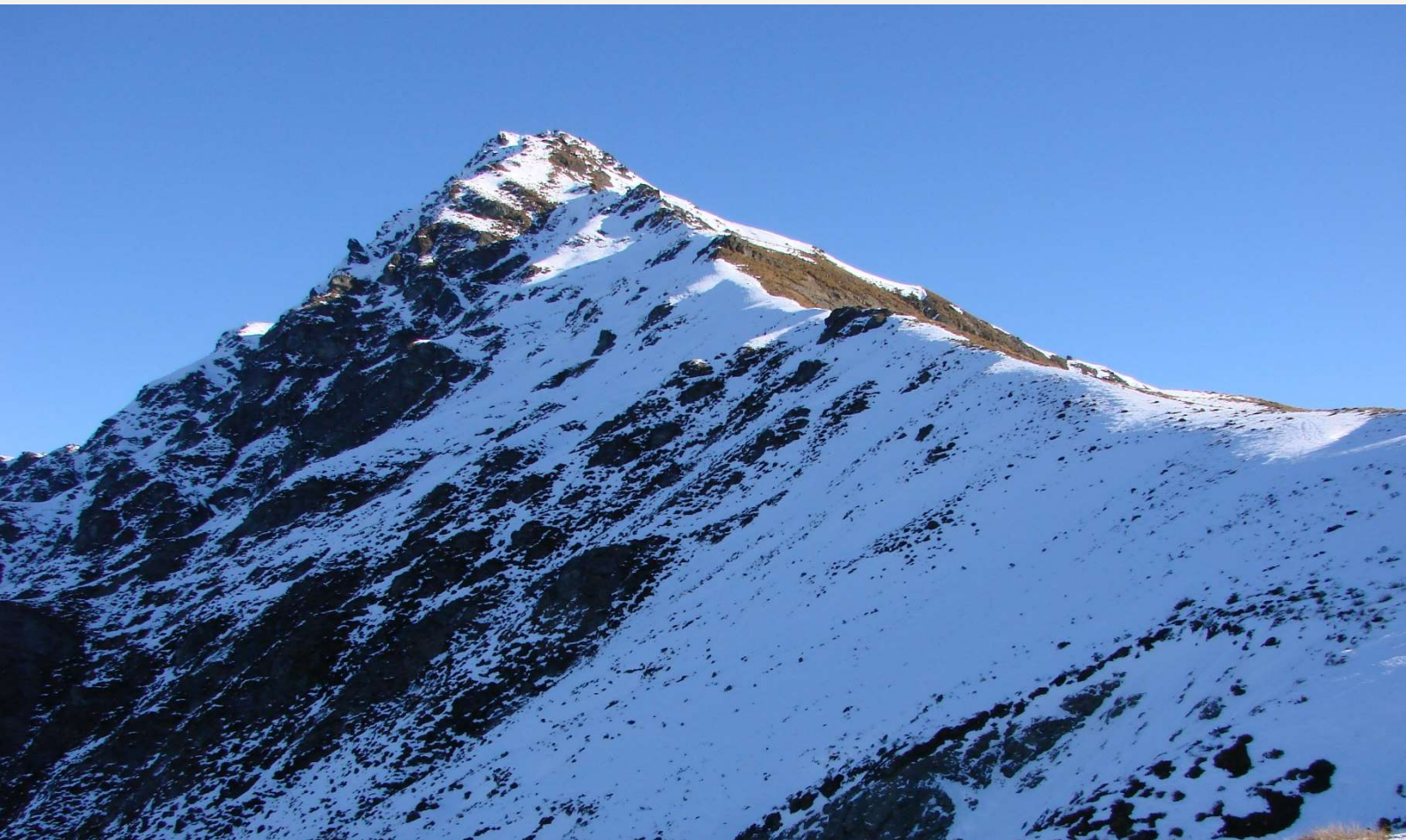


May 2025

# Use of Public Conservation Land Report (section 19)

For the referral application: **Powerhouse Funicular Railway  
Queenstown Regional Development – Bowen Peak Limited  
(FTAA-2502-1025)**



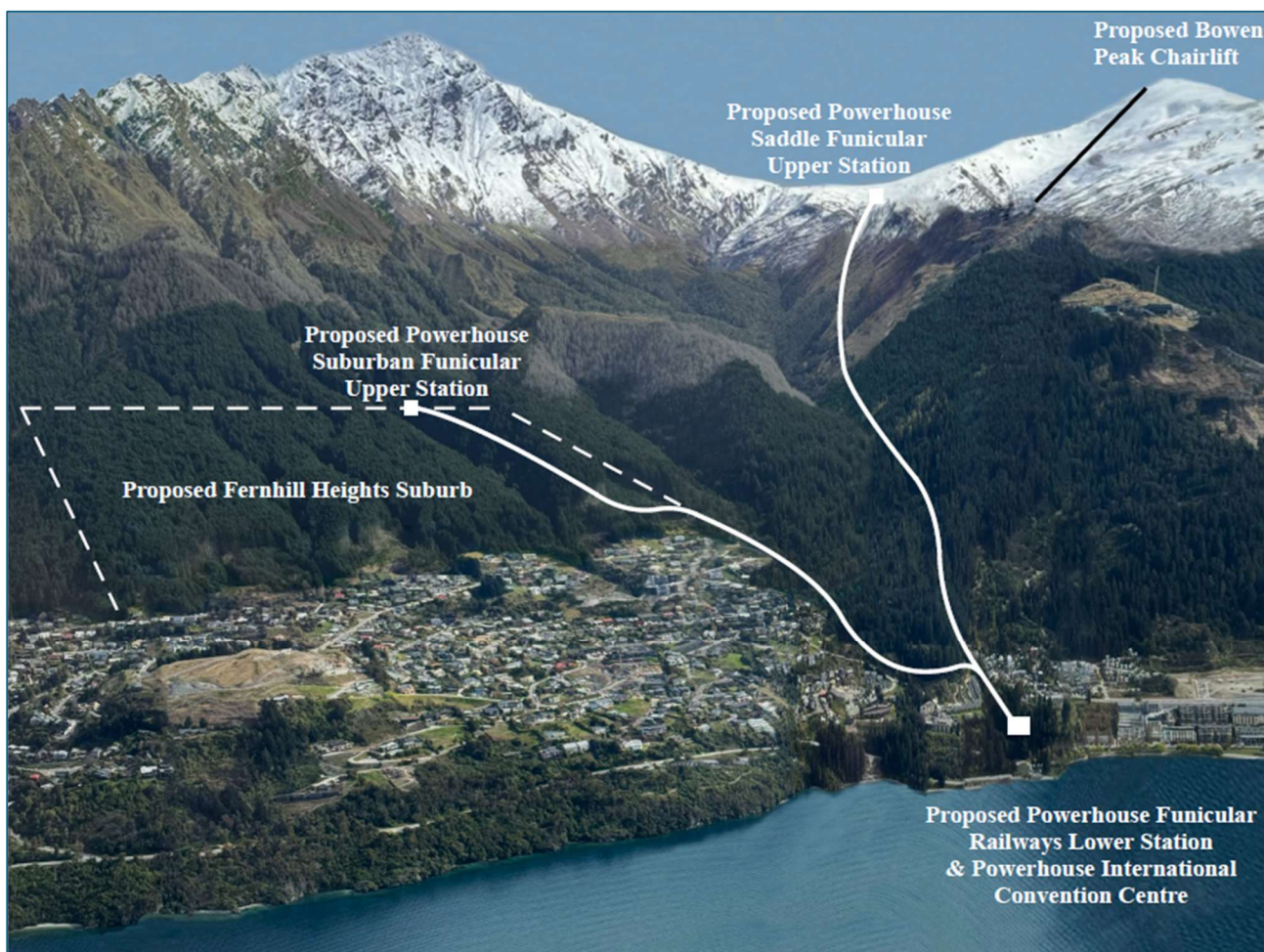
Department of  
Conservation  
*Te Papa Atawhai*

**Te Kāwanatanga  
o Aotearoa**  
New Zealand Government

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**Cover photo:** Ben Lomond peak (1748 metres elevation), June 2009 (Credit: Eiji Kitai).



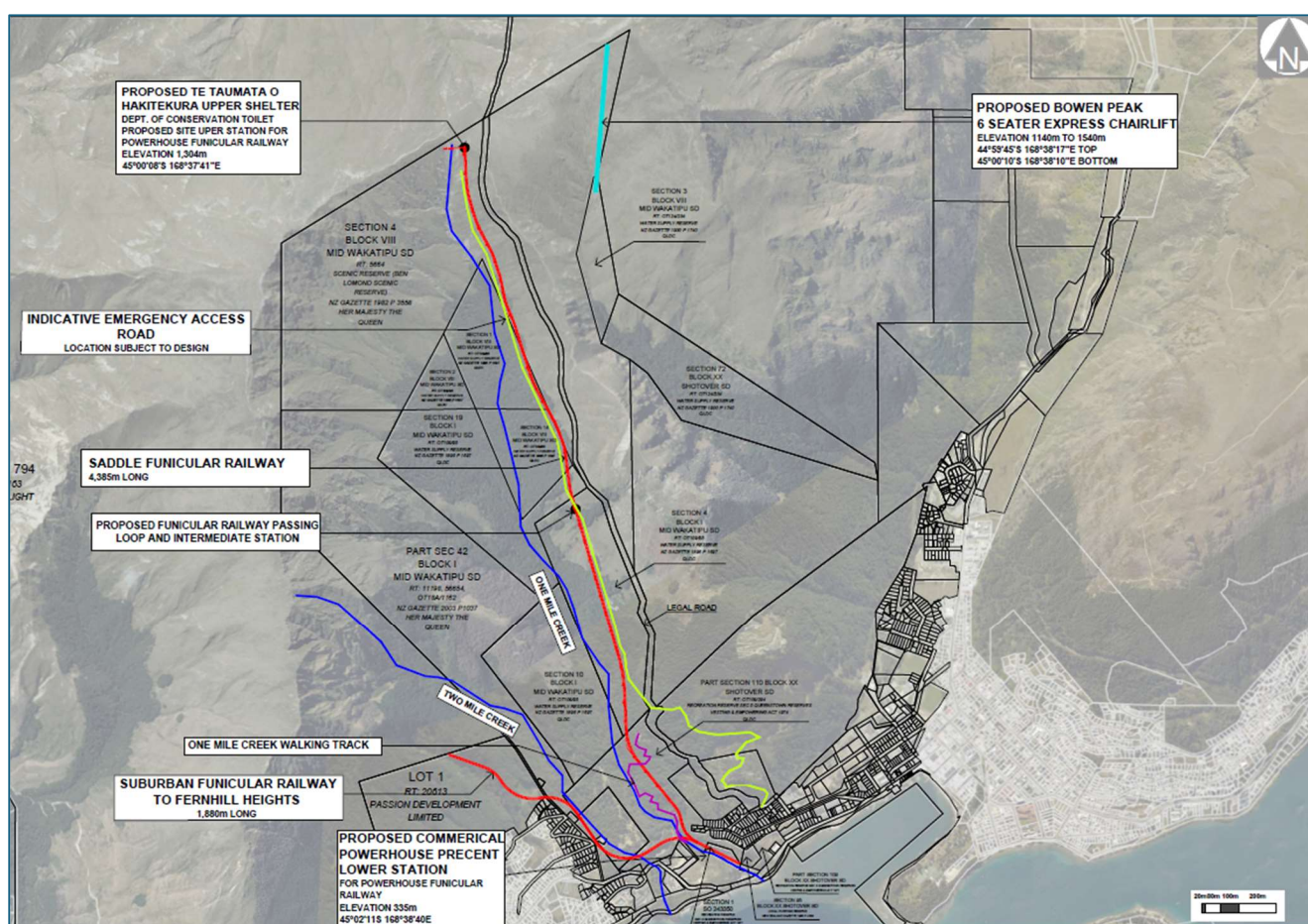
**Figure 1:** Oblique view of proposed development (provided by applicant)



## The Referral Application

The project (shown in figures 1 and 2) consists of:

- the Powerhouse precinct with retail, hospitality, and tourism facilities
- a high-density residential subdivision of 1,040 housing units
- two funicular railways
- ski field and mountain bike park, six-seater chairlift, bar/restaurant, retail, and guest services
- two predator-free areas: 3 hectares within the One Mile Recreation Reserve and a 180-hectare sanctuary near the top of One Mile Creek valley
- a boardwalk and walking trail along One Mile Creek
- wildling pine removal and native planting within One Mile Recreation Reserve



**Figure 2:** Proposed developments affected Public Conservation Land (plan provided by applicant)

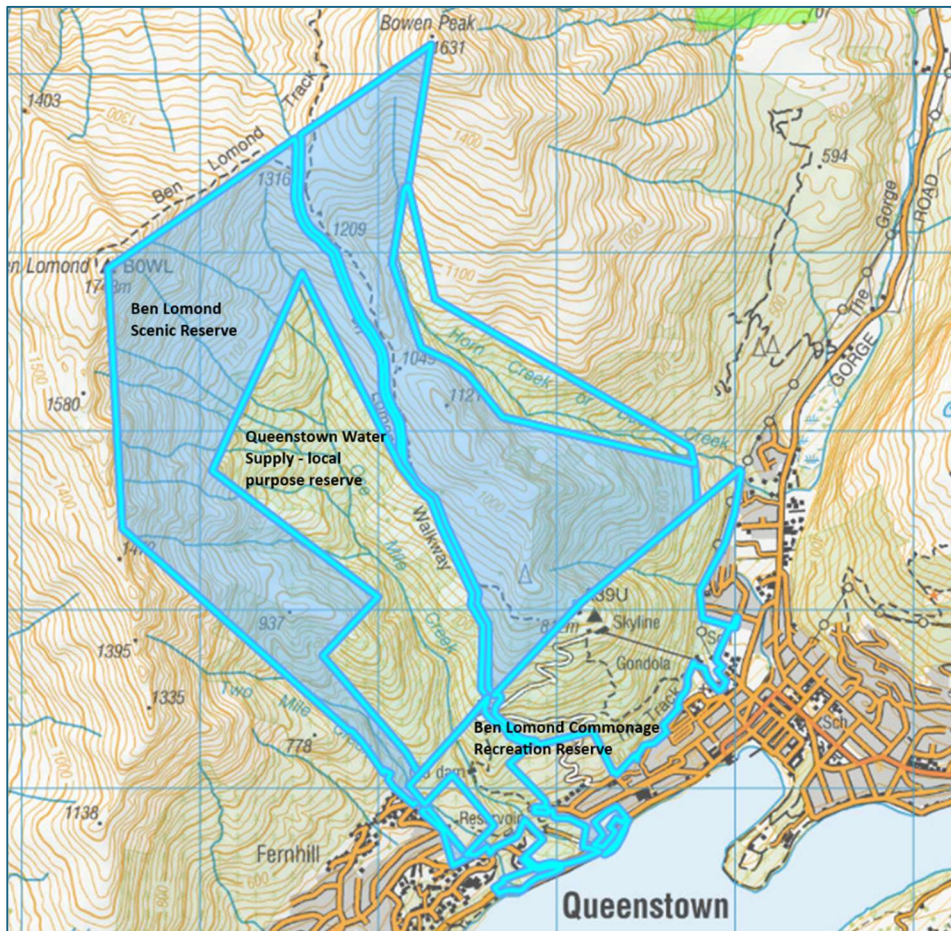
## Public Conservation Land affected by the project

Part of the project will be established on the Public Conservation Land (PCL), including the funicular railways, chair lift, the ski field facilities and predator proof fencing. The PCL consists of the:

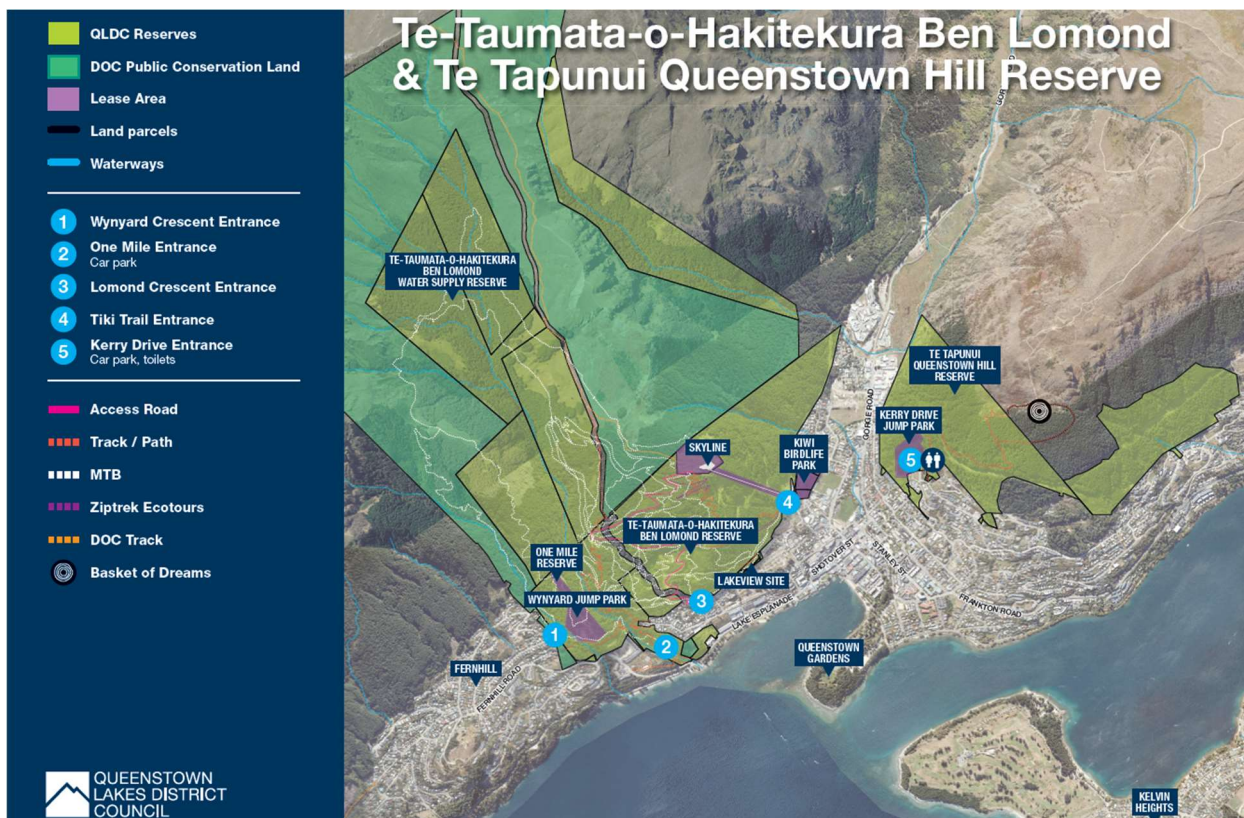
- Ben Lomond Scenic Reserve;
- Ben Lomond Commonage Recreation Reserve (locally known as the One Mile Reserve and Te-Taumata-o-Hakitekura Ben Lomond Reserve); and
- Queenstown Water Supply Reserve.

The scenic reserve is managed by the Department of Conservation (DOC). The recreation reserve and water-supply reserves are vested in the Queenstown Lakes District Council (QLDC). See figures 3 and 4 for maps of the PCL.





**Figure 3:** Public Conservation Land affected by the project



**Figure 4:** Public Conservation Land shown coloured dark green (Source: QLDC Draft Te-Taumata-o-Hakitekura Ben Lomond and Te Tapunui Queenstown Hill Reserve Management Plan)

## Existing arrangements for the public conservation land

Public access is available to and through the Recreation and Scenic Reserves. There are multiple walking and mountain biking tracks through the water supply and recreation reserves. Other activities occurring in these reserves include paragliding and hang gliding.

DOC maintains the popular 11 km Ben Lomond Walkway through the Scenic Reserve to the saddle between Ben Lomond and Bowen peak. The track is a demanding climb and a full day's hike (6-8 hours return) with an elevation gain of 1,438 m when completed from Queenstown. High levels of fitness are required and alpine equipment is essential during winter.

The Ben Lomond Scenic Reserve is subject to nearly 30 active permits and a licence to occupy, covering a range of activities including:

- guided walks, fishing trips, photography, mountain biking and 4WD tours
- guided mountaineering, ski touring and alpine instruction
- commercial paragliding
- a licence to occupy for the purpose of managing exotic trees
- research and collection permits for collecting seeds, and samples of soil, flora and fauna
- Wildlife Act authorities to handle lizards for research or translocation purposes
- Wildlife Act authorities for trapping pests

Most of these permits apply across multiple sites. A table of these permits is included in attachment 1.

There are community agreements in place for the following:

- **Whakatipu Wilding Conifer Group:**  
The Group operates an Adopt-a-Plot project on Ben Lomond to prevent the spread and establishment of wilding pines. A map of their plots is included in attachment 2.
- **Queenstown Mountain Bike Club:**  
The club maintains bike trails around Queenstown and a significant number on the Ben Lomond reserves. A map of these is included as attachment 3.
- **Whakatipu Wildlife Trust:**  
The Trust's mission is to *"create and maintain a predator free environment throughout the greater Lake Whakatipu area to enable our birds and other native wildlife to flourish"*. They maintain nearly 2000 traps in the district and a trap line in the One Mile basin.

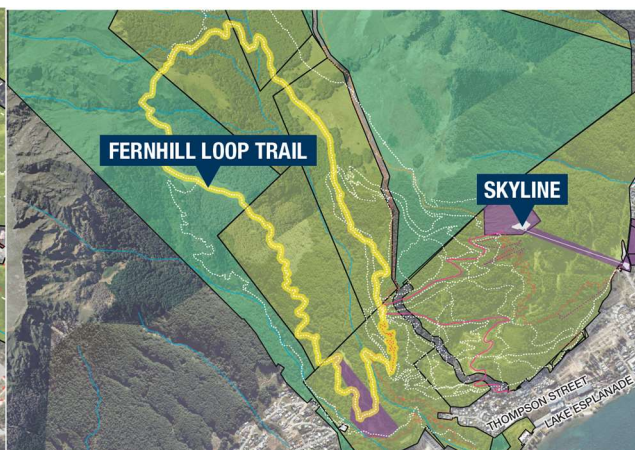
An informal carpark has been formed on the Ben Lomond Scenic Reserve adjacent to Wynyard Crescent. This has been created by users of the Wynyard Bike Park, the Fernhill Loop Trail and other parts of the Ben Lomond Reserve trail network (see figures 5 and 6).

The draft Te-Taumata-o-Hakitekura Ben Lomond & Queenstown Hill Reserve Management Plan, prepared by QLDC, identifies this Wynyard Crescent entrance as a primary entry point to bike and walking trails. Discussions are underway between DOC and QLDC to establish a land management agreement for QLDC to manage this part of the scenic reserve.





**Figure 5:** Wynyard Crescent entrance.



**Figure 6:** Part of the Ben Lomond trail network.

## Risks and potential liabilities to the Crown

### General caveats

It has not been possible to undertake a detailed analysis of all the risks and potential liabilities to the Crown that the project poses given the high-level nature of the information provided by the applicant and the statutory timeframes for this assessment.

This part of the report sets out general comments in relation to risks and potential liabilities to the Crown, and specific comments pertaining to this application where possible.

### Risk of non-completion, failure, inability to remediate land

Partial non-completion or failure of activities on PCL resulting in land disturbance, contamination and sedimentation, hazards, stranded assets and infrastructure can create significant financial, legal, health and safety, and reputational risk for the Crown. It can also create significant demand on Department of Conservation resources in terms of staff time and operating budget. For example, if a project fails, the Crown will have to manage the land and impacted adjacent lands in accordance with the statutory purpose for which those lands are held, and this may require remediation of the land.

There may be reputational risk to the Crown, and for the fast-track process as a whole, if a granted proposal is not technically feasible or there is an inability to progress the proposal or any part of it, particularly if those parts constitute offsetting or compensation for effects. There may also be a reputational risk for the fast-track process if the process is abused, for example if there was no intention to progress the development but approval is used to, for example, inflate land value.

### Issues to consider in this particular application include:

- No evidence that the project is technically feasible, and the proponent has appropriate development experience and capital-raising ability is provided in the referral application.
- In particular, the proposal appears to be technically novel, and the height of proposed ski-field site appears marginal for a future ski-field.
- Without information addressing these matters, it is not possible to assess the extent of the risks and potential liabilities set out above.

### Frustration of pre-existing activities

If the fast-tracked activity frustrates pre-existing actors operating with lawful authority from carrying out activities on the land, the Crown is exposed to legal, financial and reputational risk. If a legal challenge succeeds against the Crown, the remedies a court may order will vary in accordance with the degree of

frustration, the type of lawful authority the pre-existing actor was operating under and other contextual factors.

Frustration of concessions in the form of a lease, licence to occupy or easement may lead to an order for specific performance of the lease, licence to occupy or easement and / or monetary damages, and costs. It may also lead to pre-existing lessees suing the operators of the fast-tracked activity for nuisance or trespass. FTAA Schedule 6 cl 7(3)(b) states that approval must be declined if “giving effect to the approval would result in the conferral of an interest in land that is incompatible with an existing interest in land.”

Frustration of the activities of those operating under contracts with the Director-General (entered pursuant to s 53(2)(i) Conservation Act 1987) in respect of the land may lead to an order for injunctive relief, specific performance, damages, and costs.

Frustration of concessions in the form of permits and other statutory authorisations that do not create an interest in land may lead to equitable estoppel and specific performance, compensation, and costs.

## Outcomes of consultation

As part of the preparation of this report, DOC has consulted with the Queenstown Lakes District Council (QLDC). The Council considers the reserve to be a popular area for mountain biking and trail walking.

A draft reserve management plan has been prepared for the reserve land administered by QLDC. Public consultation on the draft plan closed on 17 March 2025 and the public hearing occurred on 5 May 2025. It is anticipated that the final Te-Taumata-o-Hakitekura Ben Lomond & Te Tapunui Queenstown Hill Reserve Management Plan will be considered by the Council for adoption in July 2025.

QLDC has expressed concerns at the unprecedented scale of commercial activity within a busy informal recreation area, including:

- effective privatisation of public reserve land at One Mile;
- alteration or loss of important recreational opportunities;
- transformation of the reserve character by large scale earthworks and site modification;
- lack of assessment of stormwater generation, rockfall hazards, and debris flow risks;
- impact on an actively used and extensive recreation trail network; and
- severe ecological impacts in an environment where recovery takes decades.

QLDC also considers that important aspects of the project have not been adequately clarified, such as:

- the practicality of establishing a predator-proof fence in a steep, vegetated alpine environment that would require decades of intensive investment before creating suitable habitat for endangered species; and
- it's unclear who would bear the long-term responsibility and costs for maintaining an enlarged trail network under this proposal.

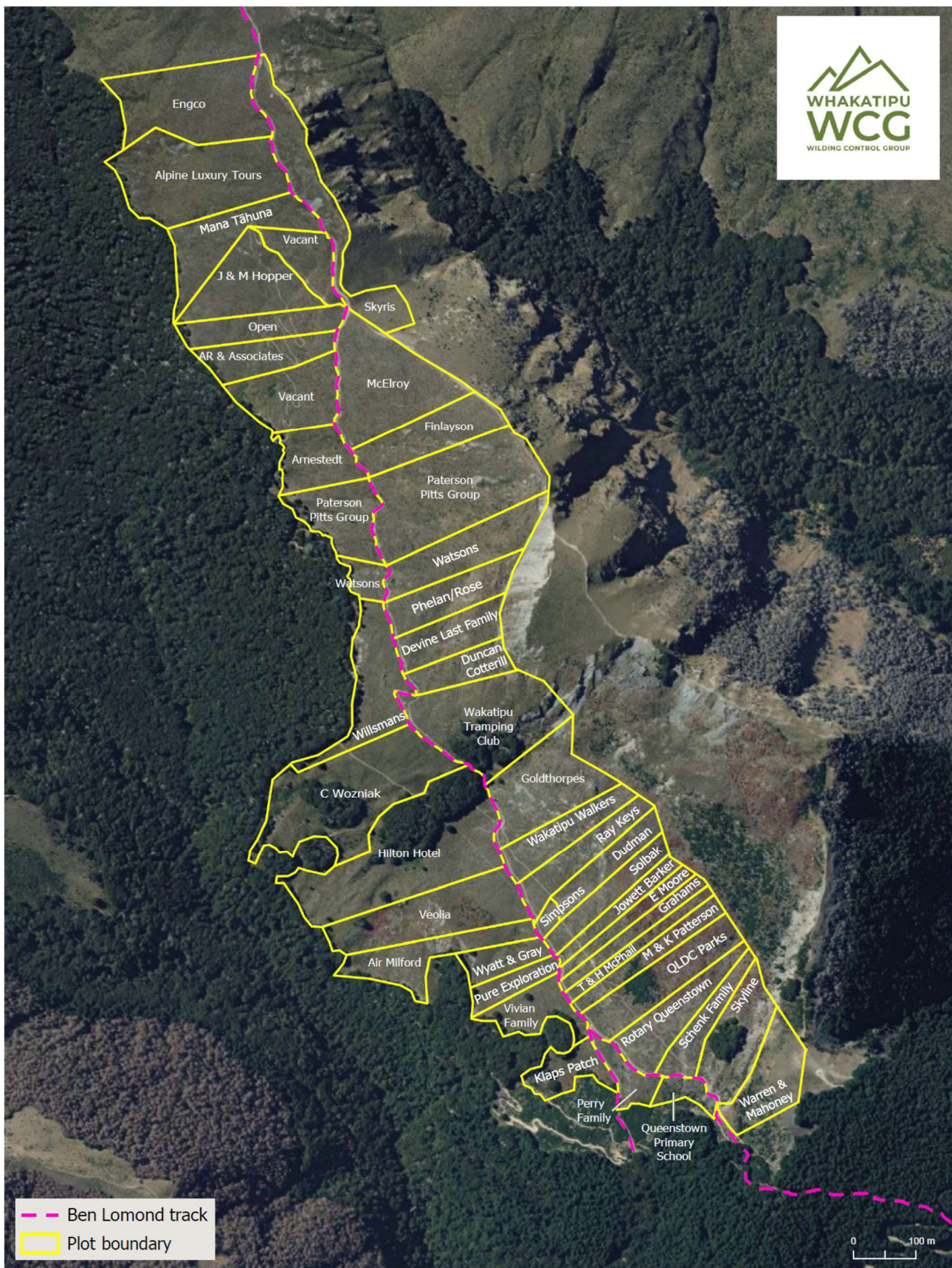
## Attachment 1 - Permissions issued for Ben Lomond Scenic Reserve

<i>Holder</i>	<i>id</i>	<i>status</i>	<i>type</i>	<i>comments</i>	<i>locations</i>
<b>Art Adventures NZ Limited</b>	118607-GUI	Active	Concession permit	One-off land-based guiding for art tour at Wakatipu locations. Expires July 2025	4 locations
<b>Authentic As Limited</b>	71305-GUI	Active	Concession permit	Guided photography by means of walking, mountain biking, and 4WD in the South Island	Throughout South Island
<b>Black NZ Limited</b>	86396-GUI	Active	Concession permit	4WD trips and guided walks in the Wakatipu and Central Otago Area	Multiple locations
<b>Botany Department, University of Otago</b>	48655-FLO	Active	Research or collection permit	Collect small quantities of Lichen - Nationwide Permit - term sought ten years	Nationwide
<b>Helibike New Zealand Limited</b>	102344-GUI	Active	Concession permit	Manual and electric bike guiding in Central Otago / Wakatipu regions.	Multiple locations
<b>Hensman, PJ and GH</b>	OT-19276-OTH		Licence to occupy	Ben Lomond Agreement to manage exotic trees	Ben Lomond Scenic Reserve
<b>Lettink, Marieke</b>	71046-FAU	Active	Wildlife Act permit	Capture, hold, transfer, release and take samples of all types of lizard species pursuant to Section 53 of the Wildlife Act 1953. Continues from 35196-FAU	Nationwide
<b>McClure, Christine</b>	93529-FAU	Active	Wildlife Act permit	WA application to catch and handle lizards while undertaking site management work in all private land in the South Island and all PCL in the South Island (except nature reserves and scientific reserves)	Nationwide
<b>Moulton, John K</b>	110056-RES	Active	Research or collection permit	RC application to collect adult flies (dix and thaumaleid midges) as well as larvae and pupae to document their biodiversity of them in New Zealand.	Multiple locations
<b>Osprey New Zealand Limited</b>	64146-FAU	Active	Wildlife Act permit	National authorisation for trapping (leghold, kill and live capture) ferrets and possums on all land managed by the Department or the purpose of Bovine TB Eradication - Replaces 36927-DAM and 35818-FAU.	Nationwide
<b>Out There Southern Adventures Limited</b>	77977-GUI	Active	Concession permit	Guided day walks, overnight hikes, guided fishing and 4WD trips in Wakatipu and Central Otago Districts.	Multiple locations
<b>Piyush Chavan T/A TreadmarkNZ</b>	94931-GUI	Active	Concession permit	Mountain bike guiding Wakatipu district	17 locations
<b>Queenstown Commercial Parapenters Limited</b>	57644-AIR	Active	Concession permit	Launching of commercial tandem paraglider flights from Ben Lomond Scenic Reserve - an amalgamation of 15 surrendered individual concessions	Ben Lomond Scenic Reserve
<b>Queenstown Mountain Bike Coaching Limited</b>	100733-GUI	Active	Concession permit	Guided mountain bike lessons on existing tracks on DOC land in the Queenstown area.	4 locations
<b>Queenstown Stra Limited</b>	112585-FIL	Active	Concession permit	Wedding photography including drone use within Wakatipu.	24 locations
<b>Road Transport Association New Zealand</b>	68165-LAN	Active	Concession permit	RTANZ National permit for driving, parking, and embarking/disembarking passengers on conservation land throughout New Zealand (with some conservation lands excluded).	Nationwide
<b>Shepherd, Lara</b>	97330-FLO	Active	Research or collection permit	Collecting speargrass/taramea, rushes, mountain five finger, liverworts and hornworts, and mosses samples from Canterbury for taxonomic research. Term: December 2021 to December 2027.	Throughout South Island
<b>Shotover Media Limited</b>	86093-FIL	Active	Concession permit	Filming at multiple SSI locations (including drone use)	25 locations
<b>Springburn Nursery Limited</b>	117164-FLO	Active	Research or collection permit	Collecting seeds for the purpose of propagation of eco sourced plants.	All Southland and Otago



<b>Te Tapu O Tane Limited</b>	94668-FLO	Active	Research or collection permit	Collection of seeds, seedlings and plant cuttings for a "Seed Bank" for ecosourcing plants for commercial projects throughout Murihiku and Otago Districts	83 locations
<b>The Ride Guide Limited</b>	87679-GUI	Active	Concession permit	Guided mountain biking (manual or e-bike) in Queenstown region	89 locations
<b>Trans NZ Mtb Ltd</b>	52347-SSE	Active	Concession permit	Trans NZ 5 day enduro mountain bike event	6 locations
<b>University of Otago</b>	107571-FLO	Active	Research or collection permit	Collection of fungi and soil for research in all Regions of the South Island	Throughout South Island
<b>Wakatipu Reforestation Trust</b>	50609-FLO	Active	Research or collection permit	RC application to take plant samples from the Wakatipu Basin for possible reforestation	Ben Lomond only
<b>Alpine Recreation Canterbury Limited</b>	108656-GUI	Pending	Concession permit	Guided mountaineering, ski touring, alpine instruction and guided walks at multiple South Island locations	120 locations
<b>Antipodes Travel Limited</b>	111138-GUI	Pending	Concession permit	Guided walks in North and South Islands, targeting French-speaking clients. Previously authorised under 36921-GUI. Term: ten years.	Nationwide
<b>Central Otago District Council</b>	114884-FIL	Pending	Concession permit	Filming within the Otago CMS region for promotional purposes.	1012 locations (inc. duplicates)
<b>Hollyford Valley Walk Limited</b>	108616-GUI	Pending	Concession permit	Guided walks and snowshoeing trips in ESI and SSI Regions	80 locations
<b>NZ Adventure Travel Guides Limited</b>	107584-GUI	Pending	Concession permit	Day guiding in Nelson/Marlborough, West Coast, Canterbury, Otago, and Southland conservancies. Continuation of 36281-GUI with the same locations and conditions. Term: ten years.	182 locations
<b>Outback New Zealand Limited</b>	117329-GUI	Pending	Concession permit	Guided 4WD trips and walks in Otago and Southland	92 locations
<b>Ramblers Holidays Group Limited</b>	102110-GUI	Pending	Concession permit	Guided walking multi-conservancy concession. Term: ten years.	Nationwide
<b>Kelly McGarry Foundation</b>	60991-SSE	Pre application	Concession permit	Mountain biking sporting event 'McGazzaFest' at Coronet Peak Recreation Reserve and Ben Lomond Scenic Reserve	2 locations
<b>Kessels and Associates Limited</b>	47913-RES	Pre application	Research or collection permit	To operate an electric fishing machine on all wadeable rivers, streams, ponds, lake margins and wetlands throughout NZ	Nationwide
<b>Mountain and Adventures Limited</b>	66770-GUI	Pre application	Concession permit	Mountain & Adventures (CA-23121-GUI) Guiding concession for multi conservancy PAC 12-06-631	180 locations
<b>Antipodes Travel Limited</b>	36921-GUI	Rolling On	Concession permit	Guided walks in North and South Islands, targeting French-speaking clients (Renewal of OT-21698-GUI with additional locations), includes Fiordland National Park Limited Supply Sites	Nationwide
<b>Hollyford Valley Walk Limited</b>	36973-GUI	Rolling On	Concession Licence	Guided walks and snowshoeing trips in Aoraki, Central Otago, Te Anau and Wakatipu	80 locations
<b>Landcare Research New Zealand Limited</b>	CA-31615-OTH	Rolling On	Research or collection permit	Global research & collection permit. Re-issue of CA-5160-OTH	Nationwide
<b>NZ Adventure Travel Guides Limited</b>	36281-GUI	Rolling On	Concession permit	Multi-day guided trips around the South Island	164 locations
<b>Outback New Zealand Limited</b>	38577-GUI	Rolling On	Concession permit re-issue	Guided 4WD trips and walks in Otago and Southland	100 locations
<b>Ramblers Holidays Group Limited</b>	36231-GUI	Rolling On	Concession permit	Guided walking multi-conservancy concession	Nationwide

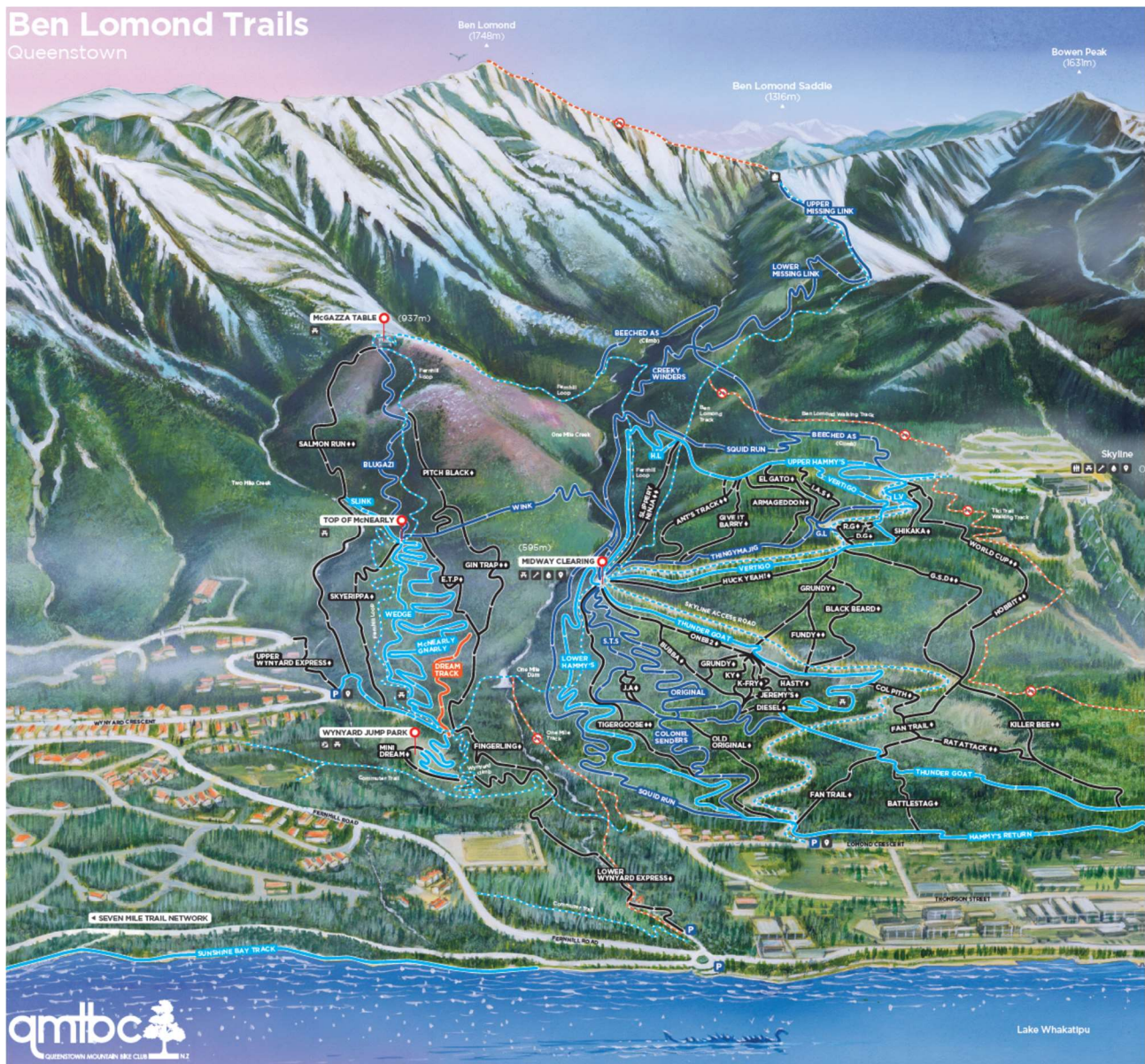
## Attachment 2 - Whakatipu Wilding Control Group plots



(Source: <https://whakatipuwilding.co.nz/ben-lomond/>)

## Attachment 3 - Queenstown Mountain Bike Club trail map





(Source: partial copy of map from <https://www.queenstownmtb.co.nz/benlomondtrails>)