprises a defined rectangular corridor between 5,910 and 6,670 m long and between 450m - 1030m wide, extending from and including the Franz Josef valley car park up to Crawford Knob along the true right side of the Waiho River Valley.
- [25] The entire area of re-zoning sits within Westland Tai Poutini National Park which is administered by the Department of Conservation (**DOC**) on behalf of the Crown.

The Proposed Re-Zoning

The Notified Zoning for the Franz Josef Valley

- [26] As described above, the notified version of the TTPP has resulted in the Franz Josef Valley being subject to the following zones and overlays:
- General Rural Zone (affects the access road and car park).
 - Natural Open Space Zone (affects the entire valley and glacier).

- Outstanding Natural Feature 15 (ONF 15) - Waiho Valley alpine schist. Internationally Significant with outstanding geoscience values. Significant education, aesthetic and research values. High-strain alpine schists with attenuated isoclinal folds, also showing a later sequence of veins, ductile shears and fractures formed during progressive uplift. Superb ice-polished exposures of garnet-zone schist, showing ductile and brittle structures.
- Outstanding Natural Feature 16 (ONF 16) - Franz Josef glacier /Kā Roimata-a-Hinehukatere. Internationally Significant with outstanding geoscience values. Significant education, tourism, aesthetic, community and research values. One of the two most visited glaciers in New Zealand.
- Outstanding Natural Landscape 14 (ONL 14) – Aoraki/Mt Cook - Extensive landscape consisting of dramatic mountain ranges that extend westward from the main divide, high altitude peaks, glaciers, permanent snowfields, and incised valley systems. Interplay of mature indigenous forest and vegetative sequence from lowland beech forest through to alpine scrub communities reinforcing topography and pronounced relief – particularly where horizontal vegetation patterns including seral beech forest and scrub mark glacial retreat. Exposed peaks and ridgetops revealing underlying geology are highly expressive of the landscape’s formative and ongoing natural processes. Dramatic etched bluffs are highly expressive of formative glacial processes. Combination of etched ridgelines, rocky outcrops, expansive permanent ice flows, glacial lakes, vegetation sequences giving way to raw and exposed peaks and ridges are highly natural. Te Moenga-o-Tuawe/ Fox Glacier & Ngā Roimata-a-Hinehukatere/Franz Josef Glacier, Douglas Neve, Mt Tasman, Sefton, Elie De Beaumont, Hicks, & Aoraki are key / representative landmarks within this landscape.
- Site of Significance to Māori #145 - Kā Roimata-a Hinehukatere / Franz Josef Glacier (Ancestors embedded in the landscape).

- Historic Heritage Feature 113 - Defiance Hut located east of the existing car park.

The Original Zoning Proposal in the SEL Submission

- [27] The original submission on behalf of SEL generally opposed all the mapping and all objectives, policies, and rules of the TTPP that address development within the Franz Josef Valley. Further, the submission sought the identification of the proposed amenities area zone on the planning maps and the development of an amenities area chapter in the Special Purposes Zones section of the TTPP. The intention was that a separate amenities area chapter would enable a consenting pathway for an aerial cableway as a Discretionary Activity.
- [28] Recognition of the amenities area and its potential for a future aerial cableway was also requested to be identified and recognised in the Natural Features and Landscapes, Natural Open Space, Sites and Areas of Significance to Māori, and the General Rural Zone chapters of the TTPP. The submission was supported by extensive expert reports from landscape, economic, recreation, and natural hazards perspectives. This work built on a foundation of work that SEL had undertaken through the Draft Westland National Park Management Plan submission process in 2018/2019.

The Amended Re-Zoning Proposal

- [29] Having considered the original submission and the TTPP in more detail, along with the expert evidence of the submitter's expert consultants, the proposed re-zoning has been refined as follows.
- [30] SEL seek the inclusion of a new Special Purposes Zone referred to as the Franz Josef Amenities Area Zone (**FJAAZ**) into the TTPP. The purpose of the FJAAZ is to identify and set aside an area that can appropriately facilitate development of an aerial cableway through a future Discretionary Activity consent process and supported by an associated objective and policy framework befitting of such a unique and regionally significant tourism proposal. Consequential amendments are also proposed to other chapters of the TTPP to facilitate future development within the proposed FJAAZ.

- [31] A full proposed draft chapter for the FJAAZ has been developed for incorporation into the Special Purposes Zones part of the TTPP and is attached at **Appendix [A]**.
- [32] It is proposed that the construction and operation of an aerial cableway inclusive of all ancillary facilities and associated earthworks and indigenous vegetation clearance are assessed as a full Discretionary Activity.
- [33] The proposed chapter for the FJAAZ includes its own objective and policy framework specific to the proposed zone and as per my evidence below, this is the most appropriate way to achieve the higher order strategic and district wide objectives and policies.
- [34] It is proposed that a definition of aerial cable way is added to the definitions chapter of the TTPP.
- [35] It is proposed that an addition is made to the introduction and general provisions (pages 24 and 25) of the TTPP to include the proposed FJAAZ in the table of Special Purpose Zone Descriptions.
- [36] A new policy is proposed in the Natural Features and Landscapes Chapter (NFL-P8) to clarify that the FJAAZ is within an ONL and ONF but, a separate regulatory framework is provided and that the objectives, policies and rules of this chapter will not apply.
- [37] A new policy is proposed in the Ecosystems and Indigenous Biodiversity chapter (ECO-P11) confirming that all indigenous vegetation clearance in the FJAAZ is a Discretionary Activity pursuant to rule FJAAZ-R1. In effect, the objectives and policies remain relevant for consideration in any resource consent application and this new policy serves only as clarification that the activity of vegetation clearance is assessed by the FJAAZ rules.
- [38] Similarly to the above, a new policy is proposed in the Earthworks - Te Huke Whenua chapter (EW-P5) confirming that all earthworks in the FJAAZ is a Discretionary Activity pursuant to rule FJAAZ-R1. In effect, the objectives and policies remain relevant for consideration in any resource consent application and this new policy serves only as

clarification that the activity of earthworks is assessed by the FJAAZ rules.

- [39] A new policy is proposed in the Light - Ngā Rama chapter (LIGHT-P4) confirming that all artificial lighting in the FJAAZ is a Discretionary Activity pursuant to rule FJAAZ-R1. In effect, the objectives and policies remain relevant for consideration in any resource consent application and this new policy serves only as clarification that the activity of artificial lighting is assessed by the FJAAZ rules.
- [40] A new policy is proposed in the Noise - Ngā Oro chapter (NOISE-P5) confirming that all artificial lighting in the FJAAZ is a Discretionary Activity pursuant to rule FJAAZ-R1. In effect, the objectives and policies remain relevant for consideration in any resource consent application and this new policy serves only as clarification that the effect of noise is assessed by the FJAAZ rules.
- [41] Overall, the FJAAZ is intended to recognise the outstanding universal and intrinsic values as well as the on-going issues of glacial retreat, and inability to access the grandeur of the glacier for scenic, recreational, and commercial purposes. The FJAAZ will recognise and provide for the importance of sustainable tourism and economic well-being arising from tourism at this icon destination by providing an area for an aerial cableway to be considered through a future consenting process.
- [42] Considerable further design, surveys, investigations and assessment are required to develop a comprehensive proposal for an aerial cableway. As such, the FJAAZ takes a precautionary approach and requires that every aspect of developing and subsequently operating an aerial cableway should be assessed as a full Discretionary Activity and in my opinion, such an application would likely be subject to full public notification.

Statutory Considerations

- [43] Various statutory tests must be applied when considering the most appropriate zoning and provisions for the TTPP. Matters to consider are as follows:

- (a) whether the provisions (in this case, the proposed zoning) accord and assist the Council in carrying out its functions and achieve the purpose of the Act (section 74(1) of the Act);
- (b) whether the provisions accord with Part 2 of the Act (section 74(1)(b));
- (c) whether the provisions give effect to management plans and strategies prepared under other Acts i.e. Conservation Management Plans (section 74(2)(b)).
- (d) whether the provisions give effect to the regional policy statement (section 75(3)(c));
- (e) whether the provisions give effect to a national policy statement (s75(3)(a));
- (f) whether the provisions have regard to the actual or potential effects on the environment, including, in particular, any adverse effect (s76(3));
- (g) the extent to which the objectives are the most appropriate way to achieve the purpose of the Act (s32(1)(a));
- (h) whether the policies and methods (in this case, the zoning is the method) are the most appropriate way to achieve the objectives, having regard to their efficiency and effectiveness (s32(1)(b)) and taking into account (under s32(2):
 - i. the benefits and costs of the proposed policies and methods; and
 - ii. the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules of other methods.

[44] Where changes are proposed to a proposal after the first section 32 evaluation has been undertaken (where changes are proposed to a notified plan change for example), a further evaluation of the changes is required under section 32AA.

- [45] This further evaluation is only required in relation to the changes that are proposed to be made since the first evaluation report was completed².
- [46] The further evaluation is to be undertaken in accordance with section 32(1) to (4) of the Act.
- [47] The assessment contained in my evidence addresses the changes to the TTPP since it was notified, namely the proposed rezoning of the Franz Josef Valley to incorporate the FJAAZ, and effectively comprises a section 32AA evaluation.
- [48] I assess the statutory tests set out above for the re-zoning proposal in the sections of my evidence that follow. Firstly, however, I identify the zoning options that are before the Hearings Panel, which are to be assessed in accordance with these tests. I then assess the effects of the preferred option.

The Zoning Options

- [49] There are three zoning options before the Hearings Panel for consideration. These are:
- (a) Option A – Maintain the notified zoning.
 - (b) Option B – Apply the notified Open Space Zone or the Scenic Visitor Zone to the proposed area of re-zoning.
 - (c) Option C – Apply the proposed Franz Josef Amenities Area Zone and consequential plan amendments as sought by SEL.

Option A – Maintain the Notified Zoning

- [50] Option A would involve declining the re-zoning request by SEL and maintaining the Natural Open Space Zone (NOZ) over the subject site.
- [51] The purpose of the NOZ is to recognise and provide for open spaces that contain high natural, ecological and landscape values. The zone also applies to a variety of parks and reserves, coastal and riverside esplanade reserves, scenic reserves, local purpose reserves and

² Section 32AA(1)(b)

recreation reserves. A low level of development and built form is anticipated within this zone to retain the natural/biodiversity values within natural open space areas.

[52] While the NOZ applies to large areas of public conservation land and makes provision for some development, I do not consider that this option would comfortably provide for an aerial cableway.

[53] Specifically, a commercially constructed and operated aerial cableway would not in my opinion, fall within the TTPP definitions of 'Conservation Activities', or 'Recreation Activities' and would need to be assessed as a Non-Complying Activity pursuant to rule NOZ-R17.

[54] With limited objective and policy direction enabling the development of an aerial cableway in this zone and having to apply the Natural Features and Landscapes objectives and policies (and rules) that seek to protect (i.e. not alter, change or affect) the outstanding values, it is my opinion that an application for a Non-Complying Activity would be very challenging to successfully obtain resource consent. This is an opinion shared by Ms Easton.³

[55] In my opinion, there are significant positive effects to the development of an aerial cableway, and it is likely that the potential adverse effects can be satisfactorily avoided, remedied, or mitigated as outlined in the expert evidence of Mr. Colegrave, Dr Wells, Mr. Faulkner, Mr Greenaway, and Ms Smetham.

[56] Accordingly, it is my opinion that the notified zoning and associated provisions are not the most appropriate for consideration of a sustainable tourism development of this scale and importance.

Option B – Apply the Notified Open Space Zone or Scenic Visitor Zone

[57] Ms Easton has suggested that if the amenities area proposal were incorporated into the TTPP that another new zone would not be necessary. She has suggested that the Open Space Zone could be applied to the same area instead. She suggests that an aerial cableway could be considered a Restricted Discretionary Activity under rules OSZ-R15

³ TTPP Section 42A Officers Report, Franz Josef Area, paragraph 44.

[14], R16 and R17, and a Discretionary Activity for indigenous vegetation clearance and landscape matters.⁴

[58] In my opinion, this wouldn't be the most efficient and effective option. As noted by Ms Easton, this approach would still require a Discretionary Activity Consent for indigenous vegetation clearance as a minimum and through the bundling of the consent activities, the activity status would be no different than that outlined in the submitter's proposal i.e. a full Discretionary Activity Consent.

[59] Further, the rules OSZ-R14, R16, and R17 are not considered to apply to an aerial cableway. Specifically, these rules apply to Recreational Activities, Conservation Activities, Retail Activities and Access and Carparking.

[60] I do not consider that an aerial cableway would fit within the definition of a Conservation Activity.

[61] I do not consider that an aerial cableway would fit comfortably within the definition of Recreation Activity. This requires the use of land, water bodies and/or buildings for active or passive enjoyment. I do not consider that an aerial cableway, its construction, and its operation was anticipated by this definition and while it references use of a building, I don't think the definition of building applies to an aerial cableway.

[62] Building is defined in the TTPP as:

“means a temporary or permanent movable or immovable physical construction that is:

a. partially or fully roofed, and

b. is fixed or located on or in land;

but excludes any motorised vehicle or other mode of transport that could be moved under its own power.”

[63] An aerial cableway is not necessarily going to be roofed. The lower, mid, and top terminal stations may be, but the towers and majority of the

⁴ TTPP Section 42A Officer's Report, Franz Josef Area, paragraph 45.

cableway will not. Further, Section 9 of the Building Act clarifies what is not included as a building under that Act and Section 9(c) excludes ski tows and other similar stand-alone machinery systems. In my experience consenting aerial cableways for clients in the Queenstown Lakes area, this section of the Building Act has been applied to exclude gondolas and lifts from being interpreted as a building.

[64] Taking the above into consideration, it is likely that a proposal for an aerial cableway sought through the Open Space Zone would potentially require a Non-Complying Activity consent pursuant to rule OSZ-R26. This would be more stringent than the activity status sought by SEL in their original submission.

[65] In regard to the suggestion to use the Scenic Visitor Zone (**SVZ**)⁵, it is my opinion that this would be less efficient and effective than the OSZ. The zone purpose is to recognise the unique tourism and scenic qualities of the *commercial areas* of Fox Glacier/Weheka, Franz Josef/Waiiau and Punakaiki townships.

[66] Quite simply, the SVZ applies to areas of the district that have quite different environmental characteristics and issues to be addressed than the area of re-zoning. While objectives, policies and rules could be added to this chapter it is my opinion that trying to adapt the provisions to incorporate the site specific and unique requirements for an aerial cableway would be somewhat ad hoc. I note that Ms Easton also considers this to be a less appropriate option than the OSZ⁶.

Option C - Apply the proposed Franz Josef Amenities Area Zone

[67] This option would involve approving the FJAAZ and the provisions as outlined in **Appendix [A]**.

[68] While Ms Easton considers it would be more appropriate to apply an existing (notified) zone such as the OSZ, I believe this would not be appropriate.

⁵ Section 42A Report, Special Purposes Zones, paragraph 417.

⁶ Special Purposes Zone Section 42A Report, paragraph 417.

[69] It is my opinion that a zone should spatially identify areas with common environmental characteristics or where common environmental outcomes are sought, by bundling compatible activities or effects together, and controlling those that are incompatible.

[70] Further, the Ministry for the Environment National Planning Standards Guidance for Standard 8 – Zone Framework notes that there may be instances where a planning response requires its own special purpose zone including, local, site-specific exceptional uses that cannot be managed through any of the framework zones or spatial planning tools. The guidance goes on to state:

New special purpose zones can only be created when all the criteria are met. The Zone Framework Standard states:

“An additional special purpose zone must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria:

- a) are significant to the district, region or country*
- b) are impractical to be managed through another zone*
- c) are impractical to be managed through a combination of spatial layers.”*

[71] Regarding a proposal to enable an aerial cableway, the evidence of Mr Colegrave and Mr Greenaway demonstrates that the proposal is significant in terms of economic, social, and recreational benefits both locally and regionally. Further, the proposal is significant in its scale and will be unique in that it will not be found anywhere else in the District.

[72] The effects of operating an aerial cableway in the proposed location are highly specific and unique to this activity such that an existing zone cannot practically and efficiently manage the activity. As noted above, the OSZ and SVZ contain few (if any) relevant provisions.

[73] I have considered whether it would be practical to manage a future aerial cableway proposal through additional overlays, precincts, specific controls, or development areas. In my opinion, a development area had

the potential to be an appropriate mechanism and there is a Development Area chapter in the TTPP however, I consider that there is insufficient information to apply a firm outline plan, structure plan, or master plan.

[74] Any aerial cableway proposal requires substantial further investment and investigation into ecological effects and management, hazards, engineering, design and operation. Accordingly, in my opinion a special purpose zone with an appropriate framework of provisions a precautionary Discretionary Activity Consent status is a more suitable planning outcome for the SEL proposal for an aerial cableway in the TTPP.

[75] I also note that the TTPP has similar special purpose zones such as that for the stadium special purpose zone. The approach sought by SEL is therefore not a bespoke situation and in my opinion, does not create an integrity issue.

Assessment of effects of the proposed re-zoning

[76] As identified above, it is important and necessary to consider the actual and potential effects on the environment of the proposed re-zoning. I consider that the relevant categories of potential effects on the environment are as follows:

- (a) Effects on the Economy;
- (b) Effects of Natural Hazards;
- (c) Effects on Ecology;
- (d) Effects on Recreation;
- (e) Effects on Landscape Values; and
- (f) Effects on Cultural Values.

Effects on the Economy

- [77] As outlined in Mr Colegrave's evidence, the region accounts for 8.5% of New Zealand's land mass, but is home to only 0.6% of its population. Further, pre-Covid-19, the district generated nearly 20% of its GDP from tourism.
- [78] Mr Colegrave's evidence notes that there is an even greater concentration of, and reliance upon, tourism in the Westland District and Glacier Country specifically where 64% of the regions tourism activities and attractions exist.
- [79] Consequently, it is evident that the West Coast region and the local Glacier Country, is clearly highly reliant on tourism to help sustain its economy. This is recognised in the TTPP through Strategic objective TRM-O1.
- [80] Mr Colegrave's evidence demonstrates that through initial construction, short term economic benefits would occur including that regional GDP would be boosted by \$7.2 million with employment for 30 FTE people and wages/salaries of \$4.2 million.
- [81] Annual operations were estimated to boost regional GDP by \$1.9 million, provide permanent employment for 31 fulltime staff, and boost regional wages and salaries by \$1.45 million annually.
- [82] In addition, Mr Colegrave notes that as it became more popular, an aerial cableway would attract more visitors to the region, including those that may not have come otherwise. Plus, the aerial cableway may help to extend the average stay length of visitors generally, thereby helping boost tourism value in multiple ways.
- [83] The Te Tai Poutini Destination Management Plan 2022 – 2030 (**DMP**) was developed following the Covid-19 pandemic to reimagine the region's future tourism potential and identity. While the DMP implores a reduced reliance on the glaciers over time, it notes that they will remain anchor attractions for the foreseeable future.

- [84] Mr Colegrave opines that significantly improving access to the glaciers and making them a viable option for viewing by people that are not experienced hikers will help draw a different mix of visitors to the region, which will help meet the DMP's objectives to diversify its tourism products and hence customer base over time.
- [85] I agree with Mr Colegrave and further consider that an aerial cableway attraction would 'slow down' visitors and give a reason (amongst the other tourism offerings in Glacier Country) for a longer stay in the area noting that this accords with his opinion and that recorded in the appendices of Mr Greenaway's evidence⁷. I further note that I attended the same community meeting with Mr Greenaway on 15th April 2024 and witnessed the support from the attendees for the proposal and their expectations for increased length of stay and visitor yields.
- [86] Further, the evidence of Mr Greenaway is that an aerial cableway is unlikely to negatively affect other existing tourism products i.e. scenic over flights and snow landings. Development of an aerial cableway is unlikely to displace customers from that product offering. The two experiences would be substantially different and will operate at considerably different price points meaning that the activities could co-exist – noting that aircraft landings will be a matter for consideration under the DOC management plans as well.
- [87] Overall, and relying on the expert evidence of Mr Colegrave and Mr Greenaway, I consider that the proposed re-zoning will have significant positive economic effects and align with the strategic objective of the TTPP for tourism.

Effects of Natural Hazards

- [88] I have relied on the expert evidence of Mr Faulkner regarding geotechnical and natural hazard effects.
- [89] Mr Faulkner previously undertook an assessment of the proposed re-zoning area and provided a report in 2018 which identified a route for an

⁷ *Evidence of Mr. Colegrave paragraph 56*

aerial cableway that avoided or reduced the risk from natural hazards and provided competent foundation subgrades.

- [90] While Mr Faulkner's evidence identifies that there is minor scope for route variation of a future aerial cableway within the identified FJAAZ, the key geographical features of Sentinel and Teichelman Rock on the valley floor, the Coulter and Hende Ridgelines, and Crawford Knob, will dictate and restrict the route choice.
- [91] Mr Faulkner's assessment has identified a preferred route which avoids or limits exposure to natural hazards, and targets areas where construction of the required infrastructure is more achievable.
- [92] However, I acknowledge Mr Faulkner's evidence that further detailed assessment will be necessary to quantify the natural hazards and geotechnical environment in sufficient detail to support the detailed design and associated consents required for a future aerial cableway.
- [93] Accordingly, the proposed objective and policy framework in **Appendix [A]** directs that an aerial cableway shall only be developed where natural hazard risk can be managed to a tolerable level (FJAAZ-O3). This outcome is to be achieved through the policies that direct minimising hazard risk (acknowledging that not all risk can be avoided), mitigating significant risk to life and damage to the aerial cableway and specifying the need to provide a comprehensive assessment of natural hazard risk at the time an application for consent is made (policies P6 – P8).
- [94] Further policy direction to achieve the outcome sought by the objective is to require a Natural Hazards Event Response Plan outlining the process of evacuating visitors if a natural hazard event occurs during operation (policy P9).
- [95] Additionally, proposed policy direction seeks to ensure that signage exists to educate the public of the natural hazard risk so they can make an informed decision to utilise the aerial cableway (policy P10). This approach has been adopted at the Queenstown Gondola where the public are advised of the rock fall hazard when using the new car park and facilities at the end of Brecon Street. Education allowing individual

visitors to make their own informed decisions of the residual risk assists in ensuring tolerable risk levels exist.

- [96] Overall, Mr Faulkner's evidence indicates that development of an aerial cableway in the proposed rezoning area is feasible from a geotechnical and natural hazard perspective. The zoning framework ensures that suitable further comprehensive assessment is undertaken to quantify and minimise natural hazard risk and inform visitors of the residual risk. Accordingly, it is my opinion that the effects of natural hazards can be managed to be no more than minor, and so are worthy of consideration through the Discretionary Activity consent process sought by the proposed re-zoning.

Effects on Ecology

- [97] I have relied on the expert evidence and report of Dr Wells in considering the proposed re-zonings effects on indigenous biodiversity.
- [98] I accept Dr Wells' opinion that the proposed area of re-zoning has very high ecological values, reflecting flora, fauna, and landscape factors. It is an integral part of a protected intact altitudinal landform and vegetation sequence containing diverse ecosystems from lowland forest to alpine fellfield and the area meets the criteria for significance under the NPS-IB.
- [99] As noted by Dr Wells, the primary ecological effects of the re-zoning would be the loss of vegetation and habitat, the increased likelihood of exotic plant and animal invasion within intact habitats, the risk of bird strike from window reflection with the aerial cabins and possibly the cableway itself, and disruption of kea behaviour by visitors at Crawford Knob in particular.
- [100] Dr Wells advises that the ecological effects of the proposal related to construction activities and vegetation and habitat loss can be appropriately managed through a combination of avoidance measures, fauna management plans, and offsetting and compensation plantings in lowland environments of the ecological district.

- [101] Additional ecological surveys and effects management measures that are outlined in Dr Wells' report will be required as part of the assessment of any future resource consent for an aerial cableway. However, adherence to these requirements (and additional ecological surveys and finalised design not presenting outcomes unanticipated in his current assessment), would result in ecological effects being no more than minor in his opinion. I accept this expert advice.
- [102] The on-going operation of an aerial cableway would have different ecological effects that Dr Wells considers will be more challenging to manage. These relate primarily to the indirect effects of thousands of visitors annually within the subalpine environment of Crawford Knob, a remote area that currently sees only a handful of visitors every year. This change in accessibility presents a significant risk of pest plant and animal incursions, that could then act as a source for spread into the surrounding environment – noting that the objective and policy framework anticipates the majority of visitors (other than skilled alpinists), would be restricted to the terminal building and viewing decks. Effects of humans on kea behaviour also pose a significant issue at Crawford Knob, similar to that experienced in mountain townships and ski fields of the South Island.
- [103] It is Dr Wells' opinion that very stringent management plans and procedures will need to be put in place to manage these visitor-related effects at Crawford Knob, including restricting visitors to facilities, but with such measures in place he considers that residual effects will be reduced to levels that are minor.
- [104] The ongoing operation of a future aerial cableway also carries the risk of bird strike, predominantly with reflective surfaces which can lead to injury or death of flying avifauna. Dr Wells advises this could be mitigated through use of decals or UV reflecting films applied to glazed areas.
- [105] The assessment of any future resource consent application for an aerial cableway will require the associated effects on indigenous biodiversity to be assessed under the strategic directions NENV and ECO chapters of the TTPP as well as the specific objectives and policies for the proposed re-zoning.

- [106] Importantly, proposed objectives FJAAZ-O7 and O9 require development of the roading, and car park area to minimise vegetation clearance and that overall, land use in the zone maintains indigenous biodiversity values.
- [107] These proposed objectives are supported by proposed policies P15, 24 - 27. These policies require that artificial lighting shall not effect habitats of indigenous fauna, that indigenous biodiversity values are minimised so that indigenous species or communities continue to persist in their natural habitats and natural range, there is no degradation of threat status, loss of indigenous cover or disruption to ecological processes, functions or connections; and there is no reasonably measurable reduction in local populations of any nationally critical, nationally endangered, or nationally vulnerable species.
- [108] In addition, residual adverse effects (if any) are directed to be offset through protection, restoration and enhancement actions that achieve no net loss and preferably a net gain in indigenous biodiversity values.
- [109] In my opinion, the strength of the direction afforded by the proposed objective and policy framework and the Discretionary Activity status that would apply to any application for an aerial cableway provides sufficient certainty that a successful proposal would need to be comprehensively designed, assessed, and planned in accordance with the expert advice of Dr Wells.
- [110] I also note that the Hearings Panel can take comfort that, in addition to the provisions proposed in **Appendix [A]**, additional ecological scrutiny of the effects of any future proposal would occur through the DOC Management Plan and CMS reviews, and the consideration of a Concession application. Additionally, DOC and their ecological experts will assess any necessary applications for a Wildlife Act Authority under the Wildlife Act 1953 for disturbance to lizard/bat/Helms Stag Beetle and Powelliphanta spp snail habitat.
- [111] Accordingly, taking all the above into consideration, and relying on the expert evidence of Dr Wells, it is my opinion that the potential adverse effects on indigenous biodiversity can be managed such that they are no

more than minor and would be worthy of consideration through a Discretionary Activity consent process as sought by the proposed re-zoning.

Effects on Recreation

[112] I have reviewed and rely on the expert recreation and tourism evidence of Mr Greenaway when forming my opinions on the effects on recreation.

[113] Mr Greenaway has extensive experience in recreation and tourism planning. He has analysed the extent of community support for the proposed re-zoning and future aerial cableway proposal.

[114] Based on Mr Greenaway's review of relevant submissions, and canvassing of Glacier Country tourism operators, he opines that an aerial cableway would be an iconic visitor experience and that there is strong support for the proposal.

[115] Having attended the Glacier Country meeting with Mr Greenaway on 15th April 2024, I agree that there was a wide level of support from the tourism operators, residents, and the Westland District Council⁸.

[116] Conversely, consultation with the key outdoor recreation groups FMC and NZAC outlined that there are concerns with the proposal relating to both the introduction of built form and structures into the National Park but also regarding management at the aerial cableway terminus to avoid public access to the alpine setting.

[117] In considering the effects on existing recreation and tourism values, Mr Greenaway identifies that there is some tension between the value of an aerial cableway as a tourism asset and its potential effects on existing recreation values, namely walkers on the valley floor walk and the Roberts Point and Alex Knob tracks, Heli tourists and independent alpinists.

⁸ *Mayor Helen Lash who offered Council support to make an application under the Governments Fast Track Approvals Bill.*

- [118] I agree with Mr Greenaway that the valley floor walkers are the target clients of a future aerial cableway and enabling such development is likely to increase the quality of their visitor experience.
- [119] The Roberts Point and Alex Knob tracks are less well used being more physically demanding than the main valley floor walk. Due to their location, they are more susceptible to landscape effects which are addressed below.
- [120] It has been described above how helicopter operations are anticipated to continue and be largely unhindered by an aerial cableway due to the difference in the experience they offer, the price point difference for that activity vs. a ticket for an aerial cableway, and the different operating restrictions in regard to weather.
- [121] Regarding the proposed zoning and its issues for alpinists of 'people management' proposed objective FJAAZ-O8 seeks an outcome where public and concessionaire access to the glacier is facilitated – where it is safe to do so.
- [122] This objective is supported by policy direction FJAAZ-P22 that requires walking access from the upper terminus of an aerial cableway to the Almer Glacier/Salisbury Snowfield for competent private alpine enthusiasts, guiding Concessionaires and their clients. This is further supported by proposed FJAAZ-P23 which requires a management regime to prevent unauthorised access by the general public.
- [123] The overall outcome is that an aerial cableway provides access for alpine recreation (private and commercial) in a managed scenario i.e. an accreditation process like that used for paragliding in the G756 airspace next to the SEL gondola and restaurant in Queenstown⁹. This framework provides a recreational benefit for FMC/NZAC and their members whilst avoiding a safety risk to inexperienced members of the public. The management regime could also be developed to avoid overcrowding at nearby huts by controlling the scale of alpine access allowed.

⁹ *Private paragliders must be accredited through the Southern Hang Gliding and Paragliding Club before they can launch from the Bob's Peak area and utilize the G756 restricted air space.*

- [124] Importantly, the proposed objective and policy framework also seeks to minimise effects on the quality of the experience of existing recreation activities particularly during construction. Proposed objective FJAAZ-O6 seeks an outcome where construction is demonstrated to be and subsequently undertaken efficiently – in recognition that temporary construction effects can be a distraction from the values of the Franz Josef Valley. This is supported by policies P2, P17 and P18 which seek to maintain road access in the lower valley during construction, ensure detailed construction management planning is assessed, and that aircraft operations during construction are controlled through restrictions of timing, frequency of flights and location of landing areas.
- [125] The proposed objective and policy framework also seeks to ensure that the operation of an aerial cableway maintains a high-quality visitor experience for its users (thus ensuring positive feedback and continuity of tourism demand), through proposed objective FJAAZ-O1 and policies P4 and P5. These policies require that congestion (which can lead to visitor dissatisfaction) will be controlled through management of the timing of the return trip, limits on the visitor capacity per hour, the time visitors spend at the upper terminus and a limit on the visitor capacity at the upper terminus.
- [126] Overall, I accept Mr Greenaway's expert opinions that an aerial cableway is worthy of being considered through a resource consent process. I accept that there are social, environmental, cultural and economic values that will require consideration regarding recreation and tourism issues and that Mr Greenaway acknowledges a Discretionary Activity status will enable these matters to be thoroughly tested at consent stage.
- [127] The proposed objective and policy framework seeks to maintain high quality visitor experiences for existing recreation activities and to ensure that the aerial cableway is itself, a high quality, iconic, visitor experience.
- [128] In my opinion, the proposed objective and policy framework sets a suitable direction for the level of assessment and management planning that would need to be incorporated into a future proposal to achieve these outcomes.

[129] A Discretionary Activity consent status affords Council the ability to publicly notify any future consent proposal and ensure that these management issues are suitably and comprehensively addressed to achieve the recreation outcome sought by proposed objective FJAAZ-O1.

[130] Taking all the above into consideration, it is my opinion that the effects of the proposal can be managed to be no more than minor, and so are worthy of consideration through a Discretionary Activity consent process enabled by granting the proposed re-zoning.

Effects on Landscape Values

[131] I have read and rely on the expert evidence of Ms Smetham and her previous reporting in considering the proposed re-zonings effects on landscape.

[132] Ms Smetham outlines in her evidence that any physical activity has the potential to affect landscape values or alter the character of a landscape. However, it is important to appreciate that changes to a landscape need not necessarily be adverse. Whether effects are adverse or not depends on the values associated with the landscape and to a large extent on public expectation of what can be reasonably anticipated to occur in the landscape. A key factor relating to the proposed aerial cableway is the recognition and management of Franz Josef Glacier as an Icon Destination with an expectation of access firmly entrenched in the public psyche. I agree with Ms Smetham and have referred to the Icon Destination status of the valley in my assessment of the DOC management documents.

[133] Ms Smetham notes that visual effects on landscape values will vary depending on the proximity of the viewer to the aerial cableway, and elevation relative to the aerial cableway structures. She notes that typically views from the public tracks are very constrained by the surrounding vegetation, steep complex topography and variable weather conditions. Consequently, views of a future aerial cableway will be restricted by topography and accordingly limited in extent and the entire aerial cableway will not be visible from any one location. Views

experienced from scenic flights will be unconstrained, but panoramic, large scale, and fleeting from a moving aircraft. I agree with Ms Smetham on these matters.

- [134] Ms Smetham identifies that separation distance is a key mitigating factor in terms of visual effects with components of a future aerial cableway seen from 0km – 3km distances. Components 2km – 2.5km away will be at the limit of visibility and while some components (base station and the lower two towers) will be seen at close proximity, these will be located within the modified carpark area and experienced as part of the visitor facilities.
- [135] Ms Smetham also notes that potential adverse visual effects will be readily mitigated through siting, articulated built form, and adherence to a proposed standard requiring low reflectance colours be utilised for any building cladding including roofing and towers that will blend with the surrounding environment. These matters are part of the proposed objective and policy framework at FJAAZ-O4 and FJAAZ-P11, 12, and 13.
- [136] Ms Smetham does identify that the introduction of built form into an almost pristine landscape will inevitably reduce natural character, however the ongoing ecological and physical processes of succession and erosion will continue unaffected by the proposed zoning and future aerial cableway and in addition the components of an aerial cableway will be subservient to the landscape such that the natural character values will remain dominant.
- [137] I agree with Ms Smetham's expert opinion on this matter. Accordingly, that is why in the proposed provisions in **Appendix [A]**, I have suggested that the ONL and ONF status of the area is acknowledged, but that a proposed new policy to the Natural Features and Landscapes Chapter (NFL-P8) is incorporated stating that the NFL provisions do not apply and that a separate regulatory framework applies – the FJAAZ provisions.
- [138] This acknowledges the sensitivity of the environment and its landscape values but avoids the issues of achieving objective NFL-O1 which

requires protection of the outstanding landscape values (which essentially means no change).

[139] I note that a similar approach has been adopted in the QLDC PDP whereby the Ben Lomond Recreation Reserve containing the SEL Queenstown gondola and facilities is located within an ONL and a Landscape Priority Area. However, the reserve is located in an Open Space & Recreation Zone – Informal Recreation and Ben Lomond Sub-Zone. The zone and sub-zone recognise the importance of these facilities in terms of their tourism value and the strategic Landscape Chapter includes a policy requiring these zones to be classified as ONL/ONF and provide a separate regulatory framework within which the remaining policies of the Strategic Landscape Chapter do not apply (this was termed an ‘exception framework’ by the Environment Court). This allows the on-going existence of and provision for appropriately designed and located future development in the zone.

[140] In my opinion, a similar approach in the TTPP that recognises the outstanding landscape values but enables sensitive and subservient development to occur is an appropriate management approach.

[141] Ms Smetham’s expert opinion is that the vast scale of the receiving environment in relation to the small scale of the any future aerial cableway structures, the avoidance of intrusion into the skyline, the co-location with existing modification, the complex topography and rough textured land cover (which enable a high absorption capacity), and the limited number of viewpoint locations with views obtained from distances between 0 – 3.0km will result in overall low adverse effects on landscape values.

[142] I accept Ms Smetham’s expert opinion, and I consider that the proposed zone, the objective and policy framework will ensure that the effects on landscape values can be managed so that they are no more than minor and are worthy of consideration through a Discretionary Activity consent process as sought by the proposed re-zoning.

Effects on Cultural Values

- [143] This proposal for a re-zoning has not been supported by a cultural impact assessment. However, it is my opinion that cultural values have been given high regard in the development of the proposed re-zoning and development of the proposed provisions.
- [144] Since SEL embarked on this proposal, they have consulted with various stakeholders from an early stage. This includes meeting with and the provision of updates and information on the re-zoning proposals in both the DOC Draft Management Plan and TTPP statutory processes with Te Rununga o Ngati Waewae and Te Rununga o Makaawhio in 2016, 2019, and 2024.
- [145] The SEL submission seeking the proposed re-zoning included a draft set of objectives and policies which included specific provisions directing any future resource consent application to include a cultural impact assessment and consultation regarding the provision for, and communication of, mana whenua history and values to visitors.
- [146] While the draft provisions in **Appendix [A]** have been revised and updated, objective FJAAZ-10 still requires that Poutini Ngai Tahu's spiritual, cultural, and physical relationship with the Franz Josef Valley is protected and enhanced. Proposed policies P28 and P29 also still direct that a cultural impact assessment is provided with any future resource consent application and that communication of mana whenua history and values must be authorised through consultation with Te Rununga o Makaawhio and Te Rununga o Ngati Waewae as representatives of Poutini Ngai Tahu.
- [147] Given that the ability for a resource consent to be sought for an aerial cableway will require substantial further investigations, surveys, reports, and design before a firm and comprehensive proposal can be compiled, I consider it appropriate that a detailed assessment of the cultural effects is undertaken at that point in time.
- [148] In my opinion, the proposed objective and policy framework is explicitly clear that this assessment is necessary, and the Discretionary Activity status ensures that Council can request it be provided (if not provided

up front). A cultural impact assessment will enable active participation of Poutini Ngai Tahu in the consent process and the Discretionary Activity Consent status will enable the Council to undertake limited or full notification if required.

[149] In addition to the above, I have reviewed the further submission of Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu and note that this further submission did not seek SEL submission and re-zoning proposal be disallowed, nor did they raise any issues of adverse cultural effects. It was simply noted that they did not think the proposed rezoning was located within SASM #145.

[150] Taking the above into account, it is my opinion that the effects of the proposal on cultural values can be managed to be no more than minor, and so are worthy of consideration through a Discretionary Activity consent process enabled by granting the re-zoning.

National Policy Statement on Indigenous Biodiversity.

[151] The National Policy Statement for Indigenous Biodiversity (**NPS-IB**) applies to indigenous biodiversity in the terrestrial environment throughout New Zealand and is therefore relevant to the consideration of the proposed re-zoning.

[152] The relevant objectives and policies of the NPS-IB are assessed below:

- (1) The objective of this National Policy Statement is:**
 - (a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and**
 - (b) to achieve this:**
 - (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and**

- (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and**
- (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and**
- (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.**

- 1: *Indigenous biodiversity is managed in a way that gives effect to the decision making principles and takes into account the principles of the Treaty of Waitangi.*
- 2: *Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:*
 - (a) *managing indigenous biodiversity on their land; and*
 - (b) *identifying and protecting indigenous species, populations and ecosystems that are taonga; and*
 - (c) *actively participating in other decision-making about indigenous biodiversity.*
- 3: *A precautionary approach is adopted when considering adverse effects on indigenous biodiversity.*
- 7: *SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.*
- 10: *Activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement.*
- 13: *Restoration of indigenous biodiversity is promoted and provided for.*

- [153] Relying on the expert evidence of Dr Wells, I consider that the objective and policies can be achieved. Specifically, through further comprehensive assessment, surveys, and adoption of recommended management regimes, as outlined in Dr Wells' assessment, the proposed re-zoning is expected to maintain indigenous biodiversity with no overall loss as required by part (a) of the objective. This is a requirement of the proposed objective and policy framework in **Appendix [A]**.
- [154] Regarding part (b) of the objective and policies 1 and 2, it is considered that the principles of the Treaty and the ability for Poutini Ngai Tahu to exercise kaitiakitanga are provided for by the proposed re-zoning. This will occur through the requirements for a cultural impact assessment and consultation associated with any resource consent for an aerial cableway.
- [155] Regarding policy 3, it is my opinion that the proposed re-zoning is a precautionary approach to considering adverse effects on biodiversity. Dr Wells has undertaken a comprehensive initial assessment of ecological effects, but it is acknowledged that significantly greater assessment and development of management techniques will be necessary as part of a future resource consent application. The proposed objectives and policies for the rezoning direct that such further assessment will be necessary, and the Discretionary Activity status gives sufficient breadth of assessment and discretion to ensure that suitable reports are provided, or can be commissioned, and that if ecological effects are found to be inappropriate, the application could be declined.
- [156] Regarding Policy 7, based on the advice of Dr Wells, the area of the proposed re-zoning would be considered a SNA in the future, subject to the current direction of the NPS-IB and the requirements for Council SNA identification and mapping. The expert evidence from Dr Wells is that the potential adverse ecological effects of a future aerial cableway can be avoided or appropriately managed. Using the effects management hierarchy, Dr Wells outlines in his assessment that some effects can be avoided, minimised or mitigated, and that some offsetting and

compensation may be required. He provides examples of feasible offsetting and compensation in his report.¹⁰

[157] Regarding policy 10, an aerial cableway is not specifically provided for in the NPS-IB as it does not fall within the definition of specified infrastructure. However, the proposed rezoning is considered to provide for social, economic and cultural well-being and will with appropriate assessment and management as outlined by Dr Wells, achieve environmental wellbeing in accordance with the intention of this policy statement.

[158] Regarding policy 13, Dr Wells has outlined in his report how restoration of adverse effects on indigenous biodiversity can be achieved through the offset and compensation requirements of the effects management hierarchy.

[159] Overall, relying on the expert ecological evidence of Dr Wells, the proposed rezoning will not be contrary to the NPS-IB.

National Policy Statement for Freshwater

[160] This National Policy Statement applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments. Given the climate of the west coast, and that the proposed zone spans the Waiho River and many other smaller tributaries, the National Policy Statement for Freshwater Management 2020 (**NPS-FM**) is relevant to the consideration of the proposed rezoning.

[161] The relevant objectives and policies of the NPS-FM are assessed below:

1. The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

(a) first, the health and well-being of water bodies and freshwater ecosystems

¹⁰ Wildlands Report – Ecological Assessment of a Proposed Aerial Cableway, Franz Josef, Section 12.2

(b) second, the health needs of people (such as drinking water)

(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

- 1: *Freshwater is managed in a way that gives effect to Te Mana o te Wai.*
- 2: *Tangata whenua are actively involved in freshwater management (including decision making processes), and Māori freshwater values are identified and provided for.*
- 3: *Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.*
- 5: *Freshwater is managed (including through a National Objectives Framework) to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.*
- 7: *The loss of river extent and values is avoided to the extent practicable.*
- 8: *The significant values of outstanding water bodies are protected.*
- 9: *The habitats of indigenous freshwater species are protected.*
- 10: *The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.*

[162] Dr Wells' ecological assessment has comprehensively assessed the freshwater habitats of the proposed rezoning area. The waterways are

host to indigenous vertebrates particularly during their egg and larvae stage, and a range of indigenous fish species.

[163] The biggest risk to disturbance and/or loss of those communities is through the loss of water quality because of increased suspended sediment during and immediately after any construction works.

[164] Such an occurrence would be contrary to the objective and policies outlined above.

[165] In my opinion, the proposed objective and policy framework will ensure that health and well-being of all waterways and ecological communities are protected as a first priority. This will be achieved through proposed objective FJAAZ-O9 which sets an outcome that land use and development maintains indigenous biodiversity values and protects water quality.

[166] This is supported by proposed policy P26 which requires at part (d) that there is no loss of water quality through increased discharge of suspended sediments.

[167] It is my opinion that this objective and policy direction and the Discretionary Activity consent status will ensure that appropriate Environmental Management Plans with erosion and sediment controls are submitted with any resource consent application to ensure protection of water quality.

[168] The proposed re-zoning will achieve policies 1 and 2 by ensuring Poutini Ngai Tahu involvement in any future consent process through the development and submission of a cultural impact assessment.

[169] The future development of an aerial cableway as described by Mr Faulkner, will target the positioning of structures on elevated locations (ridgelines) to enable construction above deep gullies, areas of rock fall, debris flow, avalanche paths and landslides. Consequently, this means that the future development is likely to be elevated above waterbodies and will (with appropriate erosion and sediment controls) be able to avoid loss of river extent and values and protect any significant values of outstanding water bodies as required by policies 7 and 8.

[170] Consequently, protection of water quality and avoidance of development in and immediately adjacent to water bodies will achieve the protection of habitats for freshwater species.

[171] The ecological assessment by Dr Wells identifies that there is moderate likelihood of brown trout being in the main Waiho River and kettle lake and a very low chance they are in any of the valley side streams.

[172] With the protection of water quality assured through the proposed objective and policy framework and expectation of comprehensive EMP's and erosion and sediment controls, I consider the protection of habitat for trout will be achieved as required by policy 9.

[173] Overall, approving the re-zoning would not be contrary to the objective and policies of the National Policy Statement for Freshwater.

West Coast Regional Policy Statement 2020

[174] Section 75(3) of the RMA requires that a District Plan must give effect to any Regional Policy Statement. At the current time this includes the Operative Regional Policy Statement 2020 (**ORPS 2020**).

[175] The relevant provisions in the ORPS 2020 are found in Chapters 3, 4, 5, 7, 7B and 11, and are assessed below:

Chapter 3 - Resource Management Issues of Significance to Poutini Ngāi Tahu

2. *Recognise and provide for the relationship of Poutini Ngāi Tahu and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga within the West Coast Region.*

2. In consultation with Poutini Ngāi Tahu, provide for the protection of ancestral land, wāhi tapu, water, sites, and other taonga from the adverse effects of activities, in a manner which is consistent with the purpose of the RMA.

3. The special relationship that Poutini Ngāi Tahu have with te taiao (the environment), and their economic, cultural, and spiritual values, including their role as kaitiaki, will be

given particular consideration in resource management decisions and practices.

- [176] The relationship of Poutini Ngai Tahu, their culture, traditions, and values associated with the Franz Josef valley have been given a high regard in the preparation of the proposed zoning and provisions.
- [177] SEL have directly met with Te Rununga o Ngati Waewae and Te Rununga o Makaawhio and continued to provide updates and information on their progress through the statutory processes of the DOC Draft Management plan and the TTPP in 2016, 2019, and 2024. Further, SEL have reviewed the further submission of Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu.
- [178] Additionally, the provisions that have been suggested for the proposed zoning intend that the spiritual, cultural, and physical relationship with the Franz Josef Valley is protected and enhanced, that a full cultural impact assessment is provided with any future application for resource consent, and that the communication of mana whenua history and values by any future aerial cableway operator is authorised through consultation with Te Rununga o Makaawhio and Te Rununga o Ngati Waewae as representatives of Poutini Ngai Tahu.
- [179] The proposed re-zoning is consistent with the above objective and policies.

Chapter 4 - Resilient and Sustainable Communities

- 1. To enable sustainable and resilient communities on the West Coast.**
- 2. This region's planning framework enables existing and new economic use, development and employment opportunities while ensuring sustainable environmental outcomes are achieved.**
- 3. To ensure that the West Coast has physical environments that effectively integrate subdivision,**

use and development with the natural environment, and which have a sense of place, identity and a range of lifestyle and employment options.

5. *To recognise and provide for the relationships of Poutini Ngāi Tahu with cultural landscapes.*

1. *To sustainably manage the West Coast's natural and physical resources in a way that enables a range of existing and new economic activities to occur, including activities likely to provide substantial employment that benefits the long-term sustainability of the region's communities.*

4. *To promote:*

a) *The sustainable management of urban areas and small settlements, along with the maintenance and enhancement of amenity values in these places; and*

b) *The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers where it contributes to the economic, social and cultural wellbeing of people and communities.*

6. *Cultural landscapes are appropriately identified, and effects of activities are managed in a way that provides for the cultural relationships of Poutini Ngāi Tahu.*

[180] The objective and policy direction from the above provisions supports diversification of the economy to create communities that are both more resilient and sustainable. The importance of managing natural and physical resources in a sustainable way is acknowledged, recognising that it is through the protection, use or development of those resources that the communities' economic and social wellbeing will be provided for in the future. Enabling opportunities for a wide range of industries to establish in the region will provide a variety of employment options

assisting with reducing the potential market fluctuations on individual industry sectors. Enabling growth will also provide incentives for businesses to develop in the region, as well as encouraging people to reside on the West Coast.

[181] The evidence of Mr. Colegrave demonstrates that the provision of a future aerial cableway will have significant economic benefits for Franz Josef and the Westland community.

[182] Protection of Poutini Ngāi Tahu cultural landscapes from inappropriate use, development and subdivision is important to Poutini Ngāi Tahu culture, identity and wellbeing, and the explanation to the provisions suggests consultation with Poutini Ngāi Tahu is required to determine appropriate means of addressing this in particular locations. In this regard, consultation is occurring through the development of the TTPP and as mentioned above, the proposed provisions specifically recognise the need to assess in detail the cultural values and consult on appropriate communication of mana whenua history.

[183] Accordingly, the proposal is consistent with these provisions.

Chapter 5 – Use and Development of Resources

1. To recognise the role of resource use and development on the West Coast and its contribution to enabling people and communities to provide for their social, economic and cultural wellbeing.

1. Enabling sustainable resource use and development on the West Coast to contribute to the economic, social and cultural wellbeing of the region's people and communities.

[184] The discussion to the issues and the explanation of the policies in the ORPS 2020 notes that the West Coast has a significant proportion of public land administered by DOC. The use and protection of public conservation land is central to the long-term sustainability of West Coast communities. The ORPS 2020 identifies that development of new tourism related infrastructure within public conservation land will provide incentives for growth and investment in the wider region.

- [185] The economic evidence from Mr. Colegrave demonstrates that the ability to develop an aerial cableway in the proposed zone would contribute to the economic, and social well-being of the regions people and communities – particularly those of Franz Josef.
- [186] Notwithstanding those social and economic benefits, the use and development of resources must be undertaken in a way which promotes the sustainable management purpose of the RMA. This will mean enabling people and communities to provide for their economic, social and cultural wellbeing and for their health and safety while meeting the requirements of Section 5(2)(a), (b) and (c) of the Act.
- [187] The evidence of Ms. Smetham, Dr Wells, and Mr. Faulkner outlines that the proposed zoning and a future aerial cableway could be undertaken whilst achieving these matters.
- [188] Accordingly, the proposed zoning and provisions are consistent with these provisions.

Chapter 7 - Ecosystems and Indigenous Biological Diversity

- 3. Provide for sustainable subdivision, use and development to enable people and communities to maintain or enhance their economic, social, and cultural wellbeing in areas of significant indigenous vegetation and significant habitats of indigenous fauna.**
 - 4. Maintain the region's terrestrial and freshwater indigenous biological diversity.**
1. a) *Areas of significant indigenous vegetation and significant habitats of indigenous fauna will be identified using the criteria in Appendix 1; they will be known as Significant Natural Areas (SNAs), and will be mapped in the relevant regional plan and district plans.*
 - b) *Significant wetlands will be identified using the criteria in Appendix 2; they will be known as Significant*

Natural Areas (SNAs), and will be mapped in the relevant regional plan.

2. *Activities shall be designed and undertaken in a way that does not cause:*

a) *The prevention of an indigenous species' or a community's ability to persist in their habitats within their natural range in the Ecological District, or*

b) *A change of the Threatened Environment Classification to category two or below at the Ecological District Level; or*

c) *Further measurable reduction in the proportion of indigenous cover on those land environments in category one or two of the Threatened Environment Classification at the Ecological District Level; or*

d) *A reasonably measurable reduction in the local population of threatened taxa in the Department of Conservation Threat Classification Categories 1 – nationally critical, 2 – nationally endangered, and 3a – nationally vulnerable.*

3. *Provided that Policy 2 is met, when managing the adverse effects of activities on indigenous biological diversity within SNAs:*

a) *Adverse effects shall be avoided where possible; and*

b) *Adverse effects that cannot be avoided shall be remedied where possible; and*

c) *Adverse effects that cannot be remedied shall be mitigated.*

d) *In relation to adverse effects that cannot be avoided, remedied or mitigated, biodiversity offsetting in accordance with Policy 4 is considered; and*

e) *If biodiversity offsetting in accordance with Policy 4 is not achievable for any indigenous biological diversity attribute on*

which there are residual adverse effects, biodiversity compensation in accordance with Policy 5 is considered.

4. *Provided that Policy 2 is met, and the adverse effects on a SNA cannot be avoided, remedied or mitigated, in accordance with Policy 3, then consider biodiversity offsetting if the following criteria are met:*
 - a) *Irreplaceable or significant indigenous biological diversity is maintained; and*
 - b) *There must be a high degree of certainty that the offset can be successfully delivered; and*
 - c) *The offset must be shown to be in accordance with the six key principles of:*
 - i. *Additionality: the offset will achieve indigenous biological diversity outcomes beyond results that would have occurred if the offset was not proposed;*
 - ii. *Permanence: the positive ecological outcomes of the offset last at least as long as the impact of the activity, preferably in perpetuity;*
 - iii. *No-net-loss: the offset achieves no net loss and preferably a net gain in indigenous biological diversity;*
 - iv. *Equivalence: the offset is applied so that the ecological values being achieved are the same or similar to those being lost;*
 - v. *Landscape context: the offset is close to the location of the development; and*
 - vi. *The delay between the loss of indigenous biological diversity through the proposal and the gain or maturation of the offset's indigenous biological diversity outcomes is minimised.*
 - d) *The offset maintains the values of the SNA.*

5. *Provided that Policy 2 is met, in the absence of being able to satisfy Policies 3 and 4, consider the use of biodiversity compensation provided that it meets the following:*
 - a) *Irreplaceable or significant indigenous biological diversity is maintained; and*
 - b) *The compensation is at least proportionate to the adverse effect; and*
 - c) *The compensation is undertaken where it will result in the best practicable ecological outcome, and is preferably:*
 - i. *Close to the location of development; or*
 - ii. *Within the same Ecological District; and*
 - d) *The compensation will achieve positive indigenous biological diversity outcomes that would not have occurred without that compensation; and*
 - e) *The positive ecological outcomes of the compensation last for at least as long as the adverse effects of the activity; and*
 - f) *The delay between the loss of indigenous biological diversity through the proposal and the gain or maturation of the compensation's indigenous biological diversity outcomes is minimised.*
6. *Allow for subdivision, use or development within SNAs, including by:*
 - a) *Allowing existing lawfully established activities to continue provided the adverse effects are the same or similar in scale, character or intensity;*
 - b) *Allowing activities with no more than minor adverse effects provided that the values of the SNA are maintained.*
8. *Maintain indigenous biological diversity, ecosystems and habitats in the region by:*

- a) *Recognising that it is more efficient to maintain rather than to restore indigenous biological diversity;*
- b) *Encouraging restoration or enhancement of indigenous biological diversity and/or habitats, where practicable; and*
- c) *Advocating for a co-ordinated and integrated approach to reducing the threat status of indigenous biological diversity.*

[189] Dr Wells has provided a comprehensive ecological assessment with his evidence and confirms that after assessment as required by policy 1(a) the proposed area of re-zoning meets all of the criteria for significance under the NPS-IB. This reflects the high values of the area in relation to representativeness of habitats, presence of threatened flora and fauna species, connectivity and buffering functions, intactness of ecosystems, protected status of the land, and scientific and cultural factors.

[190] Dr Wells' expert opinion is that a future aerial cableway activity can be designed and developed to achieve the requirements of policy 2, although it is acknowledged that there is a significant level of further ecological surveys required along with development of comprehensive management strategies. These details being matters that will be addressed as part of a refined and detailed resource consent application.

[191] Policies 3, 4, and 5 essentially require adherence to the effects management hierarchy that is outlined in the NPS-IB. Dr Wells has outlined in his assessment that potential adverse effects on indigenous biodiversity can be avoided, minimised, mitigated or offset and compensated for. Dr Wells has also given examples of offset and compensation measures and considers that these are viable and achievable.

[192] Policy 6(b) is a particularly important policy as it provides for development within an SNA (which the rezoning area is) provided that the development has no more than minor adverse effects and maintains the ecological values of the area. Table 9 in Dr Wells assessment confirms that the proposal (with mitigation) would result in no more than

minor effects and overall, he considers that the ecological values can be maintained.

[193] Regarding policy 8, the rezoning and a future aerial cableway can, on the evidence of Dr Wells, maintain indigenous biodiversity values and where required can restore or enhance diversity and habitats through achievable offsets and compensation thus meeting parts (a) and (b).

[194] Overall, the proposed rezoning would not be contrary to these objectives and policies.

Chapter 7B – Natural Features and Landscapes

1. ***Protect the region's outstanding natural features and outstanding natural landscapes from inappropriate subdivision, use and development.***
2. ***Provide for appropriate subdivision, use and development on, in or adjacent to outstanding natural features and outstanding natural landscapes to enable people and communities to maintain or enhance their economic, social and cultural wellbeing.***
2. *Protect the values which together contribute to a natural feature or landscape being outstanding, from inappropriate subdivision, use and development.*
3. *When determining if an activity is appropriate, the following matters must be considered:*
 - a) *Whether the activity will cause the loss of those values that contribute to making the natural feature or landscape outstanding;*
 - b) *The extent to which the outstanding natural feature or landscape will be modified or damaged including the duration, frequency, magnitude or scale of any effect;*

- c) *The irreversibility of any adverse effects on the values that contribute to making the natural feature or landscape outstanding;*
 - d) *The resilience of the outstanding natural feature or landscape to change;*
 - e) *Whether the activity will lead to cumulative adverse effects on the outstanding natural feature or landscape;*
4. *Allow activities in outstanding natural features and outstanding natural landscapes which have no more than minor adverse effects.*

[195] The objective 1 requires protection of ONL and ONF's from *inappropriate* development. As noted above, the term protect is a very directive word that can be interpreted to require no change or loss in values. In this case, it requires protection only from 'inappropriate' development. In my opinion, the proposal (subject to the controls as proposed in **Appendix [A]**) is not inappropriate development in an area that is managed by the Department of Conservation to foster domestic and international tourism as an icon destination if it is done sensitively.

[196] Objective 2 is even more enabling and envisions an outcome where appropriate development can be developed in ONL's and ONF's to enable people and communities to maintain or enhance their economic, social and cultural wellbeing. The evidence from Mr Colegrave and Mr Greenaway demonstrates that there would be significant benefits to economic, and social wellbeing from the proposed re-zoning and future development of an aerial cableway.

[197] Regarding the policies 2 and 3, Ms Smetham outlines that there would be a reduction in natural character but that the complex topography and rough textured land cover enable a high absorption capacity, and the ongoing ecological and physical processes of succession and erosion will continue unaffected. Development will be subservient to the landscape such that the natural character values will remain dominant.

[198] Ms Smetham's expert opinion is that a future aerial cableway would have low adverse effects and therefore the rezoning is not contrary to policy 4.

[199] Overall, I am of the opinion that the proposed re-zoning will not be inconsistent with these provisions.

Chapter 11 – Natural Hazards

1. The risks and impacts of natural hazard events on people, communities, property, infrastructure and our regional economy are avoided or minimised.

2. *New subdivision, use or development should be located and designed so that the need for hazard protection works is avoided or minimised. Where necessary and practicable, further development in hazard-prone areas will be restricted.*

[200] The evidence of Mr Faulkner is that at a high level, his current assessment has identified a preferred route which can avoid or limit exposure to natural hazards, and which targets areas where construction of the required infrastructure is considered to be more achievable.

[201] This aligns with the intent of the objective and policy as no hard protection measures are likely to be required to safely develop an aerial cableway i.e. debris flow barriers and rock fall catch fences etc.

[202] The expert assessment by Mr Faulkner also provides comfort that it is not necessary to restrict development in the proposed zone notwithstanding the existing known natural hazards.

Summary of ORPS 2020

[203] Overall, the assessment above supported by the expert evidence of Mr Faulkner, Ms. Smetham, Dr Wells, Mr Greenaway and Mr. Colegrave demonstrates that the proposed re-zoning and potential future aerial cableway will not be inconsistent with the key objectives and policies of the Operative Regional Policy Statement 2020.

Objectives and Policies of the TTPP

[204] The relevant objectives and policies from the notified version of TTPP are contained in the following chapters:

Part Two – District Wide Matters, Strategic Direction

- Natural Environment (NENV)
- Poutini Ngai Tahu (POU)
- Tourism (TRM)
- Hazards and Risks (HAZ)
- Historical and Cultural Values (HCV)
- Natural Environment Values
 - (i) Ecosystems and Indigenous Biodiversity (ECO)
 - (ii) Natural Features and Landscapes (NFL)

Part Two – General District Wide Matters

- Earthworks (EW)
- Light (LIGHT)
- Noise (NOISE)

[205] The notified version of these provisions is assessed below.

Natural Environment (NENV)

NENV-O1 To recognise and protect the natural character, landscapes and features, ecosystems and indigenous biodiversity that contribute to the West Coast's character and identity and Poutini Ngāi Tahu's cultural and spiritual values.

NENV-O2 To ensure that the rights, interests and values of Poutini Ngai Tahu to natural environment areas and features are protected and provided for and that the ability to exercise kaitiakitanga and tino rangatiratanga is maintained and enhanced.

NENV-O3 To recognise:

- a. The substantial contribution to the protection of natural environment values that is made by the existence of public conservation land in protecting significant areas, habitats and features;**
- b. The need for infrastructure to sometimes be located in significant areas; and**
- c. The need to support the ethic of stewardship and to consider the positive effects of the conservation estate in achieving the requirements of the RMA.**

NENV-O4 To clearly identify:

- a. Unique and important natural environment areas and features on the West Coast/Te Tai o Poutini which must be protected; and**
- b. Areas where subdivision, use and development to enable community economic, cultural and social wellbeing can be sustainably managed.**

[206] The natural character, landscape, ecosystems and indigenous biodiversity are recognised and well canvassed in the evidence from Ms Smetham, and Dr Wells. The evidence from both experts confirms that these matters can be appropriately protected if the proposed zoning is allowed and will continue to maintain the character and identity of the 'Glacier Country' and therefore achieve objective 1.

[207] The proposed zoning and associated provisions have a high regard for the interests, values and rights of Poutini Ngai Tahu and objective and policy direction is proposed to ensure that any future proposals under those provisions provide cultural impact assessments and that provisions of mana whenua history and values is authorised through

consultation with Te Rununga o Makaawhio and Te Rununga o Ngati Waewae as representatives of Poutini Ngai Tahu. Accordingly, the proposal will achieve objective 2.

[208] Regarding objective 3, significant recognition is given to the existence of public conservation land and the protection it affords the area of the re-zoning. A comprehensive description of the statutory process that must be undertaken pursuant to the Conservation Act 1987 and National Parks Act 1980 is outlined below.

[209] Importantly, the objective notes that recognition needs to be afforded to the fact that infrastructure may sometimes be located in significant areas. Overall, the proposed re-zoning is consistent with this objective.

[210] Objective 4 is perhaps the most relevant of this chapter as part b requires identification of areas where use and development to enable economic, cultural and social well-being can be sustainably managed.

[211] This proposed re-zoning seeks to achieve this by identifying one specific area where an aerial cable way may be considered in the future within a significant natural area. As outlined by the expert evidence there would be significant positive economic, and social well-being effects and the potential future development can be undertaken sustainably.

[212] The proposed re-zoning is considered to achieve this objective.

[213] I note that I have also reviewed Ms Easton's suggested amendments to these provisions outlined in the Response to Minute 16 – Strategic Directions. The overall direction of those amended provisions is similar to that described above in the notified provisions. It is my opinion that the proposed re-zoning would not be contrary to the amended provisions outlined by Ms Easton.

Poutini Ngai Tahu (POU)

[214] The relevant objectives and policies from this chapter are assessed below.

POU-03 To support Poutini Ngāi Tahu to identify cultural landscapes and sites and areas of significance

and provide for their management in ways that preserve the cultural relationships Poutini Ngāi Tahu have with these landscapes, sites and areas.

POU-O4 To support Poutini Ngāi Tahu in their exercise of kaitiakitanga and recognise their special relationship with te taiao, Poutini Ngāi Tahu taonga and wāhi tapu through resource management process and decisions.

POU-P3 Support the identification of Poutini Ngāi Tahu Cultural Landscapes and provide for their protection through the use of overlays and Plan provisions.

POU-P8 Provide for active participation by Poutini Ngāi Tahu in the sustainable management of West Coast/Te Tai o Poutini resources.

POU-P8 Recognise the role of Poutini Ngāi Tahu as kaitiaki and provide for them to exercise kaitiakitanga through the resource management process.

POU-P9 Recognise Poutini Ngāi Tahu as specialists in tikanga and as being best placed to convey their relationship with their ancestral lands, water, sites, wāhi tapu and other taonga

POU-P10 Protect Poutini Ngāi Tahu taonga and cultural sites, including sites and areas of significance to Māori identified in Schedule Three while ensuring Poutini Ngāi Tahu's key role in decision making around their management.

[215] The proposed re-zoning respects the identification of the cultural landscapes, sites and areas of significance to Māori and the exercise of kaitiakitanga. This is demonstrated through the additional objectives and policies proposed for the special zone that require a cultural impact assessment of a future consent application, and requirements for communication of mana whenua history and values to be authorised

through consultation with Te Rununga o Makaawhio and Te Rununga o Ngati Waewae as representatives of Poutini Ngai Tahu.

[216] These provisions allow for kaitiakitanga to be exercised through the resource consent process and Poutini Ngai Tahu to have active participation in any future resource consent process.

[217] The proposed re-zoning is therefore consistent with these strategic objectives and policies.

Tourism

[218] There is only one objective in the strategic tourism chapter and that is assessed below.

TRM-O1 To recognise the significance of tourism to the West Coast/Te Tai o Poutini economy by providing for sustainable tourism development while managing the adverse effects on the environment, communities and infrastructure. This includes:

- 1 Supporting the development of visitor facilities and accommodation within and near existing settlements and communities and on public conservation land where appropriate;***
- 2. Supporting the development of cycling and walking connections between tourism sites;***
- 3. Providing for the development, maintenance and upgrading of supporting infrastructure;***
- 4. Ensuring that visitor facilities are connected to existing services and infrastructure;***

5. ***Managing the development and expansion of visitor activities and services so that the natural and cultural values, amenity and character of the West Coast/Te Tai o Poutini and its communities are maintained;***
6. ***Promoting a sustainable approach to tourism and minimising the adverse effects, and in particular cumulative adverse effects, of visitor activities and services on cultural values and wāhi tapu, natural values, amenity and landscape;***
7. ***Supporting Ngāti Waewae and Ngāti Māhaki o Makaawhio to exercise kaitiakitanga, and provide education about the cultural importance of maunga, other landforms, taonga and wāhi tapu to Poutini Ngāi Tahu and how to treat these areas with respect; and***
8. ***Supporting Poutini Ngāi Tahu in expansion of their tourism and visitor activities to deliver better economic outcomes for the hapū.***

[219] The proposed re-zoning is considered to directly align with the outcomes sought by this objective. The expert economic evidence from Mr. Colegrave demonstrates the significance that the proposed zoning and a future aerial cableway may have for Franz Josef and the wider West Coast.

[220] Development of an aerial cableway in the proposed zone would be in close proximity to the existing settlement of Franz Josef and achieve part 1.

[221] The intention of a future aerial cableway is that it is to be serviced by a park and ride shuttle service using the current car park area and access

road. SEL have sought confirmation that existing electrical supplies can be extended to the lower terminal area to service a future aerial cableway. This demonstrates a consistency with parts 3 and 4.

[222] Expert evidence from Ms. Smetham confirms that the development of a future aerial cableway is a sustainable approach to glacier tourism that can maintain the natural values and amenity and character of the Franz Josef Valley and achieve part 5.

[223] Cultural values have been highly regarded through this proposed re-zoning and the proposed objective and policy direction promotes the exercise of kaitiakitanga and for Poutini Ngai Tahu to control the communication of mana whenua history and values thus achieving part 7.

[224] Overall, the proposed re-zoning is consistent with the outcomes sought by this objective.

[225] I have also reviewed Ms Easton's response to Minute 16 and her suggested objectives and policies for economic development. Should those provisions be adopted by the Hearings Panel, it is my opinion that the re-zoning would not be contrary these and in particular would be supported by ED-O1, ED-O4, and ED-P7 in particular.

Hazards and Risks (HAZ)

[226] The relevant objectives and policies from this chapter are found in the Natural Hazards section (NH) and are assessed below.

NH-O2 *To reduce the risk to life, property and the environment from natural hazards, thereby promoting the well-being of the community and environment.*

NH-P2 *Where a natural hazard has been identified and the natural hazard risk to people and communities is unquantified but evidence suggests that the risk is potentially significant, apply a precautionary approach to allowing development or use of the area.*

- [227] It is my opinion that this strategic chapter and its provisions are more geared towards developing a risk-based approach to known or potential natural hazards that have been identified through the hazard overlays on the proposed planning maps.
- [228] In the case of the proposed re-zoning, no such overlays have been identified over the area in question. However, as outlined in the evidence of Mr Faulkner, there are natural hazards within and/or affecting the proposed re-zoning and they need to be suitably addressed.
- [229] The above objective and policy is relevant as when proposing a zone and future facilities that could host tens or hundreds of thousands of visitors per annum, reducing the risks from natural hazards and applying a precautionary approach to the application of zoning is highly appropriate.
- [230] In this case, the hazard risks are known. The proposed zone and potential alignment of a future aerial cableway have on the evidence of Mr Faulkner been located in an area that is potentially feasible for development. Much more substantial geotechnical and natural hazard investigations would be required to advance a proposal for an aerial cableway and the proposed provisions direct such assessment to ensure risks are mitigated to a tolerable level.
- [231] Further, the proposed provisions will require any future proposal for an aerial cableway to include a natural hazard response plan and that visitors are informed by signage that they are entering an area of hazard risk – thus enabling them to undertake informed decisions about their individual tolerability of the hazard risk.
- [232] Overall, the proposed re-zoning is not inconsistent with these provisions.

Historical and Cultural Values (HCV)

- [233] Under this chapter it is considered that the provisions for the Sites of Significance to Māori (**SASM**) are relevant. Specifically, the Franz Josef Glacier is subject to SASM #145 as illustrated on the planning maps and listed in part 4, Schedule Three of the TTPP.

[234] The SASM #145 appears from the notified planning maps, to be located outside of the proposed zoning area. This is also the opinion of Poutini Ngai Tahu as evidenced by their further submission where they state:

“The proposed aerial cableway is not within a SASM as far as we are aware.”

[235] While that appears to be the case, the proposed zoning is in close proximity to SASM #145 and has the intention of providing a future aerial cable way that will overlook this area. Accordingly, the objectives and policies below are relevant considerations.

[236] Importantly, paragraph 34 of the S42A Report for the Franz Josef hearings suggests that SEL wanted the SASM removed from the TTPP. That doesn't accurately reflect the rezoning proposal. SEL acknowledge that the SASM#145 lies adjacent to the proposed FJAAZ, and objectives and policies have been proposed to recognise the significant cultural values of this area and enable effective participation of Poutini Ngai Tahu in any future consent process through the direction to provide a cultural impact assessment.

SASM-O1 ***Sites and areas of significance to Poutini Ngāi Tahu are recognised and identified and Poutini Ngāi Tahu are actively involved in decision making that affects their values to provide for tino rangatiratanga and kaitiakitanga.***

SASM-O3 ***The values of sites and areas of significance to Māori and cultural landscapes are protected from inappropriate subdivision, use and development including inappropriate modification, demolition or destruction.***

SASM-P1 ***Protect Poutini Ngāi Tahu cultural landscapes from adverse effects of subdivision, use and development while enabling their values to be enhanced through ongoing Poutini Ngāi Tahu access and cultural use.***

- SASM-P5 *Recognise and provide for the exercise of tino rangatiratanga and kaitiakitanga by Poutini Ngāi Tahu in decisions made in relation to identified sites and areas of significance in Schedule Three.*
- SASM-P7 *Protect and maintain sites and areas of significance to Māori from adverse effects by:*
- a. *Ensuring identified sites and areas of significance to Māori are not disturbed, destroyed, removed and/or visually encroached upon by inappropriate activities; and*
 - b. *Requiring activities on sites and areas of significance to Māori to minimise adverse effects on cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu.*
- SASM-P10 *Restrict buildings, structures, forestry, network utility structures, mining and earthworks on the upper slopes and peaks of ancestral maunga as identified in Schedule Three.*
- SASM-P15 *Allow any other use and development on sites and areas of significance to Māori in Schedule Three where it can be demonstrated that the identified values of the site or area are protected and maintained, having regard to:*
- a. *Whether there are alternative methods, locations or designs that would avoid or reduce the impact on the values associated with the site or area of significance;*

- b. *The functional or operational need for the activity to be undertaken in the location;*
- c. *Outcomes articulated by Poutini Ngāi Tahu through an assessment of environmental effects, cultural impact assessment or iwi planning documents;*
- d. *The potential to enhance the values of the site of significance and the relationship of Poutini Ngāi Tahu with their taonga, commensurate with the scale and nature of the proposal;*
- e. *How values of significance to Poutini Ngāi Tahu, including tikanga, kaitiakitanga and mātauranga Māori may be incorporated; and*
- f. *Any practical mechanisms to maintain or enhance the ability of Poutini Ngāi Tahu to access and use the site or area of significance for karakia, monitoring, cultural activities and ahi kā roa.*

[237] Regarding objective 1, the proposed re-zoning provides for Poutini Ngāi Tahu to be actively involved decision making for any future aerial cableway by ensuring that cultural impact assessments are undertaken as part of any future consent application.

[238] Objective 3 seeks to protect cultural landscapes from inappropriate use and development. Cultural landscapes are not necessarily limited to the SASM but also the broader geographical area. In the case of the proposed re-zoning the expert evidence demonstrates that the proposal is not inappropriate regarding landscape, hazards, economic, and ecological matters. In terms of cultural effects, the re-zoning proposes to

ensure that any future development is appropriate through requiring cultural impact assessments as part of any future consent application.

[239] Further, it is noted that Poutini Ngai Tahu have not opposed SEL's rezoning approval despite being aware of and lodging a further submission on a part of the SEL original submission. In my opinion, if the re-zoning was considered inappropriate to Poutini Ngai Tahu, this would have been expressed in their further submission.

[240] Most of the policy provisions whilst relevant, relate to the effects of activities and development within a SASM. Policy 7(a) however specifically requires that SASM are not disturbed, destroyed, removed and/or visually encroached upon by inappropriate activities.

[241] As noted above, the proposed re-zoning and any future aerial cableway is not located within a SASM, but it will visually overlook SASM #145. Ms Smetham finds that the visual effects will not be significant. As noted above, Poutini Ngai Tahu will have input into any future consenting process through the requirement for a comprehensive cultural impact assessment and, their further submission has not identified the proposed zoning as inappropriate.

[242] Accordingly, it is my opinion that the proposed re-zoning would not be inconsistent with these provisions.

Natural Environment Values

Ecosystems and Indigenous Biodiversity (ECO)

[243] The relevant objectives and policies from this chapter are assessed below.

ECO-02 To provide for appropriate subdivision, use and development within areas of significant indigenous vegetation and significant habitats of indigenous fauna where the values of the area can be maintained or enhanced.

ECO-O4 ***To maintain the range and diversity of ecosystems and indigenous species found on the West Coast/Te Tai o Poutini.***

ECO-P2 Allow activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where:

- a. This is for a lawfully established activity; or*
- b. It is for a Poutini Ngāi Tahu cultural purpose; or*
- c. This is undertaken on Poutini Ngāi Tahu or Te Rūnanga o Ngāi Tahu land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
- d. The activity has a functional need to be located in the area;*
- e. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.*

ECO-P6 When assessing consents for subdivision, use and development, avoid activities which will:

- a. Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;*
- b. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level; and*

- c. *Result in a reasonably measurable reduction in the local population of threatened taxa in the Department of Conservation Threat Categories 1 – 3a -nationally critical, nationally endangered and nationally vulnerable.*

ECO-P7 When assessing resource consents in areas of significant indigenous vegetation and significant habitats of indigenous fauna, consider the following matters:

- a. *The necessity for the activity to provide for critical infrastructure or renewable electricity generation;*
- b. *Whether formal protection and active management of all or part of any area of significant indigenous vegetation or habitat will occur as part of the subdivision, use or development;*
- c. *The extent to which the proposed activity recognises and provides for Poutini Ngāi Tahu cultural and spiritual values, rights and interests;*
- d. *The cumulative effects of activities within or adjacent to any area of significant indigenous vegetation or habitat;*
- e. *The effects the activity may have on the introduction or spread of exotic weed species and pest animals both terrestrial and aquatic;*
- f. *The impacts on mahinga kai;*
- g. *The impact of the activity on the values of any area of significant indigenous vegetation or habitat, or threatened species and how any*

potential impact could be avoided, remedied or mitigated; and

- h. The appropriateness of any biodiversity offsetting or compensation in accordance with Policy 9 to offset any residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied.*

ECO-P9 Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where:

- a. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity;*
- b. The conservation outcomes are measurable and positive; and*
- c. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.*

[244] These objectives and policies are not dissimilar to those in the Regional Policy Statement that have been assessed above.

[245] Regarding objective ECO-O4, the expert assessment of Dr Wells confirms that development in accordance with the proposed re-zoning can maintain the range and diversity of ecosystems and indigenous species.

[246] ECO-O2 provide for appropriate development within areas of significant indigenous vegetation and significant habitats of indigenous fauna where the values of the area can be maintained or enhanced. Based on the expert evidence of Dr Wells, the indigenous biodiversity can be maintained with the proposed re-zoning and therefore, I consider that an aerial cableway can be considered appropriate development regarding this objective.

- [247] Regarding policy ECO-P2, the proposed re-zoning achieves parts (d) and (e) as the proposed zoning has a functional need to be located in the proposed location and Dr Wells has confirmed that with mitigation, the effects of developing an aerial cableway will be no more than minor on ecological values.
- [248] Policies ECO-P6 and P7 are directed toward assessment of resource consent applications but based on the expert evidence of Dr Wells, a future aerial cableway would avoid the outcomes specified in parts (a) – (c). It is also expected that detailed consideration will be given to all of parts (a) – (h) in P7 through the detailed ecological assessments that will need to be submitted with a full resource consent application.
- [249] Dr Wells has assessed the type and feasibility of potential ecological offsets and compensation in his reporting, and it is expected based on that expert assessment, that any future aerial cableway would not be contrary to policy ECO-P9.

Natural Features and Landscapes (NFL)

- [250] The relevant objective and policies from this chapter are discussed below.

NFL-O1 To protect the values of outstanding natural landscape and outstanding natural features on the West Coast/Te Tai o Poutini, while providing for subdivision, use and development where the values that make the landscape or feature outstanding can be maintained or enhanced.

NFL-P1 Provide for activities within outstanding natural landscapes described in Schedule Five and outstanding natural features described in Schedule Six where they do not adversely affect the values that contribute to a natural feature or landscape being outstanding and are for:

- a. Existing land uses and lawfully established activities including existing network utilities,*

energy activities, agricultural, horticultural and pastoral activities;

- b. Conservation activities;*
- c. Recreational activities;*
- d. Natural hazard mitigation activities;*
- e. Operation, maintenance and upgrade of renewable electricity generation facilities;*
- f. Operation, maintenance and upgrading of network infrastructure;*
- g. Upgrading and/or new infrastructure and renewable electricity generation facilities where there is a functional need for it to be located in these areas;*
- h. Poutini Ngāi Tahu uses; or*
- i. The alteration, maintenance or removal of existing buildings or structures.*

NFL-P2 Where possible, avoid significant adverse effects on the values that contribute to outstanding natural landscapes described in Schedule Five and outstanding natural features described in Schedule Six. Where significant adverse effects cannot be avoided, ensure that the adverse effects are remedied, mitigated or offset.

NFL-P4 Require that new buildings, structures within outstanding natural features or landscapes minimise any adverse visual effects by:

- a. Ensuring the scale, design and materials of the building and/or structure are appropriate in the location;*

- b. *Using naturally occurring building platforms, materials and colour that blends into the landscape; and*
- c. *Limiting the prominence or visibility of buildings and structures including by integrating it into the outstanding natural feature or landscape.*

NFL-P5 Minimise adverse effects on outstanding natural landscapes and outstanding natural features by considering the following matters when assessing proposals for land use or subdivision:

- a. *The scale of modification to the landscape;*
- b. *Whether the proposal is located within a part of the outstanding natural feature or outstanding natural landscape that has capacity to absorb change;*
- c. *Whether the proposal can be visually integrated into the landscape and whether it would break the skyline or ridgelines;*
- d. *The temporary or permanent nature of any adverse effects;*
- e. *The functional, technical, operational or locational need of any activity to be sited in the particular location;*
- f. *Any historical, spiritual or cultural association held by Poutini Ngāi Tahu;*
- g. *Any positive effects the development has on the identified characteristics and qualities;*
- h. *Any positive effects at a national, regional and local level;*

- i. Any relevant public safety considerations; and*
- j. The measures proposed to mitigate the effects on the values and characteristics, including:
 - (i) The location, design and scale of any buildings or structures, or earthworks;*
 - (ii) The intensity of any activity; and*
 - (iii) The finish of any buildings or structures, including materials, reflectivity and colour, and landscaping and fencing.**

[251] The objective is slightly contradictory. On the one hand, it requires that the values of ONL's and ONF's are protected. In its absolute sense, that means there should be no change to those ONL's and ONF's. However, it also provides for development where the values that make the landscape or feature outstanding, can be maintained or enhanced.

[252] The Franz Josef Glacier and the lower valley is partly overlain by the ONF #15 and 16 and the wider area in which the re-zoning is proposed is in the ONL overlay. In my opinion, and based on the expert evidence of Ms Smetham, the proposed re-zoning and a future aerial cableway will have an effect on natural character but, an aerial cableway would be a subservient feature and the ONL and ONF values will remain dominant.

[253] Specifically, based on the expert landscape evidence of Ms Smetham, the scale and design of any future aerial cableway development can be managed to maintain the key landscape values of the area. Accordingly, the proposed re-zoning would only be partly inconsistent with this objective.

[254] Policy P1 does provide for activities in ONL's and ONF's where they are for recreational activities and do not adversely affect the values that

make the area an ONL or ONF. This is similar to policy P2. The expert advice of Ms Smetham indicates that this could be achieved in any future application directed by the proposed provisions.

[255] Policy P4 requires development to minimise its prominence through scale, design, colours and materials. Again, the proposed provisions for the re-zoning seek to ensure that is the case in any future application and the expert evidence of Ms Smetham is that these effects can be appropriately minimised.

[256] Policy P5 is not dissimilar to policy P4 in that mitigation of effects through scale, design, colours and materials is expected and assessment of the sites ability to absorb change and for development to integrate with the landscape is required and effects on the ONF's and ONL are to be minimised.

[257] Ms Smetham has covered these matters in her evidence and her expert opinion is that the proposed re-zoning and a future aerial cableway could be appropriately designed to meet the requirements of policy P5 and that the landscape can absorb the scale of potential change whilst minimising the effects on values of the ONF's and ONL.

[258] Overall, subject to implementation of the proposed objectives and policies for the re-zoning, the proposal will be generally consistent with these provisions.

Part Two – General District Wide Matters

[259] Considering the intention of the proposed re-zoning, the provisions of the earthworks, light and noise chapters are relevant to any assessment and are discussed below.

Earthworks (EW)

EW-01 To provide for earthworks to facilitate subdivision, use and development of the West Coast/Te Tai o Poutini's land resource, while ensuring that their adverse effects on the surrounding environment are avoided or mitigated.

- EW-P1 Enable temporary and small scale earthworks for the subdivision, use and development of land, the provision of utilities, and hazard mitigation, while managing those with the potential to create significant adverse effects.*
- EW-P2 Manage the effects of earthworks to minimise impacts on landscape character, amenity, natural features, water quality, biodiversity, cultural and heritage sites and the quality of the environment.*
- EW-P3 Require the use of accidental discovery protocols to mitigate the potential risk to earthworks to archaeological sites and sites and areas of significance to Māori and archaeological sites that are not scheduled in the Plan.*

[260] In my opinion, whilst the proposed re-zoning will provide a consenting pathway for an aerial cableway, earthworks will be required to facilitate construction of the aerial cableway towers and any future terminal structures and associated parking facilities.

[261] Detailed design of an aerial cableway has not yet occurred. I have considerable experience in consenting aerial cableways at the Remarkables Ski Area, Cardrona Alpine Resort and Soho Ski Area, and the SEL Queenstown gondola. Based on that experience which includes development in visually and ecologically sensitive environments, I am of the opinion that adverse effects of earthworks can be avoided and mitigated as required by the objective, through appropriate Environmental Management Plans and erosion and sediment controls and the adoption of recommendations from detailed ecological assessment.

[262] These will be requirements of any future resource consent application for an aerial cableway in accordance with the proposed objective and policy framework for the proposed zone.

[263] The expert evidence of Ms Smetham on landscape matters is that the proposed rezoning and the future development of an aerial cableway

(inclusive of associated earthworks) can minimise impacts on landscape character, amenity and natural features in accordance with policy P2. Similarly, the expert evidence of Dr Wells is that the effects of earthworks on biodiversity can also be minimised in accordance with this policy.

[264] Regarding policy P3, accidental discovery protocols can be imposed on any future resource consent for an aerial cableway within the proposed zone – notwithstanding that such protocols already exist under other legislation.

[265] Overall, the proposed re-zoning and the development that may occur within it in the future, could be undertaken without contravening these provisions.

Light (LIGHT)

LIGHT-O2 Artificial outdoor lighting is located, designed and operated to maintain the character and amenity values within zones, so that it does not adversely affect the health and safety of people, the safe operation of the transport network, protects views of the night sky, the habitats and ecosystems of nocturnal native fauna and the species themselves.

LIGHT-P1 Provide for the use of artificial outdoor lighting that:

- a. Allows people and communities to enjoy and use sites and facilities during night time hours and contributes to the security and safety of private and public spaces;*
- b. Maintains the character and amenity values of the zone and surrounding area;*
- c. Supports the social, cultural, and economic wellbeing or health and safety of people and communities, including road safety;*
- d. Minimises sky glow and light spill; and*

- e. *Protects the health and well-being of people and ecosystems.*

LIGHT-P3 Control the intensity, location and direction of any artificial outdoor lighting to:

- a. *Ensure that any artificial outdoor lighting avoids conflict with existing light sensitive areas and uses;*
- b. *Internalise light spill within the site where the outdoor lighting is located;*
- c. *Minimises adverse effects on views of the night sky and intrinsically dark landscapes including in areas of outstanding coastal natural character;*
- d. *Minimises adverse effects on the significant habitats of light sensitive native fauna and the species themselves; and*
- e. *Minimises adverse effects on the health and safety of people and communities in the surrounding area.*

[266] The proposed re-zoning will potentially enable construction of an aerial cableway with associated terminal building structures. This has the potential to introduce artificial light into an environment in which there is presently none.

[267] The objective and policy framework proposed for the re-zoning acknowledges this potential effect and sets a direction that lighting associated with an aerial cableway must be controlled so that it does not diminish the appreciation of the night sky and the ONL/ONF values.

[268] It is my opinion that with the objectives and policies contained in the proposed chapter, and those above, appropriate control can be exercised over future aerial cableway development to ensure that the objective can be achieved.

Noise (NOISE)

- NOISE-O1 The benefits of noise generating activities are provided for in a way that is compatible with the role, function and character of each zone and does not compromise community health, safety and wellbeing.*
- NOISE-O3 The health and wellbeing of people and communities are protected from significant levels of noise.*
- NOISE-P1 Enable the generation of noise when it is of a type, character, scale and level that is appropriate to the zone, having regard to:*
- a. The purpose, character and qualities of the zone that the activity is located in;*
 - b. The nature, frequency and duration of the noise generating activity;*
 - c. Whether the noise generating activity is critical infrastructure;*
 - d. Methods of mitigation; and*
 - e. The sensitivity of the surrounding environment.*
- NOISE-P4 Ensure noise effects generated by an activity are of a type, scale and level that are appropriate for the predominant role, function and character of the receiving environment and protect the health and wellbeing of people and communities by having regard to:*
- a. Maximum noise limits to reflect the character and amenity of each zone;*
 - b. Type, scale and location of the activity in relation to any noise sensitive activities;*
 - c. Hours of operation and duration of activity;*

- d. *The temporary or permanent nature of any adverse effects; and*
- e. *The ability to internalise and/or minimise any conflict with adjacent activities.*

[269] If the proposed re-zoning is accepted a future application for an aerial cableway will need to comprehensively assess the temporary noise effects of construction as well as the on-going and permanent noise effects from operation of the aerial cableway.

[270] The objective and policy framework in the proposed provisions specifically seeks to address the temporary construction effects (including noise effects) on the quality of the visitor experience for other visitors to the area. In my opinion, the proposed provisions compliment and expand upon the objectives and policies above and are not inconsistent with them.

[271] In terms of operational noise, aerial cableways are quiet with the noise of the drive unit contained within the lower terminal building and therefore the permanent operational noise effects are expected to achieve policies P1 and P4.

[272] Overall, the proposed re-zoning will not be inconsistent with these provisions.

Department of Conservation Management Plans

[273] As noted above, Section 74(2)(b)(i) requires a territorial authority to have regard to any management plans and strategies prepared under other Acts. In this case, it is relevant to consider the Department of Conservation (**DOC**) management plans and strategies that apply to the area of the proposed re-zoning.

[274] 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.*

[275] Accordingly, to enable consideration of a proposal for an aerial cableway within the Westland Tai Poutini National Park, the submitter must identify an amenities area in the Draft Management Plan.

[276] Should this be successfully incorporated into the final operative version of the Westland National Park Management Plan (**WNPMP**), the amenities area would then need to be set apart pursuant to Section 15(1) of the National Parks Act 1980 by notice in the Gazette.

[277] 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.

[278] It was identified in the original submission that DOC notified a Draft Management Plan in 2018, and the submission period closed on 04th February 2019. The Draft Management Plan included the option for consideration of an amenities area as proposed by SEL.

[279] Very shortly after the lodgement of SEL submission on the Draft Management Plan, DOC, in consultation with Ngāi Tahu and the West Coast Conservation Board, agreed to stop the review. The Draft Management Plan process was paused in February 2019 to consider the implications of the Ngāi Tai ki Tāmaki Supreme Court decision. The Draft Management Plan review has not re-commenced since this time.

[280] 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. In this regard, it is understood that initial planning for the review of the CMS has

commenced¹¹ but the draft CMS has not been notified by DOC at the current time.

- [281] In summary, at the time of writing, neither the operative CMS or WNPMP provide for an amenities area and therefore consideration of an aerial cableway under those documents would not be approved.
- [282] Specifically, the Conservation Act 1987 applies to every Conservation Area¹² and requires that no activity shall be carried out in a Conservation Area unless authorised by a Concession¹³. Under the National Parks Act 1980, the Minister may grant a Concession in respect of any park in accordance with Part 3B of the Conservation Act 1987 and the said Part 3B shall apply as if references in that Part to a Conservation Area were references to a park and with any other necessary modifications¹⁴.
- [283] The Conservation Act 1987 allows the Minister to decline an application that obviously does not comply with, or is obviously inconsistent with, the provisions of this Act or any relevant conservation management strategy or conservation management plan¹⁵. I would expect this to be the Minister's decision if an application were to be made now.
- [284] However, the current situation with these management documents and the weight that should be applied must be put into context. First, Section 17H(4)(b) of the Conservation Act 1987 requires that a conservation management strategy or conservation management plan shall be reviewed as a whole by the Director-General not later than 10 years after the date of its approval.
- [285] The CMS was approved by the New Zealand Conservation Authority on 15th April 2010¹⁶. At the time of writing this evidence it is almost four and a half years overdue for review. The WNPMP was approved by the New Zealand Conservation Authority on 21st December 2001¹⁷. There have been two partial reviews of the WNPMP, but they were restricted to

¹¹ <https://www.scoop.co.nz/stories/AK2007/S00427/west-coast-conservation-management-strategy-to-be-reviewed.htm>

¹² Section 17O(1) of the Conservation Act 1987.

¹³ Section 17O(2) of the Conservation Act 1987.

¹⁴ Section 49(1) National Parks Act 1980.

¹⁵ Section 17SB(1) of the Conservation Act 1987.

¹⁶ West Coast CMS, Foreword, page 13.

¹⁷ WNPMP, Preface, page 6.

isolated issues (construction of shared cycling/walking pathways in the Franz Josef and Fox Glacier Valleys and access to the Franz Josef Glacier to ensure safe public access due to the glaciers advancing and receding including consequential changes relating to aircraft and road access, vehicle and aircraft use and glacier guiding). These partial review amendments took effect on 11 June 2008 and 09 April 2014 respectively. Accordingly, the WNPMP is thirteen and a half years overdue for its holistic review.

[286] When SEL embarked on the DOC management plan review process 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 then be considered, and incorporated into the relevant RMA planning documents (now the TTPP).

[287] Unfortunately, due to the delays in the DOC'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 now seeks to provide for an amenities area within the TTPP.

[288] It is my opinion that the Hearings Panel is not required to wait on the outcome of DOC's planning processes before deciding whether to provide provisions in the TTPP for an amenities area and aerial cableway.

[289] Similarly, and notwithstanding Section 74(2)(b)(ii) of the RMA, the Hearings Panel is not obligated to come to the same conclusions as DOC (and vice versa) when deciding on the appropriate provisions for the TTPP.

[290] Accordingly, I find that Ms. Easton's comments below are irrelevant to the consideration of the TTPP provisions and applicable zoning:

"The proposed aerial cableway is just that – a proposal that is being considered as part of the review of the Westland National Park Management Plan¹⁸."

¹⁸ S42A Officers Report, Franz Josef Hearings, paragraph 29, page 7.

“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.”¹⁹

[291] Essentially, the situation is a ‘chicken and egg scenario’ as to whether the RMA plan review process is completed before the DOC plan review(s). In a perfect world, working through the DOC 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 continuing 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 the amenities area and associated provisions in to the TTPP.

[292] It is my opinion that little weight should be applied to these statutory management plans due to how outdated they are and the lack of consideration as to the proposal of an amenities area through the formal hearings and plan deliberation process.

[293] However, in my opinion it is important to note that the Franz Josef valley is presently identified as an Icon Destination which is defined as:

“A high-profile, popular destination that underpins national and international tourism, and provides memorable visitor experiences in New Zealand”.²⁰

[294] The Department of Conservations website further explains that:

“Icon destinations form the backbone to the New Zealand tourism product for overseas tourists and New Zealanders. They are the ‘must-see’ places that provide memorable experiences.

DOC’s proposed icon destinations will provide quality experiences that complement other destinations managed by other agencies or

¹⁹ S42A Officers Report, Franz Josef Hearings, paragraph 30, page 7.

²⁰ Westland Tai Poutini National Park Management Plan, Glossary, page 132

*businesses. Together these icon places complete the tourism attractions of New Zealand.*²¹

- [295] Icon Destinations are managed to support the growth of domestic and international tourism and provide memorable visitor experiences in New Zealand. Describing the glacier valleys as Icon Destinations is consistent with their categorisation as intense interest sites²².
- [296] Taking the above into account, and acknowledging the age of the current management documents, it is reasonable to consider that an amenities area could be incorporated into the next management plan and CMS.

Further Submissions

- [297] The submitter was only served, and I am only aware of there being two further submissions made in respect of the SEL submission seeking an amenities area. These were from Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (collectively referred to as Poutini Ngāi Tahu) and Te Rūnanga o Ngāi Tahu (**TRONT**), and Forest and Bird.

Poutini Ngai Tahu and TRONT

- [298] The further submission from Poutini Ngai Tahu and TRONT was regarding the original SEL submission which suggested that the proposed re-zoning was within SASM #145 and that proposed re-zoning should be identified on the planning maps and the provisions in the Sites and Areas of Significance to Māori - Ngā Wāhi Tāpua ki te Māori chapter should enable consideration of such a development.
- [299] As identified above, the submitter no longer seeks any amendments to the Sites and Areas of Significance to Māori - Ngā Wāhi Tāpua ki te Māori chapter.
- [300] Additionally, the further submission from Poutini Ngai Tahu and TRONT which opposed the original submission point, simply states:

²¹ <https://www.doc.govt.nz/about-us/our-role/managing-conservation/recreation-management/destination-management-framework/a-guide-to-recreation-and-historic-heritage-terms/>

²² *Westland Tai Poutini National Park Management Plan, Section 1.3.11(e), Intense Interest Sites*

“The proposed aerial cableway is not within a SASM as far as we are aware”.

[301] As far as I can tell from a comparison of the TTPP planning maps and the SEL plans of the proposed re-zoning, this statement is correct.

[302] Accordingly, allowing the re-zoning will not be contrary to any views expressed by Poutini Ngai Tahu and TRONT. Further, the proposed provisions provide a strong framework that directs consultation with and recognition and understanding of development on the cultural values of Poutini Ngai Tahu.

Forest and Bird

[303] The Forest and Bird further submission seeks to disallow the entire SEL submission and states:

“The submission is inconsistent with the S6 matters and the protection of outstanding natural landscapes and significant indigenous biodiversity and significant habitats for indigenous fauna”.

[304] I have not seen any expert evidence on behalf of Forest and Bird regarding landscape or ecology. Accordingly, and in the absence of any other expert evidence, I rely on the expert evidence prepared by Ms Smetham and Dr Wells respectively regarding these matters.

[305] It is their respective expert opinions that the proposed re-zoning and the potential future development of an aerial cableway, can be undertaken without significant adverse effects on matters of landscape and ecological biodiversity.

[306] Accordingly, this further submission does not affect or alter my opinion on the suitability of the proposed re-zoning.

Iwi Management Plans

Mana Whakahono ā Rohe - Iwi Participation Arrangement.

[307] The Mana Whakahono ā Rohe - Iwi Participation Arrangement (**the Arrangement**), is a collaboration between representatives from Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, Te Rūnanga o

Ngāi Tahu, and West Coast Regional Council, and was signed at the Arahura Marae on 22 October 2020.

[308] This Arrangement formally acknowledges the partnership and relationship between Council and Poutini Ngāi Tahu and is designed to assist tangata whenua and local authorities to discuss, agree and record how they will work together, including how tangata whenua will be involved in resource management decisions.

[309] It is my understanding that the TTPP committee has had regard to the Arrangement and Poutini Ngāi Tahu values as identified in Part 1 – Introduction and General Provisions of the TTPP. The proposal by SEL is not considered to be inconsistent with this Arrangement.

Te Rūnanga o Makaawhio Pounamu Resource Management Plan 2009

[310] This plan was approved by Te Rūnanga o Ngāi Tahu on May 23, 2009 which gives it the status of an Iwi Management plan under the Resource Management Act (RMA) 1991. This plan provides a framework for the exercise of kaitiaki by Te Rūnanga o Makaawhio in the sustainable management, control, extraction, protection and use of pounamu that is sourced from the natural environment within its takiwa.

[311] I have been unable to locate a copy of this management plan online. However, I note that it has been taken into account in the drafting of the TTPP plan provisions²³ and my assessment of those provisions above, finds that granting the re-zoning proposal would not be inconsistent with the TTPP provisions.

[312] Further, through the development of a cultural impact assessment for any future resource consent for an aerial cableway as required by the proposed plan provisions in **Appendix [A]**, this will ensure consideration of all relevant cultural values and effects including those addressed in this management plan where relevant.

²³ TTPP S32 Report 1, Overview and Strategic Directions, Section 2.5, Iwi Management Plans.

Te Rūnanga o Ngāti Waewae Pounamu Resource Management Plan 2008

- [313] This plan was approved as an Iwi management plan in October 2008. The primary objective of this plan is to reaffirm, enhance and protect the wairua and mauri of pounamu through the application of Ngāti Waewae tikanga, use, and management.
- [314] I have been unable to locate a copy of this management plan online. However, I note that it has been taken into account in the drafting of the TTPP plan provisions²⁴ and my assessment of those provisions above, finds that granting the re-zoning proposal would not be inconsistent with the TTPP provisions.
- [315] Further, through the development of a cultural impact assessment for any future resource consent for an aerial cableway as required by the proposed plan provisions in **Appendix [A]**, this will ensure consideration of all relevant cultural values and effects including those addressed in this management plan where relevant.

The Lake Mahinapua Management Plan 2018

- [316] I understand that The Lake Mahinapua Management Plan is also recognised by Te Rūnanga o Ngāi Tahu as an iwi management plan²⁵.
- [317] Lake Māhinapua is a waterbody of cultural, natural, historic and recreational importance located within the Westland District of Te Waipounamu, just south of Hokitika.
- [318] Given its significant geographic separation from the location of the proposed rezoning, I find that this management plan is not a relevant consideration for the re-zoning proposal.

²⁴ TTPP S32 Report 1, Overview and Strategic Directions, Section 2.5, Iwi Management Plans.

²⁵ TTPP S32 Report 1, Overview and Strategic Directions, Section 2.5, Iwi Management Plans.

Section 32AA Evaluation

[319] Section 32AA of the Resource Management Act requires that a further evaluation is required for any changes made to or proposed since a Section 32 evaluation report for a proposed plan was completed.

[320] Essentially assessment under Section 32AA of the Act is a comprehensive evaluation of the proposed changes.

[321] Such an evaluation must: —

- Be undertaken at a level of detail that corresponds with the scale and significance of the changes;
- Be published in an evaluation report made available for public inspection at the same time as the decision on a proposal is publicly notified; or
- Be referred to in the decision-making record in sufficient detail to demonstrate that a further evaluation was undertaken in accordance with this Section of the Act and
- A specific evaluation report does not need to be prepared if a further evaluation is undertaken within the decision-making record.

[322] I have not prepared a standalone Section 32AA evaluation report for the proposed re-zoning. However, I consider that I have demonstrated within the body of my evidence, and that the conclusions on the potential environmental effects of an aerial cableway outlined above illustrate, that the proposed FJAAZ and associated provisions are the most appropriate way to achieve the purpose of the Act.

[323] I have identified that the proposed FJAAZ and associated provisions are the most efficient and effective way to achieve the higher order objectives and policies of TTPP, and are not inconsistent with the NPS-IB, the NPS-Freshwater, the Regional Policy Statement, and Iwi Management Plans. The costs and benefits of the rezoning proposal have been identified and my assessment contains a level of detail that corresponds to the scale and significance of the re-zoning proposal.

Conclusion

[324] Overall, the proposed re-zoning to incorporate a new Special Purposes Zone (FJAAZ) is considered to represent the most efficient and effective zoning.

[325] The proposed FJAAZ will result in an efficient and effective consenting pathway for an aerial cableway which would be a significant, and iconic sustainable tourism development for Franz Josef and the wider region. The expert evidence and my assessment of effects demonstrates that such a development has the potential to and can be managed such that it will integrate appropriately with the natural environment of the Franz Josef Valley.

[326] As such applying the FJAAZ to the Franz Josef Valley is considered appropriate in the context of the Resource Management Act 1991.

Dated 9 September 2024



Sean Dent BRS, ASSOC NZPI
DIRECTOR
SOUTHERN PLANNING GROUP

Appendix A - Draft Chapter

Special Purposes Zone

FJAAZ Franz Josef Amenities Area Zone

Overview

The Franz Josef Glacier/Ka Roimata o Hinehukatere Valley is part of the UNESCO World Heritage Area of Te Wāhipounamu. The combination of geological and climatic processes, the resultant landforms, the unique biota displaying evolutionary adaptation over a diverse range of climatic and altitudinal gradients, all in a relatively pristine state, that give Te Wāhipounamu and the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley in particular, its exceptional and outstanding natural characteristics.

Notwithstanding its outstanding universal values, the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley is an icon destination for domestic and international tourists. In recent years it has seen over 700,000 visitors per annum. Visitors undertake independent walks of the valley floor and side tracks, commercial heli hiking, commercial scenic flights and snow/ice landings on a year-round basis.

Recognising the intrinsic values as well as the on-going issues of glacial retreat, and inability to access the grandeur of the glacier for scenic, recreational, and commercial purposes, the Franz Josef Amenities Area Zone recognises and provides for the importance of sustainable tourism and economic well-being arising from tourism at this icon destination by indicating an area for an Aerial Cable Way to be developed, subject to environmental considerations.

The overall purpose of the Zone is to enable development of an Aerial Cable Way to enhance and maintain sustainable tourism while minimising effects on the intrinsic values the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley.

Other relevant Te Tai o Poutini Plan Provisions

The FJAAZ is located within the Outstanding Natural Landscape and Outstanding Natural Feature (15 and 16) overlays.

The Site of Significance to Maori (SASM145) Kā Roimata-a-Hinehukatere / Franz Josef Glacier applies to the Franz Josef Glacier and lies immediately adjacent to the FJAAZ.

These overlays can be viewed on the planning maps.

Other relevant provisions include the Ecosystems and Indigenous Biodiversity chapter, Historical and Cultural Values chapter, Hazards and Risks and the General District Wide chapters for Earthworks, Light, and Noise.

The Strategic Objectives and Policies are also relevant.

Franz Josef Amenities Area Zone Objectives

FJAAZ – O1	High quality visitor experiences are provided that enable visitors to access and appreciate the dynamic glacial environment.
FJAAZ – O2	The development of an Aerial Cableway that supports domestic and international tourism and provides for appreciation of the outstanding universal values by the public shall be enabled.
FJAAZ – O3	Development of an Aerial Cableway only occurs where the risks posed from natural hazards can be managed to a tolerable level.

FJAAZ – O4	The development of an Aerial Cableway is enabled where the potential adverse effects on the outstanding universal landscape values are appropriately remedied or mitigated.
FJAAZ – O5	The natural features and glaciological and geological history of the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley is preserved and interpreted in an engaging way for visitors.
FJAAZ – O6	Construction of an Aerial Cableway is enabled where it is demonstrated to be efficient and the quality of the visitor experience for existing Westland National Park visitors is remedied or mitigated.
FJAAZ – O7	Development of roading and car park areas is undertaken in a manner which minimises vegetation clearance and alteration to natural land forms.
FJAAZ – O8	Any Aerial Cableway will facilitate public and Concessionaire access to the glacier where it is safe to do so.
FJAAZ – O9	Land use and development maintains indigenous biodiversity values and protects water quality.
FJAAZ – 10	Poutini Ngai Tahu spiritual, cultural, and physical relationship with the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley is protected and enhanced.

Franz Josef Amenities Area Zone Policies

FJAAZ – P1	No more than one Aerial Cableway shall be constructed and operated within the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley Amenities Area.
FJAAZ – P2	Construction and operation of an Aerial Cableway must provide public access to views of the Franz Josef Glacier/Ka Roimata o Hinehukatere Valley and where safe to do so, recreational and tourism access to the glacier valley.
FJAAZ – P3	Discourage development of ancillary commercial and retail facilities beyond the base terminal area.
FJAAZ – P4	Congestion and diminished visitor satisfaction will be managed through consideration of the timing of the Aerial Cableway return trip, proposed visitor capacity per hour, and the anticipated extent of time for visitor appreciation at the upper terminus.
FJAAZ – P5	The visitor capacity of an Aerial Cableway and upper terminus may be limited to ensure a high-quality visitor experience.
FJAAZ – P6	Recognise natural hazard risk and minimise such risk on an aerial cableway as far as is reasonably practicable while acknowledging that visitors may be prepared to tolerate a level of residual risk.
FJAAZ – P7	Ensure any future Aerial Cableway is constructed and located so as to avoid or mitigate: <ul style="list-style-type: none"> a. significant natural hazard risk to human life; and b. the potential risk of damage to the Aerial Cableway and associated infrastructure from natural hazards to the extent practicable.
FJAAZ – P8	Ensure any proposal to develop an Aerial Cableway adequately assesses natural hazards inclusive of the following information requirements, ensuring that the level of detail of the assessment is commensurate with the level of natural hazard risk: <ul style="list-style-type: none"> a. the likelihood of the natural hazard event occurring over no less than a 100-year period;

	<p>b. the type and scale of the natural hazard(s) and the effects of a natural hazard on the Amenities Area;</p> <p>c. the effects of climate change on the frequency and scale of the natural hazard(s);</p> <p>d. the vulnerability of the Aerial Cableway in relation to the natural hazard(s);</p> <p>e. the potential for the Aerial Cableway to exacerbate the natural hazard risk both within and beyond the Amenities Area;</p> <p>f. the location, design and construction of buildings and structures associated with the Aerial Cableway to mitigate the effects of natural hazards;</p> <p>g. management techniques that avoid or manage natural hazard risk to a tolerable level, including with respect to ingress and egress of visitors and emergency services during a natural hazard event.</p>
FJAAZ – P9	Visitors shall be educated of the natural hazard risk by warning signage so they can make an informed decision to utilise the Aerial Cableway
FJAAZ – P10	Ensure any proposal to develop an Aerial Cableway includes a Natural Hazards Event Response Plan outlining the process of evacuating visitors if a natural hazard event occurs during operation.
FJAAZ – P11	Recognise that development of built form is generally inappropriate in Westland Tai Poutini National Park and any successful application for an Aerial Cableway will avoid significant adverse effects, and minimise other effects on landscape quality, character, and important views.
FJAAZ – P12	The prominence of all Aerial Cableway structures, and associated buildings shall be mitigated by ensuring the use of recessive colours and materials with a low light reflectance value and minimising the built form footprint.
FJAAZ – P13	Development of an Aerial Cableway shall be located where it will minimise disruption to natural landform and character.
FJAAZ – P14	Ensure funding exists for removal of all structures and subsequent environmental rehabilitation of any Aerial Cableway in the case of failed development by imposing a bond through the resource consent process.
FJAAZ – P15	Lighting associated with any Aerial Cableway proposal shall be controlled such that it does not diminish appreciation of the natural night sky or affect the habits of indigenous fauna.
FJAAZ – P16	All waste (including human waste) associated with an Aerial Cableway construction and its on-going operation shall be contained and removed from the Westland National Park.
FJAAZ – P17	Minimise construction effects, including on public access to roads and walking tracks, and the quality of the visitor experience through detailed construction management planning.
FJAAZ – P18	Enable the use of aircraft for construction of an Aerial Cableway provided effects on the quality of visitor experiences on the glacier valley floor walk, Roberts Point walk, Douglas Walk and the Lake Wombat track are managed through controls over timing, frequency of flights, and location of landing areas, to avoid, remedy or mitigate noise.

FJAAZ – P19	Ensure that the location of roads, car parks and tracks occurs along the edges of existing landforms, vegetation patterns and is consolidated with existing car parking infrastructure.
FJAAZ – P20	Any change in location of the existing car parking area to facilitate operation of base facilities for an Aerial Cableway shall not increase the available area of car parking that existed at the time this plan became operative.
FJAAZ – P21	Any change to the roading and parking layout shall be limited to the minimum functional requirement for servicing, maintenance, and public access to the Aerial Cableway operation.
FJAAZ – P22	Any proposal for an Aerial Cableway shall provide walking access from the upper terminus structure to the Almer Glacier/Salisbury Snowfield for competent private alpine enthusiasts, guiding Concessionaires and their clients.
FJAAZ – P23	Any proposal for an Aerial Cableway with walking access from the upper terminus structure to the Almer Glacier/Salisbury Snowfield will incorporate a management regime to prevent unauthorised access by the general public.
FJAAZ – P24	Ensure the clearance of indigenous vegetation associated with an Aerial Cableway does not significantly reduce natural character and indigenous biodiversity values or create erosion.
FJAAZ – P25	Encourage opportunities to remedy adverse effects of constructing an Aerial Cableway through the retention, rehabilitation, protection or enhancement of the same indigenous vegetation community elsewhere within the Amenities Area.
FJAAZ – P26	<p>Minimise the extent of vegetation clearance associated with Aerial Cableway construction and operation to ensure:</p> <ul style="list-style-type: none"> a. Indigenous species or communities continue to persist in their natural habitats and natural range; b There is no degradation of threat status, loss of indigenous cover or disruption to ecological processes, functions or connections; c. There is no reasonably measurable reduction in local populations of any nationally critical, nationally endangered, or nationally vulnerable species. d. There is no loss of water quality through increased discharge of suspended sediments.
FJAAZ – P27	<p>Enable any residual adverse effects of an Aerial Cableway construction and operation on indigenous vegetation or indigenous fauna to be offset through protection, restoration and enhancement actions that achieve no net loss and preferably a net gain in indigenous biodiversity values having regard to:</p> <ul style="list-style-type: none"> (i). limits to biodiversity offsetting due to the affected biodiversity being irreplaceable or particularly vulnerable; and (ii) the ability of a proposed offset to demonstrate it can achieve no net loss or preferably a net gain;
FJAAZ – P28	Ensure that any proposal for an Aerial Cableway includes a cultural impact assessment;
FJAAZ – P29	Promote the communication of mana whenua history and values to visitors using the Aerial Cable Way subject to authorising the content through

	consultation with Te Rununga o Makaawhio and Te Rununga o Ngati Waewae as representatives of Poutini Ngai Tahu.
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Franz Josef Amenities Area Zone Rules

Discretionary Activities		
FJAAZ – R1	Aerial Cable Ways	
The construction and operation of an Aerial Cable Way.		Activity Status Where Compliance Not Achieved – N/A

Other Consequential Changes

Definitions – Nga Tautuhinga

Term	Definition
Aerial Cable Way	Means an aerial lift used to carry passengers and includes aerial trams, cable cars, and gondolas and all associated support structures, terminal buildings, and viewing platforms.

Introduction and General Provisions

Special Purpose Zone Descriptions		
Name	Code	Description
Franz Josef Amenities Area Zone	FJAAZ	An area within the Franz Josef Ka Roimata o Hinehukatere Valley identified for the development of an aerial cable way to foster tourism and recreation.

NFL Natural Features & Landscapes - Ngā Āhua me ngā Horanuku Aotūroa

Natural Features and Landscapes Policies	
NFL-P8	Recognise the land within the FJAAZ is within Outstanding Natural Landscape and Outstanding Natural Feature, and provide a separate regulatory framework, within which the remainder of the NFL provisions do not apply.

ECO Ecosystems and Indigenous Biodiversity - Ngā Pūnaha Rauropi me te Kanorau Koiora

Ecosystems and Indigenous Biodiversity Policies	
ECO-P11	The development and operation of an aerial cableway in the FJAAZ and all associated indigenous vegetation clearance will be assessed as a Discretionary Activity pursuant to Rule

	FJAAZ-R1. The rules in this chapter shall not apply to the FJAAZ
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EW Earthworks - Te Huke Whenua

Earthworks Policies

EW-P5	The development and operation of an aerial cableway in the FJAAZ and all associated earthworks will be assessed as a Discretionary Activity pursuant to Rule FJAAZ-R1. The rules in this chapter shall not apply to the FJAAZ
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LIGHT Light - Ngā Rama

Light Policies

LIGHT – P4	The development and operation of an aerial cableway in the FJAAZ and all associated artificial lighting will be assessed as a Discretionary Activity pursuant to Rule FJAAZ-R1. The rules in this chapter shall not apply to the FJAAZ.
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NOISE Noise - Ngā Oro

Noise Policies

NOISE-P5	The development and operation of an aerial cableway in the FJAAZ and all associated noise effects will be assessed as a Discretionary Activity pursuant to Rule FJAAZ-R1. The rules in this chapter shall not apply to the FJAAZ.
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