

Cardrona Alpine Resort Limited

**Notice seeking clearance to acquire the assets or shares of
Treble Cone Investments Limited**

To: registrar@comcom.govt.nz

Executive summary

Cardrona seeks clearance to acquire Treble Cone

Cardrona Alpine Resort Limited (**Cardrona**) is the owner and operator of the Cardrona ski field, which is located between Queenstown and Wanaka.

Cardrona is seeking clearance to acquire 100% of the shares of Treble Cone Investments Limited (**TC Investments**) or the assets that TC Investments uses to operate the Treble Cone ski field located west of Wanaka (**Treble Cone** and the **Treble Cone assets**).

Acquisition will increase competition rather than lessen competition

A combined Cardrona and Treble Cone will be able to deliver a dual mountain experience to skiers that is not available today. This dual mountain offer will improve the ability of Cardrona and Treble Cone to attract both international and domestic skiers.

As a result, Cardrona believes that the combination of Cardrona and Treble Cone will increase competition to the benefit of New Zealand skiers and the New Zealand ski industry, rather than substantially lessening competition in any market.

NZ ski industry is part of a global market

The New Zealand ski industry is part of an increasingly global ski industry. Cardrona estimates that approximately 40% of all skiers are from overseas, with Australia and China being the two largest origin markets. Moreover, not only are overseas skiers considering New Zealand, but New Zealanders are increasingly looking and travelling offshore for ski holidays.

The effect of this is that consumers – whether from New Zealand or overseas – are increasingly demanding the types of ski experiences that they can enjoy around the world. In turn, this means that New Zealand ski areas are competing with overseas ski areas and the product those areas provide.

The result is a strong impetus for New Zealand's ski areas to invest in new and expanded facilities to attract these skiers, which can be seen in the heavy investment in ski fields over the past five years. All skiers – whether they be domestic or international – benefit from these investments. Combining Cardrona and Treble Cone will not change this impetus.

Ski market is national

And given approximately 40% of skiers in New Zealand are international, the commercial reality is that New Zealand ski fields compete in a global market.

While Cardrona accepts that the relevant Commerce Act market cannot be wider than New Zealand, Cardrona submits that the relevant ski market is New Zealand wide. Indeed, in addition to the **[CONFIDENTIAL]**% of skiers who Cardrona estimates come from offshore, Cardrona also estimates that approximately **[CONFIDENTIAL]**% of all skiers at Cardrona come from the North Island.

Since ski fields do not price discriminate between skiers based on their origin, even local Queenstown and Wanaka skiers benefit from the competition to attract international and North Island skiers to the South Island, a dynamic that will not be affected by the acquisition.

Cardrona and Treble Cone are largely complimentary fields

A combined Cardrona/Treble Cone will account for just over 20% of all skier days in New Zealand, falling just outside the Commission's safe harbour guidelines. Post-acquisition, the combined Cardrona/Treble Cone will remain the third largest ski field operator in New Zealand.

Moreover, as the Commission has previously recognised, there is a significant amount of differentiation between ski fields across a range of dimensions. The aggregation in market share between Cardrona and Treble Cone should not mask the fact that Cardrona and Treble Cone are largely complimentary fields. To illustrate:

- Cardrona is focussed on beginner to intermediate skiers with a park and pipe facility that caters to free style skiing, including high performance freestyle skiing; whereas
- Treble Cone is a ski field that is focussed on advanced intermediate to advanced skiers, with 90% of its terrain suitable for these skiers.

Cardrona's experience is that many of the skiers who ski at Treble Cone would not regard Cardrona as a close substitute, while skiers who ski at Cardrona regard Treble Cone as a compliment rather than a close substitute.

Continued strong constraint from NZ Ski and Ruapehu Alpine Lifts

Rather, of the more than 20 commercial and club fields in New Zealand, the closest New Zealand substitutes for Cardrona are, and will continue to be, NZ Ski's ski fields in Queenstown – Coronet Peak and The Remarkables – Ruapehu Alpine Lifts' Whakapapa and Tūroa ski fields and NZ Ski's Mt Hutt ski field in Canterbury.

Indeed, those who value a combined Cardrona/Treble Cone offer are likely to be those who currently ski at fields operated by NZ Ski or Ruapehu Alpine Lifts or who ski at international fields. In contrast, the type of skier that finds Treble Cone attractive is more likely to view one of the smaller commercial or club fields in the South Island as a closer substitute than Cardrona.

These two different constraints on each field will persist as will the more general constraint for Cardrona/Treble Cone to convince consumers to choose a ski holiday at Cardrona or Treble Cone rather than spending their winter holidays in other ways.

In summary, the need for the combined Cardrona/Treble Cone to continue to invest in the fields and provide a competitive experience to attract international visitors and domestic skiers will mean there is no real prospect of any skiers paying more or receiving less as a result of the acquisition.

Cardrona requests Commission grants clearance

For all these reasons, Cardrona's acquisition of the Treble Cone assets will not substantially lessen competition in any market. Cardrona, therefore, requests that the Commission grant clearance for its acquisition of the Treble Cone assets.

Confidentiality

1. This application contains information that is confidential to one or more of Cardrona or Treble Cone. The confidential information is commercially sensitive, and disclosure of it would be likely to unreasonably prejudice the commercial position of the party providing that information.
2. Confidential information in this application is contained in bolded square brackets with highlighting to reflect who the information is confidential to.
 - 2.1 Information that is confidential to the parties as against third parties is highlighted in yellow (i.e., **[CONFIDENTIAL]**) and listed in **Attachment A**.
 - 2.2 Information that is confidential to Cardrona as against all parties is highlighted in grey (i.e., **[CARDRONA CONFIDENTIAL]**) and listed in **Attachment A**.

The acquisition and the parties

3. Cardrona Alpine Resort Limited (and/or any of its interconnected bodies corporate) is seeking clearance to acquire 100% of the shares of TC Investments or all the Treble Cone assets. The effect of the acquisition will be to combine the Cardrona and Treble Cone ski areas under common ownership.
4. The parties signed the sale and purchase agreement on 5 July 2019. The agreement is conditional on several matters, including receipt of any clearance from the Commission by 31 December 2019, and approval from Cardrona's and TC Investments' shareholders. A copy of the sale and purchase agreement is attached as **Attachment C**. The sale and purchase agreement is confidential.

Cardrona Alpine Resort Limited – the Applicant

The Cardrona ski field

5. The applicant for clearance is Cardrona Alpine Resort Limited (and/or any of its interconnected bodies corporate). Cardrona owns and operates the Cardrona ski field, located above the Cardrona township between Queenstown and Wanaka.
6. Cardrona was opened in 1980 with one skiable basin and one lift. It has expanded over the last 39 years. Today, Cardrona has three skiable basins providing 345 hectares of skiable area capable of handling **[CONFIDENTIAL]** skiers per day. Cardrona is constructing the Pringles quad chair, which will open in time for the 2020 season and will add an additional 55 hectares of skiable terrain, increasing Cardrona's capacity to **[CONFIDENTIAL]** skiers per day.
7. In addition, Cardrona has acquired the ski area rights for Soho basin (located behind Cardrona) and is developing Soho to provide an additional 500 hectares of skiable terrain. This will increase Cardrona's capacity to **[CONFIDENTIAL]** skiers per day enabling Cardrona to offer a comparable skiing experience to international fields.

8. Cardrona is making these investments because its popularity has seen it approach capacity for longer periods each ski season. As the number of skiers increases, the ski experience for individual skiers deteriorates as skiers are forced to queue for lift access or for on-field services. It is for this reason that Cardrona is pursuing the Soho expansion.
9. In the longer term, Cardrona's vision is that by 2029, Cardrona Alpine Resort will be easily accessed from the Cardrona Valley floor and integrated into the Cardrona township.
10. Cardrona has also invested in providing summer tourism experiences on the Cardrona field. Cardrona's summer tourism activities compete with a large range of other summer tourism options and are not considered further in this application.

Cardrona is a part of the Wayfare Group

11. Cardrona is ultimately owned by Wayfare Group Limited, which owns and operates the Wayfare group of companies. Wayfare is the new corporate identity for Real Journeys, one of New Zealand's leading family-owned tourism companies. Real Journeys (as it then was) acquired Cardrona in 2013.
12. In addition to Cardrona, the Wayfare Group comprises
 - 12.1 Real Journeys Ltd, which operates as a tour and cruise company throughout the lower South Island from Stewart Island to Queenstown, including the Te Anau Glowworm Caves, world renowned cruises through Milford and Doubtful Sounds, the heritage steamship TSS Earnslaw and Walter Peak High Country Farm and multi-day Discovery Expeditions;
 - 12.2 Go Orange Ltd, which offers adventure tourism such as cruises in Milford and Doubtful Sounds, kayaking in Fiordland, Whitewater Rafting and Jet boat rides and operates a restaurant and microbrewery¹; and
 - 12.3 International Antarctic Attraction Ltd, which operates the International Antarctic Centre in Christchurch.
13. A diagram showing Wayfare's structure is included as **Attachment D**. A copy of Wayfare's most recent audited financial statements are included as **Attachment E**. These accounts include Cardrona's financial information and are confidential.

¹ Wayfare is in the process of merging Canyon Food & Brew Co Ltd, a Queenstown restaurant and micro-brewery, into its Go Orange Ltd business.

Contact details

14. The contact details for Cardrona and Wayfare respectively are:

Cardrona	Wayfare
Level 2, 74 Shotover Street Queenstown 9300	Level 2, 74 Shotover Street Queenstown 9300
Attention: Bridget Legnavsky, General Manager	Matthew Day Commercial Director
bridget@cardrona.com	matthew.day@wayfare.nz

16. Cardrona and Wayfare request that the Commission sends all correspondence regarding this application to David Blacktop (david@blacktoplawyers.com).

The Vendors – Treble Cone Investments Limited

17. Treble Cone Investments Limited is the company that owns the Treble Cone assets that Cardrona is seeking clearance to acquire.
18. TC Investments is a widely held company with 59 shareholders. Most of the company is ultimately owned by interests associated with John Darby (60.12%), and interests associated with the Dunleavy family (17.46%). The remaining 57 shareholders each own less than 1.5% of TC Investments.
19. TC Investments owns the Treble Cone assets and operates the Treble Cone ski area. Treble Cone is located outside Wanaka and was founded in 1968 by Murray Raffills and Ralph Markby. The current shareholders acquired Treble Cone in 2002.
20. Treble Cone's contact details are:
- Level 1, Westpac Building
106 George Street
Dunedin, 9016
- Attention: Donald Fletcher, Chairman
don@darbypartners.co.nz
21. TC Investments requests that the Commission sends all correspondence regarding this application to David Blacktop (david@blacktoplawyers.com).

Rationale for the acquisition

Cardrona and Treble Cone are complimentary fields

22. Cardrona and Treble Cone are located near to each other. However, as the Commission has previously recognised, there is a significant amount of differentiation between ski fields across a range of dimensions, including: snow conditions; the reliability of the weather conditions; lift capacities relative to demand; ease of access; the terrain; the facilities

available for skiers and snowboarders of differing abilities; the provision of ski-related and other amenities; and the associated resort facilities.²

23. The products Cardrona and Treble Cone offer are significantly differentiated from each other, particularly in terms of the terrain they offer.
24. Cardrona was originally established to target beginners and intermediate families due to its terrain and because other ski fields in the area, such as Treble Cone, were catering for and are suited to more advanced skiers.
25. Cardrona's offer has evolved over time to include park and pipe (freestyle) skiing. In the 1990s when snowboarding took off, Cardrona invested heavily developing terrain park and pipe facilities for both recreational and high-performance freestyle skiing and snowboarding athletes. Today the high performance and recreational elements of Cardrona's park and pipe are a key part of its market and brand. However, in terms of general skiing, Cardrona remains a beginner and intermediate family resort, albeit with a strong high-performance freestyle skiing offer.
26. In contrast, Treble Cone is known as a field for advanced skiers and snowboarders with long open trails and fewer skiers relative to its terrain capacity. Treble Cone is not generally regarded as a mountain for beginners as the learners' area is very small and there is no terrain suitable for transitioning from the learners' area to the main mountain. In addition, Treble Cone does not have a strong freestyle offering.

² Decision No. 410: Ruapehu Alpine Lifts Limited and Turoa Ski Resorts Limited (in receivership), at [72].

	Cardrona	Treble Cone
Total revenue	[CARDRONA CONFIDENTIAL]	\$7.6 million
Season length	20 weeks	12 weeks
Skiable area	345 ha	550 ha
Elevation	1,860m	1,600 m
Vertical Drop	600 m	700 m
Lifts	<ul style="list-style-type: none"> • 1x Chondola (10 x 8-seater gondola cabins, 40x6-seater chairs) • 2 x quad express chair • 1 x 4-seater fixed grip chair • 1 x pipe platter • 3 x beginner conveyor 	<ul style="list-style-type: none"> • 1 x 6-seater Express • 1 x Quad Fixed Chair • 1 x Platter Lift • 1 x learner carpet
Terrain	<ul style="list-style-type: none"> • 25% beginner • 50% intermediate • 25% advanced 	<ul style="list-style-type: none"> • 10% beginner • 45% intermediate • 45% advanced
Capacity	[CONFIDENTIAL] per day	[CONFIDENTIAL] per day
Average skiers per day	2,700 per day	1,100 per day

27. The differentiation between Cardrona and Treble Cone means that most skiers who ski at Treble Cone are not likely to regard Cardrona as the closest substitute to Treble Cone (when both are open). Treble Cone skiers are by their nature advanced skiers looking, in general, for more challenging terrain and a less crowded field. For most of these skiers, a closer substitute for Treble Cone is likely to be more advanced club fields, such as Ohau, Mt Olympus, Broken River and Craigieburn, which are discussed further below.
28. Conversely, Cardrona skiers may choose to advance from Cardrona to Treble Cone seeing it as complimentary to the Cardrona offer rather than as a close substitute.

Cardrona's rational for the acquisition

29. It is the largely complimentary nature of Cardrona and Treble Cone that Cardrona sees as the benefit of the acquisition.
30. Cardrona's expansion strategy in respect of the Cardrona ski area will not change as a result of this acquisition and will see Cardrona open an additional 50% of terrain in the Soho basin. Cardrona expects to attract new skiers from overseas or from domestic skiers currently skiing at NZ Ski or Ruapehu Alpine Lifts ski fields as well as other New Zealand fields. Cardrona also expects the new terrain will attract lapsed skiers or skiers who are interested in adventure skiing but who are not currently catered for in the New Zealand market.

31. What the acquisition provides Cardrona is the ability to offer a dual mountain offer with more variety than either NZ Ski or Ruapehu Alpine Lifts for a lower cost to consumers. Skiers will be able to freely move between Cardrona and Treble Cone in a way that they currently cannot.
32. Skiers value variety within their ski experience. There is only so much variety that a skier can gain from skiing the same field. Skiers, therefore, place value on the ability to ski at more than one field particularly as their length of stay increases. Moreover, skiers value the opportunity to manage the risk of a weather-related closure by having the option to ski at two fields. To illustrate, on average, Cardrona has a 20-week season while Treble Cone has a 12-week season.
33. Both NZ Ski and Ruapehu Alpine Lifts can offer a dual field offer today. On average, skiers ski for three days, and a customer wanting to ski three days at two different fields could buy a three-day pass from NZ Ski for \$297 or from or Ruapehu Alpine Lifts for \$319. To construct the same two-field offer at both Cardrona and Treble Cone, a consumer would need to buy two day passes at Cardrona and a one-day pass at Treble Cone (or vice versa), which would cost \$389 (or \$418).
34. Cardrona expects to be able to [CONFIDENTIAL].
35. Cardrona's expectation is backed by its experience of a previous joint venture with TC Investments that offered a dual mountain pass. This 50/50 joint venture operated from 2011 to 2017. Initially, the joint venture (Hukarere Limited) sold 3-day dual mountain passes. In 2016, the joint venture (under the new company Snowpass Limited) expanded to cover all multi-day passes.
36. In short, the passes allowed a consumer to buy a single pass that allowed them to ski at either Cardrona or Treble Cone. This enabled Cardrona to provide a dual mountain offer to the wholesale trade selling to international skiers and benefitted domestic skiers. Indeed, in 2017, Cardrona sold [CONFIDENTIAL] worth of these passes before the season itself started. Cardrona estimates that [CONFIDENTIAL]% of the customers who brought those pre-season passes were from outside the South Island: Cardrona estimates [CONFIDENTIAL]% were sold to international consumers ([CONFIDENTIAL]% from Australia and [CONFIDENTIAL]% to other international origins), [CONFIDENTIAL]% were sold to Aucklanders, [CONFIDENTIAL]% were sold to Wellingtonians, and [CONFIDENTIAL]% were sold to other North Island skiers.
37. The advantage to Cardrona from [CONFIDENTIAL]. In 2016, Cardrona [CONFIDENTIAL]; in contrast [CONFIDENTIAL].
38. The joint venture ended after the 2017 season [CONFIDENTIAL].
39. The acquisition will enable Cardrona to [CONFIDENTIAL]. Indeed, with one exception, Cardrona does not expect to attract skiers that currently ski at Treble Cone to ski at Cardrona during the Treble Cone operating season. As described above, for the Treble Cone skier, Cardrona is not likely to be a close substitute. The one exception is that a skier who prefers skiing at Treble Cone will be able to extend their season and/or choose to ski at Cardrona when Treble Cone is closed. This will increase the value Treble Cone skiers receive from their multi-day and season passes.
40. In contrast, a Cardrona skier (or potential skier) is likely to place a value on the ability to ski at Treble Cone as well as Cardrona due to the complimentary nature of Treble Cone.

41. Cardrona also believes that it will be able to derive considerable efficiencies by operating the two fields together. For example, removing a layer of duplicated cost will allow Cardrona to offer improved services at lower prices to skiers. Indeed, Cardrona believes that **[CONFIDENTIAL]**.
42. Finally, Cardrona expects to be able to **[CONFIDENTIAL]**. For example, **[CONFIDENTIAL]**.
43. Overall, Cardrona expects the acquisition will enable it to provide a better product than would be the case absent the acquisition for the benefit of consumers.

TC Investments' shareholders' rationale for the sale

44. The acquisition is subject to TC Investments' shareholders' approval. Each shareholder will have their own rationale for why (or why not) they will vote to approve the sale to Cardrona.
45. However, the position of the TC Investments' Board (and majority shareholders) is that the sale to Cardrona will secure the long-term sustainability of Treble Cone while allowing the TC Investments' shareholders to exit their investment. The long-term sustainability of Treble Cone is particularly important given that TC Investments' shareholders are shareholders because they enjoy skiing at Treble Cone.
46. As illustrated above, Treble Cone is a relatively small and standalone commercial field focussed on advanced intermediate and expert skiers. Treble Cone has positioned itself as a 'premium' skiing offering and has a loyal customer base. However, Treble Cone's customer base is not growing as Treble Cone has struggled to secure additional skiers. Indeed, as the New Zealand skiing market has grown, Treble Cone's patronage has remained relatively static.
47. Part of the reason for this is that Treble Cone has not been able to match the investments made by other fields throughout New Zealand and worldwide.
48. Treble Cone has earned revenue of between \$6 million to \$8 million per year depending on snow conditions. As with all ski fields, Treble Cone has relatively high fixed costs, and those costs are continuing to increase. Therefore, Treble Cone's profitability in any year is unpredictable and heavily dependent on snow conditions in any season. Over the period 2014 to 2018, Treble Cone's pre-tax profit has ranged from a loss of \$1.21 million to a profit of \$1.19 million.
49. This level of profitability is not expected to change and makes the business case for continued investment by TC Investments in Treble Cone challenging.
50. TC Investments' Board does not consider there is any quick fix for this challenge, and as a result, a likely outcome if this acquisition were not to proceed would be that Treble Cone would continue to fall behind other New Zealand and international ski fields. While Treble Cone expects that it will retain its loyal core customer base, it will be difficult to attract new skiers looking for a commercial field experience as Treble Cone's infrastructure falls further behind other fields.
51. That said, Treble Cone is likely to remain operating absent the acquisition. If Cardrona's acquisition does not proceed, it is possible that other parties may be interested in purchasing Treble Cone. The Board would explore any such alternative transaction on its merits were that to eventuate.

Why the acquisition will not substantially lessen competition

Summary

52. Cardrona's acquisition of Treble Cone will not substantially lessen competition (however the relevant market is defined) compared to a situation where Treble Cone remains independent of Cardrona.
53. As described above, Cardrona and Treble Cone are largely complimentary fields, and their combination will improve the competitive position of both fields, leading to an increase in competition rather than a decrease. Moreover, the combined Cardrona/Treble Cone will continue to be forced to maintain its price competitiveness and invest in improving its product so that it can:
 - 53.1 continue to attract international visitors, who Cardrona estimates currently account for approximately [CONFIDENTIAL]% of all guests at Cardrona;
 - 53.2 continue to attract the approximately [CONFIDENTIAL]% of skiers at Cardrona who travel from the North Island, and the skiers who travel from other parts of the South Island; and
 - 53.3 increase its skier numbers in order to fill the capacity created by the Pringles and Soho basin expansions.
54. In short, Cardrona/Treble Cone will need to continue to improve its competitive position as against:
 - 54.1 the other large commercial fields in New Zealand, NZ Ski (Coronet Peak, The Remarkables, and Mt Hutt) and Ruapehu Alpine Lifts (Whakapapa and Tūroa);
 - 54.2 the many overseas ski fields that overseas skiers consider when deciding on where to ski;
 - 54.3 the strong fringe competition that will remain from smaller commercial and club fields in the South Island, especially for skiers who would otherwise choose Treble Cone; and
 - 54.4 the option for skiers to choose an alternative holiday to skiing.
55. Indeed, Cardrona believes the combination of Cardrona and Treble Cone will improve the attractiveness of New Zealand as a ski tourism destination and increase competition between the combined Cardrona/Treble Cone, NZ Ski, and Ruapehu Alpine Lifts.

New Zealand ski industry is part of the international ski tourism market

56. New Zealand's ski industry and New Zealand's ski fields are part of an increasingly global ski tourism market. New Zealand fields are constrained by their need to compete for international visitors and win those customers from overseas ski areas. This constraint is a primary driver for the larger commercial ski areas to provide facilities that compare with the best in the world.

57. To illustrate, Cardrona estimates that of the 1.9 million skier days in New Zealand in 2018, 40% were accounted for by overseas visitors with the remaining 60% being New Zealanders skiing domestically.
58. The number of overseas skiers is expected to continue to increase in the foreseeable future. Australia is New Zealand's largest international source market for ski and snow sports. New Zealand's second biggest source market is China. Chinese citizens travelling to New Zealand are expected to significantly increase as snow participation in China increases in advance of the 2022 Beijing Winter Olympics. Snow participation has increased in China from 4 million skier days per year in 2008 to 18 million skier days per year in 2016, and the Chinese President is on record as saying that he wants 300 million Chinese people participating in snow sports by 2022.
59. New Zealand ski areas are competing with Australian ski areas and ski areas in Canada, the US, Europe and Japan to attract these customers through the product and service they offer, and the prices they charge. An April 2019 Tourism New Zealand study found that "New Zealand is facing greater competition for the Australian skiing audience, both from Australia's domestic ski fields and international destinations such as Japan, USA and Canada".³ New Zealand's brand preference as a ski destination for Australian visitors was 20%, compared to 27% for Australia, 12% Canada, 11% Japan, 10% Switzerland, 4% USA, and 4% France.⁴
60. Overseas fields have enjoyed some advantages over New Zealand fields due to their reliable snow fall, extensive lift networks, and diverse terrain, which allows skiers to choose constant variation throughout their skiing day. In contrast, New Zealand fields have tended to be more limited towards riding up and down the same runs.
61. In addition, there is an increasing trend for New Zealanders to look offshore for skiing experiences in Canada, the US, Europe and Japan. The result is that New Zealand skiers are becoming increasingly sophisticated and demanding in terms of the quality of the product they seek. New Zealand skiers look for and expect international quality products from their New Zealand ski fields.
62. The result has been that New Zealand ski areas are being driven to invest in new and expanded facilities to attract these skiers. For example:
- 62.1 Cardrona installed New Zealand's first combined chairlift and Gondola (the McDougall's Express Chondola) in 2017, is currently installing the Pringles chair, and has announced plans to expand into the Soho basin. Cardrona has invested in café, ticketing and rental upgrades to improve the skier experience. Cardrona has also invested heavily in snow making and snow grooming systems and terrain development. In total, [CONFIDENTIAL] has been invested in Cardrona since 2013 and a further [CONFIDENTIAL] is planned in the next five years.
- 62.2 Cardrona understands that NZ Ski has invested [CONFIDENTIAL] in the Coronet Peak and The Remarkables over the last five years including the installation of a new Chondola chair lift, and increased snow-making facilities, and has announced its intention to expand The Remarkables into the Doolans basin.

³ Kantar (on behalf of Tourism New Zealand) "Growing New Zealand ski holidays with the Australian Market" (April 2019), at [4].

⁴ Above n2, at [16].

- 62.3 Since Ruapehu Alpine Lifts received a licence extension for Whakapapa in December 2015, it has announced plans to invest \$100 million in developing the field in the following 10 years. This has included the recent opening of the Sky Waka gondola lift, and an improvement in snow making facilities.
63. All skiers have benefited from this increased investment, and the drive from New Zealand fields to compete with the world's best ski tourism experiences. Cardrona's acquisition of Treble Cone will not change that dynamic.
64. And while Cardrona accepts that the relevant market cannot be wider than New Zealand, the constraint imposed by these overseas fields – albeit outside the market – needs to be fully reflected in the Commission's analysis.⁵

Relevant market: NZ ski market

65. Cardrona submits that the market definition that best isolates the various competitive constraints that the merged firm will face is the New Zealand market for the provision of downhill skiing and snowboarding services (the **New Zealand ski market**). The New Zealand ski market encompasses the constraint that a combined Cardrona/Treble Cone will face post-acquisition from ski fields throughout New Zealand and from ski fields abroad.
66. Ultimately, however, Cardrona submits that clearance should be granted even if the Commission adopted a market definition as narrow as the Southern Lakes region. Even in that narrow market, the combined Cardrona/Treble Cone would continue to be constrained by NZ Ski's Coronet Peak and The Remarkables fields and the need to compete for overseas travellers against international ski fields, and other New Zealand fields for domestic skiers.

Previous Commerce Commission decisions need to be treated with caution

67. The Commission last considered the New Zealand ski market in 1999 when authorising the merger of the two North Island commercial fields, Wakapapa and Tūroa (**Decision 410**).⁶ As far as Cardrona is aware, the only time the Commission has considered a merger of South Island ski areas was when the Commission cleared the merger of Mt Hutt with The Remarkables and Coronet Peak fields in 1994 (the **Sepco decision**).⁷
68. In Decision 410, the Commission defined the market "for the provision of downhill skiing and snowboarding services in the North Island to both retail and wholesale customers".⁸
69. The Commission adopted the same product market in the Sepco decision⁹, but defined separate geographic markets for short-stay skiers (Canterbury), for overseas and extended stay South Island skiers (a South Island market), and overseas and North Island skiers (a New Zealand wide market).¹⁰
70. Decision 410 is now 20 years old, and the Sepco decision 25 years old. The ski tourism industry in New Zealand and worldwide is very different to that which existed in the 1990s.

⁵ See *Brambles New Zealand Ltd v Commerce Commission* (2003) TCLR 868 (HC) at [34]-[39] and [157]-[159].

⁶ Decision No. 410: Ruapehu Alpine Lifts Limited and Turoa Ski Resorts Limited (in receivership).

⁷ Sepco Holdings Limited/Mt Hutt & Alpine Limited, 22 April 1994, M2243.

⁸ Decision 410, at [129].

⁹ Sepco decision at [9].

¹⁰ Sepco decision at [17].

Therefore, some caution needs to be exercised when relying on the findings and analysis in these previous decisions, particularly in relation to the geographic scope of the market.

Product market is for downhill skiing and snowboarding services

71. That said, Cardrona submits that the product being sold remains the provision of downhill skiing and snowboarding services. As defined in Decision 410, these services encompass “not only the field itself, but also the associated facilities and services such as lifts, ski patrolling, ski school, and snow making and grooming”.
72. However, the Commission found that: “related complementary activities such as gear hire and sales, the provision of food and beverages, and creche services, are considered to be part of other markets”.¹¹ The Commission was not concerned about any loss of competition in these complimentary markets in Decision 410 due to the wide range of options open to skiers.¹² Cardrona considers those same considerations continue to apply today (if not more so), and so does not consider the market for these complimentary services further in this application.

One single customer market is appropriate

73. In the Sepco decision, the Commission drew a distinction between short-stay skiers and extended stay skiers from the South Island and North Island. In Decision 410, the Commission adopted a single customer market. Cardrona submits that a single customer market remains appropriate.
74. While ski areas do price discriminate by offering season passes to try and provide a baseline of revenue that provides protection against a bad ski year, they do not price discriminate based on the origin of customers.¹³
75. The only price discrimination is based on the type of pass being purchased. The three main types of ski pass offered by ski areas in New Zealand are a season pass, a day pass, and a multi-day pass. For Cardrona, it estimates that approximately [CONFIDENTIAL]% of its revenue is derived from the sale of season passes, [CONFIDENTIAL]% from single day passes, and [CONFIDENTIAL]% from multi-day passes.
- 75.1 The season pass is targeted at predominantly domestic skiers who are willing to commit in advance of the ski season. From a ski fields’ perspective, season passes provide a baseline of assured revenue that does not vary depending on how good or how long the ski season is.
- 75.2 The day and multi-day passes are more expensive and are targeted at skiers who want greater flexibility to plan their ski trip closer to the time. This cash-flow is more dependent on weather conditions.
- 75.3 Cardrona also sells multi day passes with a pre-season discount to help convince potential winter holiday makers to choose a ski holiday over other options (like a Pacific Island holiday).

¹¹ Decision 410 at [66].

¹² Decision 410, at [131].

¹³ The exception to this is that Cardrona offers children attending schools in Wanaka, Queenstown or Te Anau regions discounted season passes.

76. All ski areas publish their season pass and day pass prices for the season in late September or early October in the year before the season opens. It is very unusual for these prices to change during a season.

One functional market appropriate

77. Cardrona sells ski passes in broadly three different ways, directly to the skier either online or one the Mountain, via local agents (e.g., i-sites, local retailers) ([CONFIDENTIAL]% of sales) and, in international markets, via wholesale travel agents who may bundle a ski pass with other services into a holiday package for customers ([CONFIDENTIAL]% of sales).
78. Sales via all these channels are at retail prices. Cardrona pays for the agency services provided by agents and travel wholesalers by way of commission,¹⁴ calculated as a percentage of the retail price. As far as Cardrona is concerned, the retail price is the same regardless of channel, albeit that Cardrona pays a commission for the sales, marketing and distribution services provided by agents.
79. As described above, in Decision 410, the Commission appears to have considered one market comprising sales to both wholesale and retail customers.¹⁵ Cardrona submits that a single functional market is also appropriate in this case as the competitive conditions affecting both markets are likely to be the same.

Geographic market is national in scope

80. In Decision 410, the key issue was whether South Island fields would act as a constraint on a combined Whakapapa and Tūroa. While the Commission accepted that, in 1999, a combined Whakapapa and Tūroa would “face some constraint from the South Island ski fields”,¹⁶ it did not consider that constraint sufficiently strong to include the North Island and South Island in the same geographic market. Hence, the Commission limited the market to the North Island.
81. Despite Decision 410’s discussion of the geographic market covering 12 pages, the key premise of the Commission’s view that the South Island fields were not in the same market as the North Island fields was that it would be much more expensive for a skier from the North Island to substitute a South Island ski holiday for a North Island ski holiday. The Commission inferred that this meant that a hypothetical monopolist of downhill skiing and snowboarding services in the North Island could raise its lift prices by 5-10% without losing enough skiers to South Island fields to make that unprofitable.
82. Moreover, the Commission appears to have taken comfort from research which showed that, in 1999, of the 180,000 skiers living in the North Island, on average only 22,697 had skied in the South Island in each of the preceding three years.¹⁷
83. The New Zealand ski market in 2019 is very different to the New Zealand ski market in 1999. The number of skiing days in New Zealand has increased, and the number of North Islanders skiing in the South Island has also increased. Cardrona estimates that [CONFIDENTIAL]% of its skiers are from the North Island, [CONFIDENTIAL]% from the South Island and [CONFIDENTIAL]% from overseas. In terms of skier days, Cardrona estimates that it has

¹⁴ [CONFIDENTIAL].

¹⁵ Decision 410 at [133].

¹⁶ Decision 410, at [126].

¹⁷ Decision 410, at [124].

[CONFIDENTIAL] individual North island skiers skiing a total of [CONFIDENTIAL] skier days, i.e., North Islanders make up approximately [CONFIDENTIAL]% of all skier days at Cardrona. In contrast, there are only 30,000 residents in the entire Queenstown Lakes region.

84. At the same time, air connections with Queenstown have increased significantly. Domestic arrivals and departures at Queenstown Airport have increased from 569,908 in 2005 to 1,623,125 in 2018; international arrivals and departures have increased from 39,489 in 2005 to 619,158 in 2018.¹⁸
85. As a result, Cardrona estimates that approximately [CONFIDENTIAL]% of Cardrona's revenue is derived from skiers who are located outside the South Island. North Island and overseas customers have a range of choices for where to ski and it is these customers that drive pricing decisions.
86. The implication of this, is that if a monopoly supplier of skiing services in Southern Lakes was to increase its prices by 5-10%, it is likely that enough customers would switch to other fields (in New Zealand or offshore) to make this unprofitable.
87. The national scope of the market is further evidenced by the fact that NZ Ski, Ruapehu Alpine Lifts and Cardrona have all invested significantly in enhancing their product offering. This investment behaviour is not consistent with the fields being driven by differing competitive conditions.
88. Moreover, pricing is comparable between the North Island and South Island commercial fields. The one exception is Treble Cone, which as shown below is significantly more expensive than the other fields, consistent with Treble Cone not being a close competitor of the other major commercial fields.

¹⁸ <https://www.queenstownairport.co.nz/assets/documents/ZQN-annual-passengers-2018.pdf> (last accessed on 23 July 2019)

Table 1: Prices at major commercial fields for the 2019 season

		Season Pass	Day pass	3 Day	5 Day
NZ Ski	All Mountains pass	<ul style="list-style-type: none"> • \$649 (Sep-Jan) • \$749 (Feb -Apr) • \$899 (Apr-5 Jun) • \$1,199 (in season) 	\$129	\$297	\$495
	Mt Hutt only	<ul style="list-style-type: none"> • \$349 (Sep-Jan) • \$379 (Feb-Apr) • \$549 (Apr-5 Jun) • \$749 (in season) 	\$119	\$282	\$470
Ruapehu Alpine Lifts		<ul style="list-style-type: none"> • \$399 (Oct) • \$599 (Nov-Feb) • \$849 (Mar-Apr) • \$1,299 (In season) 	\$129	\$319	\$399
Cardrona		<ul style="list-style-type: none"> • \$699 with July school holidays blackout (Sep to Jun) • \$950 with no blackouts (Sep to June) • \$1,299 (in season) 	\$120	\$330	\$525
Treble Cone		<ul style="list-style-type: none"> • \$1,499 (Sep-Apr) • \$1,999 (Apr-Jun) • \$2,249 (in season) 	\$149	\$360	\$600

89. Ruapehu Alpine Lifts, NZ Ski and Cardrona have also responded to each other's pricing. In advance of the 2016 season, Ruapehu Alpine Lifts dropped its season pass prices to \$399 for sales made in October and \$599 for sales made in November to February; NZ Ski responded with its \$649 season pass for sale in September to January, and Cardrona responded by developing two season pass products – one with a blackout for the school holidays and one without – available for purchase from October to June.
90. For these reasons, Cardrona submits that the relevant market is New Zealand wide. However, even if the Commission adopted a narrower market, the constraint provided by fields that fall outside the market needs to be fully considered.

Market share in relevant markets

91. The share of skier days in the New Zealand ski market is shown below.

	2016		2017		2018	
	Days	Share	Days	Share	Days	Share
Cardrona	275,000	18%	306,500	19%	324,420	17%
Treble Cone	92,500	6%	96,000	6%	94,889	5%
Combined	367,500	24%	402,500	25%	419,309	22%
NZ Ski (Mt Hutt, Coronet Peak, The Remarkables)	606,951	37%	610,896	37%	727,442	38%
Ruapehu Alpine Lifts (Whakapapa and Tūroa)	300,000	20%	354,417	22%	471,007	25%
Snow Planet	150,425	10%	149,552	9%	155,000	8%
Other	100,565	7%	125,622	8%	141,927	7%

Source: SAANZ Ski Area Association of New Zealand

92. As can be seen from these figures, the acquisition only just falls outside the Commission's published safe harbour thresholds. What is notable is that while the number of skier days at Cardrona, NZ Ski, Ruapehu Alpine Lifts, and all other fields has increased since 2016, numbers at Treble Cone have remained static. This is consistent with Treble Cone not being a strong competitive force in the market.

93. Even if the market were as narrow as the Southern Lakes region, Cardrona estimates that it would still be smaller than NZ Ski.

	2016		2017		2018	
	Days	Share	Days	Share	Days	Share
Cardrona	275,000	36%	306,500	38%	324,420	36%
Treble Cone	92,500	12%	96,000	12%	94,889	10%
Combined	367,500	48%	402,500	50%	419,309	46%
NZ Ski (Coronet Peak, Remarkables)	404,000	52%	407,000	50%	500,000	54%

Source: Ski Area Association of New Zealand and Cardrona estimates

NZ Ski and Ruapehu Alpine Lifts will continue to exercise a strong competitive constraint

94. NZ Ski and Ruapehu Alpine Lifts will continue to exert a strong competitive constraint on the combined Cardrona/Treble Cone.

NZ Ski

95. NZ Ski Limited is the private company that owns and operates the Coronet Peak and Remarkables ski fields in Queenstown and the Mt Hutt ski field in Canterbury. NZ Ski purchased these ski fields from Air New Zealand in 2002.
96. New Zealand ski markets these three fields as being “distinctively different” meaning “Collectively they offer a complete New Zealand snow experience and have a reputation as being among some of New Zealand’s best visitor attractions”.¹⁹
97. NZ Ski recorded 741,000 skier days across all three mountains in 2018. Cardrona estimates that approximately 500,000 of those skier days were at Coronet Peak and The Remarkables. Coronet Peak is the only ski field in the South Island that offers Night Skiing.

	Coronet Peak	The Remarkables	Mt Hutt
Skiable area	280 ha	385 ha	365 ha
Elevation	1,649 m	1,943 m	2,086 m
Vertical Drop	462 m	468 m	683 m
Lifts	<ul style="list-style-type: none"> • 2 high-speed 6-seater chairs • 1 high-speed quad chair • 1 T-bar • 4 surface conveyor lifts 	<ul style="list-style-type: none"> • 1 high-speed 6-seater chair • 3 quad chairs • 4 surface conveyor lifts including a double covered conveyor 	<ul style="list-style-type: none"> • 1 6-seater detachable chair • 1 quad chair • 1 triple chair • 2 learner conveyors
Terrain	<ul style="list-style-type: none"> • 14% beginner • 33% intermediate • 25% advanced • 27% expert 	<ul style="list-style-type: none"> • 30% beginner • 40% intermediate • 30% advanced 	<ul style="list-style-type: none"> • 11% beginner • 54% intermediate • 20% advanced • 5% park
Capacity ²⁰	5,000	4,000	3,000
Average skiers per day	2,500	2,000	1,600

98. NZ Ski is also a partner with Ikon’s Ikon pass, which allows a skier to ski at any one or more of 38 fields around the world, and a member of The Mountain Collective. A NZ Ski season pass holder enjoys 50% off day lift passes when skiing or snowboarding at Mountain

¹⁹ See <https://www.nzski.com/footer/trade-and-media/> (last accessed 30 July 2019).

²⁰ Cardrona estimates.

Collective Resorts, while the Mountain Collective Pass gives skiers 34 days skiing at any Mountain Collective mountain worldwide.

99. Cardrona estimates NZ Ski has invested [CONFIDENTIAL] million in Coronet Peak and The Remarkables since 2014, including:
- 99.1 a ‘Chondola’ at Cornet Peak to replace its existing main chair lift; and
 - 99.2 a new six-seater express chairlift from the base of The Remarkables.²¹
100. NZ Ski has enough current capacity at its fields to accommodate any skiers from Cardrona (or Treble Cone) should a combined Cardrona/Treble Cone seek to increase prices or reduce service quality.
101. However, in addition, NZ Ski has announced its intention to extend The Remarkables into The Doolans area. The Doolans is owned by the Department of Conservation. When that expansion takes place, it will increase the skiable terrain of The Remarkables by 220 ha adding to the increased capacity provided by Cardrona’s Soho expansion.

Ruapehu Alpine Lifts

102. Ruapehu Alpine Lifts operates the Whakapapa and Tūroa Ski Areas on Mt Ruapehu. Ruapehu Alpine Lifts states on its website that it is a public unlisted company whose primary purpose is to promote mountain sports activities on Mt Ruapehu and to provide amenities for the sport and recreation users of the mountain. Ruapehu Alpine Lifts retains an exemption from paying income tax pursuant to Section CW40(1) of the Income Tax Act 2007. This exemption means that investment paybacks for Ruapehu Alpine Lifts are more favourable than for tax paying companies like NZ Ski and Cardrona.
103. Whakapapa and Tūroa recorded 471,000 skier days²² and total revenue of \$34 million in the seven months to November 2018.²³

²¹ <https://www.odt.co.nz/regions/queenstown/35m-investment-skifields> (last accessed 10 July 2019).

²² Ski Area Association of New Zealand.

²³ RAL 2018 Annual Report.

	Tūroa	Whakapapa
Skiable area	500 ha	550 ha
Elevation	2,322 m	2,320 m
Vertical Drop	722 m	690 m
Lifts	<ul style="list-style-type: none"> • 1 x 6-seater Express • 2 x Quad Fixed Chairs • 2 x Triple Fixed Chairs • 2 x Platter Lifts • 1 x Learner Carpet Conveyor 	<ul style="list-style-type: none"> • 1 x Gondola • 1 x Quad Express • 2 x Quad Fixed Chairs • 1 x Double Fixed Chair • 3 x T-bars • 1 x Elevator • 4 x Carpet Lifts
Terrain	<ul style="list-style-type: none"> • 20% beginner • 55% intermediate • 25% advanced 	<ul style="list-style-type: none"> • 25% beginner • 50% intermediate • 25% advanced
Capacity	6,000	7,000
Average skiers per day	Unknown	Unknown

104. In late 2015, the Department of Conservation issued Ruapehu Alpine Lifts with a new 60-year licence for the Whakapapa field. As a result, Ruapehu Alpine Lifts has announced \$100 million of investment over the following 10 years, including:

104.1 building a new express Quad chair, and a new Fixed Quad chair to replace existing chairs;

104.2 rebuilding the Far West T-Bar;

104.3 building two new glass-cabin elevators to replace the Happy Valley Access Chair, and adding two new covered and one new open carpet lift to Happy Valley

104.4 installing NZ's first SnowFactory, which Ruapehu Alpine Lifts says will extend its season by over a month transforming Whakapapa from last to open, to first;

104.5 building the SkyWaka Gondola;

104.6 doubling the Snowmaking capacity for Whakapapa; and

104.7 introducing night skiing.²⁴

105. Ruapehu Alpine Lifts' new facilities – and in particular the Snow Factory and the SkyWaka – have created a much more appealing offer to both domestic and international skiers. And, as

²⁴ See "RAL 2018 AGM - Shareholder Update" (available at <https://www.sporty.co.nz/asset/downloadasset?id=5c6176a2-c2bb-4ef8-9c31-61b879af43cc> (last access 12 July 2019)).

described above, Ruapehu Alpine Lifts dropped its season pass rates in advance of the 2016 season, a move that NZ Ski and Cardrona responded to.

106. Ruapehu Alpine Lifts has enough current capacity at its fields to accommodate any skiers from Cardrona (or Treble Cone) should a combined Cardrona/Treble Cone seek to increase prices or reduce service quality.

Competition from other fields

107. There are a range of other smaller commercial and club fields in New Zealand that also compete for skiers. In 2018, there were over 141,000 skier days at these fields combined.
108. As described above, many of these fields offer the type of more advanced skiing with fewer crowds that appeals to skiers who currently ski at Treble Cone. These fields are listed below in terms of distance from Treble Cone.

Ohau	Ohau is a family-run commercial field with 165 hectares of skiable terrain. Ohau had 16,000 skier days in 2018. Ohau is serviced by a chair lift, a poma tow and magic carpet providing terrain that is 20% beginner, 50% intermediate and 30% advanced.
Awakino	Awakino is a small club field in Otago that is only open on weekends.
Mt Dobson	Mt Dobson is a larger club field in Tekapo and had 13,000 skier days in 2018. It is serviced by a chairlift and T-bar, platter and rope-tow providing access to 400 hectares of skiable terrain, which is 25% beginner, 50% intermediate and 25 % advanced.
Roundhill	Roundhill is a commercial field in Tekapo and had 29,000 skier days in 2018. It is serviced by a poma tow, three rope tows and two T-bars with what it describes as Australasia's biggest vertical drop at 783 metres.
Fox Peak	Fox Peak is a small club field in the Two Thumb Range between Christchurch and Queenstown. It is serviced by four rope tows and a poma tow.
Porters	Porters is a commercial field that is the closest ski field to Christchurch. Porters covers 285 hectares of skiable terrain, and is serviced by a 4-seater chairlift, three T-bars, a beginner's carpet lift and an intermediate platter lift. Porters had 28,000 skier days in 2018. Porters has plans for a significant expansion including new lifts and a village development. The owners have ambitions to create a much bigger field and are currently seeking capital to do so.

Mt Olympus	Mt Olympus Ski Area is a commercial field with on-field accommodation catering, primarily, for advanced and intermediate skiers, with terrain that is 10% beginner, 55% intermediate and 35% advanced.
Mt Cheeseman	Mt Cheeseman is a club field is serviced by two T-bars located 90 mins drive from Christchurch. Mt Cheesman recorded 8,000 skier days in 2018.
Broken River	Broken River is a club field with on-field accommodation catering for experienced skiers and boarders.
Cragieburn	Craigieburn is a club field located on State Highway 73 between Springfield and Arthurs Pass. Cragieburn's terrain is suited to intermediate to advanced skiers and is serviced by three high speed rope tows providing a vertical rise of 500m. Cragieburn has on-field accommodation and recorded 3,000 skier days in 2018.
Temple Basin	Temple Basin is a club field in Arthurs Pass National Park. Temple Basin provides off-piste skiing suited to intermediate to advanced skiers and is serviced by three rope tows
Hamner Springs	Hamner Springs Ski Area is a club field offering mainly advanced and off-piste skiing. It is serviced by 1 Poma Lift, 1 rope tow and 1 fixed grip learners tow providing access to terrain that is 10% Beginner, 60% Intermediate, and 30% Advanced.
Mt Lyford	Mt Lyford is a commercial field in Northern Canterbury with 7,500 skier days in 2018. It offers a T-bar, two poma tows, a fixed grip and rope tow providing terrain that is 30% Beginner, 40% Intermediate, and 30% Advanced.
Rainbow	Rainbow is a commercial field in the Nelson Lakes region. It has 1 T-Bar, 1 Intermediate Platter, 1 Learners tow, 1 Terrain Park tow, and 1 West Bowl access tow providing terrain that is Beginners 25%, Intermediate 55%, Advanced 20%. Rainbow recorded 21,000 skier days in 2018.

Likelihood of entry

109. Cardrona is not aware of any new ski fields planned for New Zealand and does not consider that likely.

110. However, continued expansion is likely. Cardrona is extending its field into the Soho basin, while NZ Ski has announced its intention to expand The Remarkables into The Doolans area. Cardrona also expects that the smaller commercial fields will continue to monitor opportunities to expand their offering.

Other constraints

111. A combined Cardrona/Treble Cone will also face some constraint from other activities in and around the Southern Lakes region and other holiday destinations more broadly.
112. Cardrona and other ski field operators are competing to attract customers to ski rather than, for example, take a different type of winter holiday elsewhere, e.g., choosing a holiday in Hawaii, Bali, Fiji or further afield. Cardrona takes this into consideration when deciding on its competitive strategy.
113. In addition, Cardrona competes with other leisure activities in the Wanaka/Queenstown region for visitors' time and spend. Visitors substitute time at Cardrona for other activities in the region. The prices of those activities are a constraint on Cardrona's prices.
114. In Decision 410 the Commission accepted that 'other leisure activities' while not directly substitutable for skiing, provided a degree of competitive constraint.²⁵ The degree of competitive constraint from competing destination holidays has increased since 1999. Air New Zealand is reported as saying that the 2018 July school holidays was its busiest period on record with the number of New Zealanders travelling to international destinations up 25% on 2013.²⁶
115. While Cardrona accepts that the relevant market is unlikely to include other holiday destinations, the commercial reality is that many customers are making a choice as to how to spend their holidays and skiing is one of many options available to them. This constraint will persist, if not increase in the future, and should be considered despite being outside the market.

Acquisition will not change the prospect of coordinated effects in any market

116. Cardrona's acquisition of Treble Cone will not change the prospects of coordination regardless of how the market is defined.
117. As already explained, removing Treble Cone as an independent participant will not change conditions so that coordination is more likely, more complete, or more sustainable.²⁷ Treble Cone has maintained a high price strategy and has not invested in new facilities to the same extent that other commercial ski areas have. As other ski fields have experienced an increase in skier numbers, Treble Cone's skier numbers have remained relatively static indicating its lack of competitive significance.
118. In any event, many domestic competitors will remain. A combined Cardrona/Treble Cone will continue to compete with NZ Ski, Ruapehu Alpine Lifts and the large competitive fringe of smaller commercial and club fields. That is not to mention the constraint from overseas ski areas through the need for New Zealand to attract international visitors, or the constraint

²⁵ Decision 410, at [211]-[212].

²⁶ See https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11897087 (last accessed 23 July 2019).
Mergers and Acquisitions Guidelines at [3.86].

imposed by potential New Zealand skiers choosing between a skiing holiday or another type of overseas holiday.

119. In short, removing Treble Cone as an independent participant is unlikely to change any competitive dynamic.
120. Furthermore, the ski market does not have the characteristics that make it vulnerable to coordination and there is no evidence that coordination is already occurring.
 - 120.1 As the Commission has recognised, the “products” offered by each ski field are not homogenous. There are differences in terms of the facilities offered, reliability of snow, and what a lift pass offers. For example, Ruapehu Alpine Lifts and NZ Ski can currently offer a ski pass that provides access to more than one field, whereas Cardrona and Treble Cone cannot.
 - 120.2 The market is showing innovation through investment across the country. This can be expected to continue driven by the need to compete for overseas skiers as well as skiers who have a choice between the North and South Island fields.
 - 120.3 Finally, the snow tourism market is, by its nature, exposed to both demand and supply shocks. Demand shocks are driven by general economic conditions both in New Zealand and offshore, while the quality, quantity and timing of snow falls is a crucial determinant of the ability for ski fields to provide a compelling service.
121. For these reasons, Cardrona’s acquisition of Treble Cone will not change the prospects of coordination regardless of how the market is defined.

Summary and conclusion

122. For the reasons explained, Cardrona’s acquisition of the Treble Cone assets will not substantially lessen competition in any market (however the markets are defined). Post-acquisition, Cardrona will continue to be constrained by NZ Ski, Ruapehu Alpine Lifts and the range of other ski fields open to customers.
123. Cardrona, therefore, requests that the Commission grant clearance for its acquisition of the Treble Cone assets.

Confidential version

I, Richard Lauder, have prepared, or supervised the preparation, of this notice seeking clearance. To the best of my knowledge, I confirm that:

- all information specified by the Commission has been supplied;
- if information has not been supplied, reasons have been included as to why the information has not been supplied;
- all information known to me that is relevant to the consideration of this notice has been supplied; and
- all information supplied is correct as at the date of this notice.

I undertake to advise the Commission immediately of any material change in circumstances relating to the notice.

I understand that it is an offence under the Commerce Act to attempt to deceive or knowingly mislead the Commission in respect of any matter before the Commission, including in these documents.

I am a Director of Cardona Alpine Resort Limited and I am duly authorised to submit this notice.



Richard Lauder

Date:

4/9/19.

Attachment A: Schedule of confidential information

The parties have removed from the public version of the Application the following information because the information is confidential to the parties and disclosure would be likely to disclose a trade secret or be likely unreasonably to prejudice the commercial position of one or both of the parties (cf s 9(2)(b)(i) and (ii) of the Official Information Act):

- The percentages in the second to last paragraph of first page of the Executive Summary, paragraphs 53.1, 53.2,
- The skiers per day figures in paragraph 6.
- The skiers per day figures in paragraph 7.
- The capacity figures in the table below paragraph 26.
- All of paragraph 34 after the words “able to”.
- The figures and percentages in paragraph 36.
- The first sentence of paragraph 37 after the word “from”.
- All of the first clause of the second sentence of paragraph 37 after the word “Cardrona”, and all of the second clause of the second sentence of paragraph 37 after the words “in contrast”.
- All of paragraph 38 after the word “season”.
- All of the first sentence of paragraph 36 after the words “Cardrona to”.
- All of the last sentence of paragraph 41 after the words “believes that”.
- All of the first sentence of paragraph 42 after the words “able to” and all of the words of the second sentence of paragraph 42 after the words “For example,”.
- The figures in paragraphs 62.1, and 62.2.
- The percentages in paragraph 75.
- The percentages in paragraph 77.
- All of footnote 14.
- The percentages and figures in paragraph 83.
- The percentage in paragraph 85.
- The figure in paragraph 99.

Public version

Cardrona has removed from the public version of the Application the revenue figure in the Table below paragraph 26 because the information is confidential to Cardrona and disclosure would be likely unreasonably to prejudice the commercial position of one or both of the parties (cf s 9(2)(b)(ii) of the Official Information Act).

The parties have removed from the public version of the Application the names and contact details of the individuals listed in Attachment B to protect the privacy of individuals relying on s 9(2)(a) of the Official Information Act.

Attachment B: Schedule of industry contacts

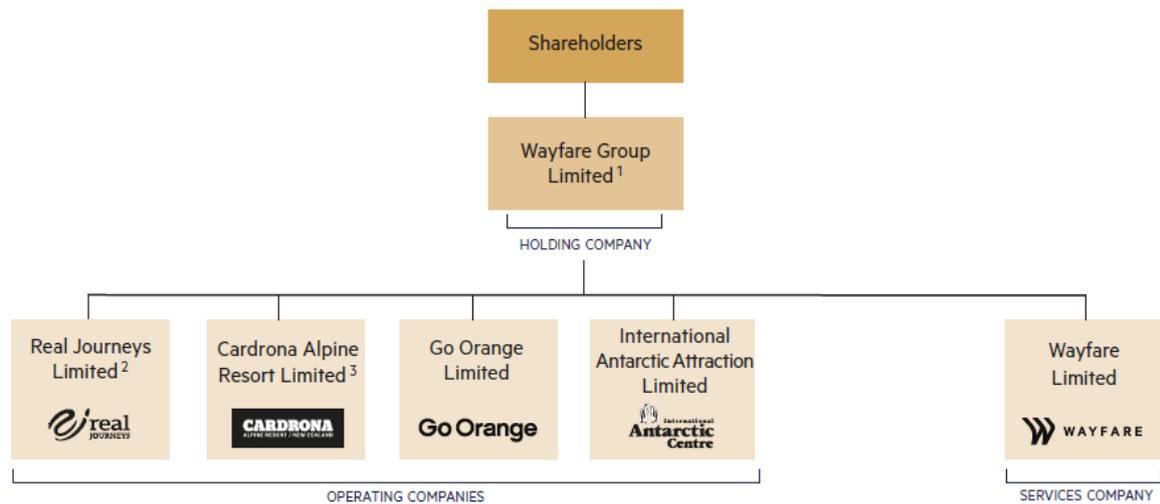
Party	Contact
Ski Field operators	
NZ Ski Limited	[CONFIDENTIAL]
Ruapehu Alpine Lifts	[CONFIDENTIAL]
Ohau	[CONFIDENTIAL]
Mt Dobson	[CONFIDENTIAL]
Roundhill	[CONFIDENTIAL]
Fox Peak	[CONFIDENTIAL]
Porters	[CONFIDENTIAL]
Mt Olympus	[CONFIDENTIAL]
Cragieburn	[CONFIDENTIAL]
Mt Lyford	[CONFIDENTIAL]
Rainbow	[CONFIDENTIAL]
Mt Cheeseman	[CONFIDENTIAL]
Snow Planet	[CONFIDENTIAL]
Travel wholesalers	
Ski Max	[CONFIDENTIAL]
Sno n Ski	[CONFIDENTIAL]
ANZCRO	[CONFIDENTIAL]
Tourism contacts	
Tourism NZ	[CONFIDENTIAL]
Lake Wanaka Tourism	[CONFIDENTIAL]

Attachment C: Sale and Purchase Agreement

[Confidential]

Attachment D: Wayfare Group structure chart

Wayfare Group Structure



1. Also includes subsidiary companies Te Anau Developments Limited, Milford Sound Flightseeing Limited, Fiordland Travel Limited and Canyon Food & Brew Co.
2. Also includes joint venture companies Black Cat Group 2007 Limited (50%), Milford Sound Tourism Limited (49%), Queenstown Wharves GP Limited (33%); and subsidiary companies Queenstown Rafting Limited and Wilmot Pass Management Limited
3. Includes joint venture companies Hukarere Limited (50%), Snowpass Limited (50%) and Soho Ski Area Limited (50%)

Attachment E: Cardrona Accounts

[Confidential]

Attachment F: Schedule of supporting information

These documents have been provided separately to the Commission but form part of the clearance application.

[CONFIDENTIAL]