Mackenzie
DISTRICT COUNCIL

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

APPLICANT:	QUEENSTOWN COMMERCIAL PARAPENTERS LIMITED
APPLICATION DESCRIPTION:	LAND USE CONSENT TO ESTABLISH AND OPERATE A COMMERCIAL TREE-CLIMB ROPES COURSE AND PICNIC FACILITIES
APPLICATION STATUS:	NON-COMPLYING
PROPERTY ADDRESS:	LAKESIDE DRIVE, TAKAPŌ/LAKE TEKAPO
LEGAL DESCRIPTION:	LOT 2 DP 562455 AND LOT 5 DP 455053 (RTS 999813 AND 584960)
VALUATION REFERENCE:	2531102305
DISTRICT PLAN ZONE:	RECREATION PASSIVE (P) ZONE, AREA OF VISUAL VULNERABILITY (HIGH), FLIGHT PATH PROTECTION AREA
AUTHOR:	KIRSTYN ROYCE – CONSULTANT PLANNER
DATE OF REPORT:	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^2) 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^2 (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, Tākapō/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 Tākapō/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 8,210m² within:

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

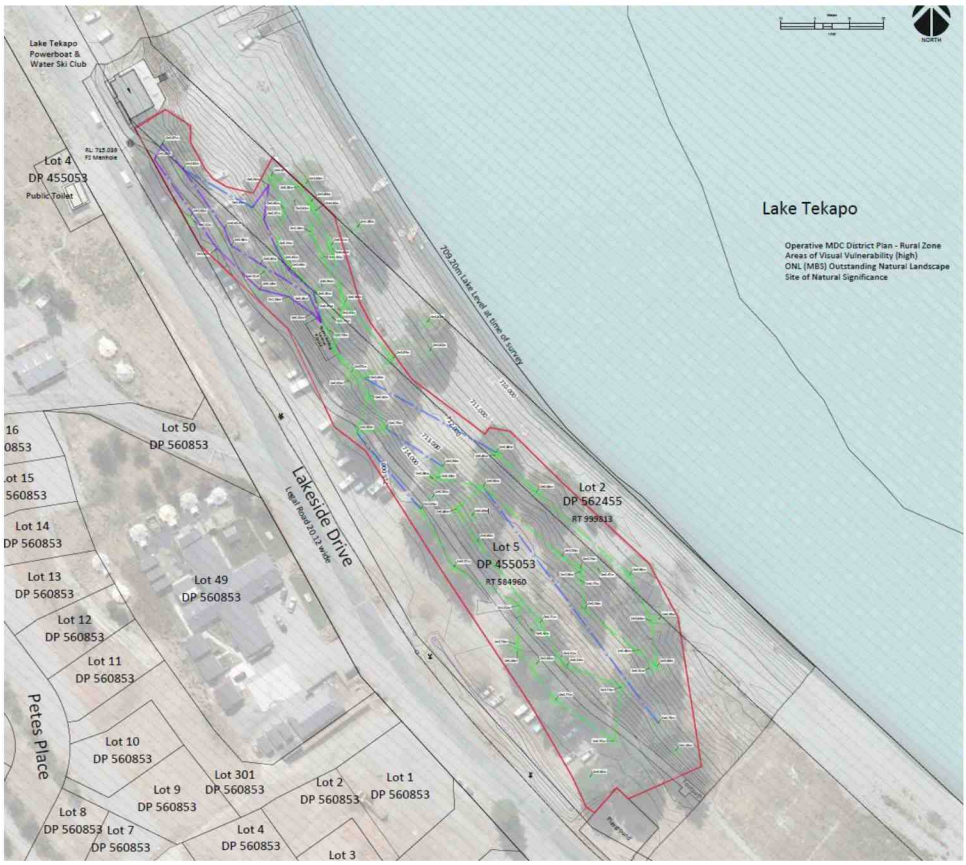

Figure 3: Proposed occupation of Lot 2 DP 562455 and Lot 5 DP 455053

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)

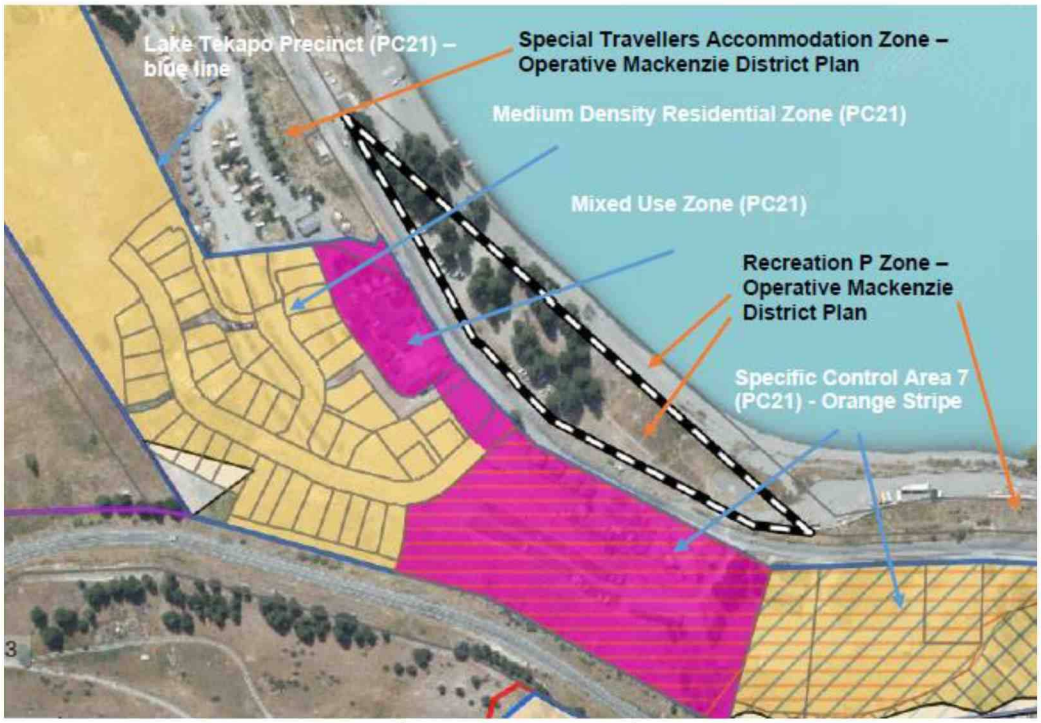

Figure 4: Receiving environment (Source: Application)

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[1] 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"*

[1] 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^2 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**
Rule 4.5 Controlled Activities		
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 Pedestrian Pathways c Buildings and Structures associated with passive recreation with footprints of no more than 100m2 in area.	100m2, however they will provide for active recreation, rather than passive application.	
Rule 4.6 Discretionary Activities		
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^2.	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
Rule 4.7 Non-Complying Activities		
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.

Section 15 – Transportation Standards		
Rule	**Assessment**	**Complies/ does not comply**
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
TRAN-S1 Minimum Parking Space Requirements	No onsite carparking is proposed	Does not comply
TRAN-S4 Reverse Manoeuvring	No onsite carparking is proposed	N/A
TRAN-S5 Queuing	No onsite carparking is proposed	N/A
TRAN-S11 Vehicle Accessways	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^2 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^2 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[2]. 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		

[2] Note that this signage is separate from the signage proposed for the base station.

Rule 6.4.1g refers "The noise standard in the Village Centre Zone shall apply". 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:	0700-2000 2200-0700 On any day between 9.00pm and 7.00am (next day)	65 dB LA10 55 dB LA10 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.

Marshal 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[3] 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.

[3] Note that the hotel is unlikely to proceed at this time.

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

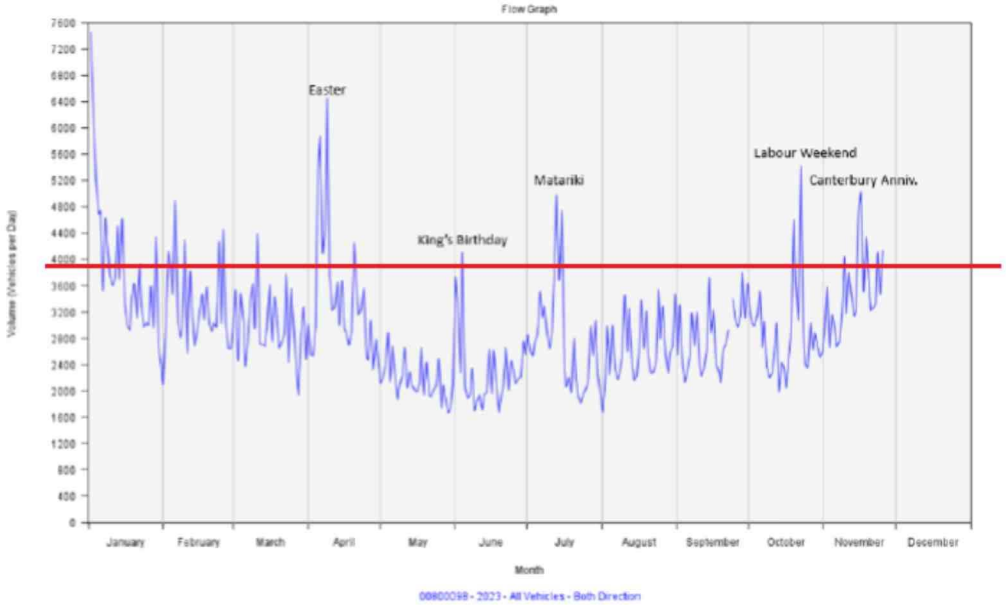

Figure 7: 2023 Daily Traffic Volumes on SH8, East of Lake Tekapo (NZTA TMS) - Red line show approximate traffic level on 20 January 2024.

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

against one of the end rails clear of the path. The cycle parking will not impact the existing car parking or the operation of the path. It is unclear if these bike parks are to be for exclusive use of the ropes course activity only.

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.

In terms of using the public spaces for commercial parking, the Council's roading department have signalled a willingness to look at an exclusive lease of the current carparks. The applicant has volunteered to establish a mobility carpark adjacent to the base building, establish 12 cycle parks and The applicant acknowledges that the Lakeside Drive area is about to enter into a Master Planning phase and recognise that its activity may fall within the influence of the Master Plan area. The applicant volunteers to contribute towards the establishment of a new landscape area around the existing carpark in the form of $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.

Furthermore, a landscape plan is submitted which shows planting which will are 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.

The parking dimensions comply with Appendix C of the Mackenzie District Plan, although can be made larger to comply with the new Transport chapter if required. The applicant has also indicated a coach parking area and the crossing point for the public toilets. However, the applicant notes that the landscape plan may be subject to change to ensure it is in line with any Master Plan for the area.

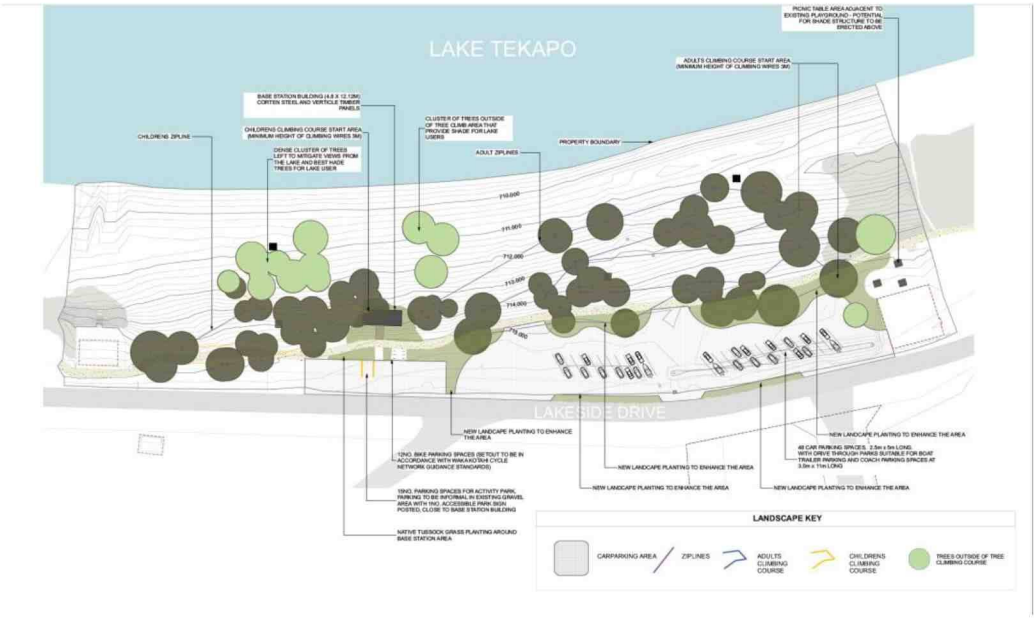

Figure 8: Optional Council Development Landscape Plan (Source: Applicant 4 September 2024)

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 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 serving 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[4]:

> *" … 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[5] (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)

[4] Far North District Council v Te Runanga-a-iwi o Ngati Kahu [2013] NZCA 221 at 36—37.
[5] 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, noo 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).

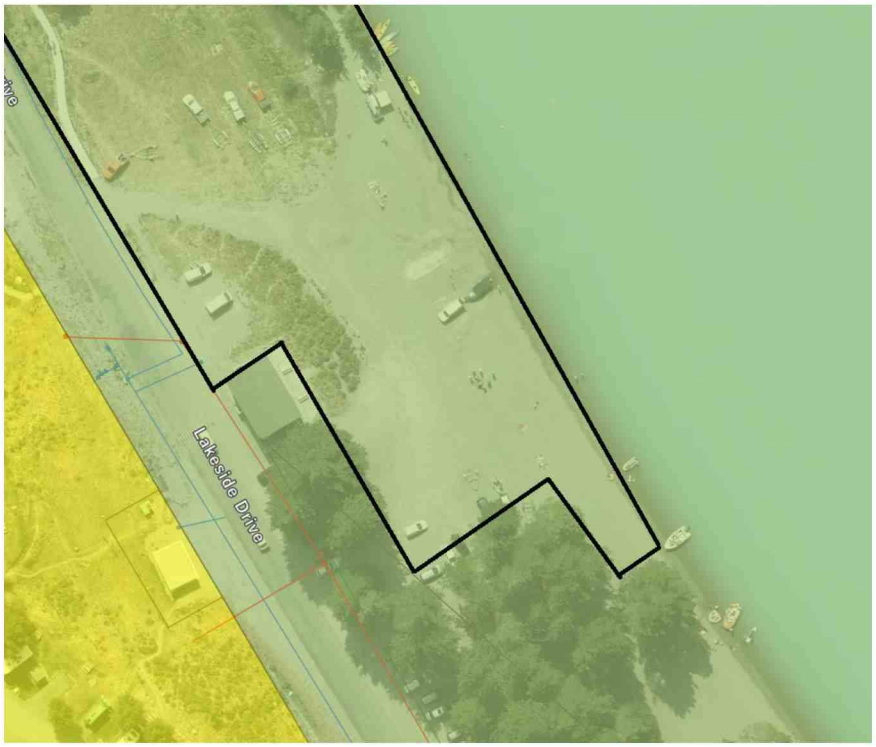

Figure 9: Boat Ramp access and parking area clear of trees to be used by the ropes course.

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 8,200m²) 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