

**HEARING REPORT ON APPLICATION RM230149**

**PURSUANT TO SECTION 42A OF THE RESOURCE MANAGEMENT ACT 1991**

<b>Applicants:</b>	<b>Queenstown Commercial Parapenters Ltd</b>
<b>Application Description:</b>	<b>To establish and operate a commercial tree-climb ropes course and picnic facilities on a site at Lakeside Drive, Takapō/Lake Tekapo.</b>
<b>Application Status:</b>	<b>Non-complying</b>
<b>Property Address:</b>	<b>Lakeside Drive, Takapō/Lake Tekapo</b>
<b>Legal Description:</b>	<b>Lot 2 DP 562455 and Lot 5 DP 455053 as held in Records of Title 999813 and 584960 respectively.</b>
<b>Valuation No.</b>	<b>2531102305</b>
<b>District Plan Zone:</b>	<b>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</b>
<b>Notification:</b>	<b>Publicly Notified</b>
<b>Submissions:</b>	<b>19 received (2 in support, 3 neutral and 14 oppose)</b>
<b>Author:</b>	<b>Nick Boyes, Consultant Planner</b>
<b>Date of Report:</b>	<b>6 August 2025</b>
<b>Recommendation:</b>	<b>Decline</b>

## **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 58.56m<sup>2</sup>) 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.

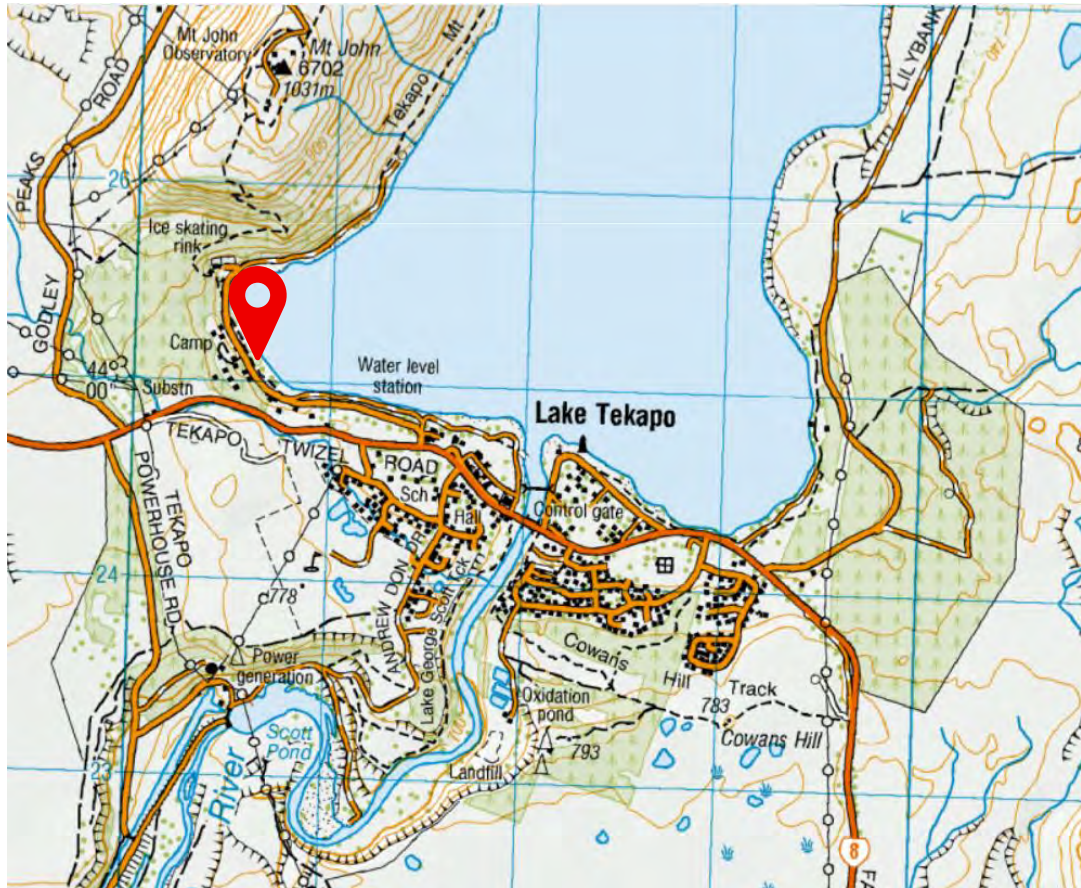
The base station will be located parallel to, but set back from, Lakeside Drive and accessed from the existing concrete pathway within the trees. The base station will be clad with a combination of corten steel and vertical timber panels with a natural finish. The base station will not be located within 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 2.5m<sup>2</sup> (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 4,600m<sup>2</sup> 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.

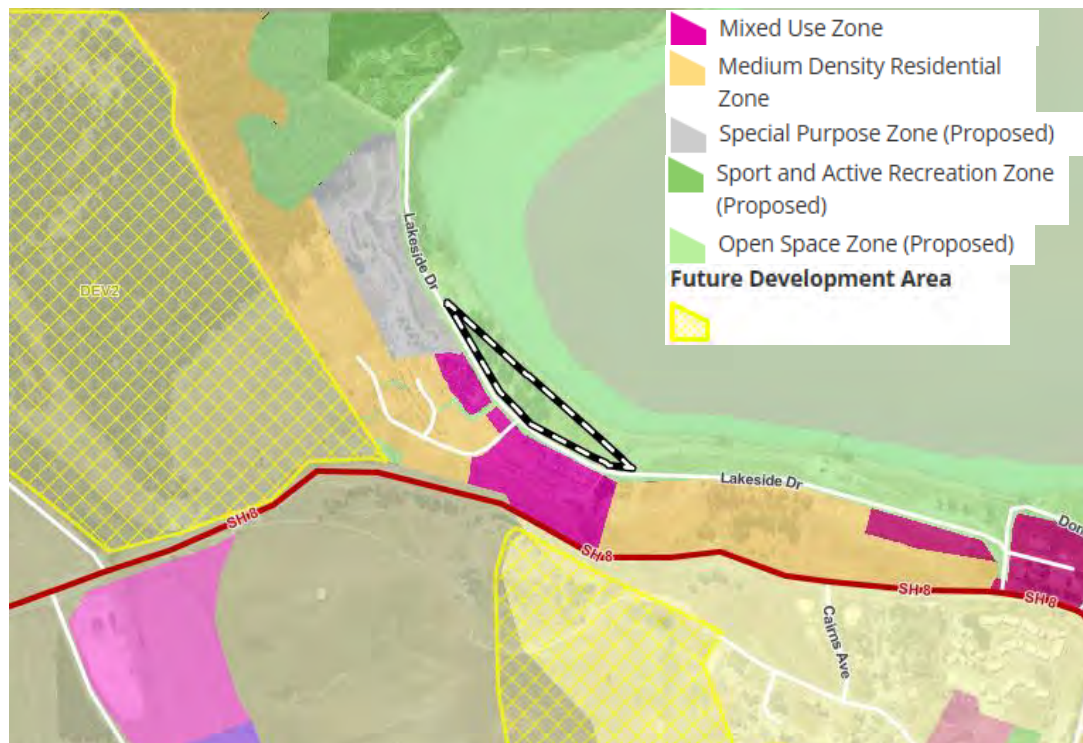


Figure 3: MDP Zoning (including MDPR Stages 3 and 4) (Source: MDC EPlan)

### 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**.



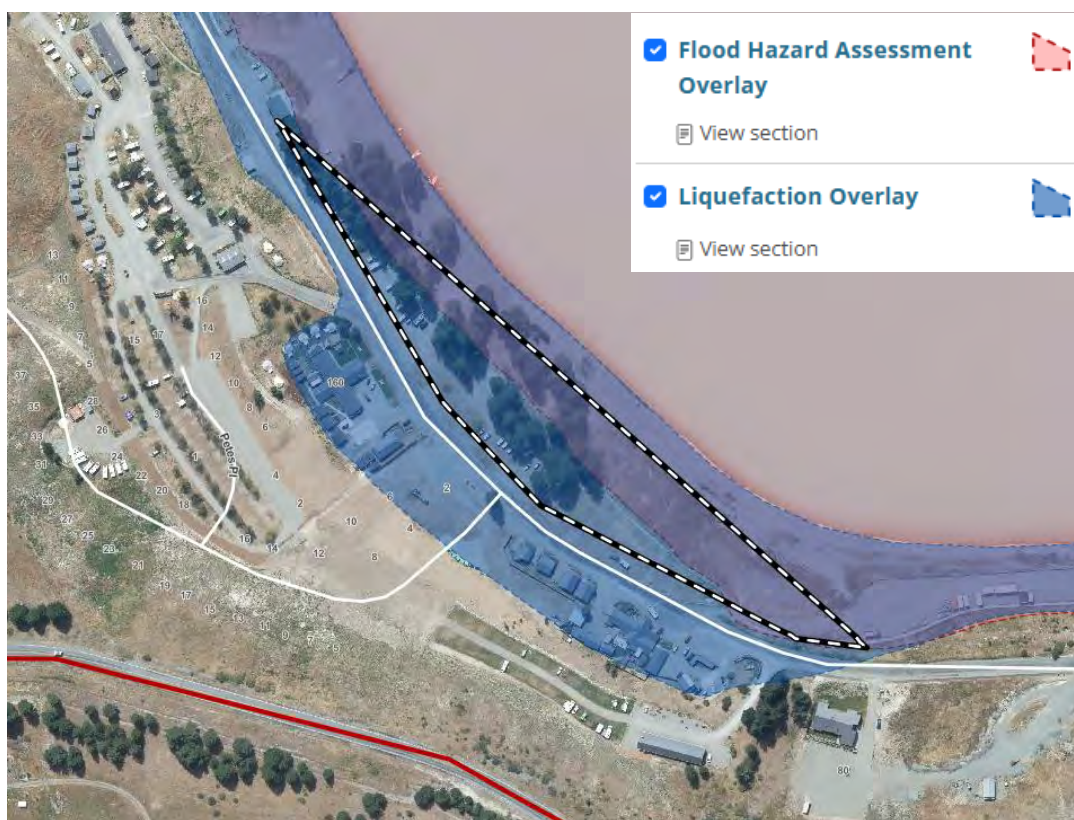
- Picnic facilities consisting of seating and tables, permanent barbecues and rubbish facilities in the Recreation P Zone require resource consent as a **controlled** activity under Recreation P Zone **Rule 4.5.1.a**.
- The lack of provision of on-site car parking spaces (including accessible spaces) 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 2.5m<sup>2</sup> 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 1m<sup>2</sup>.
- 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 10m<sup>2</sup> 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	LAFmax
50 dB LAeq(15min)	40 dB Leq(15min)	70 LAFmax

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 LAeq(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 LAeq(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<sub>Leq</sub> and 70dBA<sub>Lmax</sub> 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<sub>eq(15min)</sub>. 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 1.2m<sup>2</sup>; 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 3m<sup>2</sup> in area; and*
  - b. *for a freestanding sign, have a maximum height above ground level of 3 metres.*

67. The proposed 2.5m<sup>2</sup> (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 560853, Lot 5 DP 455053
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 8,200m<sup>2</sup> 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







**SECTION 95A-F NOTIFICATION DECISION  
FOR RESOURCE CONSENT APPLICATION– RM230149**

<b>APPLICANT:</b>	QUEENSTOWN COMMERCIAL PARAPENTERS LIMITED
<b>APPLICATION DESCRIPTION:</b>	LAND USE CONSENT TO ESTABLISH AND OPERATE A COMMERCIAL TREE-CLIMB ROPES COURSE AND PICNIC FACILITIES
<b>APPLICATION STATUS:</b>	NON-COMPLYING
<b>PROPERTY ADDRESS:</b>	LAKESIDE DRIVE, TAKAPŌ/LAKE TEKAPO
<b>LEGAL DESCRIPTION:</b>	LOT 2 DP 562455 AND LOT 5 DP 455053 (RTS 999813 AND 584960)
<b>VALUATION REFERENCE:</b>	2531102305
<b>DISTRICT PLAN ZONE:</b>	RECREATION PASSIVE (P) ZONE, AREA OF VISUAL VULNERABILITY (HIGH), FLIGHT PATH PROTECTION AREA
<b>AUTHOR:</b>	KIRSTYN ROYCE – CONSULTANT PLANNER
<b>DATE OF REPORT:</b>	14 OCTOBER 2024

## **1.0 INTRODUCTION**

This report has been prepared under sections 95A to 95G of the Resource Management Act 1991 (the RMA) to document the notification assessment of the subject application to establish a commercial tree-climb rope course and picnic facilities at Lakeside Drive, Takapō/ Lake Tekapo.

The application is supported by the following documents:

- Transport Assessment prepared by Stantec (dated 28 July 2023)
- Assessment of Landscape and Visual Effects prepared by Design Works Group (DWG) (dated October 2023)
- Acoustic Assessment prepared by Marshall Day (dated 16 November 2023)

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; and
- An additional Landscape and Visual Effects Assessment prepared by DWG dated April 2024.
- A revised topographical site plan.
- Applicant's Memo in response to notification report dated 16 July 2024.
- Final response to Council's second Memo dated 4 September 2024.

- Revised suite of conditions dated 4 September 2024.
- A revised landscape plan.

It is noted that with the provision of the further information, the application has been amended to include picnic facilities which are assessed as a controlled activity in accordance with Rule 4.5.1.a of the Operative District Plan and additional signage which will be compliant with Section 12 Rule 2.d.

## 2.0 BACKGROUND PROPOSAL AND SITE DESCRIPTION

### 2.1 PROPOSAL DESCRIPTION

The applicant has applied to establish and operate a commercial tree-climb ropes course on a site at Lakeside Drive, in the Takapō/ Lake Tekapo Township.

The application states that the activity will be configured as shown in Figure 1 and as follows:

- A base station (58.56m<sup>2</sup>) building located at existing ground level. The base station will be two re-purposed shipping containers adjoining one and other, which will create a 4.8m x 12.2m footprint. It will be standard container height of 2.6m.
- The base station will be located parallel to Lakeside Drive but will be set back from the road and accessed from the pathway within the trees. The base station will be clad with a combination of corten steel and vertical timber panels with a natural finish and will have glazed windows and doors. The base station will not be located on the HAIL area within the site.
- 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 application has been amended so that no zip lines will finish at ground level. The timber platforms and elements will be left to sliver off.



*Figure 1: Rope Course Layout (Source: Application)*

The applicant confirms that the course will be designed, constructed and managed to comply with health and safety requirements and the Building Code. The location of the base station building is generally flat, and only minor excavations will be required to establish the footings. 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 Takapō/ Lake Tekapo.

Prior to commencement of the proposed activity, the applicant states that each tree which forms part of the course will be structurally assessed by a suitably qualified arborist to ensure that its use as part of the proposed activity is safe for the health of the tree and structurally sound for use as part of the course.

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 picnicking within the trees.

The application states that the proposed activity will operate between 9am and 7pm, seven days a week, and 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. During peak times, at capacity, there may be up to 60 people on the course at any one time and up to 250 persons per day. 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.

A 2.5m<sup>2</sup> (1m x 2.5m) sign will be fixed to the base station building (fronting Lakeside Drive) and will state “Tree Climb Lake Tekapo” as displayed in Figure 2. The maximum lettering size will be 100mm. The sign will be made of corten steel, or similar material, and a colour which is sympathetic to the base station building with a maximum reflectivity value of 30%. The sign will not protrude above the roof profile of the building.



*Figure 2: Base Station Visualisation (Source: Application)*



## 2.2 SITE DESCRIPTION

The subject site is located at Lakeside Drive, Tākāpō/Lake Tekapo and is zoned Recreation Passive (P) in the Operative Mackenzie District Plan 2004. The site is also located within a Flight Path Protection Area and within an Area of Visual Vulnerability (High).

Lake Tākāpō/Tekapo is identified as being within a mapped Outstanding Natural Landscape (ONL) in both the Operative District Plan and Plan Change 23 and is also a Site or Area of Significance to Māori under Plan Change 24. These overlays are adjacent to, but do not extend into, the subject site.

As shown in Figure 3 below, the activity will occupy an area of 8,210m<sup>2</sup> within:

- Lot 2 DP 562455, held in Record of Title 999813, which comprises an area of 3.092ha
- Lot 5 DP 455053, held in Record of Title 584960, which comprises an area of 1.477ha

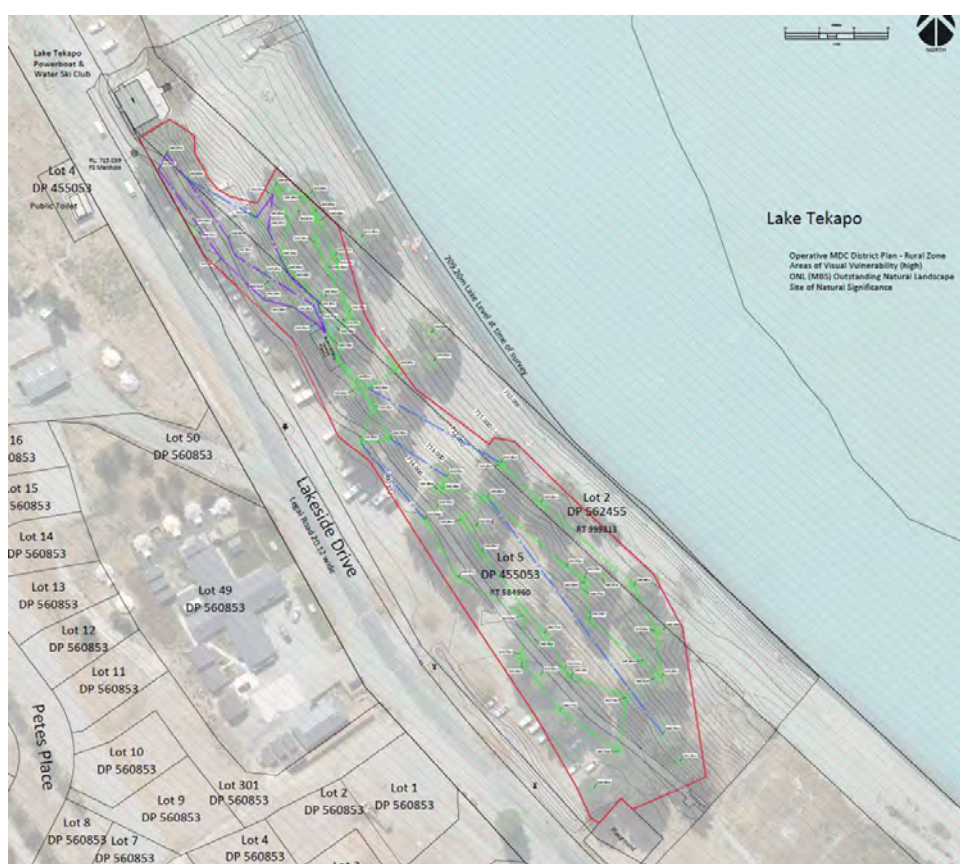


Figure 3: Proposed occupation of Lot 2 DP 562455 and Lot 5 DP 455053

The sites are owned by Mackenzie District Council. The land is part of the open space network which is located along the lakefront within the Takapō/Lake Tekapo township. 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.

Lot 2 DP 455053 has the potential for asbestos to be present in an area of soil. An existing Preliminary Site Investigation (PSI) INV 116097 has been sourced from Environment Canterbury. The PSI was carried out by Tonkin and Taylor in 2014 and it identifies from historic photographs that, amongst other activities, former cabins located at or about the site were demolished between 1954 and 1977.

The PSI notes that it is likely that these cabins had asbestos tiling and sets out that asbestos remnants may be present in the soil following the demolition. Asbestos is classified on the HAIL list as E1.

The receiving environment is characterised by a mix of zones and due to this mix of zoning, there are varying activities, and nature and scale of built development which exist, and are anticipated (see Figure 4)

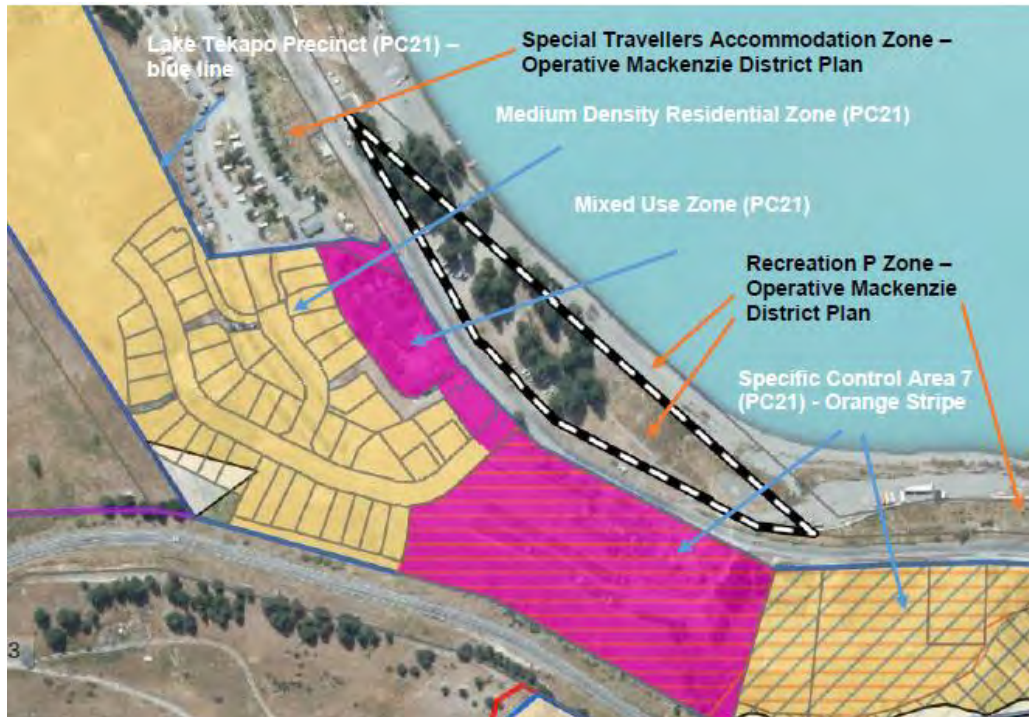


Figure 4: Receiving environment (Source: Application)

A site visit was undertaken on 20 January 2024.

## 2.3 SITE HISTORY/BACKGROUND

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

## 3.0 MACKENZIE DISTRICT PLAN

### 3.1 ZONING AND COMPLIANCE ASSESSMENT

The subject site is zoned Recreation Passive (P) within the Operative Mackenzie District Plan 2004 (the District Plan). Within the District Plan, Commercial Activity<sup>1</sup> means

*“the use of land, water and buildings for the display, offering, provision, sale or hire of goods, equipment, or services, and includes shops, showrooms, travel and real estate agencies, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, recreational activities where a charge for profit is involved, the sale of liquor and associated parking areas; but excludes , community and service activities, home occupations, not for profit recreational activities and visitor accommodation”*

<sup>1</sup> Note: this definition does not apply to any residential, commercial and mixed use and general industrial zones but does apply to the Special Purpose zones, including the Recreation Passive (P) Zone.



In this instance, the proposal includes a recreational activity where a charge for profit is involved.

The activity status of the proposal is commented on below:

- The establishment and operation of a commercial recreation activity within the Takapō / Lake Tekapo lakefront Recreation P Zone requires resource consent as a **discretionary activity** under Recreation P Zone Rule 4.6.2.
- The establishment and operation of a commercial activity is a **non-complying activity** in accordance with Recreation P Zone Rule 4.7.3.
- 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 provision of no on-site car parking spaces where 15 car parking spaces are required, requires resource consent for a **discretionary activity** under Transport Rule 2a.
- The provision of no on-site accessible car parking spaces where one is required, requires resource consent for a **discretionary activity** under Transport Rule 2d.
- The provision of no on-site loading space where one is required, requires resource consent for a **discretionary activity** under Transport Rule 2i.

For completeness, the proposed 2.5m<sup>2</sup> sign attached to the southern exterior façade of the base station building is assessed as a permitted activity pursuant to Rule 8.b. Furthermore, Section 12 Rule 2.d states signs not exceeding one square metre for any public purpose or in connection with and on the same site as any utility, community facility or public reserve. In this instance, signage proposed to signal that the area under the ropes course is a public area is considered to meet the purpose of Rule 2.d and are assessed as permitted activities

### 3.2 COMPLIANCE ASSESSMENT

The rules of the Mackenzie District Plan that trigger a resource consent are set out in the Table below:

Section 9 – Special Purpose Zones – Recreation Passive (P) Zone		
Rule	Assessment	Activity Status
<b>Rule 4.5 Controlled Activities</b>		
Rule 4.5.1 The following shall be Controlled Activities within the Recreation P Zone: a Picnic facilities consisting of seating and tables, permanent barbecues and rubbish facilities.	(a) N/A – these structures are not proposed. (b) N/A – pedestrian pathways are not proposed. (c) The buildings and structures will have a footprint of less than	Does not comply

B c	Pedestrian Pathways Buildings and Structures associated with passive recreation with footprints of no more than 100m <sup>2</sup> in area.	100m <sup>2</sup> , however they will provide for active recreation, rather than passive application.	
<b>Rule 4.6 Discretionary Activities</b>			
Rule 4.6.1 Buildings and structures associated with passive recreation within the lakefront Recreation P Zone of Lake Tekapo with a building footprint greater than 100m <sup>2</sup> .		The activity is not associated with passive recreation	N/A
Rule 4.6.2 Commercial recreation activities operating from or within the Lake Tekapo lakefront Recreation P zone.		The proposed activity will be a commercial recreation activity.	Discretionary
Rule 4.6.3 The establishment of vehicle access and car parks.		No vehicle access or parking areas are proposed.	N/A
Rule 4.6.4 Any Controlled Activity that does not comply with one or more of the standards in 4.5.2 shall be a Discretionary Activity.		The activity is not a controlled activity.	N/A
<b>Rule 4.7 Non-Complying Activities</b>			
Rule 4.7.1 Any activity not provided for as a Permitted, Controlled or Discretionary Activity.		The activity is a discretionary activity	N/A
Rule 4.7.2 Public or private sports, cultural or community facilities, structures and buildings.		The proposal does not include public or private sports, cultural or community facilities, structures and buildings	N/A
Rule 4.7.4 All buildings and structures for activities not associated with passive recreation.		The proposal involves the establishment of structures associated with a commercial activity.	Non-complying

It is noted that the proposed signage will meet all relevant performance standards.

<b>Section 15 – Transportation Standards</b>		
<b>Rule</b>	<b>Assessment</b>	<b>Complies/ does not comply</b>
2.a Minimum Parking Space Requirements	The proposal does not propose any onsite carparking	Does not comply
2.b Assessment of Parking Areas	The proposal does not propose any onsite carparking	N/A
2.c Size of Parking Spaces	The proposal does not propose any onsite carparking	N/A
2.d Car Spaces for People with Disabilities	The proposal does not propose any onsite carparking	Does not comply
2.f Reverse Manoeuvring	The proposal does not propose any onsite carparking	N/A

2.h Queuing	The proposal does not propose any onsite carparking	N/A
2.j Surface and Drainage of Parking and Loading Areas	The proposal does not propose any onsite carparking	N/A
2.k Landscaping	The proposal does not propose any onsite carparking	N/A
2.l Standards of Vehicle Crossing	The proposal does not propose any onsite carparking	N/A
2.m Length of Vehicle Crossings	The proposal does not propose any onsite carparking	N/A
2.n Distance of Vehicle Crossings from Intersections	The proposal does not propose any onsite carparking	N/A

### 3.3 PLAN CHANGE 27

It is noted that PC27, which proposes changes to the transportation section of the District Plan, was notified on 4 November 2024. Submissions closed on Friday 26 January 2024. Further submissions closed on 1 March 2024. A summary of those provisions which had not received submissions in opposition was circulated on 2 April 2024. Decisions have been released on PC27 and the appeal period has closed. All provisions in Plan Change 27 have legal effect, and all rules that have not been appealed are now treated as Operative.

In accordance with Section 86(f)(1)(a) of the RMA, the above rules may be treated as operative:

*When rules in proposed plans must be treated as operative*

- (1) *A rule in a proposed plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired and, in relation to the rule,—*
- (a) no submissions in opposition have been made or appeals have been lodged; or*
  - (b) all submissions in opposition and appeals have been determined; or*
  - (c) all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed.*

A number of the proposed standards for PC27 have not been submitted upon or submitted on in support including:

- Standard TRAN -S1
- Standard TRAN -S2
- Standard TRAN -S4
- Standard TRAN -S5
- Standard TRAN -S12
- Standard TRAN -S13
- Standard TRAN -S14
- TRAN - Table 4
- TRAN - Table 5
- TRAN - Table 6
- TRAN - Table 9
- TRAN - Table 11
- TRAN - Table 12
- TRAN - Table 13

- Matter of Discretion TRAN – MD1
- Matter of Discretion TRAN – MD2
- Matter of Discretion TRAN – MD3

A compliance schedule of the relevant District Wide Rules treated as operative pursuant to PC27 is included below:

Rule	Assessment	Complies/ does not comply
<b>TRAN-S1 Minimum Parking Space Requirements</b>	No onsite carparking is proposed	Does not comply
<b>TRAN-S4 Reverse Manoeuvring</b>	No onsite carparking is proposed	N/A
<b>TRAN-S5 Queuing</b>	No onsite carparking is proposed	N/A
<b>TRAN-S11 Vehicle Accessways</b>	No onsite carparking is proposed	N/A

### 3.4 NATIONAL ENVIRONMENTAL STANDARDS

A total of nine National Environmental Standards are currently in effect, as follows:

- National Environmental Standards for Commercial Forestry 2023
- National Environmental Standards for Air Quality 2004
- National Environmental Standard for Sources of Drinking Water 2007
- National Environmental Standards for Telecommunications Facilities 2016
- National Environmental Standards for Electricity Transmission Activities 2009
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
- National Environmental Standards for Freshwater 2020
- National Environmental Standard for Marine Aquaculture 2020
- National Environmental Standard for Storing Tyres Outdoors 2021

In this instance, land within Lot 2 DP 455053 is considered to be a 'piece of land' under Section (5)7 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS). However, the applicant confirms that there will be no soil disturbance on the 'piece of land'. Currently the 'piece of land' is part of an open space area and will continue to be so. On that part of the site which is considered to be a 'piece of land' the tree climb activity will be occurring above ground, and there will be no interaction with the ground surface. For that reason, the applicant considers that the proposed activity will not result in a change to the open space that would constitute a change in the use of the land under the NES-CS. The applicant's assessment is adopted for the purposes of this report.

The other NES are not considered relevant to this application.

### 3.5 ACTIVITY STATUS

Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal. In this case, the proposal is assessed as a **non-complying** activity overall.

## **4.0 PUBLIC NOTIFICATION**

### **4.1 Step 1 - Mandatory Public Notification in Certain Circumstances s95A(3)**

In this case, public notification is not required under Step 1 as:

- the applicant has not requested public notification of the application (section 95A(3)(a)); and
- public notification is not required under section 95C due to the refusal/failure to provide further information or to agree to the commissioning of a report (section 95A(3)(b)); and
- a joint application was not lodged to exchange reserve land under the Reserves Act 1977 (section 95A(3)(c)).

### **4.2 Step 2 - If not required by Step 1, Public Notification is Precluded in Certain Circumstances s95A(5)**

In this case, public notification is not precluded under Step 2 as:

- the application is not subject to a rule or national environmental standard that precludes public notification (section 95A(5)(a)); and
- the application is not for one of the following:
  - a controlled activity; or
  - a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity.

### **4.3 Step 3 - If not Precluded by Step 2, Public Notification is Required in Certain Circumstances s95A(8)**

In this case, public notification may be required under Step 3 as:

- the adverse effects of the activity on the environment may be more than minor (section 95A(8)(b)).

An assessment of the adverse effects of the activity is provided below:

#### **4.3.1 Mandatory Exclusions from Assessment (s95D)**

- A: Effects on the owners or occupiers of land on which the activity will occur and on adjacent land (s95D(a)).
- B: An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect (s95D(b) (the permitted baseline)).
- C: Effects that do not relate to a matter of discretion, if the activity is Restricted Discretionary Activity must be disregarded (s95D(c)).
- D: Trade competition and the effects of trade competition (s95D(d)).
- E: Effects on persons who have given written approval to the application (s95D(e)).

#### 4.3.2 Permitted Baseline (s95D(b))

Under section **s95D(b)** of the Resource Management Act 1991, the adverse effects of the activity on the environment may be disregarded if the district plan or a national environmental standard permits an activity with that effect. This is referred to as the permitted baseline.

In this situation, the underlying zoning provides for Passive Recreation activities which do not have associated structures. There is no helpful permitted baseline to be applied to the primary activity in this instance.

#### Receiving Environment

The existing and reasonably foreseeable receiving environment is made up of:

- The existing environment and associated effects from lawfully established activities;
- Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
- The existing environment as modified by any resource consents granted and likely to be implemented; and
- The environment as likely to be modified by activities permitted in the district plan.

For the subject site, the existing and reasonably foreseeable receiving environment comprises part of the open space network which is located along the lakefront within the Takapō/Lake Tekapo township. The site includes existing Pine trees which are proposed to form part of the ropes course. The ground surface is generally shingled, and there is a sealed footpath which meanders between the trees and forms part of the lakefront footpath. The site falls from south (Lakeside Drive) to the north (Takapō/Lake Tekapo). The site is currently used for passive recreation. I also note that the piece of land does not hold public reserve status and, while owned by Council, has the same status as privately owned land. Lot 5 DP 455053 also has a lease over it which provides for an existing overflow licence in favour of Tekapo Landco and Godwit Leisure to allow for parking and camping on this land.

For adjacent land, the existing and reasonably foreseeable receiving environment comprises a mix of zones and a variety of activities and built form. Dominant within the receiving environment is the foreshore of Takapō /Lake Tekapo. The application includes a comprehensive assessment of the receiving environment and this is adopted for the purposes of this report.

#### 4.3.3 Written approvals

The conditional written approval of the persons detailed in Table 1 below has been obtained.

*Table 1: Parties from whom written approval was obtained*

Name	Date
Genesis Energy	31 January 2024
Te Rūnanga o Arowhenua (Arowhenua) and Aoraki Environmental Consultancy Limited (AECL)	15 February 2024

It is noted that the Genesis Energy is conditional in that they give approval:

*“Provided the applicant acknowledges the potential impact of high lake levels on their operation and agrees that Genesis is not liable for any*



*property/infrastructure damage or loss of income due to high lake levels, Genesis does not oppose the proposed activity.”*

The applicant has provided a revised topographical site plan which ensures that the subject area is outside of the bed of the artificial lake. The applicant confirms that they are aware of the potential impact of high lake levels on their operation and agree that Genesis is not liable for any property/infrastructure damage or loss of income due to high lake levels. Given this confirmation, I recommend that the written approval from Genesis Energy be accepted.

Arowhenua and AECL can confirm that they do not have any cultural concerns with the proposed commercial activity taking place so long as an arborist confirms the trees are secure and safe enough for such an activity to occur and the commercial operators utilising the trees make every effort to remove wilding pine seeds before they are blown from the tree or the climbing activity knocks them loose.

As part of the application the applicant volunteers to appropriately confirm the trees are secure and safe enough for such an activity to occur. The applicant also volunteers to make every effort to remove wilding pine seeds.

Given the confirmation from the applicant that the conditions of the written approvals will be met, I recommend that Council disregard to the effects of the activity on these persons, in accordance with sections 95D(e) of the RMA.

#### **4.3.4 Assessment of Effects**

The purpose of the Recreation P (Passive Zone) is set out in the District Plan is intended to:

*“protect areas considered by Council to be appropriate for passive recreation. Recreational use of these areas is mostly informal in nature involving activities such as walking and playing. These areas therefore often require seating, playground equipment or other small structures. It is the purpose of this zone to maintain their open space or planted character and avoid cluttering with facilities, while maintaining their important role as recreational areas and visual open space for local neighbourhoods and for all residents and visitors. “*

The key outcomes for this zone are

- A network of neighbourhood parks providing amenity value and informal recreational opportunities, particularly for children.
- Provision for open space within walking distance of most suburban dwellings.
- Enhancement of town/village amenities by the presence and further development of green open space and opportunities for tree planting.
- In the Lake Tekapo township, the exclusion or mitigation of activities, buildings and structures that unduly interrupt views from the township to the north, or adversely affect the open space and visual amenity of the township, particularly along the lakefront of Lake Tekapo.

The proposal seeks to introduce a recreational ropes course facility within an existing treed area. The proposal includes a modest base station and climbing platforms constructed from natural materials will be positioned within the trees and ropes slung between the trees. Ziplines will also be installed. Modifications to the proposal also include seating to be installed beneath the tree canopy.

##### **4.3.4.1 Landscape and Visual Amenity**

The applicant has submitted an Assessment of Landscape and Visual Effects (ALVE) (DWG, October 2023) and ALVE Addendum April 2024 in support of the application. The ALVE Addendum was prepared in response to a Request for Further information dated 25 January 2024. The assessments have been peer reviewed by Council's Consultant Landscape Architect, Bron Faulkner. Ms Faulkner, in her review of the ALVE and Addendum, concludes that overall the magnitude of the adverse effects has been understated due to a combination of;

- *insufficient consideration of the operational effects particularly on the open space amenity of the area under the trees and along this section of the lake margin; and*
- *under estimation of the sensitivities of the Site to a proposal of this nature due its location within the lake margin and passive recreation zoning.*

Further assessment of the landscape and visual effects were provided by the applicant in its responses submitted on 16 July 2024 and 4 September 2024 which seek to address the shortfalls identified by Ms Faulkner.

### ***Visual and Open Space Amenity Effects (excluding noise effects)***

The ALVE and ALVE addendum describes the subject site and the surrounding area and these descriptions are adopted for the purposes of this report and are not repeated here. The ALVE considers that *"The tree climb activity park is anticipated to be an appropriate development within the Recreation P Zone and will be a positive addition to the Lake Tekapo Township, with minimal visual and landscape effects."*

The ALVE discusses the visibility of the proposed course and base station building and assess that visual effects from Lake Takapō/Lake Tekapo and the lake front will be low. The base station is to be set back from the road and will be discretely positioned within the treed area with access off the formed pedestrian pathway. The ALVE assesses that the proposal will be most visible from the Tekapo Holiday Park and that visual effects will not be inconsistent with the wider landscape character of recreational activities.

The ALVE Addendum assesses that:

*"the proposed tree climb activity park and base station at Lake Tekapo's southern end will introduce minor changes to the open space amenity. During peak lake levels, the development may reduce the perceived spaciousness and tranquillity of the area, particularly near the lake margin. However, proposed mitigation measures, such as limiting the number of users and strategic planting, will maintain open space amenity and the visual continuity of the landscape. It is considered the effects of the development will be no more than minor and the overall character and appeal of Lake Tekapo's open space amenity will be preserved."*

The ALVE and Addendum consider the visual effects of the proposal from the lake front and landward locations (Tekapo Holiday Park and Station Bay subdivision) will be low (less than minor). The base station building is identified as the main element that would be visible, with the rope structures largely hidden from view in the tree canopies. The ALVE and Addendum conclude that the visual effects when viewed from the lake would be low.

Ms Faulkner notes that the footprint of the proposal occupies a relatively large area, 8210m<sup>2</sup> of the lake shore, extending along approximately 240m of Lakeside Drive. At its closest point, the proposed adult ropes course may be only 15m from the lake itself (depending on lake levels).

It is Ms Faulkner's assessment that the effects on visual amenity in the ALVE and addendum have been somewhat understated and underplay the sensitivities of the lake margin to commercial development and establishment of structures given the proposed location and the Passive Recreation zoning. However, Ms Faulkner does not disagree with the assessment of the ALVE and Addendum that the visual and open space amenity effects on the lake front and landward locations will be low but considers that the greatest visual impacts of the proposal would be on the visual and open space amenity experienced in the area under the trees.

I note that the responses from the applicant in July and September provide further assessment of these effects. To address the effects on the visual and open space amenity under the trees, the applicant proposes to include signage and picnic tables to encourage people to use the area under the ropes course.

Ms Faulkner does not support the introduction of more signage or picnic tables within this area. However, I note that picnic facilities are assessed as a controlled activity in accordance with Rule 4.5.1.a of the Operative District Plan for which consent must be granted but for which conditions may be imposed. The application is amended to include the provision of picnic tables, as a controlled activity. Control is limited to:

- Compliance with the Lake Tekapo Design Guide
- The design and materials of picnic facilities
- The location of picnic facilities
- The number of tables and amount of seating provided
- The width, design and route of a path
- The paving material to be used
- Lighting
- The number and position of seating and rubbish facilities.

In this instance, the applicant proposed five wooden picnic tables to be installed beneath the ropes course to encourage the public use of space beneath the tree canopy. No lighting, additional pathways, paving or rubbish facilities are proposed.

In terms of signage, I note that Section 12 Rule 2.d states signs not exceeding one square metre for any public purpose or in connection with and on the same site as any utility, community facility or public reserve. In this instance, signage indicating that the area under the ropes course is a public area is considered to meet the purpose of Rule 2.d and is a permitted activity. For clarification, this signage is separate from the permitted signage attached to the base station which is permitted under Section 12 Rule 2.b.

As such, while Ms Faulkner's concerns are noted, the picnic tables and signage (including the sign to be attached to the base building) are not unanticipated within this area and are not expected to give rise to under adverse effects which are less than minor.

With regard to the base building, the ALVE and later assessments recognise that:

*"The proposed development is located within a Rec P Zone under the current Mackenzie District Council plan. It is specifically noted that building and structures are not to unduly interrupt views from the township to the north. The proposal will have no effect on views from Tekapo Township to the north."*

The base building is relatively small and recessive in colour, which limits and further mitigates its adverse effects. Furthermore, the applicant proposed planting around the base building and around the carpark area which is intended to mitigate some, but not all the visual effects of the base building. The base station is assessed as generally compatible with the Lake Tekapo Design Guide.

Ms Faulkner considers that the effects of the proposal would extend beyond those effects associated with the built structures. However, Ms Faulkner agrees that scale of the proposed built elements in the existing trees is small in the context of the lake and its margin.

With the amendments to the application which seek to improve the use of the area in terms of open space amenity within the tree canopy, I consider the while there will be changes to the existing environment, the proposal is not expected to adversely affect the visual coherence and integrity of open space of the zone and the wider landscape and the effects of these changes on visual and open space amenity are assessed as less than minor. Furthermore, I consider that the proposal will not detract from public or private views to the extent that the effects on views are minor or more than minor.

### **Natural Character**

The site is not within an Outstanding Natural Landscape or Feature overlay. The ALVE recognises that *“the area is of high visual vulnerability with a limited capacity for change”* but notes that *“the lake beach already hosts a range of recreational activity buildings.”* The recreational buildings or structures on the lake side of Lakeside Drive or within the lake beach, referred to by the applicant include the Tekapo Water ski building, boat ramp, playground equipment, hot pools, camping ground huts, Ice skating rink and snow slide. There is also other infrastructure and improvements in the area including roading, parking and footpath, residential and commercial activity. These features are considered to influence the natural character of the area.

The ALVE concludes that *“The openness and access to the lake front will only be minorly affected by the addition of the Base Station. The Lake will no longer be accessible through the site for approximately 22m where the Base Station and hard tussock planting is proposed, this will be barely discernible in context of the wider Lake front.”* The ALVE Addendum expands on the earlier assessment set out in the ALVE and continues to conclude that proposed activity will have no more than minor effects to the existing natural character of the site.

Ms Faulkner considers that the effects of the proposal would extend beyond those effects associated with the built structures. However, Ms Faulkner agrees that scale of the proposed built elements in the existing trees is small in the context of the lake and its margin and this modification would have a minor effect only on the level of natural character of the area.

Given the extent of modification within the area, the positioning of the base station within the treed canopy, the use of the existing vegetation to support the activity, the lack of visual prominence of the rope course apparatus, I consider the effects on natural character to be less than minor.

#### **4.3.4.2 Effects on Recreation and Public Access**

The purpose of the Recreation P (Passive zone) is set out previously in this report.

The applicant notes that the proposed activity occupies 1.3% of the Recreation P (Passive) Zone and that the majority of this is above ground level. The base building has a small footprint with a frontage on 12.2m only and is set beneath the tree canopy. The ropes course will be located within the existing mature pine trees and the space below the ropes course will remain available for public use.

The applicant suggests that if the commercial element of the activity was removed, it would have similar effects to a playground. The applicant considers that the proposal enables the area to be used recreationally, and it will maintain the trees that give the area a planted character. Due to the small size of the support structures, the applicant assesses that the proposal will maintain the site's open space character.

The ALVE Addendum notes that:

*"The proposed tree climb activity park has the potential to introduce new elements that will to some extent effect existing passive recreation values along the lake shore front. The introduction of 202 metres of zip lines, platforms, 200 metres of children's climbing features, and 363 metres of adult climbing features will affect 240 metres of Lake Tekapo shore front. It is considered, although the land under the zip lines will remain accessible to the public, the amenity of the land will experience some change, by the addition of noise and activity, slightly effecting the quality of passive recreational activities such as walking under the trees."*

The ALVE Addendum assesses that conditions of consent, such as noise control, opening hours, and limiting ground-level activities, plus the introduction of picnic tables and signage designating the area as public space will act to mitigate these effects. Overall, the ALVE Addendum assesses that the effects on recreational values are expected to be no more than minor.

Ms Faulkner assesses that public access will still be available under the activity park, however, this activity will effectively occupy 8,200m<sup>2</sup> of lakeshore space within the trees and this occupation will be particularly evident when in use. At its closest point, the proposed adult ropes course may be only 15m from the lake itself (during high lake levels). While it is proposed that public access will still be available under the ropes course, Ms Faulkner considers that the 'occupation' of space under the trees will inevitably impact on the open space amenity and passive qualities of this stretch of the lakeshore.

Ms Faulkner notes that there is a public pathway which provides passive recreation opportunities beneath the pine tree canopy. The public pathway extends from the village centre to the hot pools. There is no alternative pedestrian access along Lakeside Drive. Overall, Ms Faulkner considers that the adverse effects on the passive open space values of this section of the lake shore would be greater than the original ALVE assessment has concluded and, in her opinion, would most likely more than minor.

I agree that there is a concern that while the space below the ropes course may remain accessible (including the pedestrian walkway), insofar as there may be no physical barriers to the public use of this space, the use of the space above may act as a social deterrent which could ultimately restrict access to this space. The public may feel uncertain regarding the public availability of the space below the rope course and may be likely to avoid or feel less confident in using this space while the ropes course is in operation.

To address the concerns raised by Ms Faulkner above, the applicant now proposes to introduce signage and picnic tables which will ensure members of the public are aware that they can occupy the area under the ropes course. The application is amended to include the provision of picnic tables.

Ms Faulkner does not support the introduction of more signage or picnic tables within this area. However, as noted previously in this report, picnic facilities are assessed as a controlled activity in accordance with Rule 4.5.1.a of the Operative District Plan for which consent must be granted but for which conditions may be imposed. I note that within the zone purpose, the inclusion of seating is anticipated.

In terms of signage, I note that Section 12 Rule 2.d states a sign not exceeding one square metre for any public purpose or in connection with and on the same site as any utility, community facility or public reserve. In this instance, signage indicating that the area under the ropes course is a public area is considered to meet the purpose of Rule 2.d and is a permitted activity<sup>2</sup>. Therefore, while Ms Faulkner's concerns are noted, the picnic tables and signage are not unanticipated within this area, and seating is identified as a key element of the zone purpose. Furthermore, I consider that the introduction of these elements, especially the permitted signage, will sufficiently address the concerns regarding availability of the public space below the ropes course and ensure that the public are not excluded from this area.

While the concerns raised by Ms Faulkner are noted, with the introduction of the signage and proposed picnic tables, the walkway and area below the pine canopy will remain available to the public and the effects on Passive Recreation Amenity are assessed as less than minor overall.

In terms of public access, the proposal seeks to occupy land adjacent to the Lake margin for commercial recreation purposes, the activity will be predominantly elevated above the ground such that the access to the lakefront will be maintained via various access points along the foreshore and through the site beneath the ropes course. I consider that public access will be maintained overall and the proposal will result in less than minor adverse effects on public access to the lakefront.

#### 4.3.4.3 Noise Effects

The District Plan set out noise standards set out in Rule 9.3.5 Part (iii) (b), and are summarised below:

Receiving zone	Time period	Noise Limits
Recreation P Activities shall be carried out within the Recreation P Zone so that the following noise limits are not exceeded:	0700-2000  2200-0700	50 dB LA10  40 dB LA10 70 dB Lmax
Residential zone - Specific control area 7  All activities shall be designed and conducted so as to ensure that the following noise levels are not exceeded at any point within the boundary of any other site within the Residential Zone:	0700-2000 (including any Sunday)  2200-0700	50 dB LA10  40 dB LA10 70 dB Lmax
Mixed use zone- Business zone- Traveller Accommodation zone		

<sup>2</sup> Note that this signage is separate from the signage proposed for the base station.



<p>Rule 6.4.1g refers “The noise standard in the Village Centre Zone shall apply”.</p> <p>On any site activities shall be designed and conducted such that the following noise levels are not exceeded at any point within the boundary of any other site within the Village Centre zone:</p>	0700-2000	65 dB LA10
	2200-0700	55 dB LA10
	On any day between 9.00pm and 7.00am (next day)	85 dB Lmax

The applicant recognises that the activity will introduce a change to the existing noise environment and that this change has the potential to result in adverse effects on the open space and amenity values.

In her assessment, Ms Faulkner notes that ropes courses, by their nature, are an adventure activity designed to provide challenging and thrilling activity for participants. However, Ms Faulkner notes that the nature of the activity, introduces considerable activity and varying levels of noise when they are in use. Ms Faulkner considers that the activity and noise on the overhead ropes courses and zip lines, while in use, has the potential to make the area unattractive for the passive recreation activities that the area currently provides.

It is Ms Faulkner’s assessment that these impacts are often not compatible with the outcomes sought in a passive recreation zone. Ms Faulkner assesses that the noise generated by clients enjoying the ropes challenge will inevitably impact on the open space amenity and passive qualities of this part of the lakeshore. The activity and noise overhead and on the ground has the potential to make the area unattractive for the passive recreation activities that the area currently provides, such as the provision of a quiet lake shore experience, summer shade and shelter, picnics and play.

I note that Council is upgrading a playground within the same area as the proposal, so noise from people playing is not unexpected within this environment. Furthermore, the area includes a large parking area which introduces traffic noise and the site is also located adjacent to the boat ramp so motorboat noise also contributes to the noise environment in this area. In this regard, do not I consider the area to be a pristine noise environment.

The applicant has provided a Noise Assessment by Marshall Day and further assessment was provided on 16 July 2024 and 4 September 2024.

Marshall Day undertook an assessment of the noise from ride users, from the ziplines/flying fox and traffic noise. The noise assessment acknowledges there will be change in the noise environment as a result of the proposed activity. However, it states that most participants will be focused on climbing and will remain quiet. It provides worst-case scenario noise predictions which assumes the course will be operating at capacity and that participants will be regularly and loudly vocalising.

Despite this worst-case scenario, the noise assessment predicts noise levels for tree climb activities fall will generally within the permissible daytime limit of 50 dB LA10, which indicates no significant disruption to the passive recreational environment. It concludes that the noise characteristics of the activity align with the purpose of the Recreation P (Passive) Zone, which anticipates recreation activities such as playground equipment. The presence of a flying fox in the same zone further supports the compatibility of these activities. Specifically, Marshall Day confirm that:

*Our worst-case daytime noise predictions indicate a negligible non-compliance (less than 1 dB) at the Recreation and Traveller Accommodation zone boundaries. Noise levels are likely to be less in practice. Any adverse effects that arise will be acceptable in the context of the permitted activity noise limits for the adjoining zones.*

Based on this revised assessment the applicant volunteers the following condition:

*All participants of the rope course must be instructed to respect any other nearby users of the recreational area (not other participants or observers of the ropes course) by minimising loud vocalisations where possible.*

The applicant advised that the condition has not been drafted to stop loud vocalisation, but to minimise them. The applicant considers that stopping loud vocalisations is considered unreasonable and impractical given that loud vocalisations resulting from children playing etc is an effect anticipated in the Recreation P (Passive Zone) that anticipates play equipment.

Overall, Marshall Day finds that the activities on site can result in acceptable noise effects which are considered to be suitable for the protection of the recreational and residential environment of this area. The assessments by Marshall Day are adopted for the purposes of this report and the effects of noise generation on the Recreation P (Passive) Zone will be no more than minor on persons using the Recreation Passive (P) zone.

#### **4.3.4.4 Transportation Effects**

The District Plan car parking requirements require one space per four people that the recreational activity can accommodate which in this instance equates to 15 spaces. This standard is unchanged by PC27. The applicant does not intend to provide onsite parking for the proposed activity and instead seeks to rely on existing public parking in the area.

The applicant has advised that 250 users a day associated with the activity could be expected on a busy day. The traffic assessment states that, while the activity will have the capacity for 60 users at one time, it is not expected to have 60 users present throughout even the busiest of days. The applicant considers that an increased parking demand of 10-15 vehicles at the busiest times on Lakeside Drive is considered negligible when assessing the available car parking supply and existing levels of activity. The applicant proposes to create one accessible space in front of the base station. The application is supported by Transport Assessment prepared by Stantec (dated 28 July 2023) and Addendum (dated 23 February 2024) and further assessment in the July and September responses.

In terms of the traffic environment, Lakeside Drive runs parallel to the Lake front and serves the Lakes Edge Holiday Park, Station Bay subdivision (still under development), Power boat and Waterski Club, hotpools, playground, public toilets, and provides access to public walks. The Traffic Assessment advises that area has a high campervan use. The Traffic Assessment identified that Lakeside Drive past the site has a sealed carriageway suitable for two-way vehicle movements at slow speeds. On the lake-side of the road, there is a wide gravel area which is used for informal car parking with capacity for approximately 45 vehicles parked at 2.8m spacings between the boat ramp access to opposite the Station Bay Rise intersection. A concrete path, suitable for use by pedestrians and cyclists, has been constructed from the Lake Tekapo township along the lakeside, linking to the Tekapo Springs tourism activities to the north.

Daily traffic volumes during the peak summer season on Lakeside Drive (recorded in the January – February period in 2019 and 2022) are up to approximately 2,500 vehicles per day (vpd) reducing to

600-700vpd during the winter period. The Station Bay Rise subdivision and consented hotel development<sup>3</sup> is expected to increase traffic volumes by an additional 2140 vpd. In addition to the traffic environment assessed above, I note that a mini-golf and reception/café complex have been consented for the holiday park (RM220060) and a Mixed-Use Commercial Development comprising a reception area, café/bar, managers accommodation and functions venue.

The Traffic Addendum disregards the traffic effects of these activities as parking will be provided for these on site. I note that, while parking is provided for both RM220030 and RM220060, there is a shortfall (as calculated by the District Plan) in on-site parking authorised by both of these consents.

Advice from the Council's Roading Department is that they are focussed on managing the effects of the traffic at peak periods as this is when there is the potential for significant adverse traffic effects and parking conflicts are expected to occur.

No traffic surveys were undertaken as part of this assessment and evidence of parking demand relies on a site visit undertaken at midday Sunday 16 July 2023, which was the Sunday of the Matariki long weekend. The Traffic Addendum considers that despite the site visit occurring during the middle of winter there is very little activity at the lakeside and it was not a busy day in the area of the proposed ropes course (See Figure 5). However, the Traffic Addendum considers that this level of activity would be representative of much of the year in this location, based on extrapolated data gathered for the adjacent State Highway for 2023.



**Figure 5: Car Parking on Lakeside Drive, Midday 16 July 2023**

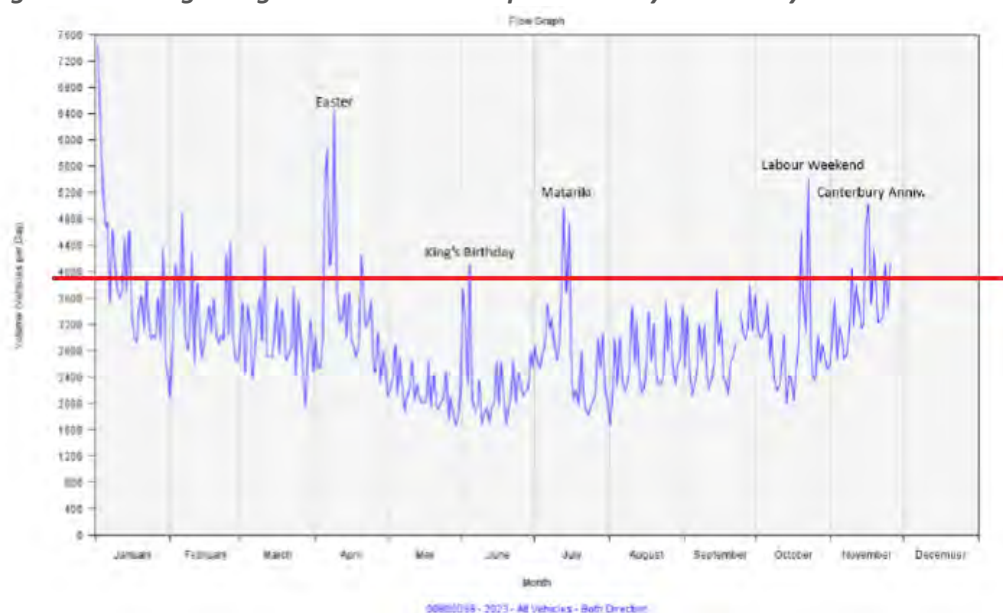
The Traffic Addendum sets aside the photograph taken by the author of this report on Saturday afternoon 20 January 2024 (See Figure 6) as not being representative of the typical traffic environment.

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<sup>3</sup> Note that the hotel is unlikely to proceed at this time.



**Figure 6: Parking along Lakeside Drive at 3pm Saturday 20 January 2024**



**Figure 7: 2023 Daily Traffic Volumes on SH8, East of Lake Tekapo (NZTA TMS) - Red line show approximate traffic level on 20 January 2024.**

The Traffic Assessment assumes that 30% of people could arrive by walking or cycling and that 50% of vehicle movements are pass-by movements. The Traffic Assessment Addendum confirms that these numbers are a conservative assessment based on peak occupation of the rope course. The Traffic Addendum notes that a peak car parking demand of 10-15 vehicles was adopted in the assessment and that this figure should be treated as a possible maximum car parking demand based on the capacity of the activity, but not as car parking demand that would be expected every day or at all times throughout a day.

The car parking demand does not include staff parking as staff are expected to be active people living locally, and, therefore, likely to make use of active travel modes. As such, the Traffic Addendum concludes that any staff car parking demand would be expected to be very low (possibly up to one or two vehicles only) and would have a negligible effect on both the transport assessment and on the availability of parking in the area in practice.

Cycle parking is proposed to be located between the car parking area and the existing lakeside path. The applicant proposes a dedicated area 4.7m long by approximately 3.8m wide which will provide for six cycle rails to NZTA Cycle Network Guidance (CNG) standards. The set out would include 0.9m separation to the car park, 1.1m between cycle rails and 0.7m separation to the shared pedestrian / cycle path. The applicant confirms this the layout will be more than adequate for a bicycle to rest

The applicant volunteers a condition of consent which would require applicant to prepare a Travel Management Plan which options to encourage other travel modes to the ropes course. Advice will be given to customers at the time of booking that car parking can be in short supply at busy times of year, and that walking and cycling from the village centre is viable for most people. Advice will also include a simple map highlighting the location of the site relative to the lakeside walking / cycling path and information on the cycle parking available. The applicant also volunteers a staff travel plan to minimise staff parking in the area.

Furthermore, a landscape plan is submitted which shows planting which will be intended to delineate the car-parking space and improve the area's aesthetic appearance (See Figure 8). The applicant assesses that the landscaping would be deferred and designed to be consistent with the Master Plan, once adopted, and is expected to be a significant enhancement of the current carpark, which is currently devoid of native plantings and does not delineate carparking spaces.

[illegible]

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In addition to the parking demand matters, there are five public toilets on the western side of Lakeside Drive, opposite the boat club and approximately 70m north of the proposed ropes course base station. The Traffic Addendum notes that these toilets serve the wider area and there is already demand for pedestrians to cross the road to use the toilets, particularly those spending time at the lakeside. Given the small scale of the proposed activity and the relatively short-expected duration of stay by visitors, the TIA considers that any additional demand to cross Lakeside Drive to access the public toilets will be very low compared to existing demand at busy times. Any small increase in pedestrian crossing demand between the proposed activity and the public toilets will have a negligible effect on the safety of the pedestrian crossing movement. The applicant does not offer any safety mitigation measures to ensure its patrons can safely access the public toilet facilities it will be relying on. That said, the landscape plan shows the dimensions of carparks, coach parking and a crossing point to the toilets.

The MDC Development Engineer is generally supportive of the proposed solutions to the parking shortfall but notes that there are a number of issues for the applicant to work through in terms of the leasing of the Council parking areas and ensuring the any approved landscaping and parking plan does not compromise any future Master Plan for the area. These matters generally fall outside of the matters able to be considered as part of this assessment under section s95A-F of the RMA.

Based on the amended application which seeks to rely on leased Council parking, the proposed landscape mitigation of the parking area, the proposed monetary compensation, and the technical assessments by Stantec, I consider the effects on access and parking to be less than minor.

#### **4.3.4.5 Servicing effects**

The applicant advises that its preference is to connect to the reticulated water supply in Lakeside Drive to provide a water supply for handwashing facilities. The applicant intends to discuss this with Council Services Team and this connection does not form part of this application and will be addressed as building consent stage.

In respect of wastewater, the applicant's preference is to connect to the wastewater reticulation in Lakeside Drive to dispose of handwashing water. The applicant intends to discuss this with Council Services Team and this connection does not form part of this application and will be addressed as building consent stage. If a connection is not available, then a slimline tank will likely be installed beneath the building. No toilets are proposed, and the nearby public toilets will be used by staff and visitors.

With regard to construction-phase stormwater, the applicant intends that this will be discharged to ground. Erosion and sediment control measures will be implemented to limit the opportunity for any sediment from establishing the footings for the base station building to become entrained in the runoff.

Once the base station building is established, stormwater from the roof will be captured and stored onsite, via a slim tank attached to the wall of the base station building. The water will be used for watering the proposed tussocks.

In terms of the electricity supply, the applicant expects that the site will likely connect to Alpine Energy electricity network on Lakeside Drive. No reticulated telecommunications are proposed.

Overall, I have assessed that the proposal is not reliant on the proposed servicing and it is appropriate to defer any servicing requirements to the building consent stage without adverse effect on the environment.

#### **4.3.4.6 Volunteered Mitigation**

The applicant volunteers a range of design and mitigation measures in a draft suite of conditions, including noise management, materials used for the ropes course designed to blend in with the existing tree canopy, active management of pine seeds, recessive colours for the base building, cap on number of users, inclusion of signage advising of the public space and introduction of five picnic tables to encourage public use of the space below the ropes course and tussock planting intended to enhance the appearance of the area around the base building.

Ms Faulkner considers that many of the potential effects are not of a physical nature that are unable to be minimised by the proposed measures. Introduction of the climb activity park to the lake shore environment under the pine trees will inevitably change the currently passive and calm environment into an active one for which there is minimal mitigation available.

The applicant advises that planting is intended to mitigate some, but not all the visual effects of the base building. However, as stated in the LVEA, the base building is relatively small and recessive in colour, which limits and further mitigates its adverse effects. The tussock planting will not mitigate the effects of the rope course. However, as indicated in the LVEA, the adverse visual effects of the rope course are low given its recessive colours, natural materials, small size and the ability to see through the course. The applicant assesses that the mitigation measures have been determined in the LVEA to be appropriate given the potential effects of the activity and the environment.

To help improve the amenity of the area and offset any residual adverse visual effects, the applicant has also offered to contribute towards the establishment of a new landscape area around the existing carpark. The planting will help delineate the car-parking space and improve the areas aesthetic appearance. It will be a significant enhancement of the current carpark, which is devoid of native plantings and does not delineate carparking spaces. The native plantings will also improve the natural character of the area.

While Ms Faulkner's assessment is noted and I agree that environment under the pine trees will inevitably change the generally passive and calm environment and that some elements of the proposal cannot be completely mitigated, I consider that change in of itself is not an adverse effect. The applicant has considered the range of mitigation options available to it, and have volunteered mitigation which is appropriate and applied in a manner which is intended to mitigate adverse effects on the open space, natural character, noise environment, parking and visual amenity of the area.

#### **4.3.5 Summary of Effects**

Based on the above assessment, the proposal is likely to have adverse environmental effects in respect of visual amenity, open space and recreation values, and transportation effects which are minor but not more than minor.

#### **4.4 Step 4 - Public Notification in Special Circumstances s95A(9)**

Public notification is required if the consent authority decides such special circumstances exist as to warrant the application being publicly notified (s95(9)(a)). Considering whether any application for consent crosses the threshold of 'special circumstances' under s95A(9) requires an exercise of comparison and judgment by applying the facts to the matrix of case law. There are a number of relevant authorities on the issue include:



In *Far North District Council v Te Runanga-a-iwi o Ngati Kahu* the Court of Appeal summarised the law regarding special circumstances as<sup>4</sup>:

*“ ... outside the common run of things which is exceptional, abnormal or unusual but less than extraordinary or unique. A special circumstance would be one which makes notification desirable despite the general provisions excluding the need for notification.*

Special circumstance must relate to the subject application. The applicant seeks to establish a commercial activity with associated structures within Council owned land currently used for passive recreation and which relies on public carparking and ablutions to operate.

In an email to Council dated 7 May 2024, Tekapo Landco and Godwit Leisure (owner of the Lakes Edge Holiday Park) consider that ‘special circumstances’ applied to this application given the ownership of the land and the underlying zoning of the land. As noted previously in this report, the land is not reserve land, rather it is Council owned land. The ownership of the land does not automatically trigger a special circumstance. Council may determine that public consultation is desirable when considering whether to lease the land to the applicant<sup>5</sup> (noting that there is another existing private lease held by Tekapo Landco and Godwit Leisure over the land in any event) but that this will fall outside of the RMA process. I also note that an “out-of-zone” activity does not automatically trigger special circumstances.

The local authority must be satisfied that public notification may elicit additional information bearing upon the non-complying aspects of the application, beyond that which could be garnered from limited notification to a party or parties. The applicant has undertaken some consultation for the proposal including meeting with the Tekapo Community board and has also obtained the written approval of Genesis Energy and Te Rūnanga o Arowhenua (Arowhenua) and Aoraki Environmental Consultancy Limited (AECL). In this regard, feedback has been sought from key stakeholders for this application, it is unlikely that notification of the proposal will elicit additional information regarding the proposal.

In terms of whether the application results in circumstances which are exceptional, abnormal or unusual, I note that the receiving environment that is highly modified and includes a range of formal recreation and commercial activities. In this regard, the proposal will not be incompatible within the immediate environment. Furthermore, the proposal will not fully occupy that space as people are free to pass under or utilise the space underneath the course. The Recreation P Zone is large at this location and, despite this proposal, will remain available and generally accessible to the public.

Overall, I consider that the proposal does not trigger special circumstances which warrant public notification.

#### **4.5 Public Notification Determination**

Pursuant to section 95A(8)(b) and S95A(9) public notification is not required.

### **5.0 LIMITED NOTIFICATION**

If the application is not publicly notified under section 95A, section 95B(1) of the Act requires a decision whether there are any affected persons (under s95E). The following steps are used to determine whether to give limited notification of an application.

#### **5.1 Step 1 - Certain Affected Groups and Persons Must be Notified s95B(2) and s95B(3)**

<sup>4</sup> [Far North District Council v Te Runanga-a-iwi o Ngati Kahu \[2013\] NZCA 221 at 36—37.](#)

<sup>5</sup> Note that there is another existing private lease over the land in any event.

In this case, limited notification is not required under Step 1 as:

- there are no affected customary rights groups (s95B(2)(a)); and
- there are no affected customary marine title groups (s95B(2)(b)); and
- the activity is not on or adjacent to, and will not affect land that is the subject of a statutory acknowledgment (s95B(3)(a)).

## **5.2 Step 2 - If not required by Step 1, Limited Notification precluded in certain circumstances s95B(6)**

In this case, limited notification is not precluded under Step 2 as:

- the application is not subject to a rule or national environmental standard that precludes limited notification (section 95B(6)(a)); and
- the application is not for a controlled activity.

## **5.3 Step 3 - If not Precluded by Step 2, Certain Other Affected Persons Must be Notified s95B(7) and (8)**

In this case, limited notification is not required under Step 3 as:

- Limited notification is not required under Step 3 as the proposal is not a boundary activity where the owner of an infringed boundary has not provided their approval, and it is not a prescribed activity.
- Limited notification is not required under Step 3 as the proposal falls into the 'any other activity' category. The effects of the proposal on persons are assessed below.

### **5.3.1 Assessment of Effects on Persons**

Section 95E states that a person is 'affected' if the adverse effects of an activity on a person are minor or more than minor (but not less than minor). The application includes written approvals from the parties identified earlier in this report.

In terms of other parties who may be affected, it is noted that the effects of the proposal on the wider environment have been found to be no more than minor overall. However, the test to determine affected parties are whether the effects of the proposal are less than minor on those parties.

I note that parking and traffic effects are able to be managed through other Council processes so that there the proposal will not result in a direct adverse effect on any particular party. Furthermore, no direct servicing effects have been identified as a result of the proposal which would affect any particular party.

In terms of parties who may experience direct adverse effects, particular consideration is given to the neighbouring properties; being the Tekapo Water Ski and Jetboating Club, the Lakes Edge Holiday Park and also the Station Bay Rise subdivision.

Key matters identified for the Tekapo Water Ski and Jetboating Club are the traffic and recreational amenity effects. In this instance, I note that access to the boat ramp and the adjacent parking adjacent

will be unaffected by the proposal (See Figure 9). There is existing signage within the road reserve which prohibits access to the boat ramp to the south of the boat club at the beginning of the treed area. (see Figure 10).



*Figure 9: Boat Ramp access and parking area clear of trees to be used by the ropes course.*



*Figure 10: No boat ramp access signs*

The club supports an active recreation activity which contributes to the receiving environment. Motorboat sport is an inherently noisy activity and influences the receiving environment. The club is occupied intermittently, and the club's outlook is directly to the lake with the associated motorboat activities located predominantly on the lake surface away from the subject site. Any incidental land based activity concentrated within the clubrooms and the carpark area (see Figures 11 and 12).

The proposed base station will be located approximately 80m from the boat club. The children's rope course and short zipline will be located between the base station and the powerboat club. When considering the noise effects of the proposal on the ropes course, I note that the use of the club is intermittent and is not used for noise sensitive activities such as sleeping or studying where a quiet

noise environment is desirable. Given the club is associated with an active recreational activity, I assess that any potential noise effects will be less than minor on this party.

In terms of open space amenity, the Children's ropes course will comprise three rope lines and one zipline which will be located within the existing trees and will be hung at a minimum height of 3.0m. The open character environment within the treed area next to the boat course will change the existing environment but the extent of this change is assessed as less than minor on the boat club.



*Figure 11: Looking south from the subject site (Source: Google Earth)*





*Figure 12: Looking north from the subject site (Source: Google Earth)*

With regard to the Lakes Edge Holiday Park (Tekapo Landco and Godwit Leisure), it is my understanding that they hold the lease over the subject land. The lease is a matter unable to be considered as part of this assessment and there is a separate process for any issue relating to the lease to be resolved.

I note that while the ropes course will be across the road from the holiday park, the holiday park is elevated above the road at this location (See Figure 13) and is used for temporary accommodation only meaning that any adverse effects experienced by holiday park guests in terms of visual and open space amenity effects are expected to be transient and less than minor.

The operator of the holiday park (Tekapo Landco and Godwit Leisure) hold a lease over the subject site and has contacted Council and advised that they consider the direct effects on the holiday park and the Station Bay Residential Development located at Station Bay Rise. Tekapo Landco and Godwit Leisure did not identify what the direct effects of the proposal were. In this instance I consider that noise and visual amenity are the key effects on this party.

Tekapo Landco and Godwit Leisure also noted that they considered that there were wider environmental effects on natural character (s6a), outstanding natural landscapes (s6b), amenity values (s7c) – particularly effects on naturalness and opportunities for passive recreation on the lakefront. The effects on effects on naturalness and opportunities for passive recreation on the lakefront in terms of section 95D have been assessed previously in this report. The site is not located within an Outstanding Natural Landscape.

In terms of visual effects on the landward locations being the residential properties at the Station Bay Residential development and the Lakes Edge Holiday Park were considered in the ALVE and Addendum and were assessed as less than minor (See Figures 13 and 14). Ms Faulkner did not disagree with this assessment, and I accept the assessment of the ALVE and Addendum in respect of these parties.



**Figure 13: Holiday park property opposite the subject site. (Source: Google Street View)**



**Figure 14: Climbing Course Visualization view from Lot 9 Station Bay Rise (Source Application)**

I also note that the noise effects were assessed by Marshall Day who assessed that:

*Our worst-case daytime noise predictions indicate a negligible non-compliance (less than 1 dB) at the Recreation and Traveller Accommodation zone boundaries. Noise levels are likely to be less in practice. Any adverse effects that arise will be acceptable in the context of the permitted activity noise limits for the adjoining zones.*

Given likely compliance with the District Plan noise levels, the noise effects on the Lakes Edge Holiday Park and the residents of the Station Bay Rise subdivision are assessed as less than minor.

Overall, no direct effects on the above parties have been identified which would be assessed as minor or more than minor.

### **5.3.2 Summary of Effects on Persons**

Based on the above assessment, no parties are considered to be affected by the activity, beyond those who have provided written approval to this proposal.

#### **5.4 Step 4 - Further notification in special circumstances s95B(10)**

As already set out above, I consider that there are no special circumstances that exist in relation to the application which would warrant limited notification.

#### **5.5 Limited Notification Determination**

Pursuant to section 95B of the Act, limited notification is not required.

### **7.0 NOTIFICATION RECOMMENDATION**

Given the recommendations made under sections 95A(8)(b) and 95A(9), I recommend that the application is to be processed on a non- notified basis.

### **8.0 TIME EXTENSION**

Please note that the notification decision could not be completed within the time frame set by Section 95(2)(b) due to the provision of further information which required further review. Given the complexity of the application, and the need for review of the further information provided and a revised draft report being prepared, the time frame for a notification decision has been extended pursuant to 37A(2)(a) and 37(4)(b)(ii) of the RMA.

Prepared by,



Kirstyn Royce  
**Consultant Resource Management Planner**

Date: 14 October 2024

#### **Commissioner's Decision:**

1. I have reviewed the application for land use prepared by the Davis Ogilvie (Aoraki) Limited for the Applicant (Queenstown Commercial Parapenters Limited), and supporting technical report, and the notification report prepared by Ms Kirstyn Royce dated 14 October 2024. Ms Royce has recommended that the application be processed on a non-notified basis.
2. I did not undertake a site visit but am familiar with the location and surrounds.
3. I have reviewed the additional information provided by Perspective Consulting Ltd (Mr Mark Geddes) on 26 April 2024, 16 July 2024 and 4 September 2024 which included:



- a. An additional traffic assessment prepared by Stantec dated 23 February 2024; and
  - b. An additional Landscape and Visual Effects Assessment prepared by DWG dated April 2024.
  - c. A revised topographical site plan.
  - d. Applicant's Memo in response to notification report dated 16 July 2024.
  - e. Final response to Council's second Memo dated 4 September 2024.
  - f. Revised suite of conditions dated 4 September 2024.
  - g. A revised landscape plan.
4. I have considered the definitions in the District Plan of 'recreation activity' and 'commercial activity'. There is no District Plan definition of 'passive recreation activity'.
5. There is no disagreement between Ms Royce and the Applicant as to the non-complying activity status for the land use consent. I accept their findings, but note that:
  - a. Commercial activities are listed as non-complying activities (rule 4.7.3) in the zone. The definition of commercial activity includes "recreation activities where a charge for profit is involved". Read in isolation, the conclusion would be that the proposal itself is a commercial activity.
  - b. The Plan structure is, however, more nuanced than that. Rule 4.6.1 provides for "commercial recreation activities" as a discretionary activity. Commercial recreation activity is an undefined term.
  - c. There is, in my view, a tension between rules 4.7.3 and 4.6.1. On balance, however, a favour an interpretation that the activity should be considered a "commercial recreation activity" rather than a "commercial activity". To form a contrary view would beg the question as to why commercial recreation activities are specifically provided for in the rule hierarchy.
  - d. While that addresses the question as to how I should classify the activity, I agree that, overall, the proposal should be considered a non-complying activity given that rule 4.7.4 addresses all buildings and structures not associated with passive recreation.
6. The Applicant is of the view that all adverse environmental effects will be no more than minor and thus there is no requirement for limited or public notification. The Applicant and Ms Royce also considered that no special circumstances exist requiring public notification. I agree with this last point.
7. I agree with Ms Royce that there is no permitted baseline for structures associated with a recreation activity, including for passive recreation activities. That said, by nature, passive recreation is a permitted baseline and holds some weight for consideration.
8. In terms of noise effects, I consider that these have been appropriately considered by the Applicant and Ms Royce, and generally agree that noise effects will be no more than minor. However, I 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.

9. On the matter of transport effects, I also consider that these have been appropriately considered by the Applicant and Ms Royce and generally agree that transport effects will be no more than minor. 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.
10. Turning my attention to adverse effects on landscape and visual amenity. The applicant has submitted an Assessment of Landscape and Visual Effects (ALVE) (DWG, October 2023) and ALVE Addendum April 2024 in support of the application. Further assessments of the landscape and visual effects were provided by the applicant in its responses submitted on 16 July 2024 and 4 September 2024.
11. 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.
12. Ms Bron Faulkner, for Council, has reviewed the application and supporting assessments. Ms Faulkner considers that the greatest visual impacts of the proposal would be on the visual and open space amenity experienced in the area under the trees. I understand these concerns were raised with the applicant and they amended the proposal to include signage and picnic tables to encourage people to use the area under the ropes course. Ms Faulkner does not support the inclusion of these structures.
13. As for the base building, Ms Faulkner considers that the effects of the proposal would extend beyond those effects associated with the built structures. However, Ms Faulkner agrees that the scale of the proposed built elements in the existing trees is small in the context of the lake and margin.
14. Ms Royce has carefully considered the views of Ms Faulkner and has assessed the effects on visual and open space amenity as less than minor, also noting that the proposal will not detract from public or private views to the extent that the effects on views are minor or more than minor.
15. I disagree with the Applicant and Ms Royce on this matter, preferring the view of Ms Faulkner. While the base building and associated 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 the site but more so for persons utilising the site. I also 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. I will touch on this more later. For this reason, I consider that that visual and open space amenity effects will be more than minor.
16. The effects on recreation and public access is considered by Ms Royce to be less than minor which differs to the view held by Ms Faulkner who records that that the

'occupation' of space under the trees will inevitably impact on the open space amenity and passive qualities of this stretch of the lakeshore. Ms Royce agrees with the applicant that the inclusion of picnic tables and signage will promote the continued public use of space under the tree canopy.

17. I again disagree with the Applicant and Ms Royce on this matter, preferring the view of Ms Faulkner. While the space in and around the trees will remain available to use by other users, the occupation of space (effectively 8,200m<sup>2</sup>) above ground may actively discourage other users. I also recognise that the Site is not well used during the year but that should not limit the use by others for passive recreation activities. The installation of picnic tables and signage does not sufficiently mitigate the effects in my view. I also do not consider a commercial operation of this nature to be similar to play equipment as alluded to by the Applicant. I therefore consider the effects on recreation and public access to be more than minor.
18. Ms Royce considers adverse effects on natural character to be less than minor which differs to the view held by Ms Faulkner. I agree with Ms Royce on this matter.
19. Overall, I am not entirely aligned with Ms Royce's conclusions that the proposed development will only give rise to adverse effects that are less than minor. As noted above, I consider that adverse effects on the wider environment will be more than minor.
20. As for the extent of effects on the immediate environment, I agree with Ms Royce that the effects on the Tekapo Water Ski and Jetboating Club will be less than minor. The Applicant has assessed the effects on the landward locations being the residential properties at the Station Bay Residential development and the Lakes Edge Holiday Park as less than minor. However, I cannot reconcile the extent of effects experienced by these sites as Ms Faulkner did not make a direct assessment of the sites despite Ms Royce noting that Ms Faulkner did not disagree with the Applicant's assessment.
21. Consequently, I consider it is appropriate that the application be publicly notified on the basis that adverse effects will be more than minor.

Darryl Millar  
Independent Planning Commissioner



Date: 23 October 2024



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RM230149

## PEER REVIEW – LANDSCAPE ASSESSMENT

*Prepared for*

Mackenzie District Council

*by*

Bron Faulkner

2 August 2025

## **Introduction**

- 1 My name is Bronwyn Elizabeth Faulkner. I am an independent consultant landscape architect who provides landscape architecture advice to local authorities and private clients.
- 2 I have been engaged by Mackenzie District Council to provide landscape advice on this application. I prepared a peer review (3 May 2024) of the landscape assessment prepared in support of this application.

## **Qualifications and experience**

- 3 I have a Bachelor's degree of Landscape Architecture and Agricultural Science. I am a Tuia Pito Ora New Zealand Institute of Landscape Architects (NZILA) Registered Landscape Architect.
- 4 I have 22 years of experience in professional landscape practice. My experience includes: providing landscape expertise on a wide range of projects, in particular large scale infrastructure projects, subdivisions and restoration projects. My work has been largely focused on the preparation of landscape and visual assessments to support resource consent and plan change applications as well as design and project management roles during the design and construction phases of projects. In recent years, I have been undertaking peer reviews for local authorities.

## **Code of Conduct**

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

## **Scope of Assessment**

- 6 My assessment covers the following:
  - A. Landscape peer review (3 May 2024, abbreviated)
  - B. Summary of landscape effects
  - C. Comments on noise/ acoustic assessment
  - D. Assessment of Plan Provisions-Plan Change 29 decisions July 2025
  - E. Comments on submissions
  - F. Comments on draft conditions of consent.

## A Peer Review, 3 May 2024 (Abbreviated)

### 1.0 Introduction and Scope

Queenstown Commercial Parapenters Limited are seeking a resource consent from Mackenzie District Council (MDC) to construct and operate a tree climb activity park on Lakeside Drive, Lake Tekapo. The proposed site (Site) is located within the lake margin of Lake Tekapo between Lakeside Drive and the Lake. The area is zoned for Passive Recreation in the Mackenzie District Plan (MDP) and lies within an area identified as having high visual vulnerability and is adjacent to Lake Tekapo which is identified as an outstanding Natural landscape. The proposal is a Non-Complying Activity.

This review is based on a visit to the Site and local area (1 February 2024) and my appraisal of the initial landscape assessment and subsequent assessment provided in response to the RFI. The following documents have been reviewed:

- *Assessment of Landscape and Visual Effects* and supporting graphics (*Appendix 2 of the Application*) dated 23 October 2023. Prepared by Design Works Group (the **Assessment**)
- *Landuse Consent Application, Background information, and Environmental Effects Assessment* (AEE). July 2023. Prepared by Davis Ogilvie. December 2023.
- *Assessment of Landscape and Visual Effects- RFI* (RFI Response) April 2024. Prepared by Design Works Group

### 2.0 Existing Landscape Description

The Assessment describes the features and character of the site and its wider landscape context on the shore of Lake Tekapo. It describes the site's recreational value, *The land along Lakeside Drive has a long history of recreational use that is well recognised and valued. During summer the lake and lake front is a high use activity area with the lake being used by swimmers, recreational boaters (watering skiing, wake boarding, fishing, etc) tourists, holiday maker and locals. Cycling, walking, running and picnicking are to name a few activities*<sup>1</sup>.

The Assessment did not recognise the qualities and amenity values that the group of pine trees offers such as shade in the summer for relaxation, picnics and enjoyment of the lake views.

### 3.0 Proposal Detail

The proposal is described the physical aspects of the activity park but did not consider operational activity and potential effects. The proposed ropes course is an adventure activity that can generate noise from participants traversing the course interacting with each other and receiving instructions from staff and supporters both on the ground and above on the structures and lines. Understanding the nature of the noise and general 'busyness' of the activity park is particularly relevant when considering effects on visual amenity and open space values of the public area zoned for passive recreation.

The key elements of the proposed activity park as detailed in the Assessment includes:

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<sup>2</sup> RMAs6(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.*



- Tree climb activity park structures and lines will utilise a stand of mature pine trees occupying a footprint of 8210m<sup>2</sup>, adjoining a 240m length of Lakeside Drive frontage.
- The activity park footprint encompasses sections of public footpath.
- Footprint of the activity park (at its closest point) varies from 15m to 30m from the lake edge, depending on changing lake levels.
- Structures will consist of platforms, climbing wires, ropes, wire bridges and ziplines in the lower canopy of the trees 3m - 10m above the ground and will include a Base Station container building 2.6m (H) x 4.8 (W) x 12.12m (L).
- The Base Station is the only structure proposed at ground level, and the zip lines will not require any interaction with the ground.
- An area of tussock planting is proposed around the base station.
- Maximum of 60 clients at one time, year round activity.
- Minimal earthworks are proposed.

#### **4.0 Design Response and Mitigation Measures**

The Assessment describes the design response and mitigation measures as:

- Retaining existing pine tree buffers
- Minimising built infrastructure with a small base station finished in materials and colours that are sympathetic to the location.
- Planting an area of hard tussock around the base station to integrate the building into the surrounding landscape.
- Positioning ropes courses 3m-10m above ground, within the existing trees.

The Assessment relies heavily on the ability of these measures to minimise the effects of the proposal. I do not agree that these measures provide any substantive mitigation.

Retaining the existing trees is not mitigation as the trees are essential to the proposal. Minimising built structures in public open space is relevant to reducing the potential effects. But I believe that locating the ropes and ziplines above ground and in the tree canopy is a fundamental design feature of an adventure ropes course, and is not mitigation.. The tussock planting may enhance the aesthetic appearance of the area around the building but I don't consider their low stature would provide any effective mitigation of the effects of a 2.6m high, 58m<sup>2</sup> building and overhead structures.

In addition to this, many of the potential effects will not be of a physical nature and therefore can't be minimised by the proposed measures. Introduction of the climb activity park to the lake shore environment under the pine trees will inevitably change the currently passive and calm environment into a much noisier and active one.

#### **5.0 Landscape and Visual Effects Assessment**

The Assessment is focussed on the built physical changes and does not consider the introduction of noise and activity from clients, their supporters, staff and zip lines and the associated activity at ground level.

## Effects on visual amenity

The Assessment considers the visual effects of the proposal from the lake front and landward locations (Tekapo Holiday Park and Station Bay subdivision). The base station building is identified as the main element that would be visible, with the rope structures largely hidden from view in the tree canopies. It concludes that the visual effects when viewed from the lake would be low. When viewed from the Tekapo Holiday park it concludes that; *addition of the base station and climbing course will only slightly effect views to the lake and will not be inconsistent with the wider landscape character of recreational activities*. From Station Bay there is no definitive conclusion as to the magnitude of the visual effects.

I consider the greatest visual impacts of the proposal would be on the visual amenity experienced in the area under the trees.

## Open Space Values

While public access will still be available under the activity park, it will effectively occupy 8200m<sup>2</sup> of lakeshore space under the trees being particularly evident when in use. The activity and noise generated by clients enjoying the ropes challenge will inevitably impact on the open space amenity and passive qualities of this part of the lakeshore. The activity and noise overhead and on the ground is likely to make the area unattractive for the passive recreation activities that the area currently provides, such as; provision of a quiet lake shore experience, summer shade and shelter, picnics and play. I consider that the adverse effects on the passive open space values of this section of the lake shore would be greater than the Assessment has concluded and most likely more than minor.

## Natural Character of the Lake Margin

I agree that scale of the proposed built elements in the existing trees is small in the context of the lake and it's margin and this modification would have a minor effect on the level of natural character of the area. However, establishing a commercial activity park within the lake margin does not constitute appropriate use or development of the lake margin in terms of RMAs6(a)<sup>2</sup>.

## 6.0 Summary and Conclusions

Ropes courses are valuable recreational facilities in appropriate settings. My understanding and experience of them is that they are an adventure activity designed to provide challenging and thrilling activity for participants. Inevitably this introduces considerable activity and varying levels of noise when they are in use. These impacts are not compatible with the outcomes sought in a passive recreation zone.

Overall, I consider that the magnitude of the adverse effects has been understated due to a combination of;

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<sup>2</sup> RMAs6(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.*

- insufficient consideration of the operational effects particularly on the open space amenity of the area under the trees and along this section of the lake margin;
- an over estimation of the proposed mitigation measures' ability to minimise all of the effects of the proposal;
- under estimation of the sensitivities of the Site to a proposal of this nature due it's location within the lake margin and passive recreation zoning.

Based on this I consider that the adverse effects on the visual amenity and open space values of the Site would be more than minor.

While the existing context on the south side of Lakeside Drive comprises a built environment and tourist activities, it does not necessarily make built development, and the proposed commercial activity within the lake margin appropriate. I consider that the proposed activity park is inappropriate in this location in terms of both RMAs6(a) matters, and achieving the purpose of the Passive Recreation Zone.

## **B Summary of landscape effects**

### **Natural character**

- 7 I concluded above that scale of the proposed built elements in the existing trees is relatively small in the context of the lake and it's margin and this modification would have an adverse Low-Moderate<sup>3</sup> magnitude of effect on the natural character of the area. However, I do not consider that the establishing a commercial activity park is an appropriate use of the lake shore as a ropes course has no functional or operation need to be located so close to the lake.

### **Landscape effects**

- 8 The key landscape effects to be considered here are how the proposal will affect the landscape character and amenity values of the location including reference to the statutory zoning. As discussed in the Assessment and my review the closely interrelated components of the landscape character and the amenity values that contribute to peoples' appreciation and enjoyment of the area includes; open space values, recreational values, visual amenity as well as the sounds smells and other sensory qualities that people experience in the space. Overall, I conclude that the landscape effects of the proposal will be adverse and with a magnitude ranging from Moderate to Moderate -High.

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<sup>3</sup> 7 point scale to describe the magnitude of effects, in *Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines*, Tuia Pito Ora New Zealand Institute of Landscape Architects, July 2022

## C Comments on noise/acoustic assessment

- 9 I have considered and discussed the potential effects that noise generated by the proposal may have on the amenity values of the lakeside location. To clarify; I am not an acoustic expert, but refer to noise as one attribute that contributes to amenity values, being; *those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*<sup>4</sup>. As discussed above I consider the noises introduced by the proposal will impact negatively on the amenity values of the area in particularly under the tree canopy.
- 10 I have reviewed the Acoustic Assessment prepared for this proposal<sup>5</sup>. The report describes and quantifies the potential noise that will be generated by ride users, zip lines and traffic. These noises will be experienced by people within and near the proposal site. The assessment concludes that; *Based on our assessment, we consider that activities on site can result in acceptable noise effects which we consider to be suitable for the protection of the recreational and residential environment of this area*<sup>6</sup>.
- 11 I do not consider that the introduction of this noise is acceptable in terms of the effects it will have on the amenity values of the site. The predicted noise combined with the physical 'busyness' of ropes course users and equipment will adversely impact on the existing informal and calm amenity of the site. Currently the area under the trees and lakeshore has a relatively natural and quiet character in contrast to the busyness of the road and other nearby activities.

## D Assessment against Plan Change 29 decisions July 2025 - Open space Zone

- 12 Since completing my peer review of this application in May 2024 the Council has completed the hearing process for Plan Change 29 and issued the 24 July 2025 version of decisions including the Open Space Zone (OSZ) Chapter<sup>7</sup>.
- 13 The OSZ replaces the Passive Recreation Zone, referred to in the proposal and my review. The OSZ Objectives and Policies are largely consistent with Passive Recreation Zone provisions, with some amendments.
- 14 With reference to the Objectives and Policies for the OZS, I confirm my comments and conclusions in my Peer Review above. That is: the proposed activity park is not

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<sup>4</sup> RMA Section 2 definition

<sup>5</sup> Appendix 7 AEE, *Acoustic Assessment* by Marshall Day Acoustics, 16 November 2023

<sup>6</sup> Page 8 *ibid*

<sup>7</sup> *Appendix 1: open space zone (OSZ) chapter decisions version 24 July 2025*

appropriate in this lakeshore location, it will conflict with the existing amenity values of the area and is not compatible with the purpose of the zone.

- 15 I do not consider that the structures and operational activities of the proposed ropes course are aligned to the purpose of the OSZ nor would they maintain the character and amenity values of the lakeside setting.
- 16 The ropes course will occupy a relatively large 8200m<sup>2</sup> area of the lakeshore. In my view introducing new structures and commercial activity of this nature is not complementary to the purpose of the OSZ and will conflict with the existing informal and passive recreational use of the lakeshore.
- 17 While the proposal, may require a stand of mature trees it has no functional or operational need to be located on the lakeshore.
- 18 The addition of the proposed building and overhead structures will reduce the uncluttered open space under the tree canopy and reduce the visual amenity of the lakeside area.

## **E Comments on submissions**

- 19 I have reviewed the submissions received by MDC for this application. 16 submissions oppose the application citing landscape, recreation and open space related effects. The issues they raise in opposition to the proposal are the same as/aligned with those that I have addressed in my evidence above, including; loss of passive open space along the lake shore, loss of quiet informal amenity under the trees, loss of uncluttered natural values and visual amenity, impaired public access to the lake, detracts from lake views, wrong place for a commercial activity, inconsistent with the purpose of the passive recreation zone and Tekapo Spatial Plan goals.
- 20 I understand that five of the submitters (submissions 6, 7, 12, 17 & 20) have residences in the Station Bay subdivision (mainly in Pete's Place) from where they have views toward the lake and application site. In addition to the landscape issues listed above they consider that the proposal will have negative effects on their views toward the lake. I agree with their comments that the addition of the building and ropes structures will reduce the naturalness of the 'treed' part of their view and the lake beyond, and that the activity of the people using the ropes course will add more busy-ness to the scene.
- 21 Submission #19 from Tekapo Landco Limited & Godwit Leisure Limited (TLGL) includes a Landscape Memo from Rough Milne and Mitchell Landscape Architects (RMM) 10 December 2024. RMM have been engaged by the owners of the Tekapo

Holiday Park at Lakeside Drive, and the adjacent land at 'Station Bay' to provide landscape planning expertise in their submission in opposing the application.

- 22 I concur with the views expressed in the memo and the final conclusion that; *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.*

## **F Comments on Draft resource consent conditions**

- 23 Draft resource consent conditions are proposed in section 4.0 of the AEE. I note the proposed planting and details for the exterior appearance of the base building proposed in the Assessment are included in the draft conditions.
- 24 Should the application be granted consent I consider the following matter should be included in the conditions.
- 25 The built form description of the proposal in the AEE<sup>8</sup> describes the base station at existing ground level with all other structures being contained within the tree canopy 3m-10m above ground level, with the exception of two ziplines which will finish at ground level. I understand that; The application has been amended so that no zip lines will finish at ground level<sup>9</sup>.
- 26 I consider that this design detail should be included in the conditions to avoid the significant effects that structures and zipline activity at or near ground level could have. I suggest that no structures or ropes/zip line activity should be located at ground level or less than 3m above ground level, with the exception of the base building.



**Bron Faulkner**

2 August 2025

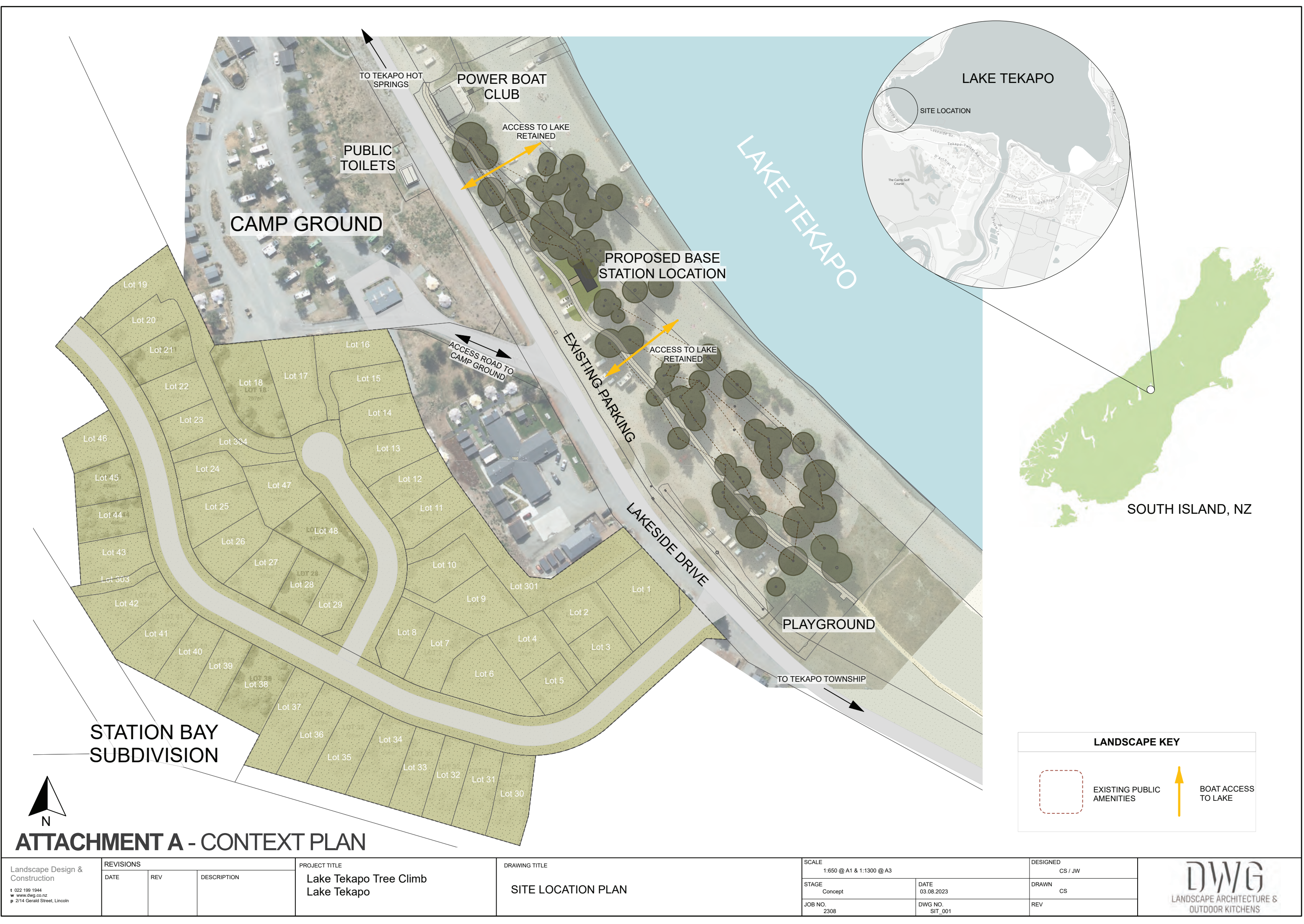
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<sup>8</sup> 3.1 *Application for Land Use Consent*, prepared by Davis Ogilvie, December 2023.

<sup>9</sup> Section 2.1. *Section 95A-F-Notification Decisions for Resource Consent Application* 6 May 2023



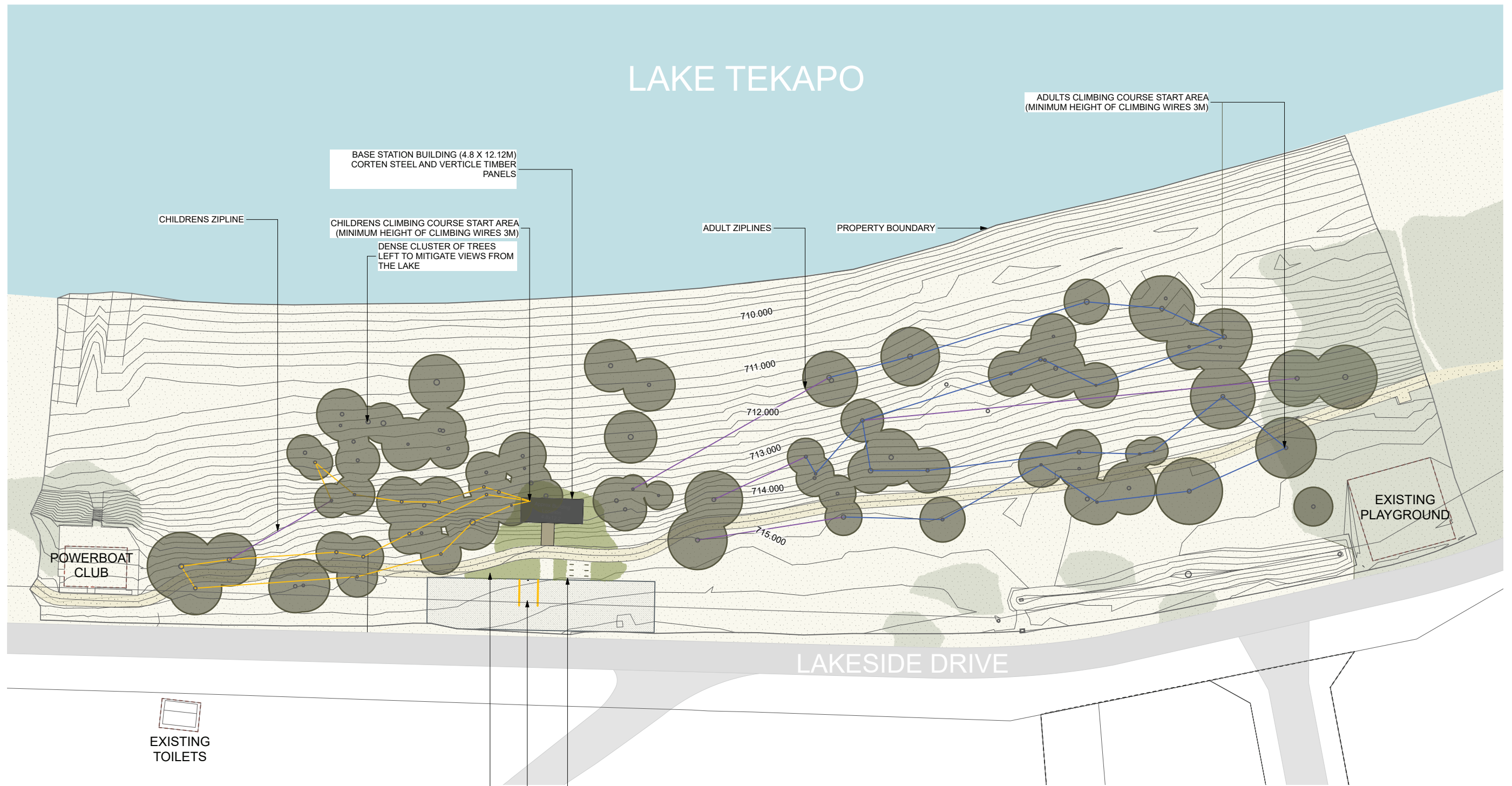




**ATTACHMENT A - CONTEXT PLAN**

Landscape Design & Construction  t 022 199 1944 w www.dwg.co.nz p 2/14 Gerald Street, Lincoln	REVISIONS			PROJECT TITLE  Lake Tekapo Tree Climb Lake Tekapo	DRAWING TITLE  SITE LOCATION PLAN	SCALE 1:650 @ A1 & 1:1300 @ A3		DESIGNED CS / JW	<div>DWG</div> <div>LANDSCAPE ARCHITECTURE &amp; OUTDOOR KITCHENS</div>
	DATE	REV	DESCRIPTION			STAGE Concept	DATE 03.08.2023	DRAWN CS	
						JOB NO. 2308	DWG NO. SIT_001	REV	





12NO. BIKE PARKING SPACES (SETOUT TO BE IN ACCORDANCE WITH WAKA KOTAHĪ CYCLE NETWORK GUIDANCE STANDARDS)

15NO. PARKING SPACES FOR ACTIVITY PARK, PARKING TO BE INFORMAL IN EXISTING GRAVEL AREA WITH 1NO. ACCESSIBLE PARK SIGN POSTED, CLOSE TO BASE STATION BUILDING

NATIVE TUSOCK GRASS PLANTING AROUND BASE STATION AREA

LANDSCAPE KEY

AREA FOR 15NO. CAR PARKS

ZIPLINES

ATTACHMENT E - Concept Masterplan

<div>Landscape Design &amp; Construction</div> <div>t 022 199 1944 w www.dwg.co.nz p 2/14 Gerald Street, Lincoln</div>	REVISIONS			PROJECT TITLE <div>Lake Tekapo Tree Climb Lake Tekapo</div>	DRAWING TITLE <div>SITE CONCEPT PLAN</div>	SCALE 1:400 @ A1 & 1:800 @ A3		DESIGNED CS / JW		<div>DWG</div> <div>LANDSCAPE ARCHITECTURE &amp; OUTDOOR KITCHENS</div>
	DATE	REV	DESCRIPTION			STAGE Concept	DATE 08.08.2023	DRAWN CS		
						JOB NO. 2308	DWG NO. SIT_002	REV		

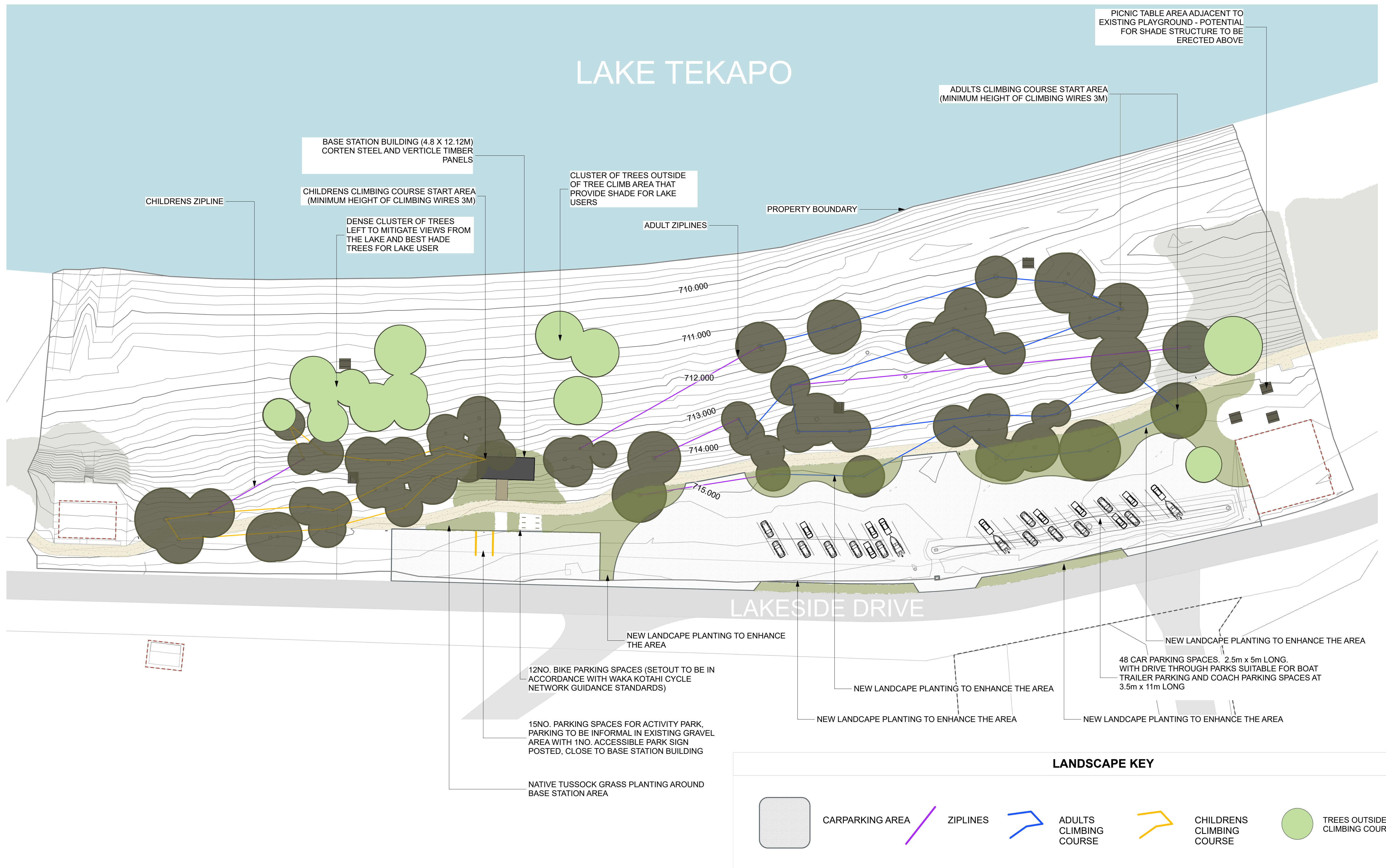
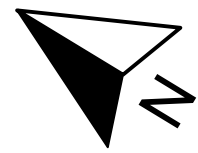




**ATTACHMENT F - Base Station Visualization**







REVISIONS

DATE	REV	DESCRIPTION

PROJECT TITLE

Lake Tekapo Tree Climb  
Lake Tekapo

DRAWING TITLE

OPTIONAL COUNCIL DEVELOPMENT LANDSCAPE  
PLAN

SCALE

1:400 @ A1 & 1:800 @ A3

STAGE

Concept

DATE

04.09.2024

JOB NO.

2308

DWG NO.

SIT\_002

DESIGNED

CS / JW

DRAWN

CS

REV

**APPENDIX 5 – PRE-CIRCULATED SET OF DRAFT VOLUNTEERED CONSENT CONDITIONS**

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## Revised Proposed Consent Conditions

Amendments to the proposed conditions of consent suggested in the application are shown as ~~strike out~~ (for deletions) or red underlined (for additions)

### General

1. The development shall be carried out in general accordance with the application as submitted under reference number XXXX and Site Plan stamped as approved on [date], unless otherwise amended by the conditions of consent.

### Arborist Assessment

2. Prior to the commencement of earthworks and construction, each tree which forms part of the approved ropes course shall be assessed and certified as being structurally sound and able to appropriately support the ropes course. The assessment and certification shall be carried out by a suitably qualified arborist and shall be provided to Mackenzie District Council's Parks and Recreation Manager.

### Earthworks and Construction Period

3. Earthworks, excluding the establishment of the landscaping, shall only be undertaken in association with the footing of the base station building. The maximum area of disturbed ground shall be 60m<sup>2</sup>, the maximum volume of 30m<sup>3</sup>, to a maximum depth of 0.5m.
4. During the construction period, noise shall comply with NZS 6803:1999 for Construction Noise.
5. During the earthworks period, erosion and sediment control measures shall be implemented by the Contractor.

### Accidental Discovery Protocol

6. Should an accidental discovery of any archaeological material (including oven stones, charcoal, shell middens, ditches, banks and pits, building foundations, artefacts of Māori and Non-Māori origin or human burials) occur during the undertaking of any earthworks:
  - (a) Earthmoving operations in the affected area shall cease immediately, and the affected area shall be secured to ensure the archaeological material is left undisturbed;



- (b) Heritage New Zealand Pouhere Taonga and Te Rūnanga o Arowhenua shall be advised of the disturbance and provided access to the affected area to enable appropriate procedures and tikanga to be undertaken;
- (c) If the material is confirmed by Heritage New Zealand Pouhere Taonga as being archaeological, under the terms of the Heritage New Zealand Taonga Act 2014, an archaeological assessment shall be carried out by a qualified archaeologist, and if appropriate, an archaeological authority shall be obtained from Heritage New Zealand Pouhere Taonga before earthworks resume;
- (d) If there is evidence of burials or human (kōiwi tangata) having been uncovered, the New Zealand Police shall be contacted immediately;
- (e) Such earthworks shall not recommence until an archaeological assessment has been made, all archaeological material has been dealt with appropriately, and approval to recommence has been given by Heritage New Zealand Pouhere Taonga, and if human remains are involved, the New Zealand Police.

#### Landscaping

- 7. Prior to the commencement of the activity (following the construction phase), a 2m wide landscaping area shall be established around the perimeter of the base station building. The landscaping strip shall be planted with *festuca novae-zelandiae* (tussock) with 700mm spacings.
- 8. The landscaping required by Condition 7 shall be regularly watered for at least 2 years from the date of planting, and shall be appropriately maintained. If any of the landscaping required by Condition 7 is diseased or dying, the species shall be removed and then replaced in the following planting season with the same species.
- 9. In a timeframe agreed with Mackenzie District Council, the consent holder shall install landscaping around the carparking area adjacent to the site having regard to any landscaping approved as part of the master plan for the area. The landscaping shall be mutually agreed with the consent holder and the Mackenzie District Council.

#### Ropes Course

- 9 All timber platforms and climbing apparatus shall be *Macrocarpa* timber and shall be left to silver off naturally.

#### Base Station Building

- 10 The exterior cladding of the base station building shall be either timber stained with a natural hue or dark charcoal, browns, greys, or left to silver naturally, and / or Corten steel or steel painted or powder coated with a matt or powder finish. Paint colours shall have a Light Reflectivity Value of between 5 - 30% and shall be in the range of greens, greys and black.
- 11 Any visible foundations shall be plastered and either painted black or the same colour as the wall cladding.

#### Land Transport

- 12 Prior to the commencement of the activity, an accessible parking space shall be established, as shown on the approved Site Plan dated XXXX, and shall be formed and marked in accordance with an approved service consent, or to a standard otherwise approved by Mackenzie District Council's Roading Manager.
- 12 Prior to the commencement of the activity, 12 cycle parks shall be established, as shown on the approved Concept MasterPlan dated XXXX, formed and marked in accordance with an approved service consent, or to a standard otherwise approved by Mackenzie District Council's Roading Manager.
- 13 The consent holder is to provide travel demand management information on their website to encourage other travel modes to the ropes course. This will include a warning that car parking can be in short supply at busy times of year, and that walking and cycling from the village centre is viable for most people. It will also include a simple map highlighting the location of the site relative to the lakeside walking / cycling path and information on the cycle parking available.
- 14 The consent holder is to provide a travel plan to Mackenzie District Council with measures to minimise staff parking in the area.
- 15 The consent holder will pay up to \$8,000 to Mackenzie District Council for the cost of the gravel to resurface the carpark adjacent to the site upon confirmation from Mackenzie District Council that the carpark will be upgraded.

#### Noise

- 14 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 40dBAleq and 70dBALmax at all other times.

- 15 All participants of the rope course must be instructed by way of an introductory video to respect any other nearby users of the recreational area (not other participants or observers of the ropes course) by minimising loud vocalisations where possible.

#### Course Users

- 15 There shall be no more than 60 users on the course at any one time.

#### Sign

- 16 A 2.5m<sup>2</sup> sign may be attached to the southern exterior façade of the base station building, and sit below the roof profile. The sign shall state “Tree Climb Lake Tekapo” and have a maximum lettering height of 100mm. The sign shall have a Light Reflectivity Value of between 5 - 30%.

17. Signs indicating that the area under the trees is a public open space shall be located at the locations indicated on the landscape plan attached to this consent and stamped as approved.

#### Hours of Operation

- 18 The activity may operate between the hours of 9am and 7pm, 365 days of the year.

#### Picnic Tables

19. Five timber picnic tables with a sunshade shall be located at the location indicated on the landscape plan attached to this consent and stamped as approved along with a sign indicating they are available for public use.