

HEARING REPORT ON APPLICATION RM230149

PURSUANT TO SECTION 42A OF THE RESOURCE MANAGEMENT ACT 1991

Applicants:	Queenstown Commercial Parapenters Ltd
Application Description:	To establish and operate a commercial tree-climb ropes course and picnic facilities on a site at Lakeside Drive, Takapō/Lake Tekapo.
Application Status:	Non-complying
Property Address:	Lakeside Drive, Takapō/Lake Tekapo
Legal Description:	Lot 2 DP 562455 and Lot 5 DP 455053 as held in Records of Title 999813 and 584960 respectively.
Valuation No.	2531102305
District Plan Zone:	Recreation Passive (P) Zone/Open Space Zone Area of High Visual Vulnerability Flight Protection Area Takapō/Lake Tekapo Precinct (PREC1) Flood Hazard Assessment Overlay Liquefaction Overlay Designations MDC-29, 51 and 53
Notification:	Publicly Notified
Submissions:	19 received (2 in support, 3 neutral and 14 oppose)
Author:	Nick Boyes, Consultant Planner
Date of Report:	6 August 2025
Recommendation:	Decline

INTRODUCTION

REPORT PURPOSE

1. This planning report has been prepared on behalf of the Mackenzie District Council (the Council/MDC) in accordance with section 42A of the Resource Management Act 1991 (RMA). It follows an earlier Notification Report prepared by Ms Kirstyn Royce pursuant to sections 95A to F of the RMA (dated 14 October 2024). The Notification Report is attached as **Appendix 1**.
2. The report assesses the relevant statutory requirements pursuant to sections 104, 104B, 104D and 108 of the RMA. Firstly providing a recommendation as to whether the application should be approved or declined, and subsequently includes a draft set of conditions to be imposed on any consent granted pursuant to section 108 of the RMA.

3. The purpose of this section 42A report is to assist the Commissioner acting under Council delegation. It should be noted that the recommendations made in this report are made at the time of writing with the information available. The recommendations herein are in no way binding and it should not be assumed that the Commissioner will reach the same conclusions having assessed the application documentation and received further evidence from submitters.

QUALIFICATIONS AND EXPERIENCE

4. My name is Nicholas (Nick) Boyes. I am an independent planning consultant. I hold a Bachelor of Science (majoring in Plant and Microbial Science and Geography) from the University of Canterbury (1997) and a Master of Science (Resource Management) (Hons.) from Lincoln University (1999). I have worked in the field of planning/resource management since 1999, the last 24 years as a planning consultant. I have more recently been involved in the Mackenzie District Plan Review and also undertook the role of Acting Planning Manager at the Mackenzie District Council from July to November 2024. On that basis I am familiar with the Mackenzie District and the relevant planning provisions.
5. I confirm I have read the Code of Conduct for Expert Witnesses and agree to comply with it. In that regard I confirm that this planning report is written within my area of expertise, except where otherwise stated, and that I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
6. In preparing this report I have been assisted by specialist peer review of the Applicant's Landscape and Visual Effects Assessment prepared by Ms Bron Faulkner (see report attached as **Appendix 2**).
7. I am familiar with the area in which the application is proposed, having visited the Lake Takapō/Tekapo foreshore on numerous occasions. A visit to the site and surrounds to specifically assess the matters raised in the application and submissions was conducted on 31 July 2025.

APPLICATION DOCUMENTATION

8. This report acts as an audit of the consent application, various supporting information and submissions lodged on the application resulting from the public notification. The application was lodged by Davis Ogilvie on behalf of Queenstown Commercial Parapenters Ltd (the Applicant) in December 2023. Subsequent further information has been provided by Perspective Consulting. In undertaking this assessment the following documents have been reviewed:
- *Resource Consent Application and Environmental Effects Assessment (AEE). Prepared by Davis Ogilvie. December 2023*
 - *Transport Assessment prepared by Stantec (dated 28 July 2023)*
 - *Acoustic Assessment prepared by Marshall Day (dated 16 November 2023)*
 - *Assessment of Landscape and Visual Effects prepared by Design Works Group (DWG) (dated October 2023)*
9. Further information was provided on 26 April 2024, 16 July 2024, 4 September 2024 and included:
- *An additional traffic assessment prepared by Stantec dated 23 February 2024*
 - *An additional Landscape and Visual Effects Assessment prepared by DWG dated April 2024*
 - *Memoranda from Perspective Consulting in response to draft Notification Report dated 16 July 2024 and 4 September 2024, including a revised suite of recommended conditions, updated*

landscape plan (dated 04/09/24), additional landscape comment (14/09/24) and additional acoustic response (dated 27/08/24).

SCOPE OF ASSESSMENT

10. It should be noted that this report evaluates the proposal in terms of the statutory requirements under the RMA. In particular to this project, I note that this is separate from Council's consideration of any lease/licence to occupy that would also be required to establish the activity and otherwise give effect to any resource consent granted in terms of the RMA.
11. The land subject to this application is Council owned. However, I am advised that it is not held specifically for reserve purposes as administered under the Reserves Act 1977. It should not be assumed that any RMA approval obtained subsequently binds the Council to approve a lease/licence over the land, and vice versa. Overall, the matter of any lease/licence to occupy the land subject to this application is a separate matter with a separately defined decision-making process. It is understood that the Applicant has had some preliminary discussions with the Council regarding a Licence to Occupy the site, with this process otherwise to be progressed following resolution of the RMA process.
12. It is understood that implementation of the proposal would also require certain health and safety obligations to be adhered to, including under the Building Act. Prior to commencement of the proposed activity, the Applicant has stated that each affected tree would be structurally assessed by a suitably qualified arborist to ensure it is structurally sound for use as part of the ropes course. This Planning Report does not include an assessment of the health of the trees sought to be used for the proposed activity; and therefore makes no findings as to their suitability for the proposed purpose. It is anticipated that such issues would be resolved through any subsequent approvals in order for the Applicant to meet any other statutory obligations; and otherwise through the lease arrangement.

PROPOSAL, SITE & HISTORY DESCRIPTION

DESCRIPTION OF THE PROPOSED ACTIVITY

13. The Applicant seeks resource consent to establish and operate a commercial tree-climb ropes course on a site at Lakeside Drive, in the Takapō/ Lake Tekapo Township. The proposed activity is described in the application documents and was also set out in the previous Notification Report. On that basis I do not repeat that in detail, except in summary form as set out below.
14. The nature of the proposed activity will be as set out on the Site Location Plan and Site Concept Plan (attached as **Appendix 3** to this report). It is noted that an alternative concept titled 'Optional Council Development Landscape Plan' accompanied the Applicant's response to the matters raised in the draft Notification Report (dated 4 September 2024) (and attached as **Appendix 4**). It should be noted that all additional works shown thereon are subject to adoption through the Council's proposed Master Planning process for car-parking and traffic circulation areas surrounding Lake Takapō/Tekapo.
15. Key components of the proposed activity for which resource consent is sought include:
 - a) A base station building (being 58.56m²) located at existing ground level. The base station will consist of two shipping containers, creating a 4.8m x 12.2m footprint. It will be standard container height of 2.6m. Entry and exit the course will be via the base station building, and access to the course will be via the base station building roof.

The base station will be located parallel to, but set back from, Lakeside Drive and accessed from the existing concrete pathway within the trees. The base station will be clad with a combination of corten steel and vertical timber panels with a natural finish. The base station will not be located within the identified HAIL area of the site.

The location of the base station building is described as being generally flat, and therefore only minor excavations will be required to establish the footings. The application states that erosion and sediment control measures will be implemented by the earthworks contractor to limit the opportunity for any sediment to become entrained in the runoff and enter Lake Takapō/Tekapo.

- b) A 2.5m² (1m x 2.5m) sign will be fixed to the base station stating “*Tree Climb Lake Tekapo*” as displayed in the Visual Simulations provided in the application. The maximum lettering size will be 100mm. The sign will be made of corten steel, or similar material, and a colour having a maximum reflectivity value of 30%. The sign will not protrude above the roof profile of the building.
 - c) An adults ropes course and a children’s ropes course will be established which will contain a series of climbing wires, ropes, wire bridges, platforms and zip lines. These will be located within the canopy of the pine trees, between 3m – 10m above ground level. The timber platforms and elements will be left to sliver off. The application was amended post lodgement to include the requirement that no zip lines finish at ground level.
 - d) The proposed activity will operate between 9am and 7pm, seven days a week/365 days of the year. However, it is anticipated that opening hours and days will be limited during winter months and during times of inclement weather. In time, and during peak periods, the activity may employ up to six staff members. No outdoor lighting or security lighting is proposed.
 - e) During peak times it is anticipated there may be up to 60 people on the course at any one time and up to 250 persons per day. Car parking is to be provided using the adjacent Lakeside Drive legal road reserve.
 - f) The Applicant advises that the elevated nature of the activity will enable the open space area beneath the ropes course to continue to be accessible to the public, including use of the footpath and picnic within the trees.
 - g) No toilets are proposed, the nearby public toilets on the opposite side of Lakeside Drive are to be utilised by staff and visitors to the proposed activity.
16. It is noted that the Applicant’s final response to Council’s second Notification Memo dated 4 September 2024 included (as Appendix 3) further assessment of the potential visual effects of the structures and signage. That further assessment makes reference to the proposed addition of four picnic tables and two small public space signs (400 x 150mm). The picnic tables are stated as being finished in natural wood and of standard size (approximately 2000mm (L) x 1500mm (W) x 780mm (H)), being free-standing and without any concrete pads. Their proposed location is between the trees and the Lake, and reference is made to a ‘Signage and Picnic Table Location Plan’, which does not appear to have been provided to Council. The Applicant’s response states these tables are intended to enhance the area by providing resting and gathering spots for visitors, thereby encouraging passive recreational use.
17. If in future the proposed activity ceases operation, the application states that the base station building (being modified shipping containers) and the ropes course structures, will be removed; and this can be done without leaving any likely discernible footprint on the landscape.

DESCRIPTION OF THE SITE AND AFFECTED ENVIRONMENT

18. The application site is located within the lake margin of Lake Takapō/Tekapo between Lakeside Drive and the lake itself, as shown in **Figure 1** below.
19. The site is legally described as Lot 2 DP 562455, held in Record of Title 999813, which comprises an area of 3.092ha, and Lot 5 DP 455053, held in Record of Title 584960, which comprises an area of 1.477ha.

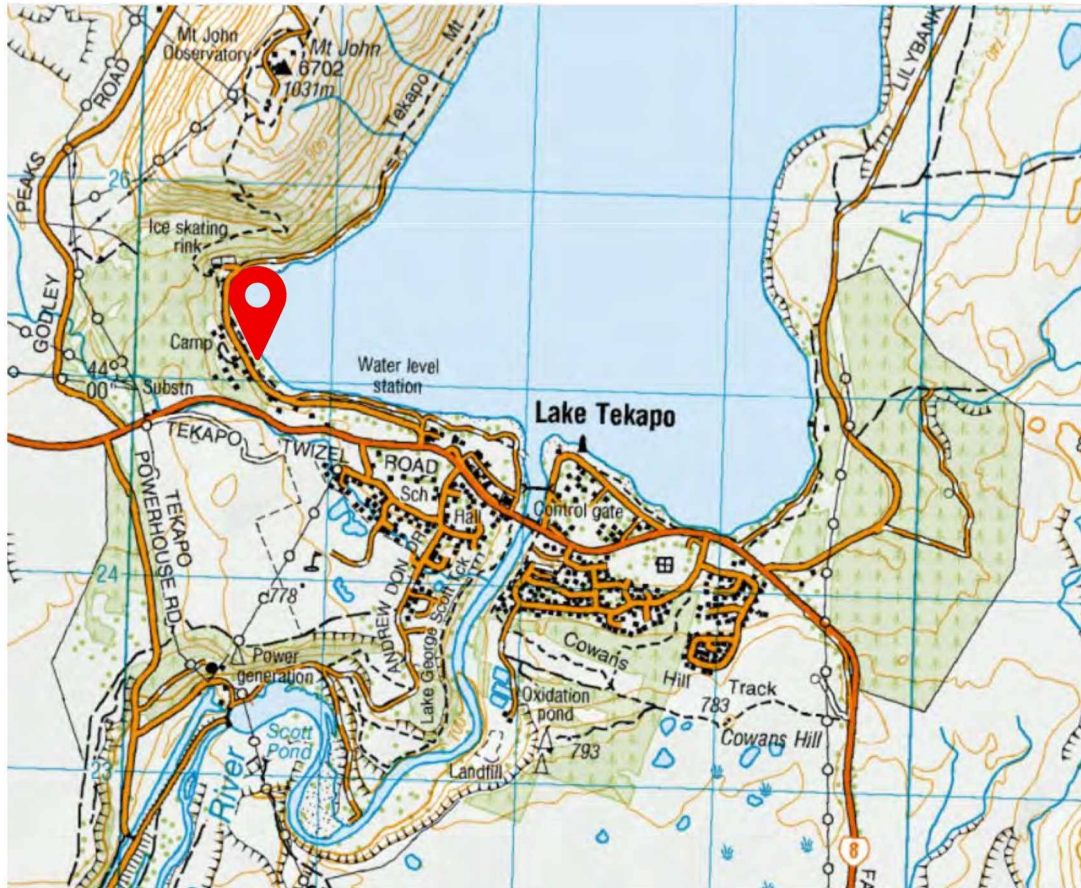


Figure 1: Site Location

20. As noted above, the sites are owned by Mackenzie District Council (the Council), but not held for any particular reserve purpose. The site is not administered under a Reserve Management Plan or Parks Strategy and does not have the status of a reserve under the Reserves Act 1977. However, the land is managed as part of the open space network located along the lakefront within the Lake Takapō/Tekapo township.
21. The proposed activity occupies the foreshore area between the existing Lake Tekapo Powerboat and Water Ski Club to the north, extending south to the existing children's playground. An aerial photograph of the area is included in **Figure 2** below. This area is currently used for public open space and includes a paved pedestrian and cycle pathway meandering through the trees. This pathway provides a connection from the Lake Takapō/Tekapo lakefront to Tekapo Springs and the Mount John Walkway beyond.
22. Lake Takapō/Tekapo is used for boating, fishing and other recreational activities. The foreshore in the immediate vicinity of the proposed site includes the two storey block clubhouse used by the Lake Tekapo Power Boat and Water Ski Club and two boat ramps. The Club holds tournaments and coaching days and has a slalom course. Otherwise, the foreshore area is used for various passive recreation, and the subject trees provide shelter for those boating or otherwise enjoying the lake edge.

23. The main land parcel making up the application site (Lot 5 DP 455053) is subject to a lease in favour of Tekapo Landco Ltd and Godwit Leisure Ltd to allow for overflow parking and camping on this land. Any potential conflict with activities authorised by way of this existing lease will require resolution through any subsequent lease/licence arrangement entered into with the Applicant.



Figure 2: Aerial of locality (Source: Canterbury Maps)

24. As set out in the Notification Report, Lot 2 DP 455053 has potential for asbestos to be present at the site given the cabins that previously occupied the site had asbestos tiling. A Preliminary Site Investigation (PSI) (INV 116097) was carried out by Tonkin and Taylor Ltd in 2014. This identifies from historic photographs that the cabins were demolished between 1954 and 1977 and that asbestos remnants may be present in the soil.
25. The receiving environment is made up of various zones, which results in a mix of activity and resulting scale of built form, these are shown in **Figure 3** below.
26. North of the site is the Tekapo Hot Springs commercial tourism development. This includes hot spring pools, café, ice rink, day spa and associated car parking.
27. To the north-west on the opposite side of Lakeside Drive is the Lake's Edge Holiday Park, a 2.5ha property which contains cabins and visitor accommodation owned by Tekapo Landco Limited. South of that property is the Lake Edge Lodge, a 4,600m² property containing visitor accommodation owned by Godwit Leisure Limited.
28. Adjacent and west of the above visitor accommodation facilities is the Station Bay residential development, which includes some 47 residential sites currently consented on Station Bay Rise and Pete's Place.
29. Immediately south of the site is the Mixed Use Zone (MUZ) which became operative in September 2023 following Plan Change 21 to the Mackenzie District Plan. The MUZ

provides for residential activities and small scale commercial and community activities to service the convenience needs of the surrounding residential area and visitors.

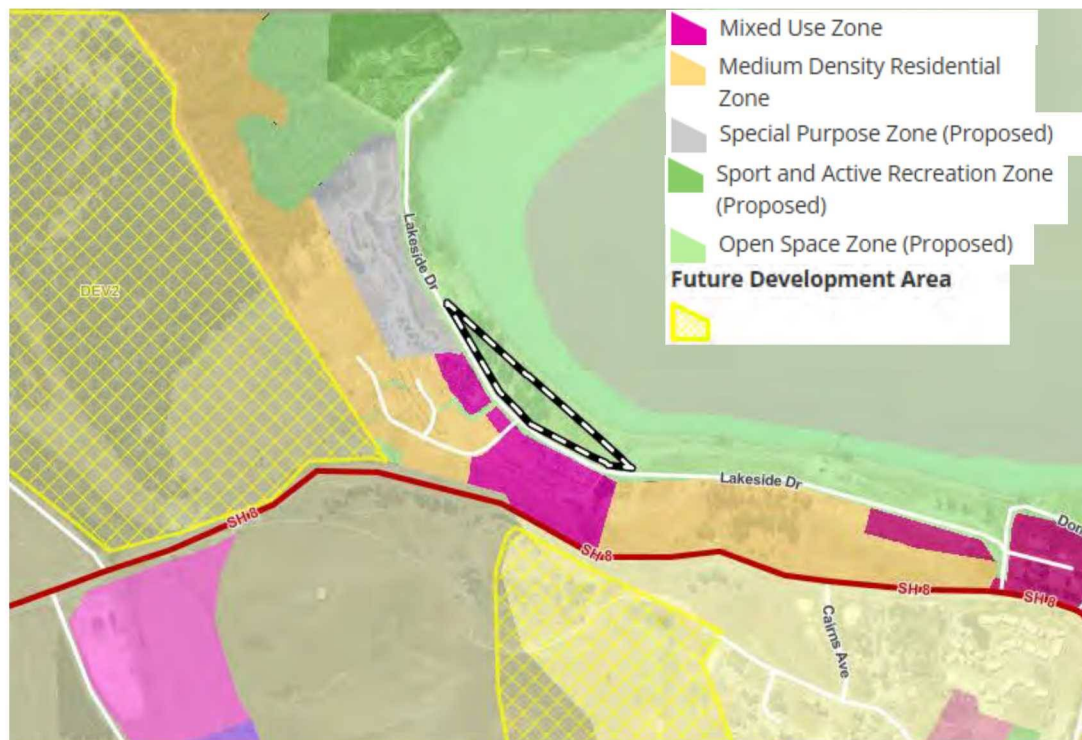


Figure 3: MDP Zoning (including MDPR Stages 3 and 4) (Source: MDC EPlan)

Site History/Background

30. There are no known resource or building consents relevant to the subject site.

MACKENZIE DISTRICT PLAN

District Plan Review

31. The Mackenzie District Plan (MDP) was made Operative in 2004. The MDP is currently being reviewed, with decisions on Stage 4 of the review being released on 24 July 2025 (and therefore subject to Appeal at the time of writing).
32. Stage 1 involved the Strategic Directions, whilst Stage 2 consisted of Plan Change (PC) 21 and PC22 covering Spatial Plan Implementation and Lighting respectively. Stage 2 was notified on 23 September 2022 and become operative on 14 September 2023, prior to the lodgement of this application.
33. Stage 3, which included PC23 to PC27, was notified on 4 November 2023. Of particular note in relation to this application are the provisions relating to PC27: Subdivision, Earthworks, Public Access and Transport. None of those provisions had immediate legal effect from the date of notification. Decisions on submissions were released on 16 September 2024 and none of the outstanding Appeals relating to PC23 to PC27 affect the subject site. Those provisions are therefore now to be treated as operative in accordance with section 86(f)(1)(a) of the RMA.
34. The subject application was lodged in December 2023.
35. Stage 4 was publicly notified on 5 November 2024, with the Council's decisions on submissions notified on 24 July 2025. Relevant to this application Stage 4 included PC28 relating to Natural Hazards, PC29 relating to Open Space Zones, Noise and Signs; as well as Designations.

36. On that basis the relevant provisions for assessing the status of the activity are those applying at the time the application was made (which does not include the rules contained in Stages 3 and 4). Pursuant to section 88A of the RMA the proposed activity retains the activity status as at the date of lodgement.
37. In terms of the substantive consideration of the application pursuant to section 104 of the RMA; it is my understanding that it is the provisions applying at the date of consideration that are relevant. In this case that includes all Stages of the Mackenzie District Plan Review, including those of Stage 4, which have legal effect from the date of notification of the Council's decisions on submissions. For these provisions there is the ability to undertake a weighting exercise if required. I will be able to provide updated advice on any Appeals received on the Stage 4 plan changes at the Hearing.

Zoning/Overlays

38. The application site is zoned Recreation Passive (P) within the Operative Mackenzie District Plan 2004 and is within the Open Space Zone introduced through PC29.
39. The site is also located within a Flight Path Protection Area and within an Area of Visual Vulnerability (High). It is noted that Lake Tākapō/Tekapo is identified as being within a mapped Outstanding Natural Landscape (ONL) in both the Operative District Plan and PC23 and is also a Site or Area of Significance to Māori (SASM) under PC24. Whilst these overlays cover much of the surface of Lake Tākapō/Tekapo adjacent to the site, they do not extend into the subject foreshore area around the township of Tākapō/Tekapo. This means that the identification of the site within an Area of High Visual Vulnerability has no impact in terms of the planning provisions that apply to the consideration of the subject activity.
40. The Introduction to the Takapō/Lake Tekapo Precinct (PREC1) Chapter states it applies to the Residential, Commercial and Mixed use, General Industrial, Open Space and Recreation areas within the Takapō / Lake Tekapo township. PC29 introduces additions to the PREC1 area, which include the application site.
41. PC28 relating to Natural Hazards identifies the area including parts of the underlying site as being within the Flood Hazard Assessment Overlay and the Liquefaction Overlay.
42. The underlying site includes three Designations introduced as part of Stage 4, with the Mackenzie District Council being the applicable Requiring Authority.

Compliance Assessment

43. The application document and previous Council Notification Report set out a full compliance assessment of the proposed activity against the relevant rules applying at that time, including an assessment of Transport provisions introduced through PC27. However, I note that it did not refer to the rules relating to Natural Character introduced by PC23.
44. I do not propose to repeat the detail of that assessment here, but note the key elements/findings, being:
- The proposed activity is commercial in nature, which is a **non-complying** activity in accordance with Recreation P Zone **Rule 4.7.3**. However, **Rule 4.6.1** provides more specifically for 'commercial recreation activities' as a **discretionary** activity. Commercial recreation activity is an undefined term. This creates a tension, but is of little consequence given that non-complying activity status results from **Rule 4.7.4** in any case.
 - Buildings and structures for all activities not associated with passive recreation in the Recreation P Zone require resource consent as a **non-complying** activity under Recreation P Zone **Rule 4.7.4**.

- Picnic facilities consisting of seating and tables, permanent barbecues and rubbish facilities in the Recreation P Zone require resource consent as a **controlled** activity under Recreation P Zone **Rule 4.5.1.a**.
- The lack of provision of on-site car parking spaces (including accessible spaces) where 15 car parking spaces are required (one to be accessible), results in the requirement for a **discretionary** activity consent under Transport **Rules 2a and 2d**, respectively.
- The lack of provision of an on-site loading space requires resource consent for a **discretionary** activity under Transport **Rule 2i**.
- The proposed 2.5m² sign attached to the southern exterior façade of the base station building is assessed as a **permitted** activity pursuant to **Rule 8.b**.
- The proposed signage to signal that the area under the ropes course is a public area is considered to meet the purpose of Section 12, **Rule 2.d** and therefore assessed as a **permitted** activity on the basis each sign does not exceed 1m².
- In terms of PC27, the proposal does not meet **TRAN-R6/TRAN-S1** 'Minimum Parking Space Requirements' as no on-site car parks are proposed. This results in **restricted discretionary** activity status. The Matters of discretion are restricted to those set out in **TRAN-MD3** Parking.

Plan Change 23 Natural Character

45. In accordance with the directions set out in the National Planning Standards, Stage 3 of the Mackenzie District Plan Review introduced a specific chapter relating to Natural Character (NATC).
46. **NATC-R1** sets out that 'Buildings and Structures' (excluding fences, water troughs and water pump sheds with building footprint of 10m² or less) are permitted where the activity complies with **NATC-S1** 'Activity Setbacks from Surface Waterbodies'. This standard requires that all activities shall be located outside the setback distance specified in **Table NATC-1**, which requires a 25m setback distance within the OSZ from Lakes included in **NATC-SCHED1**, which includes Lake Takapō/Tekapo. This setback is to be measured from the top of the bank edge of the surface waterbody, as illustrated in **Figure NATC-1**.
47. From the plans submitted with the application it would appear that the proposed base station building is within 25m of the "full flow water level" of Lake Takapō/Tekapo. The exact location of the building relative to this setback should be confirmed by the Applicant prior to the Hearing. In any case the proposed platforms (structures) are within the 25m setback. I note that non-compliance results in a **restricted discretionary** activity status, with the matters of discretion being restricted to:
 - a. *The extent to which the proposed activity will affect the natural character of the surface waterbody and its riparian margins.*
 - b. *The effects of the proposed activity on any indigenous vegetation, habitat or ecosystem.*
 - c. *Those matters in SASM-MD1 Activities in a SASM.*
 - d. *The nature of any proposed mitigation measures that contribute to the preservation, maintenance or enhancement of the natural character values of the surface waterbody.*
 - e. *The extent to which any restoration or rehabilitation of the natural character of the area is proposed.*
 - f. *The extent to which alternative practicable options have been considered and their feasibility, including the functional need and operational need for the activity to locate in a riparian margin.*
 - g. *Whether the activity maintains and enhances public access along the surface waterbody.*
 - h. *The type and extent of planting proposed and the impact of this on natural character values.*
 - i. *The effectiveness of any erosion and sediment control measures proposed.*

Plan Change 28 Hazards and Risks

48. The underlying site is affected by the Flood Hazard Assessment Overlay and Liquefaction Overlay introduced by PC28, as shown in **Figure 4** below.

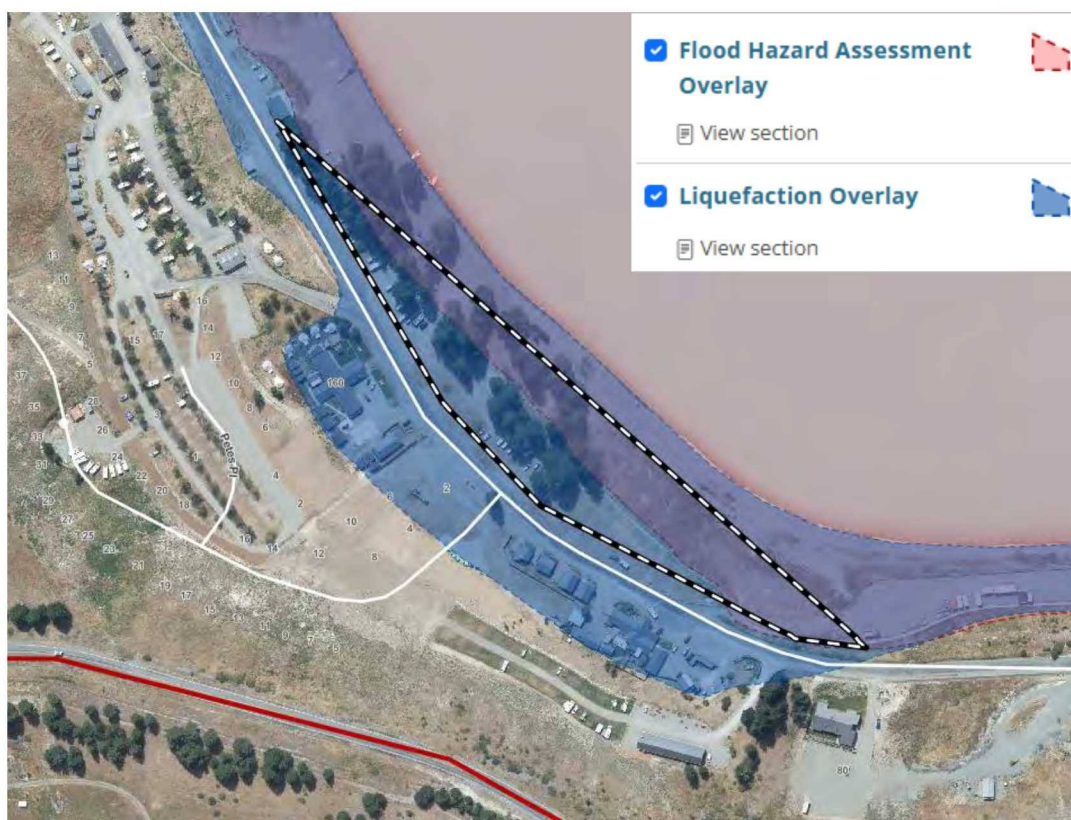


Figure 4: PC28 Natural Hazards Overlays (Source: MDC EPlan)

49. Should the Flood Hazard Assessment Overlay include the location of the proposed base station building, which meets the definition of a 'Natural Hazard Sensitive Building', it would be a permitted activity under rule **NH-R1**, only where:
1. *A Flood Hazard Assessment is issued in accordance with NH-S1 and is provided to Council; and*
 2. *The building is located outside of a High Flood Hazard Area as stated in a Flood Hazard Assessment issued in accordance with NH-S1; and*
 3. *The building has a finished floor level equal to or higher than the minimum floor level as stated in a Flood Hazard Assessment issued in accordance with NH-S1.*
50. Where a Flood Hazard Assessment is not provided, or the building is located within a High Flood Hazard Area, the resulting activity status is non-complying. Should a Flood Hazard Assessment be obtained, but the proposed building not comply with **NH-R1.3** above, the resulting activity status is restricted discretionary, with the matters of discretion restricted to those set out in **NH-MD1**.
51. As above, the Applicant should clarify the location of the proposed base station building relative to the Flood Hazard Assessment Overlay prior to the Hearing in order to determine compliance with **NH-R1**. However, I note that it appears that the base station is located outside the Flood Hazard Assessment Overlay.
52. In terms of the Liquefaction Overlay, the only rule relating to this is **SUB-R7C**, as introduced through PC28 Natural Hazards. As the application does not involve subdivision the inclusion within this Overlay does not impact on the status of the proposed activity.

Plan Change 29 Open Space Zone

53. As noted above, the foreshore area adjacent to Takapō/Tekapo Township in which the application is located is sought to be included in the Open Space Zone (OSZ) through PC29.
54. Under **OSZ-R6** 'Commercial Recreation Activities' are a **restricted discretionary** activity, with the 'Matters of discretion' being restricted to:
- a. *The nature, scale and intensity of the*
 - b. *Compatibility with passive recreational activities.*
 - c. *Any impacts on other users of the site, or on accessibility.*
 - d. *Maintenance of the visual amenity and character of the zone.*
 - e. *Whether the activity enhances the experience of users of the area.*
55. It is noted there appears to be an omission from the end of a), which is assumed should read "*The nature, scale and intensity of the activity*".
56. Pursuant to **OSZ-R8** 'Car Parking' is similarly a **restricted discretionary** activity, with the 'Matters of discretion' being restricted to:
- a. *The location and scale of any proposed car parking areas.*
 - b. *Whether the car parking is necessary to support users of the area.*
 - c. *Any impacts on other users of the area, or on accessibility.*
 - d. *Maintenance of the visual amenity of the zone.*
 - e. *Any mitigation measures proposed to reduce visual impacts of car parking.*
57. The proposed base station is subject to **OSZ-R5** relating to 'Buildings and Structures'. Only buildings and structures ancillary to a permitted activity are similarly permitted in the OSZ. On the basis that the activity is commercial in nature and therefore subject to **OSZ-R6**, the base station building is a **discretionary** activity. It is noted that the **OSZ-R5** provides permitted activity standards relating to height (**OSZ-S1**), setbacks (**OSZ-S2**), coverage (**OSZ-S3**) and reflectivity (**OSZ-S4**). The only matter of compliance raised is how height is measured. Whilst the base station building complies, the ropes course and associated platform structures will be 3m – 10m above ground level. It is not immediately obvious how these are to be assessed against **OSZ-S1**, which states that "*the maximum height of any building or structure shall not exceed 5m above ground level*". In any case, compliance with this standard is not a matter of any particular consequence as the base station building and all structures associated with the ropes course and ziplines have a discretionary activity status under **OSZ-R6** regardless.

Plan Change 29 – PREC1

58. PC29 extended the area within **PREC1** to include the Lake Takapō/Tekapo foreshore out to the identified ONL boundary, as shown in **Figure 5** below.
59. Under **PREC1-R1** 'Buildings and Structures' are a permitted activity where they comply with the standards set out in **PREC1-S1 to S8**, and any standards in the relevant zone chapter.
60. Having assessed those standards, the proposed base station building can meet all these standards, or otherwise do not apply (as is the case for **PREC1-S5** and **PREC1-S6**).



Figure 5: PC29 PREC1 Overlay (Source: MDC Eplan)

Plan Change 29 - Noise

61. PC29 introduced a new Noise Chapter into the MDP. **NOISE-R3** relates to 'Noise Associated with Recreational Activities'. It is noted that the decisions on submissions amends the definition of recreational activities to exclude any activity of a commercial nature. On that basis the noise from the proposed activity is managed by **NOISE-R1** 'Noise Generating Activity Not Otherwise Listed'. Noise is permitted where it does not exceed the limits set out in **NOISE-TABLE 1**.
62. The noise limit applying is that of the zone within which the site receiving the noise is located. I interpret this to mean that the noise standards apply at the boundary of the adjacent zonings applying on the opposite side of Lakeside Drive, which include the Medium Density Residential Zone, the Mixed Use Zone and the Accommodation Special Purpose Zone. On that basis the applicable noise standards are as set out below:

7.00am – 10.00pm	10.00pm – 7.00am	LA _{Fmax}
50 dB LA _{eq(15min)}	40 dB Leq(15min)	70 LA _{Fmax}

63. An acoustic/noise assessment prepared by Marshall Day Acoustics Ltd was included with the application. It is noted that assessment is dated 16 November 2023 and therefore pre-dates PC29. On that basis it provides predicted noise levels for the proposed activity in terms of the previous rules applying to the Recreation P Zone, which are expressed as dB LA₁₀. This does not allow a direct comparison with the PC29 noise standards set out above, which are expressed as both LA_{eq(15min)} (daytime) and Leq(15min) (nighttime). Furthermore, it is noted that the previous daytime noise limit applying to the Mixed Use Zone and Traveller Accommodation Zone have reduced under PC29 (from 65 dB LA₁₀ to 50 dB LA_{eq(15min)}). The Applicant should clarify the compliance of the predicted noise with the applicable standards in PC29 in evidence prior to the Hearing. It is noted that any non-compliance with the standards set out in **NOISE-TABLE 1** results in a **restricted discretionary** activity status, with the matters of discretion being restricted to those set out in **NOISE-MD1** Noise Effects.

64. It is noted that the set of draft resource consent conditions put forward by the Applicant include that:

Following the commencement of the activity, noise levels shall not exceed 50dBA Leq at the notional boundary of any residential activity between 7am and 10pm, and 40dBA_{Leq} and 70dBA_{Lmax} at all other times.

65. It is noted again that there is a slight discrepancy between the condition being put forward and the noise standards set out in PC29, which for the daytime standard is LA_{eq(15min)}. Otherwise this condition is consistent with the noise standards included in PC29.

Plan Change 29 - Signs

66. In terms of the proposed signs, **SIGN-R1** permits signs in the OSZ where:

1. *The sign is located at the entrance to, and denoting the name of, a reserve or recreation area, and does not exceed an area of 1.2m²; or*
2. *The sign relates to community facilities, recreational facilities, heritage features, or any other publicly accessible natural or physical resources and shall:*
 - a. *not exceed 3m² in area; and*
 - b. *for a freestanding sign, have a maximum height above ground level of 3 metres.*

67. The proposed 2.5m² (1m x 2.5m) sign on the façade of the base station building is considered to be permitted under **SIGN-R1.2**. above, subject to compliance with the standards set out in **SIGN-S1 to S4** and **SIGN-S6**. In terms of those applicable standards, the following points are made:

- The nature of the proposed sign is such that the requirements set out in **SIGN-S1** 'General Requirements' can be met.
- The proposed sign is not attached to a verandah, therefore **SIGN-S2** is not applicable.
- The proposed sign does not extend above the highest point of the base station building. However, as the base station is proposed to be located in a public place, the proposal cannot meet the requirements set out in **SIGN-S3.2** as it will protrude into a public space. This technical non-compliance results in a **restricted discretionary** activity status. The applicable matters of discretion being set out in **SIGNS-MD1**.
- As no exterior lighting is proposed, it is assumed that the sign will not be illuminated and therefore will comply with **SIGN-S4**.
- The application AEE states that the maximum lettering size will be 100mm. **SIGN-S6** requires a minimum lettering height of 150mm for the main message within the OSZ. The proposed sign is therefore a restricted discretionary activity, with the applicable matters of discretion being those in **SIGN-MD2** Traffic Safety.

Stage 4 Designations

68. The underlying site includes three separate designations introduced into the District Plan as part of Stage 4 of the Mackenzie District Plan Review. These are shown in **Figure 6** below.

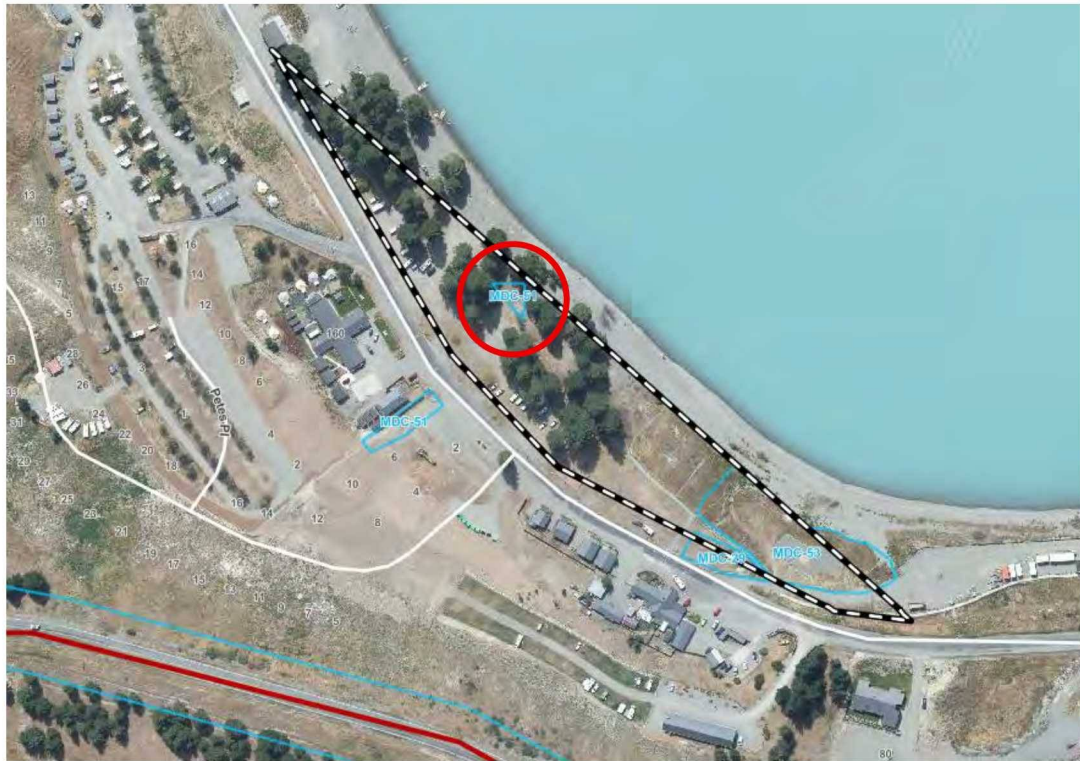


Figure 6: Stage 4 Designations (Source: MDC EPlan)

69. Of those designations, only one appears to be within the area subject to the proposed resource consent, being **MDC-51** (circled in red above for ease of reference). The details of this designation are as follows:

MDC-51 Stormwater Treatment and Disposal Station Bay	
Designation unique identifier	MDC-51
Designation purpose	Stormwater Treatment and Disposal
Site identifier	Lakeside Drive, Takapō / Lake Tekapo Map Reference NZTM 2000 1396557mE, 5124996mN Lot 301 DP 5608S3, Lot 5 DP 4550S3
Lapse date	Given effect
Designation hierarchy under section 177 of the Resource Management Act 1991	Primary
Conditions	No
Additional information	New designation

70. It is noted that the Appeal period for the Mackenzie District Council designations is 15 working days from the Notice of Decisions, being Thursday 14th of August 2025. This differs from the balance of the provisions include in Stage 4 (for which the Appeal period is 30 working days).
71. The effect of a designation is set out in section 176 of the RMA. This states that:
- (a) *section 9(3) does not apply to a public work or project or work undertaken by a requiring authority under the designation; and*
 - (b) *no person may, without the prior written consent of that requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates, including—*
 - (i) *undertaking any use of the land; and*
 - (ii) *subdividing the land; and*
 - (iii) *changing the character, intensity, or scale of the use of the land.*
72. Section 176(2) of the RMA goes onto state that the provisions of a district plan or proposed district plan shall apply in relation to any land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose.
73. For the purpose of assessing this application, section 176(1)(b) requires an assessment of whether the proposed ropes course activity “*would prevent or hinder*” the ability of the Council to undertake the designated purpose, being the treatment and disposal of

stormwater. In my view this would require providing unlimited access to the designated area at any time for operational and maintenance purposes.

74. As the designation is within the proposed operational area, with multiple adults ropes courses and a zipline running through the designated area, the ability to undertake the activity in accordance with section 176 of the RMA requires further clarification from the Applicant prior to the Hearing and before any resource consent is in order for approval.

Activity Status Summary

75. Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, it is my understanding that the general principle established from various case law is that the different components should be bundled and the most restrictive activity classification applied to the proposal. On that basis the proposal is a **non-complying** activity within the Recreation P Zone pursuant to **Rules 4.7.3 and 4.7.4**.
76. As noted above, section 88A of the RMA states that if the type of activity for which the application was made is altered after the application was first lodged as a result of a proposed plan being notified, then the application continues to be processed, considered, and decided as an application for the type of activity that it was for, or was treated as being for, at the time the application was first lodged.
77. In this particular case the activity status as a result of PC28 and PC29 means that the activity status goes from non-complying to discretionary. However, at this time the Council's decisions on submissions relating to PC28 and PC29 are subject to Appeal, with the Appeal period closing on Thursday 4th of September 2025. It is noted that this is likely to be within the period immediately following the hearing, but before a formal decision is required to be made.
78. In accordance with the above statutory requirements, it is my understanding that the overall activity status of the application remains **non-complying** as the activities for which consent are sought overlap to such an extent that they cannot be realistically or properly separated. This status remains until such time as PC29 can be treated as operative, in which case the activity status would become discretionary.

NOTIFICATION/SUBMISSIONS

79. The application was publicly notified on 13 November 2024 pursuant to section 95A of the RMA. The Notification Decision was made by Independent Planning Commissioner, Mr Darryl Millar, dated 23 October 2024.
80. At the close of submissions a total of 20 submissions were received, with two in support, three neutral and fifteen in opposition. One of the neutral submissions was subsequently withdrawn. Full copies of the submissions have been provided to the Commissioner. It is noted that the submission from Rohit Khanna and Priyanka Sareen was received late, but this has been accepted by way of a Decision by Commissioner Millar dated 2 August 2025.
81. In summary, the main reasons cited for opposing the application included:
- Restriction/disruption of public access to the waterfront, including for passive recreation.
 - Privatisation of public space for commercial activity. The exclusive occupation of this land by the proposed tree ropes course and structures will adversely affect the natural amenity and landscape character of the ONL beyond as experienced by visitors, and additionally is likely to discourage their use of this part of the lakefront for passive recreation.

- Commercial activity is detrimental to the natural beauty, tranquillity and ambience of the lake front.
 - 'Unnatural' structures disrupting the outlook and views, particularly for residents of Station Bay. The proposal is considered to give rise to inappropriate adverse landscape and visual amenity effects from the Station Bay residential development.
 - Built form and nature of the proposed activity would detract from the natural character and outstanding landscape values of Lake Takapō/Tekapo.
 - The receiving environment has not been adequately defined and assessed, nor have the effects from affected neighbouring property owners, including the holiday park, nearby residents and landowners of Station Bay, been sufficiently considered.
 - The outcome is inconsistent with the underlying zone purpose and the Tekapo Spatial Plan, which aim to protect this open space for passive recreation and align with community outcomes.
 - The proposal is contrary to the relevant objectives and policies of the Mackenzie District Plan.
 - The proposed activity will give rise to adverse environmental effects on established lawful camping activities on the site established by way of an existing lease. The two activities are not considered to be able to be undertaken together.
 - The pine trees in which the proposed activity is located offer shade to swimmers, sun bathers and boaters, particularly in the height of summer holidays. There is no other shaded area this close to the lake shore. Users should not have to compete with a commercial entity for use of the foreshore.
 - Increased traffic in the area. Safety concerns are evident in such busy times where there are no formal or obvious designated parking areas, access to under the trees can be gained by driving across the footpath at any point, there are no safety barriers to prevent this happening.
 - Reduction in availability of public parking along the foreshore, including for those with boat trailers.
 - The proposed activity would be more appropriately located elsewhere (including Lilybank Road and the Tekapo Regional Park Area). An assessment of alternatives has not been provided by the Applicant.
82. The main reason cited by the Mackenzie Tourism Industry Assn for supporting the application included the new tourism offering being developed in the Mackenzie district. The ability to offer a broad range of activities for visitors encourages a longer length of stay in the region, giving visitors more choice of things to do and see. Providing an activity delivered all year round supports visitation across all seasons and this helps support spreading economic growth outside the current busy summer season.
83. The Lake Tekapo Power Boat and Water Ski Club (Inc) support the application, but wish to see the matter of boat trailer parking addressed, and also that prominent signage and traffic management directions be included to ensure that the vehicle entry laneway down to the boat ramps between the clubrooms and the proposed base station building are kept clear at all times.
84. It is noted that the Canterbury Regional Council (CRC) have taken a neutral position in regard to the application, but have noted potential issues relating to wilding conifers, public access, stormwater, the potential need for additional consent under the Canterbury Land and Water Regional Plan (CLWRP), and the location of the activity within the flood

assessment overlay. CRC request that a wilding conifer assessment of the trees subject to this application is undertaken and that should consent be granted then conditions are imposed to ensure public access to and along the lake is preserved.

85. The matters raised in the submissions are further considered in the assessment of environmental effects set out later in this report.

STATUTORY CONSIDERATIONS

Section 104 & 104D

86. Section 104(1) of the RMA provides the statutory requirements for the assessment of the application and sets out those matters that the Council must have regard to when considering the application. Subject to Part 2 of the RMA, it is considered that the relevant matters for the assessment of this application include:
- (a) *Any actual or potential effects on the environment of allowing the activity;*
 - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity;*
 - (b) *The relevant objectives, policies, rules and other provisions of the District Plan; and*
 - (c) *Any other matter that the Council considers relevant and reasonably necessary to determine the application.*
87. Section 104(2) allows the Council when forming an opinion in relation to any actual or potential effects on the environment of allowing the activity to disregard any adverse effects of the activity on the environment if the District Plan permits an activity with those effects.
88. Under section 104B of the RMA the Council may grant or refuse an application for a non-complying activity, and if it grants the application, may impose appropriate conditions in accordance with section 108.
89. Section 104D sets out particular restrictions for non-complying activities, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either the adverse effects of the activity on the environment will be minor, or the application will not be contrary to the objectives and policies of the District Plan.

Part 2 RMA

90. Reference to Part 2 when considering a resource consent should not be necessary if the applicable plan/s have been prepared having regard to Part 2 and with a coherent set of policies designed to achieve clear environmental outcomes. In the context of this application, it is considered that the relevant plans (both operative and those introduced through plan changes) have been competently prepared and those provisions are coherent and comprehensive. Therefore there is no need to go beyond the relevant provisions and specifically assess Part 2 in making a decision. Notwithstanding, the relevant provisions of Part 2 are set out below for completeness.
91. Part 2 of the RMA sets out the purpose and principles of the Act, being “*to promote the sustainable management of natural and physical resources*” which is defined to mean:
- managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –*
- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
 - (c) *Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

92. Any assessment is informed by reference to the matters set out in sections 6, 7 and 8 of the RMA. Section 6 sets out matters of national importance, being most notably in this instance including:
- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development*
 - (b) *protection of outstanding natural features and landscapes.*
 - (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
93. Section 7 requires particular regard to be had to 'other matters.' Of relevance to this application are:
- (b) *the efficient use and development of natural and physical resources;*
 - (c) *the maintenance and enhancement of amenity values;*
 - (f) *maintenance and enhancement of the quality of the environment; and*
94. Section 8 requires the principles of the Treaty of Waitangi to be taken into account.

ASSESSMENT OF EFFECTS (section 104(1)(a))

Permitted Baseline (section 104(2))

95. A consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or plan permits an activity with that effect. This is termed the 'permitted baseline'. I agree with the conclusion reached in the application AEE that there is no relevant permitted baseline in regard to the proposed activity.

Receiving Environment

96. It is my understanding that in assessing the effects of a resource consent applications, the consent authority is required to determine the relevant receiving environment. This must include a determination of what form the environment might take in the future having regard to activities that may be carried out if presently existing implemented and unimplemented resource consents are given effect to.
97. The nature of the receiving environment is subject to change in terms of the development anticipated by way of the existing zonings in place following PC21, primarily this relates to the further development of the Station Bay residential subdivision. Otherwise, the following resource consents are relevant when assessing the nature of the receiving environment:
- a. **RM220003:** resource consent a reception/café complex being located immediately east of the Lakeside Drive/Station Bay Rise intersection south of the proposed location, as shown in **Figure 7** below.



Figure 7: Location of consented reception/café complex.

- b. **RM220060:** resource consent for a mini-golf complex within the existing holiday park. (see **Figure 8** below).



Figure 8: Location of consented mini golf activity.

Trade Competition (section 104(3)(a)(i))

98. It is considered that no matters of trade competition arise in relation to the proposed development and the nature of the submissions received. I note that Tekapo Landco Ltd hold a licence providing the right to use part of the area subject of this application to provide additional space for the operation of the Tekapo Motor Camp on an overflow basis during peak holiday periods. In my view this does not constitute a trade competition scenario; and otherwise note that the submission opposing the application from Tekapo Landco Ltd and Godwit Leisure Ltd raises this matter in the context of what constitutes the appropriate receiving environment when assessing the effects of the proposal.

Written Approvals (section 104(3)(a)(ii))

99. The consent authority must not consider any effect on a person who has given written approval to the application.
100. As set out in the Notification Report two parties, being Genesis Energy and Arowhenua Rūnanga, have provided written approval to the proposed activity, albeit conditional. The nature of those conditions was discussed in the Notification Report, and it was subsequently recommended that the written approvals be accepted and any effects on both the above parties disregarded.

101. No other written approvals have been submitted with the application.

Relevant Effects Considerations

102. The actual or potential adverse effects of the proposal are considered to relate primarily to matters of the appropriateness of commercial recreational activities within the Open Space Zone, transport/parking, natural character, noise, visual amenity and wider effects in terms of the landscape character of Lake Takapō/Tekapo. Each of these matters is assessed below having reference to the application, the peer review undertaken and the matters raised in submissions.
103. It is noted that each of these matters was assessed in the Notification Report prepared in relation to this proposal dated 14 October 2024. I am not aware of any changes made to the application since that time. To that extent that assessment remains valid and I do not intend to repeat that information. On that basis the assessment below focusses on the concerns raised by submitters, any differences in opinion between experts, and the various matters of discretion included in the applicable provisions introduced through Stages 3 and 4 of the Mackenzie District Plan Review.

Appropriateness of the Proposed Location

104. The relevant matters when considering the appropriateness of the OSZ for commercial recreational activity are set out in the matters of discretion when considering activity under **OSZ-R6**, as follows:
- a. *The nature, scale and intensity of the [activity.]*
 - b. *Compatibility with passive recreational activities.*
 - c. *Any impacts on other users of the site, or on accessibility.*
 - d. *Maintenance of the visual amenity and character of the zone.*
 - e. *Whether the activity enhances the experience of users of the area.*
105. It is acknowledged that other commercial activities take place from the foreshore of the lake. However, it is my understanding that these do not include any permanent structures and utilise the foreshore for access only, with the activity taking place on the lake itself (such as for kayaking, paddle boarding etc.).
106. Various submissions opposing the application have raised concerns regarding the proposed base station building and the ropes, wires and platforms being placed within the existing trees. This creates a sense of exclusive occupation, which detrimentally effects the accessibility, use and enjoyment of other users of the area.
107. The Applicant considers that the use of signs, placement of picnic tables and that the activity takes place in an elevated position means that other users of the site will not be adversely affected. In my view such mitigation is not sufficient to address the concerns raised. I agree with the submitters that the proposed activity will discourage passive use of the area by others, and adversely affect the visual amenity and character of the OSZ in this area. This finding is supported by the assessment undertaken by Landscape Architect Ms Bron Faulkner (refer **Appendix 2**). Whilst the proposed tourist offering will enhance the user experience of the area for those wishing to undertake the activity, this is offset by the incompatibility with the passive recreational activity, the impacts on other users of the foreshore, and the impact on the amenity and character of the zone. Overall, it is considered that the proposed activity does not enhance the experience of other recreational users of the Lake Takapō/Tekapo foreshore in the proposed location.

Transport/Parking

108. Submitters have raised concerns around the increase in traffic to the area and in particular parking, including for boat trailers.
109. Traffic effects have been considered in the assessment provided by Stantec accompanying the application AEE and also in response to the initial draft of the Notification Report. A detailed assessment of transportation related effects was set out in section 4.3.4.4 of the Notification Report and that assessment and findings set out therein are largely adopted for the purpose of this assessment.
110. Matters of discretion relating to car parking are set out in relation to both **TRAN-R6/TRAN-S1** and **OSZ-R8**, as set out below:

TRAN-MD3 Parking

- a. *The availability of public parking facilities on nearby roads.*
- b. *Options to encourage mode-shift towards walking, cycling, and other modes to reduce the need for on-site parking, including by providing safe pedestrian and cycle connections through the parking area.*
- c. *Whether there is likely to be a lower demand for mobility parking than is required by the Plan based on anticipated demand and the nature of the activities being undertaken on the site.*
- d. *Whether mobility parking on the site is needed based on the size and nature of the vehicle parking area and the location of the activity relative to the vehicle parking area.*
- e. *Whether appropriate provision has been made to ensure the parking area provides levels of amenity that are consistent with the environment in which it is being established.*
- f. *Whether provision is made for safe and efficient vehicle circulation and access arrangements, including for pedestrians and cyclists.*

Matters of discretion under **OSZ-R8** 'Car Parking':

- a. *The location and scale of any proposed car parking areas.*
 - b. *Whether the car parking is necessary to support users of the area.*
 - c. *Any impacts on other users of the area, or on accessibility.*
 - d. *Maintenance of the visual amenity of the zone.*
 - e. *Any mitigation measures proposed to reduce visual impacts of car parking.*
111. The nature of the site and lack of lease to utilise the site means that any proposed parking arrangement is subject to Council lease approval. Further complicating matters is the fact that the Council is currently formulating a master plan for car-parking and traffic circulation areas surrounding the Takapō/Tekapo lake front. Accordingly, the Applicant states that there is no merit in providing a detailed design for the carpark at this stage, which will only be superseded later. Notwithstanding, the Applicant has provided an updated Landscape Plan, which includes the dimensions of carparks, coach parking and a crossing point to the existing public toilets (this plan is included in **Appendix 4**).
112. The conclusion reached in the Notification Report was that any adverse effects on access and parking would be less than minor. That finding was supported by the Commissioner, who generally agreed that transport effects will be no more than minor, noting that several conditions in respect to transport have been proffered by the Applicant to mitigate effects, including a commercial lease agreement with Council and financial contributions for landscape and car park surfacing. Having assessed the submissions, the only additional conditions I would recommend relate to requiring additional signs to ensure that the vehicle entry laneway down to the boat ramps between the clubrooms and the proposed base station building are kept clear at all times as suggested by the Lake Tekapo Power Boat and Water Ski Club (Inc).

Natural Character

113. As set out above, it would appear that the proposed base station building is within 25m of the “full flow water level” of Lake Takapō/Tekapo. However, the exact location of the building relative to this setback should be confirmed by the Applicant prior to the Hearing.
114. As a non-complying activity it is considered that some comment on the effects of the proposal on the natural character of Lake Takapō/Tekapo is appropriate in any case, particularly given that the applicable rule is likely to also apply to the platforms within the trees which are within the 25m setback.
115. The relevant matters of discretion relating to **NATC-R1** are as follows:
- a. *The extent to which the proposed activity will affect the natural character of the surface waterbody and its riparian margins.*
 - b. *The effects of the proposed activity on any indigenous vegetation, habitat or ecosystem.*
 - c. *Those matters in SASM-MD1 Activities in a SASM.*
 - d. *The nature of any proposed mitigation measures that contribute to the preservation, maintenance or enhancement of the natural character values of the surface waterbody.*
 - e. *The extent to which any restoration or rehabilitation of the natural character of the area is proposed.*
 - f. *The extent to which alternative practicable options have been considered and their feasibility, including the functional need and operational need for the activity to locate in a riparian margin.*
 - g. *Whether the activity maintains and enhances public access along the surface waterbody.*
 - h. *The type and extent of planting proposed and the impact of this on natural character values.*
 - i. *The effectiveness of any erosion and sediment control measures proposed.*
116. Natural character is considered in some detail in the Notification Report (as part of section 4.3.4.1 (page 15)). The decision notes agreement with Ms Royce’s view that the adverse effects on natural character are less than minor.
117. In considering natural character, Ms Faulkner agrees with the Applicant’s assessment that scale of the proposed built elements in the existing trees is small in the context of the lake and it’s margin. On that basis Ms Faulkner considers this modification would have only a minor effect on the level of natural character of the area. I agree with and adopt this conclusion.
118. However, Ms Faulkner considers establishing a commercial activity park within the lake margin does not constitute appropriate use or development of the lake margin in terms of section 6(a) of the RMA, as a ropes course has no functional or operation need to be located so close to the lake.
119. **NATC-R1** requires a 25m setback from Lake Takapō/Tekapo for buildings and structures. On that basis the MDP provides for some level of development relatively close to surface water bodies. In terms of operational or functional need, the proposed location was no doubt chosen due to the presence of the existing trees and user experience looking out over Lake Takapō/Tekapo and the Two Thumb, Hall and Sibbald Ranges beyond. In my view the proposed use is not necessarily inappropriate within the lake margin, it is more a case that this particular location gives rise to adverse effects on recreation, public access and visual amenity.
120. Another matter relevant to the consideration of natural character is access, which is included as a matter of national importance in terms of section 6(d) of the RMA, being “*the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*”.

121. Overall, I do not consider that such effects can be described as being less than minor as set out in the Notification Report. I would assess effects on natural character to be at least minor having regard to the relevant MDP matters of discretion set out above.

Noise

122. As noted above, some clarification is required relating to the noise standards applicable at the time the application was made and those now included in the District Plan following PC29. The noise assessment provided by Marshall Day relies on compliance with those standards, adopting a permitted baseline for the subsequent assessment.
123. Should there be any non-compliance with **NOISE-R3**, the applicable matters of discretion are set out below:

NOISE-MD1 Noise Effects

- a. *The level, hours of operation, duration and characteristics of the noise.*
 - b. *The location and nature of nearby activities and the adverse effects they may experience from the noise.*
 - c. *The existing noise environment.*
 - d. *Effects on amenity values and anticipated character of the receiving environment.*
 - e. *Effects on health and well-being of people, including sleep disturbance.*
 - f. *The effectiveness of any noise reduction measures.*
 - g. *The extent to which alternative locations and methods have been considered to avoid, remedy, or mitigate any adverse effects recognising functional need, operational need, and any technical, and practical constraints.*
 - h. *The benefits of the activity generating noise.*
124. The primary issue raised by submitters in relation to noise is the potential for a change in the character; going from general enjoyment and laughter associated with passive recreational use to loud vocalisations including shrieks and screams from those utilising the ropes course and associated ziplines.
125. Noise effects of the proposal were assessed in section 4.3.4.3 of the Notification Report. Having considered that assessment, the Commissioner found these to have been appropriately considered by the Applicant and Ms Royce, and generally agreed that noise effects will be no more than minor. However, the Commissioner did acknowledge that while noise generated from passive recreation is, to a degree, similar to that from the proposed activities, the activity is still of a commercial nature and will be permanent rather than informal and sporadic, as is anticipated in the zone.
126. In my view the proposed conditions put forward by the Applicant are sufficient to adequately avoid, remedy or mitigate the noise from the proposed activity; including through conditions requiring compliance with a noise standard and associated monitoring, as well as an introductory briefing video shown to all participants setting out the need to respect other users and to minimise loud vocalisations. Subject to clarification of the appropriate noise standard to be included in a condition to be imposed on any consent granted, I consider that noise effects are acceptable in the context of the receiving environment.

Visual Amenity/Outlook

127. The visual impact of the structures and persons utilising the ropes course between 3m and 10m above the ground is of great concern to submitters. This is particularly so for those residents (both existing and future) of the Station Bay development. Having reviewed the material included by submitters, including photographs, this reinforces my own observations having viewed the application site from Pete's Place during a recent site visit.

128. The Applicant considers the visual effects of the proposal from the lake front and landward locations will be low (less than minor) with the base station building identified as the main element that would be visible, with the rope structures largely hidden from view in the tree canopies.
129. While the space in and around the trees will theoretically remain available for use by others, as set out above, I consider that the occupation of some 8,200m² above ground to actively discourage the accessibility of the area for other recreational users. The installation of picnic tables and additional signage does not sufficiently mitigate these adverse effects, in fact Ms Faulkner considers such measures to create additional visual clutter and does not support their installation.
130. Having reviewed the submissions, I disagree with the Applicant's assessment, and favour the findings of Ms Faulkner in that regard. I agree with Ms Faulkner that the landscape and visual amenity effects extend beyond the built elements themselves and must include the amenity experienced by others in the zone and on surrounding sites. The visual amenity and outlook from residential properties in the Station Bay development, those using the camping ground, and those seeking to utilise the foreshore area for passive recreation, are considered to be more than minor.
131. I also note that the submission from Tekapo Landco Limited & Godwit Leisure Limited (TLGL) includes a Landscape Memo from Mr Tony Milne of Rough Milne and Mitchell Landscape Architects (RMM) dated 10 December 2024. Mr Milne concludes that *"It is our opinion the potential visual and amenity effects arising from the proposed tree climb activity park will be more than minor. The proposal as it stands is inappropriate within this location"*.
132. Turning specifically to the matter of the proposed signage, the above assessment noted non-compliance with the sign rules introduced through PC29. The proposal also does not meet the minimum lettering height of 150mm included in **SIGN-S6**.
133. The applicable matters of discretion are set out below.

SIGN-MD1 General Matters

- a. *The scale, design, colour, nature and location of the sign, including its support structure.*
- b. *The visual impact of the sign and its potential effects on the anticipated amenity values and character of the area.*
- c. *The potential effects of the sign on the values of any historic heritage items, Sites and Areas of Significance to Māori, Significant indigenous vegetation and significant habitats of indigenous fauna, riparian margins, outstanding natural landscapes or features, or night sky darkness.*
- d. *The scale, design, number, and nature of existing signs on any building or site, and whether the proposed sign will result in visual clutter.*
- e. *The potential of the sign to adversely affect public health and safety.*
- f. *Any functional, operational, safety or directional requirements relating to the activity to which the sign relates, which affect the signs' requirements.*
- g. *Where the sign is located within PREC1 - Takapō / Lake Tekapo precinct, the consistency of the sign with the Takapō / Lake Tekapo Character Design Guide contained in Appendix APP2.*

SIGN-MD2 Traffic Safety

- a. *The potential of the sign to cause distraction, confusion to motorists and/or adversely affect traffic safety due to its location, visibility, and/or content.*
- b. *The extent to which the sign may obstruct driving sight distances, traffic signs or other traffic control device.*
- c. *The potential adverse effects of the proposed sign on drivers' concentration under all possible weather conditions.*
- d. *The extent to which the sign has the potential to be confused with traffic control signs or signals or may make traffic control signs or signals difficult to discern.*

134. I do not intend to assess each of these matters individually. Having considered the above matters, I consider that the proposed 100mm maximum lettering height of the proposed sign to be more appropriate in this location given the low speed environment and sensitivity in terms of amenity values.
135. Overall, whilst it is acknowledged that the base building and associated platform structures within the tree canopy are relatively small and recessive in colour, cumulatively the activity will occupy a large space and will be prominent for persons traversing through the site and those seeking to use the area for the zoned purpose, i.e., enjoyment of open space for passive recreation./ I consider there will also be adverse effects on those occupying the residential sites in Station Bay and the accommodation activities located opposite the site. Therefore, I adopt the assessment of both Ms Faulkner and Mr Milne, and find that the adverse effects on the visual amenity and open space values of the area would be more than minor.

Landscape

136. The assessment of Ms Faulkner finds that the components of the landscape character and the amenity values are closely interrelated and contribute to peoples' appreciation and enjoyment of the area including open space values, recreational values, visual amenity; as well as the sounds smells and other sensory qualities that people experience in the space.
137. Overall, Ms Faulkner concludes that the landscape effects of the proposal will be adverse and with a magnitude ranging from Moderate to Moderate-High. Having reviewed the nature of the submissions, I agree with that assessment.

Positive Effects (section 104(1)(ab))

138. Section 104(1)(ab) sets out that the consideration of applications must have regard to any measure proposed or agreed to by the Applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.
139. Should this proposal go ahead there will obviously be positive outcomes in terms of the Applicant's commercial operation and the contribution it makes to the tourism offering and overall economy. These matters are referred to in the submission by the Mackenzie Tourism Industry Assn and acknowledged in terms of the overall assessment of this proposal.

AEE Summary & Conclusion

140. Based on the application, further information, the assessment contained in the Notification Report and subsequent submissions received, I consider the adverse effects of the proposal to be more than minor in this receiving environment.

NATIONAL ENVIRONMENTAL STANDARDS (NES) (section 104(1)(b)(i))

141. The National Environmental Standards currently in effect of relevance to this application include:
- The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.
 - National Environmental Standard for Freshwater.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

142. The application states that the PSI relating to Lot 2 DP 455053 (Record of Title 584960) notes that it is likely that former cabins on an area of the site had asbestos tiling and sets out that asbestos remnants may be present in the soil following the demolition.
143. However, the nature of the proposed activity is that it will not disturb the soil on the 'piece of land', i.e., there is no proposed change in land use.
144. On this basis, I agree with the Applicant's assessment and consider that the proposed activity does not trigger the need for resource consent, or further site investigations, under the NESCS.

National Environmental Standard for Freshwater Management (NES-FM)

145. The application AEE document states that the NES-FM sets out requirements for carrying out activities that present a risk to freshwater and freshwater ecosystems. The activities that the NES-FM addresses are largely farming activities, works near natural wetlands, reclamation of rivers and fish passage. These activities do not relate to the proposed activity and therefore no further consideration of the NES-FM is necessary.
146. On the basis that all regulations within the NES-FM can be met the proposal is a permitted activity.

NATIONAL POLICY STATEMENT (NPS) (section 104(1)(b)(iii))

National Policy Statement for Freshwater Management 2020 (NPS-FM).

147. The main objective of the NPS-FM is to ensure natural and physical resources are managed in a way that prioritises the health and well-being of waterbodies and freshwater ecosystems, health needs of people and the ability for people and communities to provide for their social, economic and cultural well-being, now and in the future.
148. Part (1.3) states that a fundamental concept of the NPS-FM is Te Mana o Te Wai, a concept which promotes the protection and health of freshwater bodies and the wider environment, this is reflected in Policy 1.
149. The application states the proposed activity will be sufficiently setback from the Lake Takapō/Tekapo shoreline and there will be no discharges to the lake. On that basis no further consideration of the NPS-FM is considered necessary.

CANTERBURY REGIONAL POLICY STATEMENT (CRPS) (section 104(1)(b)(v))

150. Under section 104(1)(b)(v) of the RMA, the consent authority shall have regard to the relevant provisions of a regional policy statement. The Canterbury Regional Policy Statement (CRPS) provides an overview of the resource management issues in the Canterbury region, and the objectives, policies and methods to achieve integrated management of natural and physical resources. These methods include directions for provisions in district and regional plans.
151. The submission from the CRC has raised concerns regarding the consistency of the proposed activity with the provisions set out in Chapter 5 Land Use and Infrastructure, Chapter 7 Freshwater (in relation to any proposed stormwater discharge) and Chapter 10 Beds of Rivers and Lakes and their Riparian Zones.
152. The CRC refers to **Policy 5.3.13**, which seeks to avoid, or minimise as far as practicable, the risk of wilding tree spread. Rūnanga o Arowhenua have also raised the issue of potential

seed spread from the pine trees on the site and are concerned that the proposed activity could delay the removal of those trees.

153. In my view the proposed activity does not exacerbate or otherwise change the risk of wilding spread. The Mackenzie District Council are the owner of the land and ultimately the party that will decide whether the trees are removed. However, it is noted from the various submissions lodged that the subject trees are highly valued by the community and on that basis their removal in the short to medium terms would appear unlikely. Ultimately this is a matter that the Council may take into account when deciding whether to grant a lease over the subject land to enable the proposed activity.
154. CRPS **Policy 10.3.5** seeks to promote the maintenance and enhancement of public access to and along the beds of rivers and lakes, and to ensure that subdivision, use and development does not result in inappropriate loss of existing access. In my view the proposed activity will result in the inappropriate loss of access and enjoyment of the Lake Takapō/Tekapo foreshore area. While the Applicant states that *“The location of the ropes course...will enable the open space area beneath the ropes course to continue to be accessible to the public, including the use of the footpath and picnicking within the trees”*, I share the concern expressed in the submission from the CRC that public access to and along the bed of the lake will be discouraged and diminished as a result of the proposed activity. This results in a conflict with this aspect of the CRPS.
155. CRPS **Policy 12.3.2** is to ensure management methods in relation to subdivision, use or development, seek to achieve protection of outstanding natural features and landscapes from inappropriate subdivision, use and development. In the context that the site adjoins, but is not located within the identified ONL, I consider that the provisions in Chapter 12 are not directly relevant to the assessment of the proposal.

MACKENZIE DISTRICT PLAN (MDP) (section 104(1)(b)(vi))

156. As outlined above when assessing the applicable MDP plan rules, various provisions and proposed provisions are relevant to the consideration of this application.
157. It is my understanding that the only previous MDP objectives and policies relevant to the consideration of this application relate to matters otherwise addressed by way of Stage 4 of the MDPR (being PC28 to 30). In the context of this application that relates to the underlying zoning of the area as Open Space, Noise, Signs and Natural Hazards. On the basis of the findings of the assessment of effects above, the only matter requiring policy consideration under the previous planning rules relates to the underlying zoning of the site.
158. Otherwise, the applicable policy to assess is that amended by PC23 to 27, which are now to be treated as operative as they relate to this site; and those set out in PC28 and PC29, which have legal effect but have not reached the stage where they can be treated as operative.

MDP – Recreation and Open Space

159. The key objectives and policies of the Mackenzie District Plan relevant to the proposed activity at the time of lodgement were assessed in the application AEE (refer to section 7.4). For the sake of brevity, and the fact that these provisions have largely now been replaced, assessment of those provisions is not set out in full below. The only relevant provisions relate to recreation and open space, given that whilst PC29 has legal effect (as of the date of decisions on submissions), it is not yet at a stage where it can be treated as operative.
160. In terms of those relating to Recreation and Open Space, my assessment differs from that of the Applicant in terms of **Objective 2**, and accompanying **Policies 2 and 3**, as set out below:

Objective 2

A continuous reserve of open space and passive recreational areas located along the lakeside between and either side of the Lake Tekapo township and Lake Tekapo.

Policy 2 - *To ensure that built form is minimised, and the open spaces and visual amenity of the lakeside areas are safeguarded.*

Policy 3 - *To retain the naturalness of the lakeside, and preserve uninterrupted views from the township.*

161. As set out in the assessment above, I am of the view that the proposed activity will not safeguard open spaces and visual amenity of lakeside areas; and will not retain the naturalness of the lakeside or preserve the uninterrupted views from the lakeside area and those residences to the south west of the site, including within the Station Bay Development and the land owned by Tekapo Landco Ltd and Godwit Lesure Ltd.
162. It is acknowledged that the proposal finds some support from **Policy 1**, which seeks to “provide for a large range of active and passive recreation opportunities in close proximity to Lake Tekapo”.

Strategic Direction

163. PC20 introduced policy to set the overarching strategic direction for the MDP and respond to resource management issues that are of regional or national importance within the Mackenzie District. Those relevant to this proposal are set out below.

ATC-O1 Live, Work, Play and Visit

The Mackenzie District is a desirable place to live, work, play and visit, where:

- 1. there are a range of living options, businesses, and recreation activities to meet community needs;*
- 2. activities that are important to the community’s social, economic and cultural well-being, including appropriate economic development opportunities, are provided for; and*
- 3. the anticipated amenity values and character of different areas are maintained or enhanced.*

NE-O1 Natural Environment

The values of the natural environment, including those that make the District unique, contribute to its character, identity and well-being, or have significant or outstanding intrinsic values, are recognised and provided for, and where appropriate protected and enhanced. This includes, but is not limited to, values associated with the following important natural resources:

- 1. mahika kai resources;*
- 2. night sky darkness;*
- 3. outstanding natural features and landscapes;*
- 4. significant indigenous biodiversity; and*
- 5. water bodies and their margins.*

UFD-O1 Urban Form and Development

The District’s townships and settlements grow and develop in a consolidated way that:

- 1. is integrated into, and respects the values of the surrounding natural and physical environment;*
- 2. achieves good connectivity with other parts of the urban area;*
- 3. is integrated with the provision of infrastructure and facilities which support the functioning of the community;*
- 4. maintains the anticipated character of each township, and its attractiveness to residents, businesses and visitors;*
- 5. responds to the needs of the community, including diversity in housing and business opportunities; and*
- 6. protects highly productive land.*

164. The proposed activity finds some support from the policy aimed at providing a range of business and recreation opportunities for residents and visitors alike. However this is to be

balanced against the need to retain anticipated amenity values and character of different areas.

165. In terms of **NE-01**, the assessment undertaken by Ms Faulkner suggests that the proposal is at odds with the values of the natural environment, including those that make the District unique, contribute to its character, identity and well-being, or have significant or outstanding intrinsic values, being recognised and provided for.
166. Submissions from residents within Station Bay and other adjacent landowners suggest that the proposal does not necessarily maintain the anticipated character of the Takapō/Lake Tekapo township, and its attractiveness to residents, businesses and visitors.

Transport

167. The objectives and policies relating to Transport were introduced by way of PC27 and can now be treated as being operative. The relevant provisions include:

TRAN-01 Safe and Efficient Transport Network

The transport network is a safe, well-connected, integrated, resilient, and accessible system that:

1. *meets and is responsive to current and future needs;*
2. *promotes the use of alternative modes of transport;*
3. *is efficient and effective in moving people and goods within and beyond the district; and*
4. *is protected from reverse sensitivity effects.*

TRAN-P1 Integrated Land Use and Transport Planning

Maintain the safety, effectiveness and efficiency of the District's transport network by:

1. *ensuring integration with land use;*
2. *managing the levels of service, formation standards, and types of land transport infrastructure by compliance with design and operational standards and road hierarchy classifications;*
3. *providing land transport infrastructure that is consistent with the zone in which it is located;*
4. *providing for safe entry and exit for vehicles to and from a site to a road without compromising the safety or efficiency of the road corridor; and*
5. *ensuring appropriate sightline visibility is provided to road users.*

TRAN-P3 Safe Active Transport

Promote a range of transport options and enable safe multi modal connections that support walking and cycling.

168. Given the findings in the assessment of effects above, it is considered that the proposed activity accords with the transport outcomes sought above. Notwithstanding, the proposal is located on public land and on that basis can provide no particular dedicated on-site parking. Various conditions, and also conditions imposed on any subsequent lease/licence granted by the Council, will be required to ensure consistency with the policy framework above.

Natural Character

169. The policies relating to Natural Character were introduced through PC23 and can be treated as being operate.

NATC-01 Preservation of Natural Character

The natural character of wetlands, lakes and rivers (surface waterbodies) and their margins is recognised, preserved and protected from inappropriate subdivision, use and development.

NATC-P1 Recognition of Natural Character Values

Recognise that natural character values of wetlands, lakes and rivers and their riparian margins are derived from:

1. *being in their natural state or close to their natural state;*

2. *the value of the waterbody to mana whenua, including values associated with traditional and contemporary uses and continuing ability of the waterbody to support taoka species, mahika kai and other customary uses;*
3. *indigenous biodiversity, habitats and ecosystems;*
4. *their contribution to landforms and landscapes, through hydrological, geologic and geomorphic processes; and*
5. *people's experience of the above elements, patterns and processes.*

NATC-P2 Preservation of Natural Character Values

Preserve and protect the natural character values of wetlands, lakes and rivers and their margins from inappropriate use and development by:

1. *ensuring that the location, intensity, scale and form of subdivision, use and development takes into account the natural character values of the surface waterbodies;*
2. *requiring setbacks for activities from wetlands, and lakes and rivers, including buildings, earthworks, woodlots and quarrying activities;*
3. *promoting and encouraging opportunities to restore and rehabilitate the natural character of surface waterbodies and their margins, including the removal of plant and animal pests, and supporting initiatives for the regeneration of indigenous biodiversity values and cultural values; and*
4. *avoiding inappropriate use and development that detracts from the natural character of surface waterbodies.*

170. It is noted that Ms Faulkner considers the proposed use of the site to be inappropriate, and references section 6(a) of the RMA to support that finding. That would suggest that there is some tension with the policy framework above. Concerns raised by submitters are also supported by the matters raised in the objective and related policies set out above.
171. I consider the proposed activity in the specific location sought to detract from the natural character of the Lake Takapō/Tekapo foreshore margin, in conflict with **NATC-O1** and **NATC-P2** above.

Open Space Zone

172. The policies relating to the Open Space Zone were introduced through PC29 and therefore have legal effect but cannot yet be treated as operative.
173. The Introduction to the Open Space Zone states that it encompasses areas of green space which provide for passive recreation opportunities, including walking and cycling connections in urban areas. Use of these areas is generally informal in nature. The Open Space Zone is located within, or adjoining the District's town and settlements.
174. Limited built form is anticipated in this zone to support the recreational focus, such as seating, picnic and barbeque facilities, toilets, shelters and playground or sporting equipment, reflecting the dominance of open space. It also specifically notes that "*in lakeside areas, the maintenance of lake views and accessibility to the lake is also important*".
175. The relevant objectives and policies are as follows:

OSZ-O1 Zone Purpose

The Open Space Zone provides areas of open space which predominately provide for a range of passive recreational activities.

OSZ-O2 Zone Character and Amenity Values

The Open Space Zone contains limited facilities and structures which support the purpose of the zone and maintain the predominance of open space.

OSZ-P1 Recreational Activities

Enable informal recreation opportunities, and facilities that support these, including walking and cycling connections, toilets, playgrounds, sporting equipment and picnic and barbeque areas.

OSZ-P2 Compatible Activities

Provide for community facilities and commercial recreation activities which are of a nature and scale that is complimentary to, and does not detract from, the passive focus of the zone.

OSZ-P4 Built Form

Limit the scale of built form within the Open Space Zone to:

- 1. retain a clear predominance of open space; and*
- 2. maintain uninterrupted views from urban areas to any lake and maintain the visual amenity of lakeside areas.*

176. The key aspect is whether the proposal accords with **OSZ-P2** and **OSZ-P4**, i.e., whether the proposed activity is of a nature and scale that compliments and does not detract from the passive focus of the zone; and whether the built form (namely the platforms elevated in the trees) maintains “*uninterrupted views from urban areas to any lake and maintain the visual amenity of lakeside areas*”. It is acknowledged that it is the activity, rather than built form, that creates the most disruption in terms of views from urban areas and visual amenity. However, the policies above make the purpose of the zone clear, and the proposed activity is incompatible with many of the outcomes sought by the OSZ policy framework. This is indicated by the application proposal now including a proposal to erect additional signage to make it clear that the space is available to the public. In my view the nature and scale of any commercial recreational activity proposed within the OSZ should be such that there is no need for any such signage. In my view the proposed activity detracts from the passive focus of the OSZ.
177. I note that the Applicant has compared the nature and scale of the proposed commercial activity to be similar to play equipment found elsewhere in the OSZ. I disagree with this assessment and consider the effects on recreation and public access within the OSZ to be more than minor and inconsistent with the above policy framework.

Precinct 1

178. The **PREC1** Overlay over this site was introduced through PC29; and therefore has legal effect but cannot yet be treated as operative. The relevant objectives and policies are as follows:

PREC1-O1 Precinct Purpose

Development within Takapō / Lake Tekapo maintains the distinctive character and identity of the Township and is complementary to the surrounding landscape.

PREC1-P1 Adverse Effects

Control the scale, appearance and location of buildings to ensure that:

- 1. the built form character of the Township is maintained and enhanced;*
- 2. development is integrated with the landscape setting, including the topography, landform, and views to and from the area;*
- 3. key viewshafts within and through land on the south side of State Highway 8 are protected, and accessibility to the Domain and lake are maintained; and*
- 4. views to the lake from properties on the north side of State Highway 8 are maintained.*

179. In assessing the above objective and policy it should be recognised that the proposed building complies with all standards applying within **PREC1**. On that basis it is considered the proposal accords with the aspect of the policy framework.

Noise

180. The objectives and policies relating to Noise were introduced through PC29 and therefore have legal effect but cannot yet be treated as operative. The relevant objectives and policies are as follows:

NOISE-O1 Noise

Noise is consistent with the purpose, and anticipated character and qualities of the receiving environment, and maintains the health and well-being of people and communities.

NOISE-P1 Noise Effects

Manage noise effects to maintain the character and amenity anticipated in the area in which the effects are received, taking into account the nature, frequency and duration of the activity generating the noise.

181. On the basis of the proposed condition volunteered to be imposed on any consent granted, it is considered the application accords with the outcomes sought above. However, as noted previously, the Applicant should clarify any impact of the change in standards applying, and how noise is measured and assessed under the PC29 provisions outlined above.

Signs

182. The objectives and policies relating to Signs were introduced through PC29 and therefore have legal effect but cannot yet be treated as operative. The relevant objectives and policies are as follows:

SIGN-O1 Benefits of Signs

Signs in Te Manahuna / Mackenzie District contribute to the community's social, economic, and cultural wellbeing, while maintaining health and safety, and the character and amenity values of the area in which they are located.

SIGN-P2 Amenity and Character

Control the size, design, location, and number of signs to maintain the anticipated character and amenity of the surrounding environment.

183. A single identification sign on the base station building is considered to maintain the amenity and character of the general area. On the basis that it remains small (maximum 100mm high lettering) the above policies outcomes can be met. Based on the comments of Ms Faulkner, I consider that the additional signs proposed to make it clear that the space is publicly available represent unnecessary clutter and impact on the amenity and character of the area. Those signs are not supported by **SIGN-P2**.

Summary & Conclusion

184. There are elements of the proposal that are not consistent with the MDP policy framework. Namely this relates to **Objective 2, Policies 2 and 3** relating to recreation and open space, **NE-O1, NATC-O1, NATC-P2, OSZ-P2** and **OSZ-P4**. Of the above provision it is only **OSZ-P2** and **OSZ-P4** that are not yet operative (PC29).
185. Primarily these concerns arise due to the adverse effects of the proposal on visual amenity and accessibility of the area for passive recreation as anticipated by the applicable planning framework. These effects are as described above and in the assessments undertaken by Ms Faulkner and Mr Milne on behalf of submitters.

SECTION 104D THRESHOLD TEST

186. As referred to above, in order to be eligible for approval in accordance with section 104D of the RMA, a consent authority may grant consent for a non-complying activity only if it is satisfied that either-
- (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
 - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*

- (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity;
or...*

187. In terms of my understanding of the thresholds for this test, an activity can have adverse effects, up to the point where they remain to be described as minor, but not be 'more than minor'. In terms of the objectives and policies, the activity proposal can have elements of inconsistency, but cannot be described as contrary. My understanding of relevant case law is that this is a high threshold, being described as 'repugnant to'.
188. Ms Faulkner has assessed the adverse visual amenity and landscape effects as being more than minor. On that basis the proposal does not meet the first limb of the section 104D test. In the context described above, it is considered that the proposed activity is able to meet the second limb of the threshold test and be in order for approval. Whilst there are elements of the proposal that are inconsistent with, or do not meet, particular objectives and policies of the MDP, I do not consider the proposal to be contrary as in 'repugnant' to the policy framework. I reach this view on the basis that whilst some form of commercial recreational activity is anticipated within the OSZ, as evident by **OSZ-P2**; in my view it is the case that this proposal does not meet the policy outcomes for such activity expressed therein.

WAITAKI IWI MANAGEMENT PLAN

189. The Waitaki Iwi Management Plan (WIMP) was developed by Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki as an expression of rakatirataka and in fulfilment of their kaikiaki responsibilities.
190. As discussed above, the Applicant has engaged with local Rūnanga and obtained written approval. On that basis it is considered that the proposal does not raise any matters of concern with the WIMP.

ANY OTHER MATTERS (section 104(1)(c))

191. Section 104(1)(c) sets out that when considering an application for a resource consent the consent authority must, subject to Part 2, have regard to any other matter the consent authority considers relevant and reasonably necessary to determine the application.
192. In the context of the subject application the 'other matters' considered relevant is the Tekapo Spatial Plan and the question of precedent and plan integrity.

Takapō/Tekapo Spatial Plan

193. This Spatial Plan formed part of a wider Spatial Planning process for the main towns within the Mackenzie District. The final document was prepared in September 2021 to inform the District Plan Review process. This document was referred to by various submitters opposing the application.
194. The preferred approach included that growth is contained by existing landscape features and natural topography, which helps establish an open space network. This brings together existing open spaces, waterways and trails to link with Lake Takapō/Tekapo, Mt John (including a proposed Bike Park) and the Regional Park.
195. In terms of implementation, the outcomes of the Spatial Plan process were specifically address by way of PC21. On that basis the outcomes of the Spatial Plan have now been incorporated into the statutory RMA process as outlined and assessed above.

Precedent/Plan Integrity

196. The matter of the precedent that any approval of this application would mean for the balance of the foreshore area adjoining Lake Takapō/Tekapo was a matter raised in various submissions opposing the application.
197. It is my understanding from relevant case law that the concept of precedent reflects a concern that the granting of resource consent may have planning significance beyond the immediate vicinity of the land concerned; with plan integrity more likely to affect the public confidence in the plan and its consistent administration. It is acknowledged that 'precedent' is not an adverse effect on the environment *per se*. However, these are considered to be matters that can be considered under section 104(1)(c) of the RMA, with the appropriate weight to be given to them being dependent on the circumstances of the particular application.
198. In my view that any approval of this application would not create a precedent or undermine the integrity of the MDP. This is due to the uniqueness of this specific proposal on this site. As such any approval obtained could not be considered as a signal for how any other future application/s utilising public land may be considered moving forward.

CONCLUSION & RECOMMENDATION

199. As set out above, Part 2 of the RMA sets out the purpose and principles of the Act, being *"to promote the sustainable management of natural and physical resources"*. My understanding of recent case law as to whether and to what extent it will be appropriate for a decision-maker to resort to Part 2 depends on the relevant planning instruments. The starting point should always be that the consent authority should give genuine consideration to, and apply, relevant RMA planning instrument provisions.
200. The nature of the proposal is such that it raises matters of national importance, including:
- a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development: (section 6(a)); and*
 - d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers: (section 6 (d)).*
201. In conclusion, it is considered that the proposed activity does not accord with Part 2 of the RMA. Ms Faulkner and Mr Milne both find the proposed activity to result in adverse effects on visual amenity and the character of the Lake Takapō/Tekapo foreshore area. That outcome is not supported by the applicable policy framework, which sets out to maintain visual amenity and accessibility for passive recreation. Therefore, I consider the proposal to be an inappropriate activity in the proposed location and recommend that resource consent not be granted.
202. In terms of conditions, it is noted that the Applicant has included a volunteered set of draft conditions, and these are attached as **Appendix 5**. These conditions represent a valuable starting point should the Commissioner decide to grant consent, but it is expected these will be further refined through the hearing process in light of the various matters raised above.



Nick Boyes
Consultant Planner

Date: 6 August 2025