



Te Tai o Poutini PLAN

A combined district plan for the West Coast

Prepared for: Hearing Commissioners - Te Tai o Poutini Plan

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Date: 14 October 2024

Subject: s42A Author Right of Reply – Franz Josef Hearing – Part 1

Purpose of Report

1. The purpose of this report is to respond to a question raised by the Hearings Commissioner during Hearing 18: Franz Josef Matters around the scope of the Skyline Enterprises Limited submission and whether amendment to the definition of Recreation Activities is within the scope of the original submission.

Scope Provided by the Skyline Enterprises Limited (S250) Submission

2. I consider that the submission does provide some broad scope in that it opposes the objectives, policies and rules of the TTPP in relation to the Franz Josef Glacier and in particular the provisions in the Natural Open Space Zone and General Rural Zone that apply.
3. The submission also specifically seeks "*5.4 such further or consequential/alternative amendments necessary to give effect to this submission.*"
4. The Skyline Enterprises submission provided detailed analysis and commentary that their proposed activity does not fit with the definition of Conservation Activities, or activities provided for within the Natural Open Space Zone and for this reason a Special Purpose Zone is needed to accommodate the proposed activity. Their submission states

*4.25 It is noted that in the TTPP 'Conservation Activities' are provided for within ONL and ONF's2 and the definition states: "means the use of land and/or buildings for any activity undertaken for the purposes of maintaining, protecting and/or enhancing the natural, historic and/or ecological values of a natural or historic resource. **It includes ancillary activities and activities which assist to enhance the public's appreciation and recreational enjoyment of the resource.**" [emphasis added].*

4.26 However, it is not clear that providing an Aerial Cableway by a commercial entity (such as the submitter) would fall within the scope of this definition. Accordingly, the submitter's request that their proposed Amenities Area should be identified on the planning maps and the provisions in the Natural Features and Landscapes - Ngā Āhua me ngā Horanuku Aotūroa chapter enable consideration of such a development.

4.27 The Natural Open Space Zone - Te Takiwā Pōaha Aotūroa chapter similarly does not contain provisions that would be enabling of a future Aerial Cableway. Specifically, the submitters vision for such a proposal would not fall within the Permitted Activity requirements for 'Park Facilities and Furniture' and vehicle access and car parking would not be ancillary to a Permitted Activity. Accordingly, an Aerial Cableway and ancillary parking and access would need to be considered as a Non-Complying Activity.

5. The submission does discuss at length the recreational values of the proposed activities and potential effects on other recreational users. In this respect the submission makes it clear that the proposal is for a recreation activity.
6. The proposed objective and policy framework also couch the activity as providing for recreational values.
7. In my s42A assessment I have considered that the aerial cableway is a recreational activity – however I acknowledge that the current definition does not specifically provide for structures associated with recreational activities – only buildings. It does however cover "*the use of land*" and while I consider that this would cover the installation of structures on the land, this may be open to interpretation and clarity would be beneficial.
8. The proposed Plan definition of Recreation Activity is "*means the use of land, waterbodies and/or buildings for the active or passive enjoyment of organised sports, recreation or leisure, whether competitive or non-competitive, and whether a charge is made for admission or not, including sporting and recreational events, but excludes gambling machines and motor sport facilities.*"
9. The proposed Plan definition is a bespoke TPPP definition, there is no National Planning Standards definition for Recreation Activity, Visitor Activity or Tourism Activity. It is the same definition as has been used in the Christchurch District Plan.
10. In terms of how other Plans deal with this issue I note that "outdoor tourist activity" is defined in the Auckland Plan and is provided for within Open Space and Recreation Zones. The Queenstown Lakes District Plan has a comprehensive framework for managing activities within its Open Space and Recreation Zones and includes definitions for "commercial recreation activities". They also have specific provisions for ski areas and "ski area activities" which include passenger lift systems.
11. I consider that an amendment to the definition of Recreation Activities to specifically provide for structures associated with recreational activities, and to expand the description of recreation activities to make it clear that commercial recreation activities are included within the definition is within the scope of the Skyline Enterprises Limited submission in that they have comprehensively opposed the existing provisions, and that it is alternative relief, as sought in the submission.

Recommendation

12. I recommend that in response to the Skyline Enterprises Limited submission the definition of Recreation Activity is amended as follows:

means the use of land, waterbodies and/or buildings and structures for the active or passive enjoyment of organised sports, recreation or leisure, whether competitive or non-competitive, and whether a charge is made for admission or not, including sporting and recreational events, but excludes gambling machines and motor sport facilities. Recreation activities include commercial recreation activities such as commercial guiding, training, instructing, transportation or provision of recreation facilities to clients for recreational purposes.