

Minutes of a meeting to hear submissions on a Proposed New Licence for Go Jets Wanaka held in Armstrong Room, Ardmore Street, Wanaka on Thursday, 5 July 2018 commencing at 1.00pm

Present:

Ms Ruth Harrison (Chair), Ms Jude Battson and Councillor Ross McRobie

In attendance:

Mrs Joanne Conroy (Property Advisor, APL Property Ltd), Mr Aaron Burt (Senior Planner, Parks and Reserves), Mr Chris Green (Property Advisor, APL Property Ltd) and Ms Jane Robertson (Senior Governance Advisor); applicants and their representative; submitters

Commencement of the hearing: Election of Chairperson

The Governance Advisor called the meeting to order and asked the elected members to determine the Chairperson for the hearing.

**On the motion of Councillor McRobie and Ms Battson
it was resolved that Ms Harrison chair the hearing.**

Ms Harrison took the chair.

Declarations of Conflict of Interest

No declarations were made.

Confirmation of Agenda

The agenda was confirmed without addition or alteration.

Hearing Opening

Upon an indication from submitters that there would be comment about the scope of the hearing, the Chair invited the report's author (Mrs Conroy) to comment about this issue. Mrs Conroy stated that the lease sought was in relation to use of the reserve for loading and unloading passengers. Anything to do with river activity was out of scope including noise effects and health and safety which were part of the resource consent, which the applicants already possessed.

It was agreed to permit Jim Cowie to speak as the new Chair of the Albert Town Community Association as part of the Association's submission to be presented by Nathan Weathington, although Mr Cowie had not personally made a submission.

Hearing of submissions

1. Graham Walmsley

Mr Walmsley questioned the extent of the scope described by Mrs Conroy. He was of the view that the panel should have regard to the applicable Reserve

Management Plan. This stated that water-based activities adjacent to the reserve which impacted upon the reserve (e.g. by affecting the quiet values) should be considered. This was because noise on the water was heard on the reserve.

He observed that although the jet boat rides had been operational since 2004, there had been a marked change in the operation in late 2016 with many more jet boats in use from that time. This had been raised with the harbourmaster who had said that the appropriate concessions were in place, but this was not correct.

It was inaccurate to claim there had been no complaints about the Go Jets' operation. Furthermore, the community generally was concerned about the noise and safety of speed boats as indicated by the 299 submissions against the recent Navigation Safety Bylaw.

He asserted there was a disjoint in interpretation if an activity that was not physically happening on the reserve could not be considered. He highlighted clauses from the Reserve Management Plan that supported this view. He also observed that paragraph 19 of the officer report noted that *'the issue about boats idling while waiting to load and unload the next load of passengers is very relevant to the reserve...'*

He cited the examples of the kayak slalom and jet-skiing as also being activities that accessed the water whilst also impacting upon the activity on the reserve.

He did not agree with the operators' claim that there was always a spotter on the bank, but observed that the operation could not be safe if a spotter was necessary. He also raised safety concerns with jet boat spins and turns when swimmers were in the water and drivers failing to observe the 5 knot limit.

He suggested that the present tension with the jet boating community could be improved if drivers warmed up their boats further down the river or picked people up at a different location further down the river away from the residential area.

Mr Walmsley suggested that it would be unwise to grant a five year licence in light of the present uncertainty about what may occur with the Navigation Safety Bylaw. This would also be a consideration if another site down river was used for embarking and disembarking.

Mrs Conroy addressed the connection between an activity happening on the river and the noise created. She noted that the operators of Go Jets had consent to operate on the river. There was a dependency between the land and the river, with the boat ramp half on the reserve and half in the river. The activity of loading passengers was on the reserve although it was crown land directly on the river edge.

It was noted that the intention of the spotter was for the safety of passengers on the land and not on the river.

2. Nathan Weathington and Jim Cowie, Albert Town Community Association

Mr Weathington was critical of the narrowness of the hearing scope and the piecemeal approach to the various different processes.

Mr Cowie noted that the Albert Town Community Association represented 162 households. He was concerned that the application was a foregone conclusion because the only occurrence of its public notification on 2 May described the proposal as an 'intention to grant'. He considered that this demonstrated that the decision was pre-determined.

In relation to the above concern, Mrs Conroy advised that the wording used was standard text required by the Reserves Act. There had therefore been no pre-determination by the panel.

Although the professional advice was that regard had to be had to noise generated from the reserve and not the river, Mr Cowie asserted that it was impossible to ignore the relationship between cause and effect. The panel was asked to consider what operating from the Albert Town reserve really entailed and that it was not just the physical act of launching and retrieving boats.

Mr Cowie suggested that a better outcome was to take into account the bigger picture by not approving a long-term licence and instead working with the applicant to develop a more holistic solution. He observed that the riverbank was being degraded because of the presence of boats and he was opposed to a five year licence being granted when there were so many other things in play. Accordingly, he suggested that granting another temporary licence would be the best outcome at present.

Population growth would probably result in more people using the boat ramp which could create land safety issues.

Mr Cowie agreed that use of the other reserve as proposed by previous speaker would address most of the adverse effects.

3. Catherine Rezaei

Ms Rezaei advised that she lived exactly opposite the boat ramp, having bought the land in 2002. She noted that Go Jets' website referred to their establishment in 2016 and she believed they had started operating in summer 2016. She was particularly disturbed by the noise of boats idling which was a deep throbbing penetrating noise that occurred daily. She was also concerned about boats doing Hamilton turns at the ramp which was both very dangerous for swimmers and breached the noise limits.

The Reserve Management Plan required that activity on the reserve should not be in conflict with recreational users but she had observed queues of cars waiting to launch their boats at the ramp whilst waiting for commercial jet boats to complete their operations.

She favoured the other location discussed earlier in the meeting for passengers to embark/disembark because it would address the noise at the present site.

She did not believe that the panel could rely on the applicants' word about their operations.

She expressed concern that if a speed uplifting on the Clutha occurred under the Navigation Safety Bylaw there could be more boats and therefore greater levels of noise.

4. Adrian Camm

Mr Camm advised that he lived directly across the river from the boat ramp and was its nearest neighbour. He was opposed to someone using a noisy machine for profit from a public reserve but because of the noise he had approached the boat operator directly for a discussion.

Mr Camm in particular wanted the panel to make a decision about how long boats could spend idling at the boat ramp. He agreed with the previous speaker that it was an unpleasant low pitched throbbing. He suggested that an agreement in writing about the amount of time that could be spent at the ramp was desirable to provide adjacent parties with some sort of guarantee about the limit.

He did not support the recommended five year licence term which he felt 'seems like forever'.

He supported the suggestion of Go Jets gaining access from a different reserve and launching from further down the river.

Applicant's Presentation

The applicants (Patrick and Tracey Perkins) appeared and were represented by Jo Fyfe (Planning Consultant). Ms Fyfe highlighted the following points:

- The present operators (Mr and Mrs Perkins) had been operating since the start of 2016 having taken over existing resource consents. Patrick drove the boats whilst Tracey fulfilled customer service.
- The company operated under two consents originally granted in 1995. At the time of applying for resource consent the effects of the activity (noise, safety, hours of operation, number of boat trips) had been assessed. The consent had been publicly notified and had included the appropriateness of using the Albert Town Reserve. The consent had been active since that time and the community had had the opportunity to object.
- Discussion at this hearing should only relate to passengers embarking and disembarking on the reserve and the use of vehicles on the reserve.
- A licence to use the reserve was critical to continuation of the business.

- Not only did the business have to operate in accordance with the conditions of its consent is also had to comply with the Navigation Safety Bylaw, its own health and safety plan, the rules of the harbour master and national maritime law.
- Damage to the river bank was out of scope for this hearing.
- The applicants did not favour switching their launch point to another location further downstream for a number of reasons. The access would have to be upgraded, the area was susceptible to flooding and there were lot of fishermen in the area. Loading people in this area could be hazardous because of the flood risk and they would need to seek a variation to their consent because the location was not covered by the existing consent. This could impact upon other aspects of the business (e.g., the number of Hamilton turns permitted).
- The business had been monitored and they complied with their consent. This included use of the boat ramp and the noise of the boat which had been measured by an acoustic engineer.
- The present location for idling had come about following discussion with one of the submitters which showed a willingness to negotiate.
- A licence with a term of 5 years was needed for business certainty.
- The current consent required Go Jets to use the reserve but they did not have a licence to use it.
- The business had originally operated from town but had transferred to Albert Town because of complaints about the boats exceeding the 5 knot speed limit. The usual trip went down river to the Nook and back to the rapids area. Weather conditions were sometimes such that it was not possible to cross the lake.
- Go Jets were open to finding solutions with the Albert Town Community Association. The fact that the boat was noisy was acknowledged and efforts would be made to quieten it down.

The meeting adjourned at 2.39pm and reconvened for deliberations at 2.49pm.

The panel was present with staff in attendance (Joanne Conroy and Chris Green (APL Property), Aaron Burt and Jane Robertson (QLDC)).

Deliberations

Consideration was given to the suggested alternative location. The panel decided to discount it because it would be opposed by those who fished at the site. Further, as a variation to Go Jets' consent it would be publicly notified and would attract public objections.

It was agreed that there were no safety issues raised in using the reserve nor did the activity have a detrimental physical effect on the reserve. Further it was accepted that the applicant complied with all legal requirements (e.g. resource consent, navigation safety bylaw, maritime laws, and health and safety plan).

It was accepted that the operation loaded and unloaded from the reserve and this was the reason that they were in this location for longer and idled there. There was discussion about whether the boat could idle at another location further away from the residential area.

The panel considered the recommended term of five years was questioned if this was too ambitious in light of the proposed review of the navigation safety bylaw and the changes that might result in use of the river.

There was discussion about the power of the Council to make any licence subject to the following conditions that had been detailed in the officer report:

- Start up the boat on the trailer
- Warm up for 2-3 minutes before removing the boat off the trailer
- Warm up the boat in the water far down the river from Albert Town
- Drive the boat back up to the boat ramp and nose into the bank. The engine is then turned off
- The engine is not turned on until after the passengers have loaded onto the boat and listened to the safety briefing. At this point the engine is turned on for approximately 2 minutes until it is warm enough to continue
- The engine is warmed up further again by driving slowing down the river until it is back up to the required temperature
- A new muffler is fitted to the boat to reduce operational noise.

Staff questioned whether such conditions would be legal or enforceable. Questions were also raised about whether any licence should be subject to the outcome of the proposed navigation safety bylaw review.

It was agreed to ask staff to prepare a decision option for the panel to consider of granting a licence for 12 months, with conditions to be added about boat warm-up, idling and muffling. There was discussion about adding a renewal clause but the panel considered that any renewal should be subject to a public process because of the community interest.

Separately from the hearing, the panel agreed that the Council needed to develop a policy to guide the levels of commercial use permissible on the Clutha River.

The meeting adjourned at 3.25 pm.

On 1 August 2018, legal advice procured by Mr Burt was circulated to the panel. The purpose of the advice was to confirm the scope of the activity. The advice confirmed that the scope was limited to activities occurring upon the reserve.

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On 4 August 2018 Ms Battson responded indicating that she favoured a longer term than initially discussed at the hearing to avoid GoJets having to reapply immediately for their next licence. She supported their continued use of the reserve, having observed their operation during the busy summer season, considering that their attention to safety for all other reserve users and their customers was excellent. She was cognisant of the need for the panel's decision to be based on use of the reserve only.

The panel accepted the legal advice and the scope of the hearing and gave further consideration to an appropriate licence term. It was agreed that the initial recommendation of five years was appropriate. The panel also asked for clarification of a termination clause and this was circulated by Mrs Conroy on 10 August 2018.

The panel reviewed the proposed recommendation on 14 August 2018 and a subsequent minor amendment to the 'use' clause was made on 21 August 2018.

Legal advice on whether a bylaw would prevail over a resource consent was also sought on 21 August. The advice confirmed that any person with an existing resource consent would have to comply both with the conditions of their resource consent and any bylaw. It also noted that if the bylaw was more restrictive than the resource consent, it would still have to be complied with.

Following consideration of this additional information, the panel agreed unanimously to recommend to the Queenstown Lakes District Council that:

Queenstown Lakes District Council approve a licence to Go Jets Wanaka Ltd over recreation reserve at Albert Town, with legal description Lot 2 DP 375247, subject to the following terms and conditions:

Commencement	1 October 2018
Term	5 years
Rent	\$500.00 plus GST per annum
Reviews	At renewal
Renewals	1 of a further 5 years by agreement of both parties.
Assignment/Sublease	With Council's approval.
Use	Utilise the Albert Town reserve for loading and unloading of a boat and passengers for commercial jetboating trips. Frequency of trips to be periodically reviewed by Council
Insurance	Requirement to have public liability insurance of \$2 million
Other	Council to retain ability to suspend the licence for safety purposes or to avoid large public events. Health and Safety plan to be provided.

Council to retain the ability to suspend or terminate the activity within the reserve if required.

Licensee must ensure they hold a valid resource consent for the commercial jetboating trips.

The licensee to obtain a Commercial Activity Permit in accordance with the Waterways and Ramp Fees Bylaws (if required) or successors to this policy.

Licensee to ensure that all customers/staff are aware there is no bathroom facility at the reserve, and that all rubbish is to be removed.