

QUEENSTOWN LAKES DISTRICT COUNCIL

FOR MEETING OF 29 FEBRUARY 2008

Agenda for a meeting of the Queenstown Lakes District Council to be held in the Council Chambers, Gorge Road, Queenstown on Friday 29 February 2007 at 11 am.

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NOTES

1. Former Councillor, Christine Kelly, will be in attendance at the commencement of the meeting to receive a certificate of community service.
2. David Kennedy (Chief Executive, DQ) and Tony Warwick (Chairman, DQ Board) will be in attendance at the meeting from 12.00 noon for consideration of the Destination Queenstown report (item 11) and will join the Council for lunch at 12.30 pm.

QUEENSTOWN LAKES DISTRICT COUNCIL

Minutes of a meeting of the Queenstown Lakes District Council held in the Council Chambers on Wednesday 19 December 2007 commencing at 11.00 am.

OPENING

Mayor Geddes read the invocation.

PRESENT

Mayor Clive Geddes; Councillors Cocks, Gazzard, Gilmour, Macleod, Mann, Overton, Perkins, van Uden, J R Wilson and J S Wilson

IN ATTENDANCE

Messieurs Duncan Field (Chief Executive Officer), Stewart Burns (Finance Manager/Deputy Chief Executive Officer), Philip Pannett (General Manager, Policy and Planning), Mark Kunath (General Manager, Engineering Services), Paul Wilson (General Manager, Community Services), Gordon Bailey (Parks Manager), Denis Mander (Transportation Planning Manager), Daniel Wells (Policy Planner), Scott Figenshow (Senior Policy Analyst), Joshua Clydesdale (Senior Policy Analyst), Martin O'Malley (Project Manager, Lakes Engineering Ltd), Roger Taylor (Project Manager), Andrew Henderson (Planning Consultant, Boulder Planning Otago Ltd) and Stefan Borowy (Solid Waste Manager); Mesdames Jo Conroy (Lakes Property Services), Alyson Schuler (Senior Policy Analyst), Meaghan Miller (Communications Manager), Kelly Campbell (District Secretary and PA to Mayor & CEO) and Jane Robertson (Governance Officer); 4 members of the public and 3 media.

APOLOGIES

No apologies were received.

CONFIRMATION OF MINUTES

30 November 2007

On the motion of Councillors J R Wilson and Cocks Council resolved that the minutes of 30 November 2007 be confirmed as a true and correct record subject to the following amendment:

**Wanaka Community Facilities Working Party –
~~Councillor Overton~~ Councillor Cocks and Councillor
J S Wilson.**

MATTERS LYING ON THE TABLE

The item entitled 'Chief Executive's Review' was lying on the table from the Council meeting held on 30 November 2007.

On the motion of Mayor Geddes and Councillor Perkins Council resolved to uplift the item 'Chief Executive's Review' from the table, noting that it will be considered in the non-public section of the meeting.

NOTIFICATION OF URGENT BUSINESS

No items were raised

PUBLIC FORUM

Simon Hayes

Mr Hayes extended his congratulations to Councillors on their recent election.

Mr Hayes stated that he was appalled at the high cost of the new Frankton bus shelter and toilets. He urged Councillors, both new and returning, to challenge staff and consultants about project costs to ensure the best use of ratepayers' money. He questioned the proposed replacement of the Athol Street toilets with a bus shelter and expressed concern about the rumoured replacement of the toilets on the fairway at Frankton.

Mr Hayes stated that the disruption to pedestrian and vehicular traffic as a consequence of the restoration of the Mountaineer Building had adversely affected business turnover in the area. He believed that some signage could improve the situation, but this request had been declined by Lakes Environmental Ltd. Mr Hayes noted that the recent fire and subsequent demolition of the buildings on the opposite corner meant that the area would be a building site for some years to come and he asked Council to implement measures to assist retailers and restaurateurs in this area.

Tim Francis

Mr Francis addressed the Council in relation to agenda item 10 ('Ombudsmen Act Complaint') which dealt with a request for a right of way easement over reserve land at Frankton Beach. Mr Francis stated that he owned the property at 897 Frankton Road and he supported the staff recommendation to prevent vehicular access over the reserve.

Angus Gordon

Mr Gordon addressed the Council on agenda item 12 ('Notification of Plan Change 32 – Ballantyne Road Oxidation Ponds'). He stated that he was opposed to the proposed plan change and wanted the eastern side of Ballantyne Road to remain residential. Mr Gordon expressed the view that local residents did not want this area to be zoned for commercial or industrial development, believing that it was more appropriate to locate industrial activities at Wanaka airport.

Mr Gordon questioned the traffic count figures contained in the section 32 report, noting that he had personally observed much higher traffic movements. He had been given an assurance that traffic counters would be installed to obtain updated figures but he did not believe that these were yet in place.

1. **MAYOR'S AND CHAIRPERSONS' REPORTS**

Mayor's Report

Information:

- Heart of the District Awards
- Official opening of 'Santa's Christmas Grotto' – Queenstown Events Centre
- Old Courthouse opening function
- Meeting of Mayors, Chairs, CEOs triennial group, Alexandra
- Regional civil defence meeting, Alexandra
- Meeting of Otago Forward, Alexandra
- Attendance at presentation: 'Climate Change Impact on the Southern Lakes'
- Citizenship Ceremony
- Wakatipu High School prize giving
- Remarkable Christmas community concert
- RAC ['Regional Affairs Committee'] Flood Management meeting, Wellington

Utilities Committee – Councillor Mann

Information:

- Proposed Stopping of Legal Road – Park Street, Queenstown
- Temporary Road Closure – New Year Celebrations, Queenstown, 2007
- Road Naming – Off Lower Shotover Road, Queenstown Rural
- Engineering services Group December 2007 Report
- 2007/08 Capital Programme Implementation – December 2007
- Utilities Capex Projects Status Report
- Hansen Asset Management System
- Water and Wastewater Utilities Scoping Reports
- Luggate Water Supply Development Options Report
- Waste Management Progress Report
- Waste Management Contract Monitoring Report
- Monthly Roothing Report
- Scoping Report – Kane Road Seal Widening
- Wakatipu Transportation Strategy: Implementation
- Extension of Water and Wastewater Boundaries

Ratification:

- Parking Restrictions, Manata Park

Community Services Committee – Councillor Overton

Information:

- Appointment of Deputy Chairperson
- Monthly Update
- Property Update
- Request for new lease – Skyline Enterprises
- Management of Community Owned Buildings
- Bylaw Proposal for Skin Piercing Activities
- Bylaw Proposal: Grading Food Premises
- Marine Parade Reserve Development
- Service Level Review

Ratification:

- Draft Fire and Smoke Prevention Bylaw 2007*
- Naming of Parks and Reserves
- Parking Restrictions, Manata Park

NOTE: *This matter is considered separately under item 4 of these minutes.

Strategy Committee – Councillor Macleod

Information:

- Appointment of Deputy Chairperson
- Current Projects and Future Priorities
- Update on Plan Changes to the District Plan
- Non-residential Activities/Home Occupation in Residential Environments
- Change to the Scope of Proposed Plan Change 25: Kingston
- NZAIA [New Zealand Association for Impact Assessment] Conference: 'Assessing the Impacts of Growth on our Urban Areas'

Ratification:

- Wanaka Structure Plan Review**
- Plan Change 28: Trails
- Plan Change 28 and 29: Scope for Plan Changes – Urban Growth Boundaries for Queenstown and Arrowtown

NOTE: **This matter is considered separately under item 11 of these minutes.

Finance and Corporate Accountability Committee – Councillor J S Wilson

Information:

- Finance and Corporate Accountability Committee Objectives
- Property Subcommittee minutes
- Tenders Board minutes
- Queenstown Lakes District Council Holiday Parks Quarterly Report
- Queenstown Events Centre Trust 2006/07 Annual Report
- Queenstown Airport Corporation 2006/07 Annual Report

Wanaka Community Board – Chair, Councillor Cocks

Information:

- Elected member remuneration, 2007/08
- Lease to the Wanaka Rowing Club for a new building at Eely Point
- Wanaka Structure Plan Review
- Hawea to Wanaka Cycling and walking Track
- Wanaka Transportation Strategy
- Scoping Report – Kane Road Seal Widening
- Project Pure Update
- Chairperson's report
- Service Centre Manager's Monthly Report

Ratification:

- Roothing Access to New Wanaka Primary School
 - Bus Parks in Wanaka
- Councillor Cocks observed that the discussion about the Wanaka Structure Plan had generated significant interest throughout the community, with a large number of members of the public attending the Wanaka Community Board meeting held the previous day. Many had taken the opportunity to speak in the public forum and a summary of their comments had been circulated to all Councillors to provide a sense of the tenor of the discussion.
 - Councillor Cocks advised that the Board had not specified the funding provision required in the 2008/09 Annual Plan for the roading access to the new Wanaka Primary School because the private/public benefit still needed to be determined.

On the motion of Councillors Overton and Mann it was resolved:

1. That the Mayor's and Committee Chairpersons' reports be received.

2. Utilities Committee/Community Services Committee

- a) *Parking Restrictions, Manata Park*

That a parking restriction be applied to the public car park located in Manata Park, Fernhill; and

That parking is limited to the marked car parks within the reserve and restricted to 120 minutes between the hours of 6AM to 10PM seven days per week.

- 3, Community Services Committee

- a) *Naming of Parks and Reserves*

That Lot 312 DP 329276 be named McBride Park.

4. Strategy Committee

- a) *Plan Change 28: Trails*

That Plan Change 28: Trails be adopted for notification in January 2008.

- b) *Plan Change 29 and 30: Scope for Plan Changes – Urban Growth Boundaries for Queenstown and Arrowtown*

That a Working Party comprising Councillors Gazzard, Perkins and J R Wilson be established to assist staff in Plan Changes 29 and 30.

5. Wanaka Community Board

- a) *Roading Access to the New Wanaka Primary School*

That subject to negotiations, the Council's share of the project be included in the 2008/09 QLDC Annual Plan for the new Wanaka Primary School roading access.

b) Bus Parks in Wanaka

- i. That in accordance with section 7.1 of the Traffic and Parking Bylaw 2006 that the bus stops in Dungarvon Street and in the waterfront car park as identified on the attached plan [Appendix 1] be converted to P120 bus parks;
- ii. That signage in accordance with the Traffic Regulations 1976 be erected; and
- iii. That the GIS system be updated with the above information.

2. CHIEF EXECUTIVE'S REPORT

- A report from the Chief Executive dated 10 December 2007 updated the Council on the following matters:
 - Recipients at 'Heart of the District Awards'
 - Plans to establish a Coast Guard operation on Lake Wakatipu
 - Impacts on water supply/infrastructure of the expected dry summer
 - Gravel extraction on the Shotover Delta
 - High Court action – Mt Field vs QLDC
- Councillor Gilmour suggested that a photograph of the Mt Field site would help Councillors to understand the level of visual impact.
- Councillor van Uden noted her ongoing desire to be involved in discussions regarding gravel extraction on the Shotover Delta.

**On the motion of Councillors Macleod and Gazzard
the Council resolved that the report be received.**

3. AFFORDABLE HOUSING: ENABLING TERRITORIAL AUTHORITIES BILL

- A report from Scott Figenshow dated 6 December 2007 provided detail on the provisions contained in the *Affordable Housing: Enabling Territorial Authorities Bill*. Given the significance of this Bill on the Council's own efforts on affordable housing, the report suggested that it was important to make a submission to the Select Committee. Although the deadline for submissions was not known, because the next ordinary Council meeting was not scheduled until late February 2008, delegated authority was sought to make a submission.
- Mr Pannett and Mr Figenshow joined the table for discussion of this item.
- Mayor Geddes agreed that this was a major issue for the district and it would be appropriate in due course for Council representatives to attend the Select Committee meeting to speak to the Council's submission.

**On the motion of Councillors Macleod and Gilmour
the Council resolved:**

1. That the report be received; and

2. **That the Council delegate to the Mayor and Chair of Strategy Committee (or in the absence, Deputy Chair) the authority to approve the Council's submission on the Affordable Housing: Enabling Territorial Authorities Bill.**

4. DRAFT FIRE AND SMOKE PREVENTION BY-LAW 2007

- A report from Gordon Bailey (Parks Manager) dated 11 December 2007 set out a proposed new bylaw for the prevention of fire and smoke within the Queenstown Lakes District. Appended to the report was the draft bylaw. The Community Services Committee had considered the draft bylaw at its meeting held on 4 December 2007 and made some minor amendments. It was recommended that the draft Fire and Smoke Prevention Bylaw proceed through the special consultative process in accordance with the *Local Government Act 2002*.
- Mr Bailey joined the table for the discussion.
- Mr Bailey confirmed that the use of braziers and chimineres would be restricted by the proposed bylaw.
- The Chief Executive advised that bylaws were retrospective, meaning that that structures consented to under the previous bylaw would become illegal under the new bylaw. He added that the Council may choose to grandfather or provide some type of dispensation in these cases. It was suggested that to address this, the Council make a submission to the draft bylaw.
- Councillor Gilmour expressed concern that the present definition would allow a traditional cooking fire to be constructed on a property boundary. She asked that provision of a suitable boundary limit for traditional cooking fires be included within the Council's submission.
- Mr Bailey stated that Department of Conservation ['DOC'] land was not covered by the bylaw, DOC being its own rural fire authority. Councillor Mann observed that DOC retained jurisdiction where DOC land overlaid private land in the rural residential zone. He advised that staff were working to address this issue so that the bylaw would apply in these areas.

**On the motion of Councillors Overton and Macleod
Council resolved that:**

- a. **Commences by way of special consultative procedure, the introduction of this Draft Queenstown Lakes District Council Fire and Smoke Prevention Bylaw 2007 in the form submitted as part of this report;**
- b. **Approve the attached bylaw as satisfying the requirements of the Local Government Act 2002 in that regard;**
- c. **Appoint a hearings panel consisting of Councillors Overton, Perkins and van Uden to hear public submissions.**

5. **CLASSIFICATION OF RECREATION RESERVE – FRANKTON**

- A report from Joanne Conroy dated 5 December 2007 advised that a recreation reserve at Frankton (Lot 7 DP 22945) needed to be classified in accordance with the *Reserves Act 1977* to facilitate an access road to service the Abbeyfield House.
- Mrs Conroy joined the table for discussion of the item. She noted that this step had previously been overlooked and the procedure was simply to formalise an existing situation.

**On the motion of Councillors van Uden and Mann
Council resolved:**

1. That this report be received and;
2. That the Queenstown Lakes District Council approve classification of Lot 7 DP 22945 as recreation reserve.

6. **BYLAW REPORT: STANLEY STREET PARKING INFORMATION LAY-BY**

- A report from Denis Mander (Transportation Planning Manager) dated 9 December 2007 sought approval to amend the Council's bylaws to enable the temporary operation of a parking information lay-by area on Stanley Street between 29 December 2007 and 6 January 2008.
- Mr Mander joined the table for this and the two following items.
- A question was raised about information for people travelling by boat. Mr Mander advised that the intention was to take a more comprehensive approach to different modes of transport for the 2008 Christmas period.
- Concern was expressed about the adverse effect of the pedestrian crossing outside the Court House on traffic flows on Stanley Street. Mr Mander advised that LTNZ had recommended the implementation of a short term traffic management plan to address this problem in 2008.

**On the motion of Councillors Mann and Perkins
Council resolved that between 10:00am and 3:00pm each day from 29th December 2007 to 4th January 2008 (inclusive), a P2 parking restriction applies to the southern side of Stanley Street, commencing from the western end of the no stopping area at the junction of Stanley Street and Frankton Road, and extending west for 25m.**

7. **LAND TRANSPORT MANAGEMENT ACT AMENDMENT BILL 2007**

- A report from Denis Mander (Transportation Planning Manager) dated 25 November 2007 detailed the contents of the *Land Transport Management Act Amendment Bill 2007* and appended a draft submission.
- Members observed that this was a very important piece of legislation with the potential to have major impacts on the district. Strong support was expressed for making a submission.

**On the motion of Councillors van Uden and Gazzard
Council resolved:**

1. That this report be received; and
2. That the Council delegate to the Mayor and Chair of Utilities Committee the authority to approve the Council's submission on the Land Transport Management Act Amendment Bill 2007 to Parliament's Transport and Industrial Relations Select Committee.

8. WAKATIPU TRANSPORTATION STRATEGY – IMPLEMENTATION STEERING GROUP

- A report from Denis Mander (Transportation Planning Manager) dated 25 November 2007 set out the implementation of the Wakatipu Transportation Strategy and sought political representation on a joint steering group to oversee the work.
- Mr Mander reported that the Otago Regional Council had considered a similar report at a meeting held on 12 December and the Council had endorsed the purpose of the steering group and appointed members to it.

**On the motion of Councillors Cocks and Gilmour
Council resolved that:**

1. This report be received;
2. The 'Otago Regional Council Joint Public Transport Committee' formed at the Council meeting held on 30 November 2007 be disestablished;
3. The Council approve the establishment of the Wakatipu Transportation Strategy Implementation Steering Group with the ORC, Transit New Zealand and Land Transport New Zealand; and
4. The Mayor and the Chairperson of the Utilities Committee be appointed to the Wakatipu Transportation Strategy Implementation Steering Group.

9. SHOTOVER SEWAGE TREATMENT FACILITY DISCHARGE UPGRADE – OPTION SELECTION

- A report from Mark Kunath (General Manager, Engineering Services) and Martin O'Malley (Project Manager, Lakes Engineering Ltd) dated 6 December 2007 assessed the options for the Shotover Sewage Treatment Facility discharge site.
- Mr O'Malley and Mr Kunath joined the table.

- It was noted that the financial estimates provided within the report should have a factor of +/- 20%. There were also some exclusions from the estimates provided.
- The project was deemed to be 'significant' in accordance with Council's Significance Policy and consultation would occur as part of the preparation of the 2009 – 2019 LTCCP.

On the motion of Councillors Perkins and Macleod it was resolved that:

- 1. This report be received;**
 - 2. Council approve Option 2, Land Disposal on the Shotover Delta, as the recommended disposal option from the Shotover Wastewater Treatment Plant for the renewal of the wastewater discharge consent;**
 - 3. Council endorse further consultation and communication before lodging the consent application; and**
 - 4. Adequate financial provision be made in the 2008-09 Annual Plan and the 2009-2019 Long Term Council Community Plan for the project.**
- Mayor Geddes paid tribute to the work of Martin O'Malley in reaching this point of the project, noting that his efforts had been key in allowing the Council to select option 2 with such confidence.

10. OMBUDSMEN ACT COMPLAINT

- A report dated 7 December 2007 from Roger Taylor (Project Manager) set out the details of a complaint being investigated by the Office of the Ombudsmen regarding a decision to erect a fence restricting vehicle access to the Frankton Reserve. The report sought the Council's confirmation of the resolutions of the Community Services Committee in December 2006 in relation to this issue, namely, that an easement be declined.
- Roger Taylor and Paul Wilson joined the table for discussion of the item.
- Mr Taylor confirmed that a decision of the full Council was binding and in accordance with section 13 of the *Ombudsmen Act 1975*, the Ombudsmen had no authority to pursue the matter.
- Mr Taylor and Mr Wilson commented further on the background to the report, noting that discussions with complainants had been extensive. Mr Wilson stated that it was the staff recommendation that for the safety of pedestrians and cyclists using the Frankton Walkway, it was undesirable to permit vehicle access onto the reserve.
- Councillor Gilmour expressed a desire to broker a compromise solution with complainants. Mayor Geddes ruled that he would not permit consideration of alternative outcomes, with Councillors required either to support or oppose the report's recommendation to confirm the decision of the Community Services Committee.

On the motion of Councillors J R Wilson and Overton it was resolved that the Council confirm the decisions of the Community Services Committee at its meeting in December 2006:

- a. That the request from Mr McMillan to grant an easement over the Frankton Domain in favour of 935 Frankton Road for private vehicle access be declined.**
- b. That a post and chain fence be erected on the Frankton Domain along the common boundary of the reserve and 881 – 935 Frankton Road with provision for pedestrian access only from each property onto the reserve.**

Councillors Gilmour and van Uden recorded their votes against the motion.

11. WANAKA STRUCTURE PLAN REVIEW

- A report from Joshua Clydesdale (Senior Policy Analyst) dated 12 December 2007 presented the Wanaka Structure Plan for adoption.
- Mr Clydesdale and Mr Pannett (General Manager, Policy and Planning) joined the table for discussion of this item.
- Mr Clydesdale reported that the only substantial change arising from the Wanaka Community Board meeting held the previous day was a minor adjustment to the location of the outer growth boundary to include some properties to the south of Riverbank Road.
- Councillor J S Wilson advised that comment at the Board meeting had revealed continued confusion about the structure plan's planning objectives and zonings. Staff advised that the structure plan was a non-statutory document which would be included in the District Plan via a series of plan change processes. Councillor Cocks observed that the vitality of the town centre had also attracted much comment and the Board regarded the Town Centre Plan as a high priority.
- Mayor Geddes stated that he perceived a lack of community understanding about the process for the Wanaka Structure Plan from this point. He suggested that a communications strategy was necessary to address this. Mr Pannett confirmed that a communications plan was in place for this purpose.

On the motion of Councillors Macleod and Overton it was resolved:

- 1. That the report be received;**
- 2. That Council adopt the Wanaka Structure Plan;
and**
- 3. That Council implement the Wanaka Structure Plan in the District Plan through a series of Plan Change processes.**

12. NOTIFICATION OF PLAN CHANGE 32: BALLANTYNE ROAD OXIDATION PONDS, WANAKA

- A report from Joshua Clydesdale (Senior Policy Analyst) dated 11 December 2007 set out the reasons for the proposed Plan Change 32: Ballantyne Road Oxidation Ponds, Wanaka and sought the Council's approval for the Plan Change to be publicly notified.
- Mr Clydesdale and Andrew Henderson (Boulder Planning Otago Ltd) joined the table to speak to the report.
- In response to the comments made in the Public Forum, Mr Clydesdale advised that he was happy to make copies of all plan change documentation available to Mr Gordon.
- A number of questions were raised about the consideration of other areas able to accommodate industrial activity. Mr Clydesdale stated that broad consideration of other sites around Wanaka had been undertaken as part of the section 32 analysis, but the direction indicated by this plan change had come from a strong past body of strategic work which identified that the area of the oxidation ponds was the preferred site for the industrial zone in the Wanaka area. Technical assessments also indicated that the activities which could eventuate as a result of the plan change were compatible with existing activities and would strengthen the industrial hub of the township.

On the motion of Councillors Macleod and Overton it was resolved that Council approve Plan Change 32 for notification and proceed to public notification in accordance with the 1st Schedule of the Resource Management Act 1991.

The meeting adjourned at 12.53 pm and reconvened at 1.25 pm.

On the motion of Councillors Perkins and J R Wilson Council resolved that the public be excluded from the following parts of the proceedings of the meeting:

Item 13:	Proposed Land Purchase
Item 14:	Frankton Flats and Related Land Issues
Item 15:	Chief Executive's Review

The general subject of the matters to be discussed while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(a) of the Local Government Information and Meetings Act 1987 for the passing of this resolution is as follows:

General subject to be considered.	Reason for passing this resolution.	Grounds under Section 7 for the passing of this resolution.
13. Proposed Land Purchase	<p>That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to:</p> <p>(i) enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial negotiations;</p>	Sections 7(2)(i)
14. Frankton Flat and Related Land Issues	<p>That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to:</p> <p>(f) maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority;</p> <p>(g) maintain legal professional privilege;</p> <p>(i) enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial negotiations;</p>	Sections 7(2)(f), (g) & (i)
15. Chief Executive's Review	<p>That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to:</p> <p>(a) Protect the privacy of natural persons, including that of deceased natural persons;</p>	Sections 7(2)(a)

This resolution is made in reliance on Section 48 [1] [a] of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982 as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above with respect to each item.

PUBLIC EXCLUDED**13. PROPOSED LAND PURCHASE**

- A report from Stefan Borowy (Solid Waste Manager) advised of two parcels of land available for purchase in the Gibbston Character Zone opposite the Victoria Flats Landfill which, for long-term strategic reasons, it would be beneficial for the Council to purchase. Lot 3 was available for \$1.35 million and Lot 4 for \$1.47 million. It was noted that lot 4 had resource consent for a whisky distillery and two residential dwellings.
- Stefan Borowy joined the table for discussion of this item.
- Councillors acknowledged the strategic importance of this area as an entrance to Queenstown and to safeguard the site of the district's landfill, especially in relation to reverse sensitivity issues. However, some concern was expressed about the level of the proposed expenditure, particularly as no specific purpose for the land had been identified. Further, as a matter of 'significance', the *Local Government Act 2002* required the special consultative procedure to be invoked.
- Some funding provision had been made in the current year's budget for ad hoc land purchases for waste management purposes, although no funding for this purchase had been specifically identified in the 2007/08 Annual Plan or LTCCP. Council would therefore have to determine how the purchase would be funded.
- The Chief Executive advised that depending upon progress with negotiations, an extraordinary Council meeting may be required at short notice to authorise an offer.

On the motion of Councillors van Uden and J R Wilson it was resolved that the Council:

- 1. Agrees in principle to the purchase of two parcels of land (Lot 3 and Lot 4) opposite Victoria Flats Landfill;**
- 2. Authorises the Chief Executive to enter into a conditional contract for the purchase of these Lots for up to \$1.35 million for Lot 3 and \$1.5 million for Lot 4;**
- 3. Agrees that up to \$1.58 million of the proposed purchases shall be funded from funds available in 2007/08 Annual Plan, with the balance to be funded from the 2008/09 Annual Plan.**

14. FRANKTON FLATS AND RELATED LAND ISSUES

- A report from the Chief Executive dated 13 December 2007 gave a progress update on a variety of issues under discussion with Mr D Henderson. The individual matters were as follows:

- Land Swap (QLDC/5 Mile)
 - Grant Road Roundabout
 - Glenda Drive
 - Gibbston Water Services
 - Rafters Road
- The Chief Executive advised that he now needed some direction from Council in order to progress these matters. He stressed that each needed to be considered independently of the other, with no comprehensive 'deal' possible.
 - It was noted that a letter had been received from Five Mile's legal counsel expressing concern at delays in finalising the land swap; however, at the meeting of 11 December 2007 a reversion to the original land swap was proposed. The Chief Executive summarised the new proposal, drawing attention to the draft agreement contained in the agenda papers.
 - In relation to the Glenda Drive roundabout, it was reported that Transit New Zealand was hopeful of completing construction by mid-2008, although this was contingent upon successful conclusion of negotiations with Mr Henderson.

On the motion of Councillors J R Wilson and Macleod it was resolved that the Council:

- a) **Receive this report;**
- b) **Authorise the Chief Executive to conclude the land swap with 5 Mile on the basis proposed in this report;**
- c) **Authorise the Chief Executive to initiate further work on design of an alternative water scheme for Gibbston;**
- d) **Confirm the general tenor of this report regarding Council's ongoing response to its relationship with Mr Henderson; and**
- e) **Acknowledge specifically those parts of this report dealing with:**
 - i. **The view taken that issues with Mr Henderson's companies, over a wide range of locations and activities, need to be addressed on a site and issue specific basis due to legal and other requirements.**
 - ii. **The view that Council has not, and cannot, allow agreements between QLDC, QAC and RPL to govern the Council in its regulatory capacity (e.g. in decisions to initiate and determine changes to the District Plan, or in processing resource (or other) consents.**

All staff left the meeting at this point except the Governance Officer.

15. **CHIEF EXECUTIVE'S REVIEW**

- Consideration was given to a report from Mayor Geddes which outlined the procedure for the Chief Executive's annual performance review. The report observed that the review period was for the 2006/07 year meaning it was more properly the responsibility of the previous Council, but the process had not been completed prior to the triennial election. To avoid this 'slippage' in the future, the report also recommended a procedure and timetable for the 2007/08 review.

Councillor Gazzard moved/Councillor Mann seconded that the report be received and:

- a) That Council accept the recommendations of the CEO Performance Review Panel for the 2006/07 year, namely:**

That full at risk amount of \$12,000 be paid;

That the Council retain its policy line of 110% of the midpoint of the salary range and set the Chief Executive's salary at a total package of \$277,785 including the fixed benefit of a vehicle and an element of 'at risk'.

- b) That Council appoint the Mayor and two Councillors to the CEO Performance Review Panel for the 2007/08 year and report to Council by 27 September 2008.**

- Councillor van Uden expressed concern about some aspects of the Chief Executive's performance and stated that she was reluctant to support the Performance Review Panel's recommendation. Mayor Geddes emphasised that the review period preceded the election of the present Council.
- Further information on the Mercer system was sought. With the consent of the mover and seconder Mayor Geddes explained the principles of the Mercer system.

Councillor van Uden asked for the two parts of the motion to be taken separately.

Part (a) of the motion was put and carried with Councillors Cocks and Gilmour recording their votes against the motion and Councillors van Uden and Macleod abstaining.

With the agreement of the mover and seconder, part (b) was amended to read:

- b) That Council appoint the Mayor and three Councillors to the CEO Performance Review Panel for the 2007/08 year, namely Councillors Gazzard, van Uden and J S Wilson and report to Council by 27 September 2008.**

Part (b) of the motion was put and carried.

**On the motion of Councillors Cocks/van Uden
Council resolved to move out of Public Excluded.**

The meeting concluded at 4.00 pm.

CONFIRMED AS TRUE AND CORRECT RECORD

CHAIRPERSON:

QUEENSTOWN LAKES DISTRICT COUNCIL

Minutes of an extraordinary meeting of the Queenstown Lakes District Council held in the Council Chambers on Tuesday 8 January 2008 commencing at 9.00 am.

PRESENT

Mayor Clive Geddes; Councillors Cocks, Gazzard, Gilmour, Overton, Perkins, van Uden, J R Wilson and J S Wilson

IN ATTENDANCE

Messieurs Duncan Field (Chief Executive Officer), Stewart Burns (Finance Manager/Deputy Chief Executive Officer), Stefan Borowy (Solid Waste Manager), Graeme Todd (Legal Counsel); Mesdames Kelly Campbell (PA to Mayor/Chief Executive and District Secretary) and Jane Robertson (Governance Officer)

APOLOGIES

Apologies were received from Councillors Macleod and Mann.

**On the motion of Councillors Perkins and Gilmour
Council resolved to accept the apologies.**

RESOLUTION TO EXCLUDE THE PUBLIC

On the motion of Councillors J R Wilson and Perkins Council resolved that the public be excluded from the following parts of the proceedings of the meeting:

Item 1: Purchase of land - Gibbston

The general subject of the matters to be discussed while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(a) of the Local Government Information and Meetings Act 1987 for the passing of this resolution is as follows:

General subject to be considered.	Reason for passing this resolution.	Grounds under Section 7 for the passing of this resolution.
1. Purchase of land Gibbston	-That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to: (i) Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations);	Section 7(2)(i)

This resolution is made in reliance on Section 48 [1] [a] of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982 as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above with respect to each item.

PUBLIC EXCLUDED**1. PURCHASE OF LAND – GIBBSTON**

- The Chief Executive outlined progress since the Council's resolution on 19 December 2007 authorising him to enter into conditional contracts to purchase two properties on the lower side of State Highway 6 between the Nevis Bluff and Victoria Bridge at a maximum purchase price of \$1.35M and \$1.5 M respectively. Since this time, conditional offers of \$900,000+GST and \$1.47M+GST for Lots 3 and 4 respectively had been made, subject to Council's resolution prior to 9 January 2008.
- Since the Council meeting on 19 December an adjacent property covering an unsubdivided area of the Mt Rosa Station had been offered to Council for an asking price of \$1.35M. Together, the three properties covered all the land between Nevis Bluff and Victoria Bridge.
- The Chief Executive observed that the vendor of Lot 4 appeared to have increased the asking price from \$1.47M to \$2.2M when he was made aware of the Council's involvement. Further, the vendor of Lot 3 had responded to the offer of \$900,000 with a counter-offer of \$1.35M. Concern was expressed that the asking prices for both Lots 3 and 4 were beyond reasonable expectation.
- Discussion focussed on the rationale for making the purchase, including the strategic significance of this land to the landfill and the importance of protecting the gateway to Queenstown.
- It was noted that a covenant was in place in respect to Lot 4, protecting the Council against reverse sensitivity issues in relation to the landfill. This had come about through the resource consent process and could be achieved on adjacent parcels if resource consent was sought. Mr Todd indicated that the protection afforded by a covenant was solid. Accordingly, the Council concluded that it was not imperative to purchase Lot 3 to protect the landfill against reverse sensitivity issues.
- Questions were raised about whether this area could be regarded as Queenstown's 'gateway'. Members observed that no such provision had been made at other areas on the district's periphery.
- Mayor Geddes stated that the Council was able to make a decision on these proposed land purchases although the expenditure was not identified in the current Annual Plan or LTCCP. To ensure accountability, any decision would have to provide robust reasons demonstrating why the Council had not fulfilled the provisions of the *Local Government Act 2002*.
- Mayor Geddes suggested that the options open to Council were either to:
 - (a) leave the current offers in place for 30 days; or
 - (b) withdraw from negotiations.

- Following considerable discussion, the view was formed that neither waste management nor gateway purposes provided sufficient justification for proceeding with the purchases. Accordingly, the Council concluded that it was not appropriate to continue with the proposed purchase.

On the motion of Councillor Gilmour and Gazzard it was resolved that the Council withdraw from negotiations in respect to the purchase of land in the Gibbston/Nevis area.

Councillor Van Uden recorded her vote against the motion.

On the motion of Councillors Cocks and Gilmour Council resolved that the meeting move out of public excluded.

The meeting concluded at 9.40 am.

CONFIRMED AS TRUE AND CORRECT RECORD

CHAIRPERSON:

QUEENSTOWN LAKES DISTRICT COUNCIL

FOR MEETING OF 29 FEBRUARY 2008

REPORT FOR AGENDA ITEM: 1

SUBMITTED BY: Chief Executive

REPORT DATED: 19 February 2008

MAYOR'S AND COMMITTEE CHAIRPERSONS' REPORTS

Mayor's Report

Information:

- Opening of National Rugby Sevens
- Mt Barker Residents' Association
- Central Employment Trust
- Wanaka Residents' Association
- Opening of new shelter, Routeburn Track
- First board meeting of Lakes Leisure and presentation to outgoing directors
- Upper Clutha Sporting Facilities Working Party meeting
- Otago Forward meeting
- Te Wai Pounamu Treaty Festival, Otakou Marae
- Otago Design Institute
- Quarterly meeting with Queenstown Chamber of Commerce
- Attendance at address by Youth Court Principal Judge, Andrew Becroft
- Annual General Meeting of Kelvin Peninsula Community Association
- Liquor Liaison Committee meeting
- Meeting re Kelvin Heights Golf Club Tree Planting Enhancement
- Community Engagement workshop
- Meeting with Chair/CEO, Otago Chamber of Commerce
- Citizenship Ceremony

Utilities Committee – Councillor Mann

Information:

- Temporary Road Closure – Mountain Bike and Run Race (Motatapu Icebreaker) 2008*
- Road Naming – Off Morning Star Terrace, Arthur's Point
- Queenstown Mountain Bike Club – Gorge Road Jump Park Extension
- 2007/08 Capital Programme Implementation to 31 December 2007
- Water and Waste Update Report
- Utilities Capex Projects Status Report
- Waster Supply Demand Management
- Water and Wastewater Utilities Scoping Reports
- Waste Management Contract Monitoring Report
- Monthly Roading Report
- Scoping Report – 25 Mile Bridge Widening
- Scoping Report – Gorge Road Improvements
- Scoping Report – Robins Road/Hamilton Road Upgrade
- Scoping Report – Perkins Road Improvements
- Camp Street Nigh Work CBD Upgrade
- Bus Stop Facilities – Wakatipu Basin
- Bus Stop Legalisation**
- JDMA Properties – McBride Street
- Wakatipu Transportation Strategy: Implementation – Progress Report
- Five Mile Haul Road – **PUBLIC EXCLUDED ITEM**
- Tender Evaluation – Refuse and Litter Bin Collection Service – **PUBLIC EXCLUDED ITEM**

Ratification:

- Temporary Road Closure – Real Women’s Duathlon
- Temporary Road Closure – World Golden Oldies Cricket Welcome Function

**NOTE: An amendment is sought to the road closure approved by the Utilities Committee for the ‘Mototapu Icebreaker’ event, and is therefore the subject of a separate report on this agenda.*

***NOTE: Bus Stop Legalisation is the subject of a separate report on this agenda.*

Community Services Committee – Councillor Overton

Information:

- Monthly Update
- Proposed Playground Upgrade, Queenstown Bay (*Part 1 of resolution*)
- Playground Renewal and Development Report
- Frankton Domain Development
- Butler Green Toilet
- Lake Hayes Reserve
- Queenstown Mountain Bike Club – Gorge Road Jump Park Extension

Ratification:

- Proposed Playground Upgrade, Queenstown Bay (*Part 2 of resolution*)
- Queenstown Maintenance Depot
- Monaghan Holdings Limited (RM071181) – Vesting Land as Reserve (Walnut Grove)
- Acquisition of Reserve Land in Kingston – **PUBLIC EXCLUDED ITEM**

Strategy Committee – Councillor J R Wilson

Information:

- Update on Plan Changes Underway and Request for Working Party for Wanaka Structure Plan Implementation (*Part 1 of resolution*)
- Changes to Tenure Review Process and Notification of Formal Consultation on Tenure Review of Allandale-Greenvale Pastoral Lease
- Decisions released on Otago Regional Council Proposed Pest Management Strategy (*Part 1 of resolution*)
- Identification of Areas of Significant Indigenous Vegetation
- Improving Arrowtown’s Winter Air Quality (*Parts 1 and 2 of resolution*)
- Update on Plan Change 19 – Frankton Flats (B)
- Update on Growth Projections and Dwelling Capacity in the District
- Plan Change 11B: Definition of Ground Level
- Visitor Accommodation and Residential Amenity: Proposed Plan Change 23 Update (*Part 1 of resolution*)
- Sustainable Transport: Update of the New Zealand Transport Strategy

Ratification:

- Update on Plan Changes Underway and Request for Working Party for Wanaka Structure Plan Implementation (*Part 2 of resolution*)
- Decisions released on Otago Regional Council Proposed Pest Management Strategy (*Part 2 of resolution*)
- Improving Arrowtown’s Winter Air Quality (*Part 3 of resolution*)
- Visitor Accommodation and Residential Amenity: Proposed Plan Change 23 Update (*Part 2 of resolution*)
- Summary of Appeals on Plan Changes 6, 8 and 10 – **PUBLIC EXCLUDED ITEM**

Finance and Corporate Accountability Committee – Councillor J S Wilson

No meeting was held in February 2008.

Wanaka Community Board – Chair, Councillor Cocks

Information:

- Temporary Road Closure – Mountain Bike and Run Race (Motatapu Icebreaker) 2008
- Kennedy Crescent Walkway
- Wanaka Sports Facilities Working Party
- Engineering Services Report
- Wanaka Transportation and Parking Strategy*
- Wanaka Primary School Parking
- Project Update (Community Services)
- Tenby Street Maintenance Depot (*Part 2 of resolution*)
- Chairperson's Report
- Service Centre Manager's Monthly Report

Ratification:

- Temporary Road Closure – Upper Clutha A & P Show 2008
- Lismore Park, Kelly's Flat and Allenby Park Management Plan
- Proposal to Vest Reserve: Riverside Stage 6
- Tenby Street Maintenance Depot (*Parts 1 and 3 of resolution*)

**NOTE: The Board's recommendation will be considered by the Strategy Committee at its March 2008 meeting and thereafter, by the full Council.*

RECOMMENDATIONS

1. That the Mayor's and Committee Chairpersons' reports be received.

2. Utilities Committee

a) Temporary Road Closure – Real Women's Duathlon

That the following road be closed subject to:

- i) Approval of the final Traffic Management Plan by QLDC Engineering.**
- ii) Suitable radio advertising on the morning of the event and for two days prior.**
- iii) The event organisers arranging suitable disposal methods for rubbish/refuse and for recycling.**

Road to be Closed: Malaghans Road from Manse Road to Hunter Road

Period of Closure: 9.00 am to 11.00 am, Sunday 30 March 2008

b) Temporary Road Closure – World Golden Oldies Cricket Welcome Function 2008

That the following road be closed subject to:

- i) Approval of the Traffic Management Plan by Lakes Engineering.**
- ii) Radio advertising on the morning of the event and for two days prior.**

- iii) The event organisers ensuring suitable disposal and recycling methods for rubbish/refuse.
- iv) A copy of the affected party notice being supplied to Lakes Environmental Limited.

Road to be Closed: Buckingham Street from Berkshire Street to Wiltshire Street.

Period of Closure: Saturday 8th March 2008 from 6 pm to 8 am
Sunday the 9th of March 2008; and

Sunday the 9th of March 2008 from 1 pm until
8 am Monday the 10th of March 2008.

3. Community Services Committee

a) *Proposed Playground Upgrade, Queenstown Bay (Part 2 of resolution)*

That a budget of \$500,000 be included in the 2008-2009 Annual Plan for the upgrade of the Queenstown Bay Playground.

b) *Queenstown Maintenance Depot*

- i) (a) That an allocation of \$200,000 be provided in the 2008/2009 Annual Plan to fund completion of the project; and
- (b) That the CEO be authorised to award the construction contract subject to an acceptable tender being received.

ii) That a working party consisting of Councillors van Uden, Gilmour and J R Wilson be established to assist the project manager in implementing the project.

iii) That the Terms of Reference be to:

- Receive the tender evaluation report from the project manager and make decisions on building modifications, additions or deletions to be made prior to awarding the construction contract;
- Receive regular progress reports from the project manager and provide regular updates to the Community Services Committee; and
- Review any issues referred to the working party by the project manager that arise during the consent, tender and construction phase and make decisions within the budget provision provided.

c) *Monaghan Holdings Limited (RM071181) – Vesting Land as Reserve (Walnut Grove)*

That subject to approval of RM071181 that the Council accept:

- i) The vesting of Lot 302 DP336365 as Recreation Reserve in lieu of reserve land contributions payable subject to the reserve being vested in accordance with NZS4404 Section 7 and 8; and

- ii) An easement in gross over Lot 64 and 72 for pedestrian access.
- d) *Acquisition of Reserve Land at Kingston – PUBLIC EXCLUDED ITEM*

That the item be noted and that the recommendation be considered in the public excluded part of the meeting.

4. Strategy Committee

- a) *Update on Plan Changes Underway and Request for Working Party for Wanaka Structure Plan Implementation (Part 2 of resolution)*

That the Three Parks Plan Change Working Party be disbanded and that the Wanaka Structure Plan Implementation Working Party be formed, with membership to be as nominated by Council.

- b) *Otago Regional Council Proposed Pest Management Strategy (Part 2 of resolution)*

That options for managing pests in our urban areas be investigated further.

- c) *Improving Arrowtown's Winter Air Quality (Part 3 of resolution)*

That the Chief Executive be authorised to lodge an application for Council to be party to an appeal under Section 274 of the Resource Management Act 1991.

- d) *Visitor Accommodation and Residential Amenity: Proposed Plan Change 23 Update (Part 2 of resolution)*

That a working party to progress this project and establish a set of recommendations for public consultation be appointed.

- e) *Summary of Appeals on Plan Changes 6, 8 and 10 – PUBLIC EXCLUDED ITEM*

That the item be noted and that the recommendation be considered in the public excluded part of the meeting.

5. Wanaka Community Board

- a) *Temporary Road Closure – Upper Clutha A & P Show 2008*

That the following road be closed subject to:

- i) Approval of the final Traffic Management Plan by Lakes Engineering
- ii) Radio advertising two days prior and on the morning of the event.
- iii) The event organisers arranging suitable disposal methods for rubbish/refuse and recycling.

Road to be Closed: McDougall Street between Brownston Street and Ardmore Street.

**Period of Closure: 7.00am to 5.30pm on Friday 7 March 2008
7.00am to 5.30pm on Saturday 8 March 2008**

b) Lismore Park, Kelly's Flat and Allenby Park Management Plan

That the Lismore Park, Kelly's Flat and Allenby Park Management Plan be adopted.

c) Proposal to Vest Reserve: Riverside Stage 6

- i) That further to the Council resolutions of 27th of April 2007, that an area of more or less 700m² be set aside from the proposed Escarpment Reserve as Local Purpose (Utilities) Reserve as shown on the amended Riverside Stage 6 Plan by Boffa Miskell dated 12 March 2007; and**
- ii) That the land vested as local purpose (utility) reserve does not form part of the land accepted in lieu of the reserve land contribution required for the subdivision and for Riverside Stage Seven.**

d) Tenby Street Maintenance Depot

- i) That a Notice of Requirement pursuant to Section 168A of the Resource Management Act 1991 be issued over 161 and 165 TENBY STREET being Part SEC 9 -10 BLK XXXVII WANAKA TOWN for a Council Maintenance Depot.**
- ii) That a budget of \$20,000 be included in the 2008/09 Annual Plan for depot repairs and yard improvements.**

QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING OF 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 2****SUBMITTED BY: Chief Executive, Duncan Field****REPORT DATED: 13 February 2008****CHIEF EXECUTIVE'S REPORT****PURPOSE**

To update Councillors and the public with a short précis of projects and matters of interest which do not warrant a full agenda report.

Shotover River

Following a further incident in the Shotover River concession area between a private jet boat and a Shotover Jet (SJ) boat a change has been made to the general provisions allowing private boats into the concession area. Private jet boaters must now obtain approval from SJ at least the day before they want to boat on the river, will be required to attend the SJ offices for a briefing and receive appropriate information and their access onto the river will be timed for low volume times for SJ trips and may require they be accompanied by a SJ staff member.

This change is consistent with the powers granted SJ under the terms of the concession and is consistent with the Council's Shotover River Bylaw.

Section 330 RMA

This provision allows works to be done in advance of resource consent being granted in an emergency situation. The owner of land in the potential path of a failure of the Young River dam has sought Council consent under this provision.

Commissioners Matthews and Cocks were asked to consider the evidence of urgency as part of a notification determination on the resource consent and, having heard the applicants' witnesses, recommended that the consent under Section 330 be granted. This recommendation was considered by the CEO under general delegations for a range of RMA matters.

The request for Section 330 consent was declined for a range of reasons including: differing expert opinion provided through the ORC, practical effectiveness given the ORC had refused its Section 330 consent, and the fact that the commissioners very soon thereafter indicated they would be granting the consent non-notified.

Section 330 is a very significant departure from normal RMA processes and it is difficult to address it under general delegations. It is recommended that the CEO's authority be clarified to the extent that the CEO has authority to decline applications for Section 330 consent, but also has the authority to make a recommendation to the full Council if it is considered such a consent should be granted. That would require the calling of an extra-ordinary meeting to address that issue.

Property Sub Committee

In recent times, several members of the public have questioned why meetings of the Property Subcommittee are not open to the public. The Property Subcommittee is a formally constituted committee of Council with delegated authority to act and make binding decisions within its delegated authority and must comply fully with LGOIMA.

For clarity, it is proposed to publicly notify these meetings, with a note (if necessary) that the meetings will be held with the public excluded.

RECOMMENDATION

That this report be received.

QUEENSTOWN LAKES DISTRICT COUNCIL

FOR MEETING OF 29 FEBRUARY 2008

REPORT FOR AGENDA ITEM: 3

SUBMITTED BY: Vanessa Rees, Technical Support, Lakes Environmental Limited

REPORT DATED: 19 February 2008

TEMPORARY ROAD CLOSURE - MOUNTAIN BIKE & RUN RACE (MOTATAPU ICEBREAKER) 2008

PURPOSE

To approve an amended temporary road closure to hold a Mountain Bike and Run Race (Motatapu Icebreaker 2008).

BACKGROUND

An application has been received from Tracey Neil at Iconic Adventures to temporarily close the required road in order to hold this event in a safe and productive manner. The applicant originally submitted a temporary road closure application for the closure of Macetown Road and Motatapu Road for this event.

On 5 February 2008, the Utilities Committee considered and approved a request to close the Macetown Road for the following period:

Road to be Closed: Macetown Road (from Arrowtown- Macetown)

Period of Closure: Saturday 8th March 2008 from 8 am to 8 pm or due to adverse weather conditions on that day it will be held on Sunday 9th March 2008 from 8 am to 8 pm.

On 19 February, the Wanaka Community Board considered the closure of Motatapu Road.

Road to be Closed: Motatapu Road (from Wanaka-Mount Aspiring Road intersection)

Period of Closure: Saturday 8th March 2008 from 8 am to 12pm or due to adverse weather conditions on that day it will be held on Sunday 9th March 2008 from 8 am to 12 pm.

Following the approval for the closure of Macetown Road, the applicant has been in correspondence with the Department of Conservation ['DOC']. It has come to light that Macetown Road is in fact owned by DOC and Land Information New Zealand. Accordingly, Macetown Road cannot be closed by a resolution of the Council. The applicant has investigated this further and advised that a closure of Buckingham Street (West) would restrict vehicular access to Macetown Road and accomplish the same thing as the proposed Macetown Road closure would, by ensuring that competitors are safe from vehicles whilst competing in the event.

As Buckingham Street is an arterial road, a resolution of the full Council is required to close it. The access through Arrowtown will remain open via Buckingham Street (East) and via Ramshaw Lane.

SIGNIFICANCE OF DECISION

Not significant.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

The applicant will be required to design a Traffic Management Plan that is specific to the event. Once completed, this will be assessed by Lakes Engineering.

The applicant advises that they have contacted all the businesses, DOC and station owners affected by the closure (via email and letter). The applicant also will put up signs advising of the road closure - times, dates, and details of the event - one at the Motatapu Road end at Glendhu Bay and one at the Arrowtown end for Macetown Road.

On Buckingham Street, there is one resident, Dudley Cottage and the applicant advises that have contacted them verbally and in writing to advise them of the closure. The applicant advises that they will provide appropriate numbers of recycling and rubbish bins for the number of people expected. They have also hired 'Tail End Charlies' to check the course and ensure that no rubbish is left on any properties or roads. This company will go over the course at the end of the day and ensure that any rubbish is removed.

RELEVANT COUNCIL POLICIES

The following policy documents have been considered in the preparation of this report:

- The Council's "Policy of Significance"
- The Council's Policy on Temporary Road Closures.

OPTIONS

Pursuant to Section 79 of the LGA 2002, all reasonably practicable options for achieving the above objective have been considered, with the level of assessment being directly relative to the significance of the effects of the decision.

The option of not closing the roads on a temporary basis was considered and it was believed this would create an unsafe environment for the general public.

FINANCIAL IMPACT

Not applicable.

ATTACHMENTS

1. Map of proposed closure.
2. Photo of proposed closure area.

DELEGATIONS REGISTER REFERENCE**3.29 Local Government Act 1974**

342 (1)(b)	Temporary Closure: Pursuant to Council Policy	
	Less than 4 hours duration and not an arterial road	Chief Executive
	All roads other than arterial roads.	Utilities Committee in regard to roads in the Wakatipu part of the District and the Wanaka Community Board in regard to roads in the Wanaka part of the District.
	Arterial roads	Council on the recommendation of the Utilities Committee or the WCB (if time permits)

RECOMMENDATION

That the following roads be closed subject to:

- 1. Approval of the Traffic Management Plan, by Lakes Engineering*
- 2. Radio advertising two days prior and on the morning of the event.*
- 3. The event organisers ensuring suitable disposal and recycling methods for rubbish/refuse.*

Road to be Closed: *Buckingham Street (West) from Villers Street-Buckingham Street intersection to Macetown Road.*

Period of Closure: *Saturday 8th March 2008 from 8 am to 8 pm or due to adverse weather conditions on that day it will be held on Sunday 9th March 2008 from 8 am to 8 pm.*





QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING OF 29 FEBRUARY****REPORT FOR AGENDA ITEM: 4**

SUBMITTED BY: Governance Officer (Jane Robertson)

REPORT DATED: 15 February 2008

**GOVERNANCE APPOINTMENTS – APPOINTMENT OF COMMISSIONERS AND
CHANGE TO SUBCOMMITTEE MEMBERSHIP**

PURPOSE

A number of additions are required to the Council's schedule of appointments in order to meet the Council's ongoing decision-making and governance needs.

BACKGROUND

Council has appointed a variety of subordinate democratic structures to fulfil specific functions or oversee particular projects. This report seeks to update the schedule of appointments.

SIGNIFICANCE OF DECISION

This decision is not significant in terms of Council's Significance Policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

Consultation is not relevant for the decision being sought.

RELEVANT COUNCIL POLICIES

The following policy documents have been considered in the preparation of this report:
- QLDC Delegations Manual

DISCUSSION

a) Update on Plan Changes to the District Plan

A number of hearings commissioners were appointed at the December 2007 Strategy Committee meeting to address anticipated needs over the coming months. These resolutions should have been presented to Council for ratification because standing committees do not have the delegated authority to establish hearing panels. Unfortunately, these recommendations were omitted from the agenda for the December Council meeting, so are now presented for Council approval.

**That the following councillor is recommended to sit as
a hearings commissioner on Plan Change 14,
Makarora Rural Lifestyle Zone: Leigh Overton.**

That the following 2 councillors are recommended to sit as hearings commissioners on Plan Change 18, Mt Cardrona Station Special Zone: Gillian MacLeod and Leigh Overton.

That the following 2 councillors are recommended to sit as hearings commissioners on Plan Change 22, Definition of Visitor Accommodation: Lyal Cocks and Cath Gilmour.

It is noted that each plan change will be heard by a panel of commissioners made up of Councillors sitting as commissioners and outside commissioners (eg, experts in planning, law, etc).

b) Wanaka Airport Management Subcommittee

A membership change is sought to the Wanaka Airport Management Subcommittee to take account of Councillor Overton's previous experience in this area. Councillor Overton was absent from the meeting at which the appointments to subcommittees and ad hoc bodies was considered and his preference to serve on this committee was not communicated at the time. In the meantime, Councillor Overton has been attending meetings on an informal level, and a Council resolution is sought to formalise the situation.

OPTIONS

Council can choose either make these appointment or not. As they have been specifically established to perform particular functions over the coming months, it is considered that the option to form the various bodies is the pragmatic choice.

FINANCIAL IMPACT

Working Parties and Subcommittees are not remunerated, so their formation has no financial impact.

The cost of Hearings Commissioners has been taken into account in Planning budgets.

DELEGATIONS REGISTER REFERENCE

The Delegations Manual should be amended to reflect these changes.

RECOMMENDATIONS

- 1. That Councillor Leigh Overton sit as a hearings commissioner on Plan Change 14, Makarora Rural Lifestyle Zone;***
- 2. That Councillors Gillian MacLeod and Leigh Overton sit as hearings commissioners on Plan Change 18, Mt Cardrona Station Special Zone;***
- 3. That Councillors Lyal Cocks and Cath Gilmour sit as hearings commissioners on Plan Change 22, Definition of Visitor Accommodation; and***
- 4. That Councillor Leigh Overton be appointed as a member of the Wanaka Airport Management Subcommittee.***

QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING OF 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 5****SUBMITTED BY: Chief Executive- Duncan Field****REPORT DATED: 13 February 2008****WANAKA SPORTS FACILITIES WORKING PARTY****PURPOSE**

This paper reports on the establishment on a Wanaka Sports Facilities Working Party, consistent with prior resolutions of the Wanaka Community Board.

BACKGROUND

Resolutions passed by the Wanaka Community Board towards the end of the last triennium called for the establishment of a Wanaka Sports Facilities Working Party. The background to that material is included in the attached brief.

ATTACHMENTS

1. Brief on the Wanaka Sports Facilities Working Party

DISCUSSION

Meetings have been held with community representatives and management/elected members within Council to ensure the brief is clear and that adequate resources are secured for the project.

The attached brief has now been completed and has been agreed with all of the various parties who need to support it in order for the project to be successful. It includes the allocation of responsibilities, close support from Council, and a timeline that will ensure that funding can be considered by Council in time for both the year 2008/2009 Annual Plan and the next LTCCP.

WORKING PARTY MEMBERSHIP

The working party membership is set out in the attached brief.

FINANCIAL IMPACT

The financial impact are discussed within the brief.

OPTIONS

The various options for this project were discussed at the time that the Wanaka Community Board had its original debate. The proposals now really relate to the

working party undertaking sufficient activity that clear and defined projects can be submitted for consideration to Council in the Annual Plan and LTCCP.

RECOMMENDATION

- 1. That the report be received;***
- 2. That the 'Upper Clutha Sports Sports Facilities Working Party' be renamed the 'Wanaka Sports Facilities Working Party';***
- 3. That the brief for the Wanaka Sports Facilities Working Party be adopted by Council.***

PROPOSED BRIEF

WANAKA SPORTING FACILITIES WORKING PARTY

Purpose

This brief sets out the terms of reference for a Council / community working party to resolve the future arrangements for sporting facilities in the Wanaka township.

Council, over realistic planning horizons, must provide for the capacity for all infrastructure in the District, including sports, recreation, arts, and other facilities and services for community development. For that reason the working party needs to be conscious of the Council's obligations to these other needs as well and its brief is consequently limited to:

- a) Consider existing and future potential sports facilities irrespective of ownership (e.g. including educational facilities).
- b) the working party will deal with the issues of the Council's motor park strategy only to the extent that the choice of 'footprints' for motor parks in the Wanaka CBD will consequently exclude those sites from consideration for other purposes.
- c) The potential locations of any aquatic centre.
- d) similarly, the working party should be aware of, and not prejudice, potential footprint requirements for future arts and community facilities.

The Council has chosen not to create one working party which addresses the needs of all community facilities needs. The interests involved are too diverse and the scale of land area required predominately is driven by open space sports areas. There is also a considerable Council will to continue to ensure that the needs of all sectors are fairly represented at the Council and community board.

The working party is expected to consider the Wanaka ward as a whole to the extent that facilities in smaller communities may be a component in the wider sporting strategy. The working party does not need to deal with sports field of purely localised significance in smaller communities.

The brief specifically does not include:

- a) The location of arts or community facilities (except as a-d above)
- b) The location of pools, except as above.
- c) Libraries.
- d) The pricing of access to users.
- e) The prioritisation of investment between different sectors of the community i.e. between sports, pools, arts, community development, etc). This is a Council function through the annual plan and LTCCP.

Some Basic Principles

The following basic principles should guide discussion:

- a) The Council has taken ownership of this project. That implies commitment to the outcome subject to statutory processes.
- b) Proposals need to build on current knowledge found in the foundation documents and not discard it. The working party can however test the robustness of that information and the conclusions that arise from it.
- c) Council is responsible for developing a wide range of community facilities to meet all the needs of the community over a long time horizon. Proposals for sporting facilities should not knowingly prejudice the position of other Council functions (such as motor parks, arts or community services arrangements). Proposals can

be made for change to existing proposals, should not involve changes that are commercially or socially adverse to these activities.

- d) The project needs to provide a long term planning horizon for sporting facilities based on Council population growth models.
- e) The Council has a wide range of statutory obligations in regard to consultation under the Reserves Act, Local Government Act, the RMA and others. These requirements need to be observed. Implementation of projects also requires statutory procedures (LTCCP, etc) that need to be provided for in the work of the working party.

Background

The proposal for this working party arises from the following resolution of the WCB on 6 September 2007. The Board passed the following resolution:

The following motion was moved by Councillors Heath and Middleton:

**1. That the report be received.
Carried**

**2. That the WCB notes the UCSR's preferred option for the provision of further sporting facilities on the combined camp and show grounds reserve (refer Rutherford Report – Option 3).
Carried. Mr Copland voted against.**

3. That the WCB recommend to council that a SportsFacilities Working Party be formed consisting of;

- A Project Manager**
- An independent chair**
- 2 elected members**
- 3 non elected persons representing the sporting community**

Carried.

**4. That public consultation be initiated by 29th February 2008 for the provision of new sporting facilities in the Upper Clutha and that this consultation shall include public consultation on option 3 of the Rutherford Report.
Carried.**

**5. That the Sports Facilities Working Party completes public consultation on sporting facilities and returns a report and recommendations to the WCB no later than 31 August 2008. During this period the working party must make at least bi-monthly reports on progress to the WCB.
Carried**

**6. That a workshop for the new Wanaka Community Board members and all parties involved in 'Planning for New Sports Facilities' be held in November 2007
Carried.**

**7. That one of the primary objectives of the above workshop is to develop a project brief for the Sports Facilities Working Party.
Carried.**

The report which gave rise to that resolution is attached as Appendix One. The minutes of the meeting are attached as Appendix Two.

Since this point the Council and the community have each, in isolation, progressed elements of the project. This brief is intended to bring those paths together.

Membership

It is proposed to adapt the current membership of the working party to be:

- Independent chairman
- The deputy Mayor of the QLDC
- 1 member (elected or appointed) of the WCB.
- 3 representatives from the wider community
- The Council's General Manager Community Services.
- A nominee of Lakes Leisure Limited, as the likely key contractor for these facilities.

Deliverables

The working party is expected to deliver, to Council, a project plan sufficient to support the inclusion of a set of specific projects into the Council's 2008/09 annual plan and the LTCCP to be developed in the following year.

Attached as Appendix 3 is a chart of the process that will need to be followed in order to achieve the deliverables. The expectation of the working party is that it will carry out the stage of the processes coloured red in that chart, i.e. taking the current foundation documents to the point where a proposal can be confidently included in a draft annual plan and LTCCP for that stage of public consultation.

In achieving this process the working party is expected to:

- a) Understand the foundation documents, the statutory processes that the Council is obliged to follow, and issues of funding and affordability. The foundation documents have been provided to the working party in a separately bound document.
- b) Having reviewed the foundation documents, to develop a prioritised / staged and costed concept development plan for sporting facilities in the Wanaka area.
- c) Inform, and consult with, the community about that plan in a way that satisfies the Council's statutory obligations.
- d) Deliver to the Council a project plan in a form which can simply and easily be included into the annual plan and LTCCP.
- e) Present its findings to, and discuss these with, the Council at regular intervals.

Timelines

It is important that the working party achieve two important dates:

By 30 March 2008 the working party must have advised the Council of financial provision which needs to be made in the 2008/09 draft annual plan. This will involve sums necessary to carry out feasibility work and complete the brief of the working party. The sum set out below under 'Current Financial Provision', to the extent it is not spent, will be carried over into the 2008/09 year.

By September 2008, the working party will need to deliver its finished report as required by the brief. That timing will allow the proposed projects to be included in the Council's draft 2009/18 Long Term Council Community Plan.

Public Consultation

The working party will be expected to satisfy the Council's obligations for public consultation and communication up to the point required by this brief. Specific attention is drawn to Sections 76 – 81 of the Local Government Act 2002.

In some areas the work of the working party will encounter known tensions in the community, e.g. between views that the camp ground should be relocated and views based on economic grounds about the importance of the camp ground being located in the CBD. If those tensions are not addressed in a timely way they may delay the implementation of the outcome of this project.

The working party's brief excludes:

- a) The processes required of the annual plan and LTCCP
- b) Any consenting requirements under the RMA.

Both of these processes will be the responsibility of Council.

Current Financial Provision

Currently there is sufficient funding in the 2007/08 Annual Plan. This totals \$100,000 (of which \$10,000 has already been spent on related projects).

Provision will need to be made in the 2008/09 Annual Plan for primarily feasibility funding. Any specific works for the 2008/09 year will need to be advised to the Finance Manager as soon as possible.

The work of the working party will need to be complete in time for the finished strategy to be included in the process for the 2010/2016 LTCCP (i.e. by the end of the calendar year 2008).

Professional and Administrative Support

Council will provide:

- a) Administrative support in the form of secretarial services.
- b) Professional recreation planning and other expertise as required.
- c) Funds (within budget) to produce a successful result.

QUEENSTOWN LAKES DISTRICT COUNCIL

FOR MEETING OF 29 FEBRUARY 2008

REPORT FOR AGENDA ITEM: 6

SUBMITTED BY: Urban Designer – Nick Karlovsky

REPORT DATED: 15 February 2008

APPOINTMENT OF URBAN DESIGN PANEL SELECTION PANEL

PURPOSE

To appoint a minimum of two Councillors to form a selection panel to enable the appointment of additional panel members to the Wanaka and Queenstown Urban Design Panels.

CONFIDENTIALITY

This report is not confidential.

BACKGROUND

The Urban Design Panel Terms of Reference requires that *“the selection of the pool (of panellists) be a transparent process involving a panel of at least 2 Councillors appointed by the Full Council to undertake this process.”*

As this concerns the Urban Design Panels it contributes to achieving the Community Outcome of “high quality urban environments”.

ATTACHMENTS

1. Appendix B to the Urban Design Panel Terms of Reference setting out Selection Criteria.

SIGNIFICANCE OF DECISION

This decision is not significant in terms of Council’s significance policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

Not applicable

RELEVANT COUNCIL POLICIES

The Urban Design Panel Terms of Reference (2006)

DISCUSSION

The Urban Design Panel Terms of Reference states:

The members for each panel will be drawn from a pool of suitably qualified professionals. The pool for each of the Queenstown and Wanaka Panels will include members of the following professions:

- *Urban Design (x2)*
- *Architecture (x3)*
- *Landscape Architecture (x2)*
- *Planning (x2)*
- *Property Developers (x2)*

At least 2 community representatives will also be appointed as part of the pool of each panel.

The terms of reference also provide for the rotation of panel members over time.

Currently 23 panel members are in the Queenstown pool whereas only five are available to the Wanaka pool. As a minimum of four members are required per meeting, Wanaka has limited capacity for rotation or specialist selection for specific applications.

Several candidates have emerged as potentially suitable panel members for Wanaka and it is now expedient to reconvene a selection panel in order to facilitate the appointment process.

FINANCIAL IMPACT

There is no financial impact in reconvening the selection panel.

DELEGATIONS REGISTER REFERENCE

This report does not have any effect on delegations.

RECOMMENDATION

That Council select a minimum of two Councillors to act as the selection panel for the appointment of new members to the Urban Design Panels.

ATTACHMENT 1

APPENDIX B

CRITERIA FOR THE SELECTION OF THE PANEL MEMBERS

Importantly, every member of the Panel must share a passion for the long term future of the Queenstown Lakes District and have good networks for keeping abreast of developments and community opinion.

Criteria for the members with specific design-related skills will include:

- Recognised qualifications, recognition, and standing in the relevant design related profession and, preferably, membership of a relevant institute;
- A general understanding of the council's strategies and policies, and the relevant parts of the District Plan.
- Practitioners (and evidence of a local understanding) in the relevant aspects of their profession.
- At least one member must have recognised experience and preferably qualifications in urban design.
- Recognised qualifications and/or expertise in heritage and/or heritage architecture would be an advantage.

Criteria for the members with property/ development-related skills will include:

- Recognition and standing in the Queenstown Lakes District property field.
- Preferably, membership of a relevant institute.
- Understanding of best practice urban design principles, architecture, and urban design.
- A general understanding of the council's strategies and policies, and the relevant parts of the District Plan.

Criteria for community members to be appointed to the panel will include:

- Strong community linkages either through involvement in community organisations or as an individual.
- Recognition and standing in the community.
- A general understanding of urban design issues (previous experience in a relevant area would be an advantage).
- A general understanding of the council's strategies and policies.

QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING OF 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 7****SUBMITTED BY: Senior Policy Analyst – Alyson Schuler****REPORT DATED: 14 February 2008****HEARINGS COMMISSIONERS – PLAN CHANGE 19 – FRANKTON FLATS (B)****PURPOSE**

The purpose of this agenda item is for the Council to authorise Council officers to appoint three independent commissioners to hear submissions to Plan Change 19 – Frankton Flats (B) and to recommend a decision to the Council.

CONFIDENTIALITY

This agenda item is not confidential.

BACKGROUND

The Frankton Flats area (area bounded by the airport, State Highway, events centre and the existing Glenda Drive industrial area) is an important strategic area for Queenstown. It is the last remaining greenfield site within the Urban Growth Boundary and as such is well placed to accommodate a significant part of the District future growth needs.

42 submissions were received, covering a total of 293 submission points, 21 further submissions were received covering a total of 650 submissions points. A hearing will be held later this year to allow any submitter to speak to their submission points.

For a number of reasons it is appropriate for the Council to appoint independent commissioners to hear this Plan Change. The commissioners appointed should not include present or past Queenstown Lakes District Councillors as the Council is a significant landowner in the area with respect to the Events Centre and the Queenstown Airport, as such is important that no bias or insinuation of bias is shown. This Plan Change is very important to Council, and as significant resources have been allocated to the planning of the area over the last five years it is sensible that any threat of legal action as a result of any perceived bias is minimised or avoided.

The Council has a pool of experienced (non councillor) commissioners that will be approached by the CEO closer to the time of a hearing to act as commissioners for this Plan Change.

This agenda item and the Plan Change contribute to the following community outcomes:

- Sustainable growth management
- A safe and healthy community that is strong, diverse and inclusive of all ages and incomes
- High quality environments respectful of the character of individual communities
- A strong and diverse economy.

SIGNIFICANCE OF DECISION

This decision is not considered significant in terms of the Council's significance policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

Extensive consultation has taken place during the drafting of this Plan Change; this is documented in the appendix to the Section 32 report.

As well as the statutory consultation required by the Resource Management Act the Council provided the draft Section 32 to all landowners and stakeholders within the proposed zone for a four week time period. This allowed those parties to assess the proposed framework for the zone change and provide comments to the Council. Comments were received from the following:

- Airport Corporation Limited
- Carhill Properties Limited
- Trojan Holdings Limited
- Urbis (5 Mile)
- Transit New Zealand (received late)
- Shotover Park Limited (received late).
- Verbal comments from Otago Regional Council.

Comments were discussed at a meeting of Councillors on 12 June 2007. The Council then requested changes to the Section 32 and associated Plan Change. These were made before the Council notified this Plan Change. Any member of the public was then able to make submissions and further submissions.

RELEVANT COUNCIL POLICIES

The following policy documents have been considered in the preparation of this report:

- Relevant Queenstown Lakes District Council Policies
- The Queenstown Lakes District Council Policy Manual (2003)
- The Queenstown Lakes Council Partially Operative District Plan (2005)
- Tomorrow's Queenstown Community Plan

OPTIONS

Plan Changes must be heard by commissioners, these can be either Councillors sitting as commissioners or entirely independent commissioners. It has been recent practice for a Councillor (or two) to sit with an outside commissioner.

Option 1: A mix of Councillors acting as commissioners and outside commissioners:

- Allows Councillors to have input in the decision making of a very strategic site for Queenstown's future
- Councillors have a good understanding of the issues facing the wider Frankton and Queenstown area and could balance these with strategic issues concerning the Plan Change

Option 2: A hearings panel made up of outside commissioners

- Council can not be accused of being bias in the hearing of this Plan Change
- No risk of Court proceedings being taken landowners who believe that Councillors have a bias by having totally independent commissioners
- Councillors have already had input into the Plan Change pre notification, the only changes that can be made are as a result of submissions and further submissions.

FINANCIAL IMPACT

The Frankton Flats Plan Change (19) has sufficient budget to pay for commissioners to hear this Plan Change.

DELEGATIONS REGISTER REFERENCE

This agenda item does not have any effect on delegations – the Council has the ability to either appoint a hearings panel or to delegate this to the Chief Executive Officer.

RECOMMENDATION

That the Chief Executive Officer appoints a panel of three (non Councillor) commissioners to hear submissions and recommend to Council a decision on Plan Change 19.

QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 8****SUBMITTED BY: Alyson Schuler (Senior Policy Analyst)****REPORT DATED: 24 January 2008****MAKING FURTHER PARTS OF THE DISTRICT PLAN OPERATIVE****PURPOSE**

The purpose of this agenda item is to present to the Council a schedule of further parts of the District Plan to be made operative in accordance with Clause 17(1) of the 1st schedule of the Resource Management Act 1991.

BACKGROUND

Since 2003 the Queenstown Lakes District Council has been progressively making parts of the District Plan operative as appeals are resolved. Previously the Council had to apply to the Environment Court to make parts of the plan operative, however since the Resource Management Amendment Act 2005, only a resolution of the Council and a public advertisement is required.

Since 2003 the Council has made parts of the Plan operative at the following stages:

- 22 September 2003 (C134/2003)
- 13 September 2004 (C141/2004)
- 27 June 2005 (C88/2005)
- 14 June 2007 (Council authorised these on 25 May 2007)

The only part of the proposed District Plan (notified in May 1995) that remains inoperative relates to the financial contributions provisions. The Council is using the provisions of the Local Government Act 2002 to levy development contributions, the District Plan financial contributions provisions are not being utilised. There is a separate project underway to remove these sections from the Plan.

The remainder of the proposed Plan has operative status. However, as the Council notifies Plan Changes and these pass through the First Schedule process and any appeals are resolved; it is then necessary to make the Plan Changes formally operative.

We are setting up a process in order to make plan changes operative in a timely manner, in future Plan Changes will be presented to the Council within 2 months of a decision being issued or any subsequent appeals being resolved. Once ratified by the Council, a public notice is placed in community newspapers and a copy of the Council's seal is attached to the District Plan signalling that those parts of the plan are now operative. Copies of all previous operative decisions can be found on the Council's website.

Accordingly we plan to advertise that further parts of the Plan are to be made operative on 14 March 2008. The public notice will be advertised on 5 March 2008 (there must be at least 5 working days notice before that parts of the Plan are made operative).

SIGNIFICANCE OF DECISION

This agenda item is not considered significant under the Council's significance policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

The District Plan has been the subject of extensive consultation over the past 15 years. Each change to the Plan has a required consultation component.

Once the Council has authorised the operative status of further parts of the District Plan the Council will publicly notify that further parts of the District Plan are now operative.

RELEVANT COUNCIL POLICIES

The following policy documents have been considered in the preparation of this report:

- The Queenstown Lakes Partially Operative District Plan (2003)

OPTIONS

Pursuant to Section 79 of the Local Government Act 2002, all reasonably practicable options for achieving the Plan Change have been considered, with the level of assessment being directly relative to the significance of the effects of the decision.

1. Do not make additional parts of the District Plan operative

- Unclear for administrators of the District Plan, both the transitional and the proposed district plan need to be referred to in resource consent decisions
- It is a goal of the Council to achieve a fully operative District Plan.

This option is not considered appropriate.

2. Make additional parts of the District Plan operative

- Makes the District Plan easier to administer
- Fulfills the Council's requirements under Section 20 of the 1st schedule of the Resource Management Act 1991.

The option to notify that further parts of the Plan are now operative is considered appropriate.

FINANCIAL IMPACT

This does not have any financial impact; the Council has a budget for resolving District Plan appeals and making the District Plan operative.

DELEGATIONS REGISTER REFERENCE

The Council has the authority to make parts of the Plan operative.

RECOMMENDATION

That the Council resolves to approve pursuant to Clause 17(1) of the First Schedule to the Resource Management Act 1991 those parts of the Proposed District Plan outlined in Appendix 1 to this report.

**APPENDIX 1:
SCHEDULE OF PLAN CHANGES TO BE MADE IN ACCORDANCE WITH CLAUSE
17(2) OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

This report outlines a number of Plan Changes that are no longer subject to the submissions or appeal process, and accordingly can be operative under Clause 20 of the First Schedule of the Resource Management Act 1991.

The following Plan Changes are outlined in the below tables:

- Plan Change 3 Heritage 2
- Plan Change 7 Residential Flats
- Plan Change 9 Farm Buildings on Outstanding Natural Features.
- Plan Change 12 Riverside Stage 6
- Plan Change 15 Peninsula Bay

Plan Change	Provision	Status
PC 3 Heritage 2	13.1.2 Issues – amendments	Decision publicly notified 6 June 2007
PC 3 Heritage 2	13.1.3 Objective 3 and policies 3.1 – 3.6 Heritage Landscapes	Decision publicly notified 6 June 2007
PC 3 Heritage 2	13.1.3 Objective 3 – Implementation methods	Decision publicly notified 6 June 2007
PC 3 Heritage 2	13.1.3 Objective 3 – Explanation and Principal Reasons for Adoption	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Addition of definition for “Heritage Landscape”	Decision publicly notified 6 June 2007
PC3 Heritage 2	Addition of Environmental Results Anticipated 3.1.4(viii)	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Appendix 10 – Skippers Heritage Landscape	Consent order issued 28 November 2007
PC 3 Heritage 2	13.2.3.2 (iii) (a) and (b) Additions to rule in respect of item 209	Consent order issued 28 November 2007
PC 3 Heritage 2	Item 5	Consent order issued 28 November 2007
PC 3 Heritage 2	Item 10	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 14	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 15	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 16	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 104	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 216	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 54	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 55	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 62	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 63	Decision publicly notified 6 June 2007

Plan Change	Provision	Status
PC 3 Heritage 2	Item 65	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 73	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 82	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 83	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 96	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 97	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 105	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 109	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 119	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 139	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 140	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 144	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 145	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 168	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 217	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 198	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 199	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 201	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 203	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 204	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 205	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 206	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 207	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 210	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 212	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 213	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 214	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 215	Decision publicly notified 6 June 2007

Plan Change	Provision	Status
PC 3 Heritage 2	Item 239	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 240	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 241	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 242	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 244	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 245	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 246	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 247	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 218	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 219	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 220	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 221	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 222	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 223	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 224	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 225	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 226	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 227	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 228	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 229	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 230	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 231	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 232	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 233	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 234	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 235	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 236	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 237	Decision publicly notified 6 June 2007

Plan Change	Provision	Status
PC 3 Heritage 2	Item 238	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 363	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 273	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 274	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 275	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 276	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 277	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 400	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 401	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 402	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 403	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 404	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 405	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 406	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 407	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 408	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 409	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 410	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 420	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 421	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 208	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 209	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 210	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 212	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 213	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 214	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 215	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 363	Decision publicly notified 6 June 2007

Plan Change	Provision	Status
PC 3 Heritage 2	Item 273	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 514	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 515	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 521	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 522	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 523	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 531	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 532	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 536	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 540	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 541	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 552	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 546	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 574	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 623	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 624	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 625	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 626	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 627	Decision publicly notified 6 June 2007
PC 3 Heritage 2	Item 628	Decision publicly notified 6 June 2007
PC 7 Residential Flats	Policy 3.11	Decision publicly notified 1 November 2006
PC 7 Residential Flats	Explanation and Principal Reasons for Adoption.	Decision publicly notified 1 November 2006
PC 7 Residential Flats	Definition of Residential Flat	Decision publicly notified 1 November 2006
PC 9 Farm Buildings on Outstanding Natural Features	Site Standard 5.3.5.1 (xi)	Decision publicly notified 4 October 2006
PC 9 Farm Buildings on Outstanding Natural Features	Rule 5.7.4	Decision publicly notified 4 October 2006
PC 12 Riverside Stage 6	9.1.3.3 Issues Statements – addition of 8 bullets points which relate specifically to Riverside Stage 6	Decision publicly notified 4 April 2007

Plan Change	Provision	Status
PC 12 Riverside Stage 6	9.1.4 Objectives and Policies – addition of objective and policies 1-11 that relate specifically to Riverside Stage 6	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	Implementation Methods - specifically related to Riverside Stage 6	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	9.2.3.2 Addition of (iv)	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	9.2.5.1 Addition of (b) and (c) to I	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	9.2.5.1 Addition of (ii) in relation to Riverside Stage 6	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	9.2.5.1 Addition of (d) to (iii)	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	9.2.5.1 Addition of (v) Access in relation to Riverside Stage 6	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	9.2.5.1 Addition of (xiii) Fence Heights	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	9.2.5.2 Addition of (viii) and (ix)	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	9.3.2 Addition of (iii) – Outline Development Master Plan assessment matters	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	15.2.6.3 Addition of lot sizes to Table specifically related to Riverside Stage 6	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	15.2.6.3 Addition of (h) Riverside Stage 6 noise insulation provisions	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	Page 9-24 (in current addition of District Plan) Riverside Stage 6 Master Plan	Decision publicly notified 4 April 2007
PC 12 Riverside Stage 6	Changes to Wanaka maps to change Rural Residential Zoning to Township and Open Space Zoning.	Decision publicly notified 4 April 2007
PC 15 Peninsula Bay	7.3.3 Addition of Implementation Methods	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	7.5.3.3 Addition of (vi)	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	7.5.4 Addition of (ii) and amendments to (iii)	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	7.5.5.2 Addition of (xiii)	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	15.1.2 Addition of (vii)	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	15.1.3 Addition of Objective 6 and policies 4.13, 4.14 and 4.15 and	Decision publicly notified 21 June 2006

Plan Change	Provision	Status
	Explanation and Principal Reasons for Adoption	
PC 15 Peninsula Bay	15.2.3.2 (ii) Addition of rule	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	15.2.3.4 (v) Add (iv) and (v)	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	15.2.18.2 Addition of an assessment matter	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	20.0 New chapter of District Plan	Decision publicly notified 21 June 2006
PC 15 Peninsula Bay	Zone Plan to show the Low Density and Open Space Zoning	Decision publicly notified 21 June 2006

QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING OF 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 9****SUBMITTED BY: Joanne Conroy – Lakes Property Services****REPORT DATED: 14 FEBRUARY 2008****LEASE OF RESERVE LAND – ROBERTSON STREET****PURPOSE**

To consider a request to lease reserve land adjacent to residential properties and the new Abbeyfield House in Frankton.

BACKGROUND

Council owns a recreation reserve off Robertson Street in Frankton. The legal description is Lot 7 DP 22945 and it comprises 0.2372 hectares.

In August 2006 Queenstown Lakes District Council agreed to reclassify part of Lot 7 to local purpose (access) reserve to allow the entrance to the new Abbeyfield house to go across this land. The matter has been with DOC and in the resource consent process since that time and the reclassification has not been completed. However, the access has been formed as planned.

The adjacent owners, Mr Mark and Mrs Theresa Kelly, had expressed interest in purchasing the small strip of recreation reserve that will remain between their property and the access as shown below, but the Community Services Committee, when considering this matter in September 2007, resolved to lease the land to the Kellys instead. Please note that the deer fence is temporary and will be removed shortly.



Picture showing the edge of the access road, the temporary fence and the Kellys' boundary fence.



The unfinished access road leading to Abbeyfield House

The Kellys note that the small strip of recreation reserve has become unusable because of its size and awkward shape. They claim contractors are having difficulty maintaining it and it has little real benefit for the public. They would fence it and it would form part of their back yard.

Advice from Engineering is that a 12 metre width be allowed for the access strip in case it is ever needed in the future. With this in mind, Gordon Bailey has approved the layout as attached, particularly as it allows for pedestrian access through the reserve. This means the area being considered here is less than what the Kellys originally applied for.

The Community Services Committee considered this matter in September 2007 and passed the following resolution:

On the motion of Councillors Blackford and Mann it was resolved that:

- 1. The Committee support the Kelly's application for a License to Occupy to use the land from their boundary towards the existing roadway, subject to the agreement by the General Manager Community Services, or his staff, as to the layout of the land.**
- 2. That this support is for a period of time at the pleasure of the Council.**
- 3. That any costs incurred are to be paid for by the Kellys.**

Councillor Neal voted against the motion.

Please note that as the Kellys intend the land to be for their exclusive use, a lease will be more appropriate.

Council's intention to grant a lease was notified in December 2007 calling for submissions. The submission period closed 31 January 2008 and no submissions were received. If the lease is approved, consent of the Minister of Conservation is required.

Since the Community Services Committee approved the licence, a rising main has been planned for the area which will see a sewer line run along the reserve adjacent to the current property boundaries as shown on the plan.

ATTACHMENTS

1. Aerial photograph of site showing Lot 7, Lot 1, the Kowarau River and the approximate location of the Abbeyfield House and access (orange). The Kelly residence is highlighted in pink (note the dwelling has been extended) and the subject land is shown hatched in black. The adjoining owners who have given their written consent are highlighted in yellow.
2. A sketch plan showing the layout of the Abbeyfield House and access and the location of the Kelly and adjoining owners. The reserve area the Kellys wish to lease is shown in yellow and the approximate location of the new sewer line in red.

SIGNIFICANCE OF DECISION

Not significant under Council policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

The matter has been publicly notified and the immediate neighbours consulted. The Minister of Conservation must also consent.

RELEVANT COUNCIL POLICIES

Reserves Act 1977

DISCUSSION

There is no doubt that the balance of recreation reserve that forms a small wedge between the Kelly property and the access road is a difficult shape. However, the reserves department have disputed that maintaining this land will be troublesome.

The Council has usually refused to lease reserve land for private use although it has occurred on rare occasions.

Any lease would be granted pursuant to clause 73 (3) of the Reserves Act 1977, which allows a lease where the lease is not required for recreational purposes in the meantime, but it is not advisable to sell it. However it does raise the question of what could change in future to make this part of the reserve more attractive for public use, and this is only possible if the Abbeyfield access road no longer exists. It is unlikely that this will happen in the foreseeable future. There is also a concern that any future purchaser of the property could claim that he or she was unaware that the rear yard contained some leasehold land.

If a lease is granted, the terms and conditions could be:

A term of six months; and
 Continuing renewal of six months subject to the agreement of both parties; and
 An annual fee of \$500 plus GST; and
 Rent reviews at renewal; and
 No structures or improvements allowed on the land without the written approval of the Lessor; and
 Upon termination, the land to be reinstated in grass and the fence returned to the property boundary.

Please also note that no decision has been made about the future use of the balance of Lot 1 (the freehold block). It may be that any future use would necessitate the entrance being widened, including a walkway, landscaping or some other public use. The land concerned is at the entrance to Abbeyfield House and the balance of the land and a fence would be less visually attractive than either open space or landscaping. If nothing else, part or all of the land could be landscaped to form an attractive, low-maintenance entrance to the rest of the reserve, freehold block and river reserve. Approving the lease would certainly leave fewer options not only for this small piece of land, but also potentially for the balance land.

OPTIONS

The options are:

1. To agree to lease the small area of reserve to Mark and Theresa Kelly to enable them to incorporate it into their rear yard; or
2. Not to approve the lease of the reserve land, and for the status quo to remain.

Given that no firm decision has been made about the future use of Lot 1, a further option could be not to approve sale or lease to the Kellys until such a time as this future use is decided and any potential public use need for this land is discounted.

FINANCIAL IMPACT

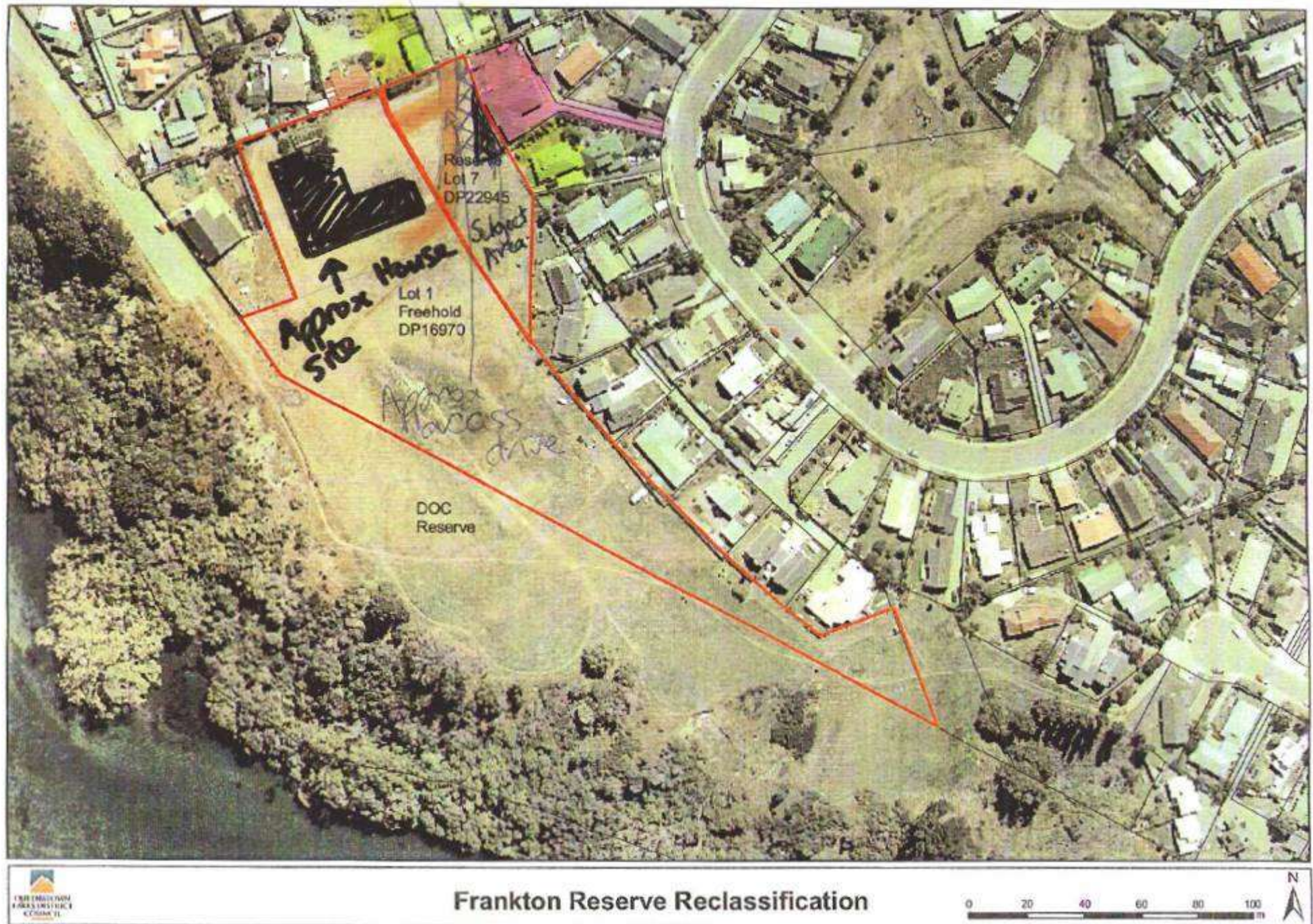
The applicant has agreed to meet all and any costs associated with the sale progress.

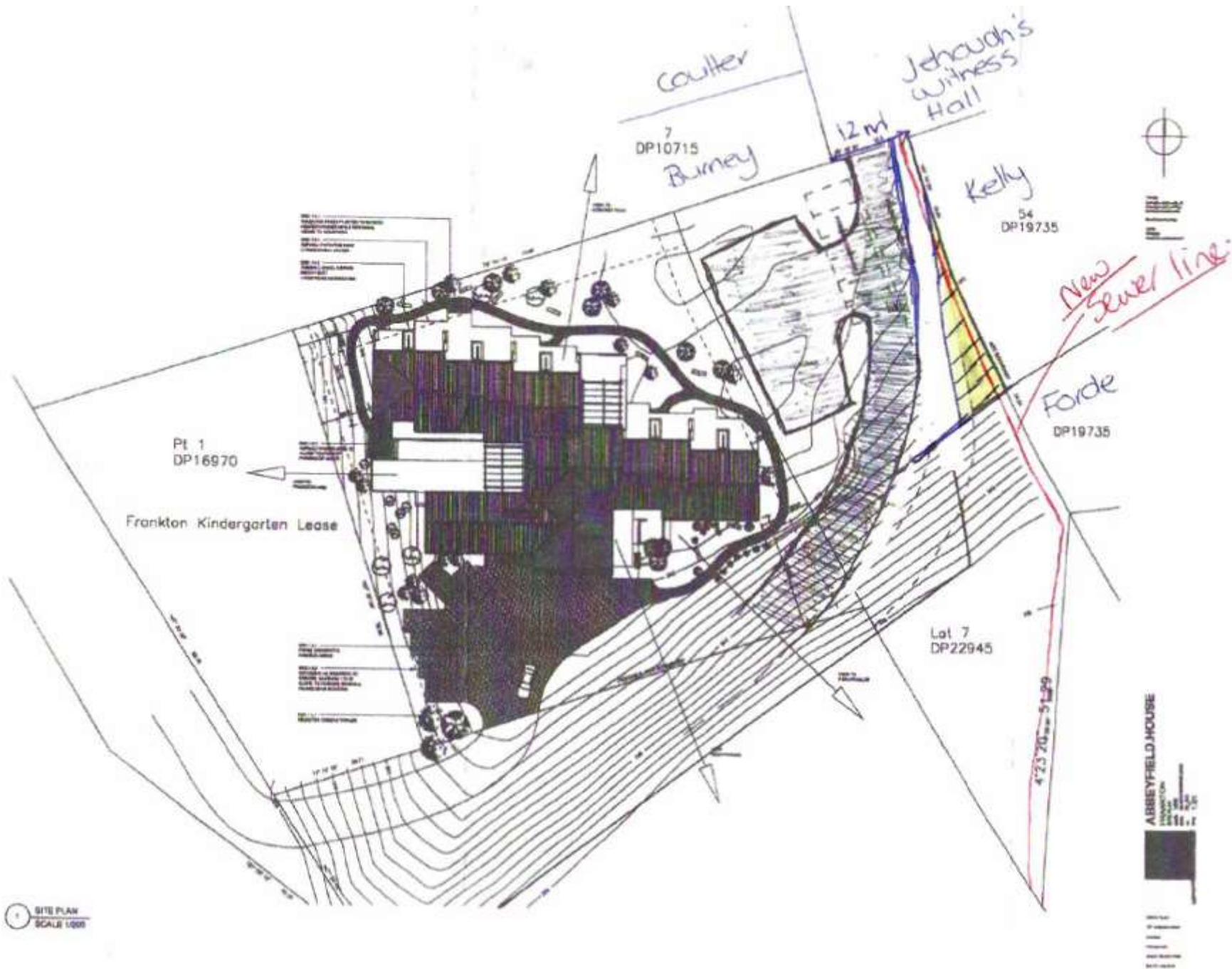
DELEGATIONS REGISTER REFERENCE

The Reserves Act 1977 requires a resolution of Council for any lease. Consent of the Minister of Conservation is required.

RECOMMENDATION

- 1. That the Queenstown Lakes District Council receive this report; and***
- 2. That the Queenstown Lakes District Council decline to lease of part of the recreation reserve known as Lot 7 DP 22945 to the adjacent owners, Mr and Mrs Kelly.***





QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 10****SUBMITTED BY: Jo Conroy – Lakes Property Services****REPORT DATED: 14 February 008****PROPOSED EXCHANGE OF LAND AT MILLBROOK, ARROWTOWN****PURPOSE**

To seek approval to proceed with the proposed exchange of land at Millbrook Resort.

BACKGROUND

The Millbrook Resort and Country Club was established by a Plan Change to the Transitional District Plan during 1992. As a result over 200 hectares of land was included within the Millbrook Resort Zone. The zone anticipates up to 450 residential units together with the development of 27 golf course holes. To date 143 residential units (including 6 new homes in the 'Streamside' development) have been approved.

Millbrook will shortly lodge consent applications for the development of the 'Land to the West' ("LTW Project") as indicated on the attached Master Plan (Attachment A). This proposal will relate to:

- 9 holes of Championship golf, together with the realignment of 4 existing golf holes.
- 188 (approximately) residential units that are within the Millbrook Resort zone.
- 19 (approximately) residential units that will be on adjacent land zoned Rural General within the ownership of Millbrook.

The Council has been negotiating over a range of matters with Millbrook, and these are now the subject of a signed stakeholders agreement. This report deals with the open space and walkways issues.

SIGNIFICANCE OF DECISION

The matter is not a significant decision.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

The intention to exchange land has been notified calling for submissions. None were received.

RELEVANT COUNCIL POLICIES

The following policy documents have been considered in the preparation of this report:

- Queenstown Lakes District Council Asset Management Plans
- Parks Strategy
- The Council's "policy of significance"
- Queenstown Lakes District Council District Plan

DISCUSSION

Millbrook Resort has made available to the community a large area of land at the corner of Malaghans Road and Lake Hayes – Arrowtown Road. This land is well used by the community for cricket, dog exercise and other passive recreation pursuits. The free use of this land has been greatly appreciated by the residents of Arrowtown.

The Council is working steadily on the development of the Wakatipu Trail linking Queenstown with Arrowtown. A key section of this trail requires access across Millbrook to link Speargrass Flat Road with Malaghans Road. This route avoids the difficult Macintyre Hill.

Within the Millbrook Resort zone the Council controls portions of legal road, esplanade reserves along Mill Stream and a pedestrian easement over part of Millbrook.

A stakeholders deed has been established and signed between Millbrook and the Council Chief Executive. In respect to reserves an open space it is proposed in the deed that Council will acquire legal access for the public across Millbrook for the Wakatipu Trail and acquire as recreation reserve the land at the corner of Malaghans Road and Lake Hayes Road. For clarity I will refer to this as the “proposed community reserve” hereafter.

As with all residential developments, Millbrook will be required to pay development contributions to Council. These include a reserve land contribution of 27.5m² per residential lot, and a reserve improvement contribution and community facilities contribution.

Reserve Acquisition and divestment

Millbrook currently has 137 residential units in the resort (excluding the ‘Streamside’ development). As up to 450 residential units are permitted under the Zone rules, a further 313 residential units are possible within the Zone. Under this the draft stakeholders agreement, Millbrook will provide reserve land for this total number of future units. The total area of land required to satisfy this requirement is 8,607.5m².

A plan of the proposed community reserve is attached as Attachment B. The total amount of land required to create a functional and usable community sports field at the corner of Malaghans Road and Lake Hayes Road is approximately 31,400m². The Council therefore needs to acquire from Millbrook approximately 22,792.5 m² of land.

The Council currently owns 18,327m² of esplanade reserve adjoining Mill Stream. It is proposed to exchange the esplanade reserve for the proposed community reserve. Esplanade reserve has been acquired by the Council on previous subdivisions. Esplanade reserves are generally acquired for protection of riparian values and for public access. The master plan proposed by Millbrook includes provision for the enhancement and improvement of riparian values and for public access secured by easement across the current esplanade reserves.

The reserves to have the classification revoked and be offered to Millbrook in the exchange as are follows:

Lot 3 DP 20526 Certificate of Title 226421 (3925 m²)

Lot 4 DP 20526 Certificate of Title 226421 (184 m²)

Lot 5 DP 20654 Certificate of Title 339828 (7369 m²)

Lot 6 DP 20654 Certificate of Title 339829 (6849 m²)

Millbrook have offered to gift the balance of the proposed community reserve to the Council (approximately 4465.5 m²).

Public Access

Millbrook have offered to provide land to the Council by way of an easement for the purposes of a pedestrian walkway and cycle-way. The walkway/ cycle-way shall be provided in the location as indicated upon the attached Master Plan (Attachment A).

Millbrook will construct the walkway/cycleway and the costs incurred by Millbrook in formation of the walkway and cycle-way shall be deducted from the amounts payable by Millbrook to QLDC for the Reserve Improvements component of the overall Development Contribution. Should the cost of constructing the walkway/cycleway exceed the Reserve Improvements component of the overall Development Contribution, QLDC will pay to Millbrook this additional cost.

The walkway/cycle way shall be maintained by QLDC except where it crosses a Millbrook internal road, where it will become the responsibility of Millbrook.

The path shall be completed in three stages; being

- Stage 1: An interim alignment from Millbrook's southern boundary (at Dalsman Lane) through to the existing Resort buildings and The Avenue, to be in place no later than 1 December 2008. This interim alignment may be an unformed, staked route;
- Stage 2: From Millbrook's southern boundary (at Dalsman Lane) to the central junction, and through to the existing Resort buildings, merging with the road at the new 'Streamside' culvert and providing access to the Avenue;
- Stage 3: From the central junction towards the west linking with a QLDC path at the Millbrook's western boundary.

The easement creating this pathway shall include the following additional restrictions:

- The easement may be relocated by Millbrook with agreement from QLDC. QLDC shall not unreasonably withhold its agreement where a reasonable alternative easement location is to be provided by Millbrook.
- Public access to the easement may be temporarily closed where particular events are being held within Millbrook (for example triathlons, annual music festivals, CHOGM)
- With the exception of golf carts that are associated with Millbrook, there shall be no motorized vehicles, skateboards, horses, or unleashed dogs within the easement area
- Golf carts that are associated with Millbrook may be allowed to move and pass along the easement
- Public access to the walkway may be closed during the hours of darkness.

The final position of this walkway/cycleway will be agreed between representatives of Millbrook, QLDC and the Wakatipu Trails Trust.

OPTIONS

Process to give effect to the exchange of reserve land.

The exchange provisions contained within the Reserves Act 1977 (section 15) can only be used to exchange land suitable for the same purpose. For example a local purpose (esplanade) reserve cannot be exchanged for land other than that suitable for local purpose (esplanade). Following consultation with DOC we notified Council's intention to revoke the Local Purpose Reserve (for Esplanade Purposes) classification, and to then swap the various areas of land, which will be freehold. Finally the land acquired by Council will be classified as recreation reserve. This is the basis of the notification from December 2007. Submissions closed 31 January 2008 with no submissions being received.

Options for Council are now as follows:

1. To approve the revocation of the local purpose (esplanade) reserve classification from the following reserves:
 - Lot 3 DP 20526 Certificate of Title 226421 (3925 m²)
 - Lot 4 DP 20526 Certificate of Title 226421 (184 m²)
 - Lot 5 DP 20654 Certificate of Title 339828 (7369 m²)
 - Lot 6 DP 20654 Certificate of Title 339829 (6849 m²); and
 To approve this land being divested to Millbrook in partial exchange for the community reserve, the balance of the community reserve (total approximately 31,400 m²) to be acquired by reserve contribution and gifting by Millbrook; and
 To approve the newly acquired community reserve being classified recreation reserve once title is received; or
2. To decline the revocation of the reserve status on the above land, and either for the status quo to remain, or for further investigation of other options to be undertaken.

FINANCIAL IMPACT

The annual maintenance cost of the community reserve land would be in the order of \$6,000 per annum. This will be offset by a reduction in maintenance requirements for the esplanade reserves. The legalisation costs can be met from the current Property budget.

DELEGATION

Only the Full Council may resolve to initiate the process for reclassification, exchange or revocation of reserve land.

RECOMMENDATION

1. ***That the Queenstown Lakes District Council approve revocation of the reserve classification of the following reserves:
 Lot 3 DP 20526 Certificate of Title 226421 (3925 m²)
 Lot 4 DP 20526 Certificate of Title 226421 (184 m²)
 Lot 5 DP 20654 Certificate of Title 339828 (7369 m²)
 Lot 6 DP 20654 Certificate of Title 339829 (6849 m²); and***
2. ***That the Queenstown Lakes District Council approve this land being divested to Millbrook in partial exchange for the community reserve, the balance of the community reserve (total approximately 31,400 m²) to be acquired by reserve contribution and gifting by Millbrook; and***
3. ***That the Queenstown Lakes District Council approve the newly acquired community reserve being classified recreation reserve once title is received.***



MILLBROOK WEST

CAUTION: Do not use the Signal button on the front of the unit.



No.	Date	Description
10	1st August 1911	From Mr. [Name]

Geotiling File	Creation Date
Birth: 1288 @A1, 1289 @A3	
Date	July 2008
Serial Number	CPS
(NO NAME)	1000
Signature	PS
Device	SC
Channel	—

ON HOT SCALE OVERHEAD
CONTRACTOR TO VERIFY ALL LOADS BEFORE
PROCEEDING TO WORKING AREA
C. Brown Co. - 10/1/88



[illegible]

**QUEENSTOWN LAKES DISTRICT COUNCIL
FOR MEETING OF 29 FEBRUARY 2008**

REPORT FOR AGENDA ITEM: 11

SUBMITTED BY: Joanne Conroy – Lakes Property Services

REPORT DATED: 14 FEBRUARY 2008

REQUEST FOR NEW LEASE – SKYLINE ENTERPRISES

PURPOSE

To consider a request for a variation of lease by Skyline Enterprises for additional area adjacent to their current lease site, and a new lease for the car parking area adjacent to the lower terminal.

BACKGROUND

This matter was considered by the Community Services Committee in December 2007 and the following resolution was passed:

On the motion of Councillors van Uden and Perkins it was resolved:

- 1. That this report be received and;**
- 2. That the Community Services Committee approve in principle a surrender of lease and new lease (subject to the same terms and conditions as the existing lease) for Skyline for an additional 3.3351 hectares at the upper terminal, to be undertaken in conjunction with the lease renewal due in March 2010;**

On the motion of Councillor van Uden and WCB member Battson it was resolved:

- 3. That the Community Services Committee approve in principle a new lease for 5635 square metres as car park adjacent to the bottom terminal for a term of three years with renewal for a further two periods of three years each by agreement of both parties with rental to be set at market valuation as approved by the Property Sub-Committee; and**
- 4. That the Community Services Committee approve notification of Council's intention to grant the above leases, calling for submissions and;**
- 5. That the Community Services Committee nominate a hearing panel of Councillors Overton, Gilmour and Perkins to hear any submissions if necessary and make a recommendation to Council.**

Skyline Enterprises have a lease with Council for the Gondola and restaurant. It comprises a lease area of 4.1 hectares at the top terminal and 2654 square metres at the bottom along with an access strip for the gondola line. The lease commenced in 1995 for a term of five years, with renewals having been done in 2000 and 2005. They pay rent of 3% of turnover, which is due to be reviewed at the next renewal in 2010. The issues below were first considered by the Property Sub-Committee and Community Services Committee.

Skyline are seeking to extend their lease area both at the bottom and top terminals as described below:

a) Car park area – bottom terminal

In 2005, in an endeavour to address serious parking problems, Skyline formed a car park adjacent to the lower terminal. This was done without resource consent or Council's approval as Lessor. It turned out that this area was outside their lease boundary, although they confirm having utilised part of it informally for some 20 years.

The new parking area provides parking for staff and management of Skyline, Magic Memories, Queenstown Parapentes, Kiwi Haka, various contractors and Ziptrek if it proceeds. The total personnel employed by these Companies at any one time during the summer is as high as 130, therefore approximately 90 parks are needed. A study of car parking showed that on week days 41% of cars parked outside the terminal at 10.15 am were parked in the same place at 2 pm. Skyline is concerned that if staff and contractors occupy the Brecon Street parks, that customers not able to park would drive away thus reducing revenue for the Company (and Council).

Skyline confirm that they will not charge any levy to other users of the park, and that no building will be constructed on the site. They have surveyed the area slightly larger than the current formed park to give expansion in the future.

The carpark is constructed on an area formerly covered in broom, gorse and other noxious plants and was entirely undeveloped. It cannot be seen from anywhere except the air, being screened by the building from Brecon Street and by mature trees from town and Queenstown Hill. The additional area they are seeking at the lower terminal is 5635 square metres.

It was first thought that this could be managed by way of a licence with an annual fee until the next lease renewal in 2010 at which time the new area could be added to the lease by way of a variation. However there is no facility in the Reserves Act to facilitate this, and with the further encroachment below, it seems prudent to deal with this encroachment now. With the approval of the Chief Executive a one-off figure of \$12,000 was discussed with Skyline as appropriate, on the basis that the area would be included in the lease in 2010. We now have confirmation that this is not possible as a variation of a registered lease is not possible – it would require the current lease to be surrendered and a new lease granted. It would therefore seem appropriate that a new lease be granted for the car park area.

We have confirmation that a lease of recreation reserve for parking is permitted pursuant to the Reserves Act provided the users are using the reserve. This includes staff parking.

b) Upper terminal – New Luge Track

Earlier this year, Skyline formed a new access at the top of the Gondola, including some major earthworks, to give vehicular access to the top of the luge tracks.

They are seeking to formalise this encroachment, and to allow sufficient space to expand their luge operation as demand increases in the future. An area of Council's forest was destroyed and the market value of the timber was assessed at more than \$23,000 for which Skyline has recompensed Council.

Skyline confirm that there are now around 560,000 luge rides per annum and that queuing time can be as long as 25 minutes. The proposed increase in lease area will assist in the establishment of additional luge facilities or such other attractions as the Company may determine at some time in the future. This may include a complete replacement of the cableway within the next ten years dependent on demand. Without access to an additional lease area the proposal to establish additional attractions and to facilitate the cableway replacement will become impossible.

The proposal involves an additional 3.3351 hectares to the west and south of the existing upper lease. Skyline confirm that any trees located in the new lease area would remain the property of Council, and that Council would retain the right to access its forestry or other operations by using the newly formed road. The public could continue to have pedestrian access to the existing tracks.

Skyline point out that when a new luge track is formed, the additional turnover will ensure an adequate rental return to Council for the land. They also confirm that the rent paid in the year to 31 March 2007 has increased 43% higher than that paid five years prior. They confirm that all of the Directors of Skyline reside in the area, as do the majority of the shareholders. Skyline employ up to 130 persons at peak times and a base staff of 95.

The process of granting a variation of lease and/or new lease to increase the areas will involve notification of Council's intention calling for any submissions, a hearing if necessary, resolution of Council and approval of the Department of Conservation. It will take 3-4 months to complete and costs must be met by the applicant.

As the balance of the lease term is longer than 35 years (final expiry 2070), a subdivision for lease purposes pursuant to the Resource Management Act 1991 would be required for the top area. This will take some time to complete (as much as a year) and incur costs of approximately \$12,000 (costs to be met by the applicant).

We notified Council's intention to grant a new lease and variation to the existing lease in December 2007. The submission period ended 31 January 2008 and no submissions were received.

ATTACHMENTS

1. Plan of the lower terminal lease area and the proposed new lease areas.
2. Plan of the upper terminal lease area and the proposed new lease area and proposed new luge run.
3. Aerial photo of the Skyline site with the approximate new upper terminal lease area shown.

SIGNIFICANCE OF DECISION

Not significant under Council policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

Public notification has been undertaken. Consent of the Minister of Conservation will be required.

RELEVANT COUNCIL POLICIES

- Reserves Act 1977
- Ben Lomond and Queenstown Hill Reserve Management Plan

DISCUSSION

Skyline acknowledge that they acted wrongly in undertaking work outside their lease boundaries and have reimbursed Council for the loss of forestry assets. It is noted that Skyline were granted resource consent for this work.

They not only wish to take the opportunity to formalise their illegal occupation, but also to allow them sufficient scope to increase their business into the future. The cableway is due for upgrade in the next two years, but it will reach capacity in time and will need to be replaced. They advise that rebuilding it in the current location will not be feasible as it would require the entire operation to cease for some months during construction. Therefore the only option would be to build the new cableway on a slightly different site while the current one is still operational. The increased area at the upper terminal allows sufficient space to do that as well as to increase the luge operation.

The parking at the lower terminal is also seen by Skyline as essential although it does not directly affect turnover/profits. As parking has become increasingly scarce in downtown Queenstown, workers are now parking in fringe areas such as Brecon Street for the day and walking to work. Combine this with approximately 90 parks for workers and contractors for the various Skyline operations and there are not a lot of public parks available for Skyline and the Kiwi Park. Removing staff and contractor parking out of site to unused land behind the terminal is logical. However, as parking becomes tighter in the CBD, many operators will face this issue, and the solution cannot always be to use reserve land. There is also a possibility that the car parking area could be appropriate for public parking managed by Council some time in the future.

Should the variation and/or new lease be approved, the new lease would be implemented as soon as practical with the surrender of lease and granting a new lease to include the upper area timed to coincide with the next review and renewal in 2010. No further work will be undertaken on new area at the upper terminal until that time, therefore the increased leased area will not generate additional income in the short term. The percentage of turnover may be adjusted at that time to reflect the market and increased area.

OPTIONS

Skyline had already agreed that rent of \$12,000 plus GST is acceptable for the car parking until 2010 on the basis that it would be included in the main lease by way of a variation. However we have determined that this is not possible. Therefore rent for the new car park lease should be determined by market valuation.

The options are:

1. To approve in principle the application by Skyline for a surrender of lease and new lease (pursuant to the same terms and conditions as the old lease) for an additional 3.3351 hectares at the upper terminal in 2010 and a new lease for 5635 square metres at the bottom terminal to be facilitated as soon as practical; or

2. To approve in principle the application by Skyline for a new lease for an additional 5635 square metres at the bottom terminal OR a surrender of lease and new lease (pursuant to the same terms and conditions as the old lease) for an additional 3.3351 hectares at the upper terminal with different terms and conditions, either as soon as practical OR in 2010; or
3. Not to approve the application for a surrender of lease and new lease (pursuant to the same terms and conditions as the old lease) for the upper area or new lease for the car park, and to have Skyline reinstate the land.
4. If a lease is not approved for the lower area, a further option is for Council to take over the parking area for public use.

FINANCIAL IMPACT

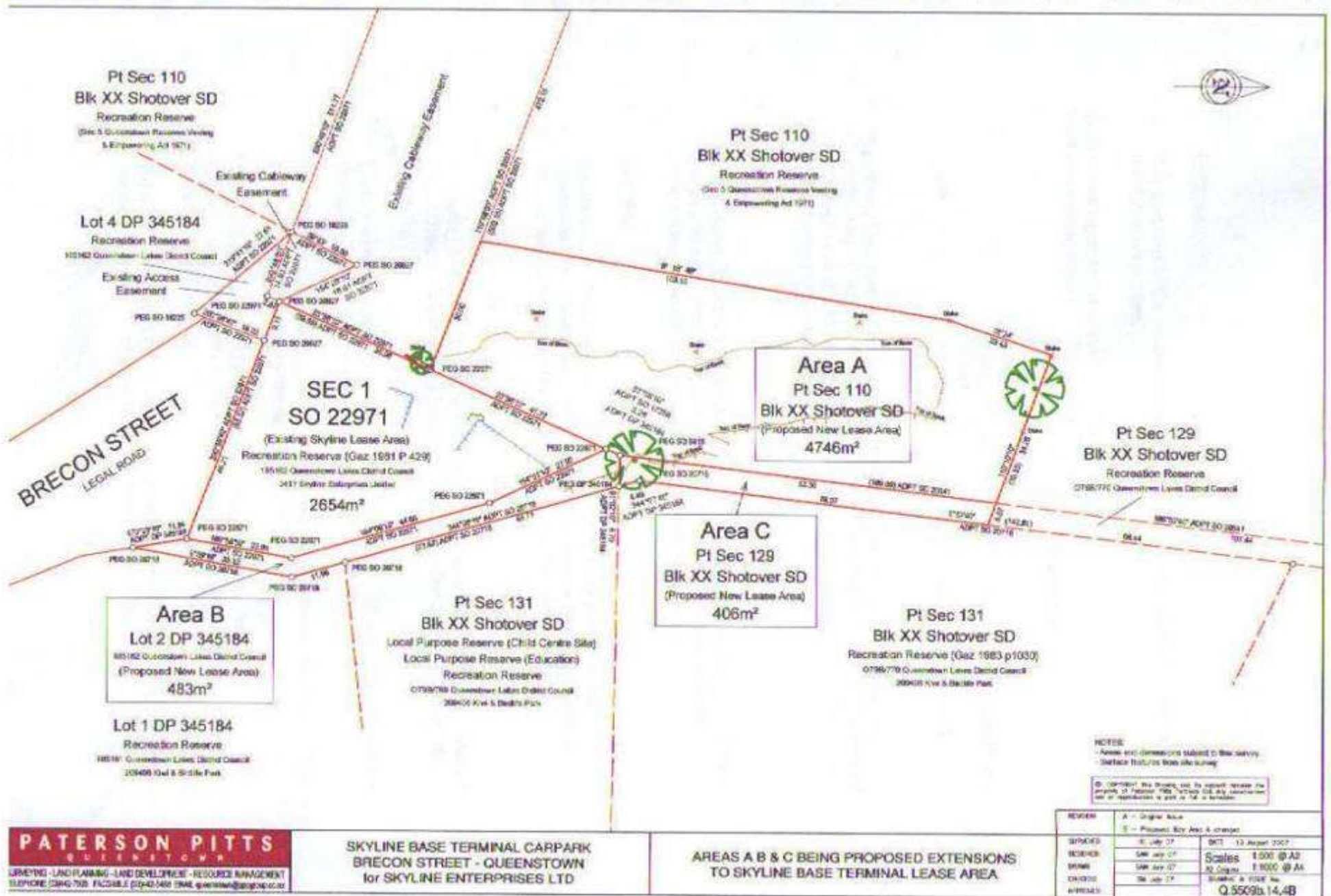
The applicant has agreed to meet all and any costs associated with process of granting a variation of lease and/or new lease. Council would receive addition income immediately for the lower area and addition turnover rent for the upper once a new luge track is formed.

DELEGATIONS REGISTER REFERENCE

The Reserve Act 1977 required a resolution of Council for granting a new lease. Any approval is subject to the approval of the Minister of Conservation.

RECOMMENDATION

1. *That this report be received and;*
2. *That the Queenstown Lakes District Council approve a surrender of lease and new lease (subject to the same terms and conditions as the existing lease) for Skyline for an additional 3.3351 hectares at the upper terminal,, to be undertaken in conjunction with the lease renewal due in March 2010; and*
3. *That the Queenstown Lakes District Council approve in principle a new lease for 5635 square metres as car park adjacent to the bottom terminal for a term of three years with renewal for a further two periods of three years each by agreement of both parties with rental to be set at market valuation as approved by the Property Sub-Committee.*



Sec 77
Blk XX Shotover SD
Scenic Reserve
(GAZ 1982 P3558))

Existing
Paragliding
Lease Area
1.5869ha

Existing Skyline
Lease Area
4.1028ha

Proposed Additional
Skyline Lease Area
3.3351ha

Existing Bungy
Lease Area
7514m²

Pt Sec 110
Blk XX Shotover SD

NOTES:
- Areas and dimensions shall

If this plan is used for the basis
of any agreement, then it is a



QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 12****SUBMITTED BY: Governance Officer (Jane Robertson)****REPORT DATED: 21 February 2008****DESTINATION QUEENSTOWN REPORTING****PURPOSE**

To introduce the report from Destination Queenstown (presented as an attachment to this agenda).

BACKGROUND

Destination Queenstown ("DQ") is an Incorporated Society, formed in 1985. Currently, 95% of DQ's funding is collected by way of a commercial levy, with 5% contributed from the general rate.

QLDC's Chief Executive is a member of the Board of Directors and the Mayor is an ex officio member.

DISCUSSION

David Kennedy (Chief Executive, DQ) and Tony Warwick (Board Chair) will be in attendance at the Council meeting to be held on 29 February to speak to a report entitled '*Destination Queenstown – Challenges facing the future tourism marketing of Queenstown*'. This has been circulated separately from the agenda papers.

Moving forward, it is intended to establish a regular reporting framework with DQ. This means that representatives of DQ will attend Council meetings every six months in order to address Councillors on issues of mutual interest.

RECOMMENDATION

That the report be received.

QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 13****SUBMITTED BY: Project Manager - Ken Gousmett****REPORT DATED: 18 February 2008****QUEENSTOWN AQUATIC CENTRE PROGRESS REPORT****PURPOSE**

To consider the February 2008 progress report.

ATTACHMENTS

- February 2008 progress report

SIGNIFICANCE OF DECISION

This decision is not a decision of significance under Council's significance policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

Since the completion of the concept design and report of the Working Party in September 2004 there has been extensive consultation through the Special Consultative Procedure to amend the Council Community Plan to take full account of this project.

During the submission period 606 submissions were received and the Council considered these on 16th February 2005. Of these submissions 462 supported the proposal, 40 supported the proposal but indicated opposition to the proposed funding, 91 were opposed and 13 did not indicate support or opposition. The Council Community Plan was subsequently amended to provide for this project.

RECOMMENDATION

That the report be received



PROJECT PROGRESS REPORT
QUEENSTOWN AQUATIC CENTRE
FEBRUARY 2008



PREPARED BY:

DATE: 18 February 2008



QUEENSTOWN AQUATIC CENTRE**CONTENTS**

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PROJECT TIMELINE



Plant room pumps and UV sterilisers



DE Filters

CURRENT PROGRESS

The new offices were completed just prior to Easter and the reception and foyer/entrance were handed over to the Events Centre staff in early July. The hydroslide mountain including the access steps and the twin hydro slides have been completed except for the glass ballustrade and the pools are nearing completion. The acoustic ceiling tiles are almost complete. The floor finishing has started and the painting is well advanced. Electrical, mechanical, water circulation and water treatment are all nearing completion. The pools are programmed to be cleaned and filled in late March.

Progress since January 2007 has been good and work is running close to programme (version 2, mid January 2007). The key remaining tasks are outlined below.

The contract completion date remains at 08 May 2008. Handover to operations will occur when the Code of Compliance has been issued, as no use of a public building is permitted until the Code of Compliance has been issued. This is the contract completion date. Due to the complexity of the operating systems (air handling, water treatment, filtration and heating) and the health and safety issues around water it is strongly recommended that the first use of the facility be a “soft” opening or progressive use of the various pools to enable the operations staff to gear up to full use, with no scheduled events during a “shake down” period. It is very important to iron out the inevitable bugs in a controlled manner.

The contract expenditure on completed work is 87% of the contract price (90% when materials and deposits paid are included) to the end of January 2008.

The work is on programme and is 85% through the 18 month construction period. The Quantity Surveyor’s most recent assessment of the impact of the known cost variations on the contract price has increased to \$183,734 or 1.19% over the accepted contract price.

Cost control continues to be a major focus of the contract management for all parties.

DESIGN TEAM

See previous progress reports.

CONSENTS

The following consents have been received, these are:

- | | | |
|---------------------------------------|-----------|------------------|
| • Land Use Consent
2005 | RM050671 | 15 November |
| • PIM | No 056174 | 8 December 2005 |
| • Land Use Consent for the new courts | RM051233 | 8 March 2006 |
| • Building Consent
2006 | BC060658 | Issued 14 August |

No further consents are required.

- | | |
|---------------------------------------|----------------------------------|
| • Code Compliance Certificate
2008 | To be applied for in early April |
|---------------------------------------|----------------------------------|

FUNDING

The following funding for this project has been approved by the Council:

Loan – Commercial Aspect (fitness centre)	\$860,000
Loan – portion attributable to growth	\$10,196,570
Wakatipu Land Sales Account	\$3,297,700
Grants and Donations	<u>\$3,500,000</u>
Total excluding GST	\$17,854,270

Other sources of sponsorship are:

- Aurora Energy Ltd has sponsored some \$120,000 of fit out items and \$60,000 for feature interior lights and some other electrical costs. Total \$200,000
- Adding a second transformer and other associated electrical savings – \$172,000
- Sponsorship from a developer by way of zero cost to take excess fill – saving \$28,000

CONSTRUCTION CONTRACT

The revised tender of \$15,408,886 plus GST from Naylor Love Ltd was accepted on 29 September 2006.

The contract expenditure was running at \$1.5 million per month but has now reduced to under \$1.0 million per month excluding GST. Total expenditure on the main contract to 31 January is \$13,822,300 or 90% of the contract price (includes the January contract claim). However this includes \$459,650 of materials on and off site. Some \$13,362,650 has been spent on completed work which is 87% of the contract price.

CONTRACTUAL ISSUES

There are no contractual issues.

VARIATIONS

Cost – the Quantity Surveyor has recommended 61 contract directions with a total value of \$104,405 and a further 133 with no cost adjustment for various drainage, foundation, structural steel, roofing and electrical changes. The Quantity Surveyors estimate of variations based on all information known to date is \$383,734 including the approved variations. This exceeds the contingency sum of \$200,000 by \$183,734 and is 1.19% over the contract price.

Time – no time extension has been granted since that previously reported in February 2007. The contract is on programme.

PROJECT BUDGET

Project budget

\$17,854,270 plus GST

This was approved at the Council meeting on 29 September 2006 and includes \$2,445,384 for Council incurred costs since inception through to completion. It was previously reported that the Council incurred costs is under some pressure

and is expected to result in an increase of some \$50,000 or 2.0%. This has not changed.

The total project cost including the main contract and Council incurred costs since inception is now estimated at \$18,088,000 and increase of 1.31% over the September 2006 budget. This is an increase of \$105,785 since the October 2007 progress report.

EXPENDITURE TO DATE

The total expenditure to 31 January 2008 is \$15,195,680 (includes the January 2008 contract payment) or 85.1% of the project budget. This includes all costs since inception.

In line with Council's normal financial reporting all costs exclude GST.

CONSULTANT REPORTS

Nil

RISKS/CONCERNS/ISSUES

LHT Design Ltd has requested a review of the agreed lump sum design fees and is seeking an increase on behalf of the design team. The information supplied by LHT Design to date does not support their claim. The original correspondence was in May/June 2007 and although LHT had verbally advised that they still wished to pursue an increase no further correspondence was received until January 2008. For the first time LHT then indicated the value of their claim - \$232,020 or 18% of the agreed fee. Further advice is being sought on this claim. This amount is not included in the financial report above. There has been no reduction in the level of service being provided by the design team.

MILESTONES/KEY REMAINING TASKS

Handover of the new entry, foyer and reception in early July 2007.

Key Remaining Tasks:

- The Ecophon noise insulated ceiling tiles are about 60% complete and are due to be finished by 22 February.
- Most exterior windows and doors are glazed and all interior windows will be glazed by early March
- The exterior painting is nearing completion and painting of the change rooms will commence shortly.
- The pools are to be tiled and lined by mid March to allow cleaning and filling of the pools by the end of March.
- The floor finish (non slip resin) which has been completed in the change rooms will continue until the end of March.
- The carpark kerb has been poured and the asphalt is due to be complete by late March.
- The soft landscape construction commences in mid March.

- We have a meeting with the Lakes Environmental Building Manager and Senior Inspector later this month to identify possible issues regarding code compliance.
- The Code Compliance Certificate is to be applied for by early to mid April.

HISTORICAL PROJECT TIMELINE

X	September 2002	Council Takes Over The Project From The Pool 2000 Trust
X	April 2003	Council Directs That The Aquatic Centre Is To Go At Frankton
X	June 2003	Draft Facility Mix Report Published, Consultation Begins
X	September 2003	Final Facility Mix Report Published
X	April 2004	Events Centre Master Plan Published – This Finalised The Site
X	May 2004	Consultants Engaged
X	August 2004	Concept Design Published
X	September 2004	Design Report and Cost Analysis Published
X	October 2004	Developed Design Commenced
X	October 2004	Further Consultation
X	December 2004	Commencement of Process to Amend Council's Community Plan
X	December 2004	Urban Design Panel Considers Concept Design
X	February 2005	Completion of Public Consultation and Amendment to Council's Community Plan.
X	February 2005	Urban Design Panel Recommendation Published
X	August 2005	Developed Design and Detailed Report Published
X	September 2005	Developed Design Approved
X	July 2005	Consent Application Lodged
X	October 2005	Consent Hearing
X	November 2005	Working Drawings Commenced
X	December 2005	Main Contract Expressions of Interest Advertised
X	24 February 2006	Main Contractor Appointment – Naylor Love Ltd
X	10 April 2006	First Work Commences – New Netball Courts
X	19 June 2006	Building Consent Application Lodged
X	Progressively to early July	Tender issue of drawings and specification
X	Progressively from end of June to mid August	Subcontract prices sought by main contractor.
X	14 August 2006	Building consent issued
X	23 August 2006	Main Contract Fixed Price Lump Sum received.
X	31 August 2006	Value Engineering Workshop and Councillor Briefing
X	29 September 2006	Revised Lump Sum Accepted
X	Mid October 2006	Main Contract Works Commenced
	May 2008	Construction Complete – Handover to the Operator

QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING OF 29 FEBRUARY 2007****REPORT FOR AGENDA ITEM: 14****SUBMITTED BY: Denis Mander, Transportation Planning Manager****REPORT DATED: 14 February 2008****SUSTAINABLE TRANSPORT: UPDATE OF THE NEW ZEALAND TRANSPORT STRATEGY****PURPOSE**

To seek Council approval of a draft submission on the Update of the New Zealand Transport Strategy.

BACKGROUND

In mid December 2007, the Minister of Transport released the discussion paper "Sustainable Transport: Update of the New Zealand Transport Strategy". A copy of a summary of the discussion paper is attached.

The Ministry advises that the discussion paper is a first step towards the release of an updated NZ Transport Strategy.

This Update comes at a time when Government is moving to re-structure the management of the transport sector through the Land Transport Management Act Amendment Bill. The update of the New Zealand Transport Strategy needs to be seen in the context of this bill and in particular the development of a "government policy statement" that is intended to bridge the gap between the high level New Zealand Transport Strategy and the regional land transport strategies to be developed by each region.

The Ministry of Transport is now seeking submissions on the discussion paper. These are due by 29 February 2008.

The Update was reported to the February meeting of the Strategy Committee and a verbal briefing on the issues was made at the meeting. As a consequence, a draft submission was distributed to members of the Committee and comments were incorporated into the draft that is attached to this report.

ATTACHMENTS

1. Summary: Sustainable Transport. Update of the New Zealand Transport Strategy Discussion Paper.
2. Draft Submission.

SIGNIFICANCE OF DECISION

The decisions sought by this report are not significant in terms of the Council's significance policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

The discussion paper has been promulgated by central government, which is now managing a public consultation process.

DISCUSSION

The NZ Transport Strategy 2002

The 2002 strategy articulated for the first time the Government's vision for transport as

“By 2010 New Zealand will have an affordable, integrated, safe, responsive, and sustainable transport system.”

In support of the vision, the 2002 strategy put forward principles of sustainability, integration, safety and responsiveness.

- Assisting economic development
- Assisting safety and personal security
- Improving access and mobility
- Protecting and promoting public health
- Ensuring environmental sustainability

The 2002 Strategy has been important in guiding the development of regional and local transport strategies, funding decisions and the activities of Land Transport NZ and Transit New Zealand. As stated in the paper “five years on it is time to review our position and perhaps think differently about how we should allocate resources in the future”

Strategy Update

Since 2002, the Government has developed a series of policy targets as part of the drive for improved sustainability. The Ministry of Transport reports that the updated strategy must complement the transport targets signalled by other strategies such as the New Zealand Energy Strategy and the Energy Efficiency and Conservation Strategy.

In December 2007, the Government released its discussion paper “Sustainable Transport: Update of the New Zealand Transport Strategy (attached) and signalled its intention that an update of New Zealand Transport Strategy will be produced in 2008.

The updated strategy will have a planning horizon through to 2040. A key theme of the discussion document is the need to achieve greater sustainability in the transport sector. The paper highlights the government's sustainability initiatives as providing new context for the strategy. It is intended that the updated strategy will set high level targets and intermediate targets for “sub-sectors” that would then be refined by the government policy statement (GPS)

Relevance to Queenstown Lakes District

Similar to the Land Transport Amendment Bill which the Council considered in December, the update of the Transport Strategy will be of high relevance to the district. The objectives of the strategy will filter through the GPS and the Otago Regional Land Transport Strategy.

It will be important that future transport projects in the district do promote the objectives of the update strategy. This should not be seen as a threat, given the positive response of government and Central Government agencies to the Wakatipu Transportation Strategy. The Council may wish to highlight in its submission its acknowledgement and support for improving the efficiency of transport system. A challenge however is to shift from the rhetoric to achieving results on the ground.

One area of importance to Queenstown, however, that does not, come through in the discussion document is the need to promote excellent results in urban design and amenity through transport investment.

There is also a need to acknowledge, through appropriate targets, the role that clear market signals can play in influencing travel behaviour.

FINANCIAL IMPACT

The matters raised in this report do not have an immediate and quantifiable financial impact.

DELEGATIONS REGISTER REFERENCE

This report does not affect delegations

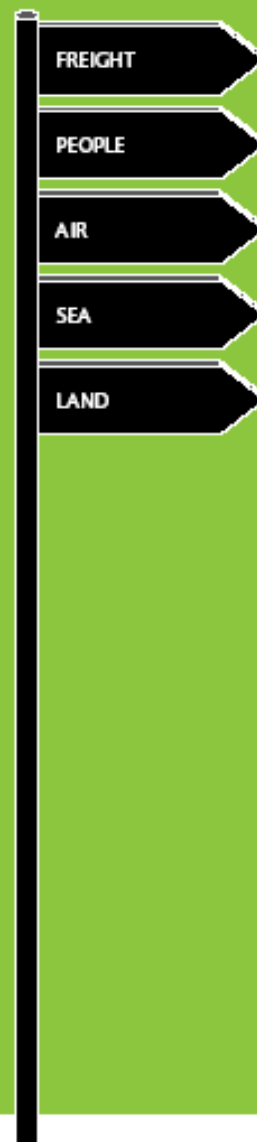
RECOMMENDATION

That the attached draft Council submission on the discussion paper “Sustainable Transport: Update of the New Zealand Transport Strategy” be approved.

**ATTACHMENT ONE: SUMMARY DOCUMENT: "SUSTAINABLE TRANSPORT:
UPDATE OF THE NEW ZEALAND TRANSPORT STRATEGY."**



The purpose of the Update of the New Zealand Transport Strategy is to set out the issues facing the transport sector and propose a series of transport specific targets...





In 2008, the government will publish an Update of the New Zealand Transport Strategy.

This Update will:

- provide direction for the transport sector until 2040 in the context of the government's sustainability agenda and other government strategies in the areas of energy and energy efficiency
- translate that direction into high-level targets for the transport sector and intermediate targets for sub-sectors (air, sea, road, vehicle fleet, rail, freight, public transport, walking and cycling) to help achieve the high-level targets
- provide clearer guidelines for decisions about funding allocations
- contain an action plan, including accountabilities for actions reflecting how we intend to reach the transport targets.

The purpose of the Update of the New Zealand Transport Strategy is to set out the issues facing the transport sector and propose a series of transport specific targets within the context of overarching targets already decided by the government in the areas of sustainability, energy and climate change.



VISION FOR THE FUTURE

New Zealand's transport system in 2040

What will the New Zealand transport system look like in 2040 if it is to play its part in ensuring New Zealanders have a sustainable way of life?

Any transport system is about "moving people and moving freight".

An important reality is that the cost of fossil fuel will be significantly higher than it is today; this will be a world-wide reality, not just a challenge for New Zealand.

If we make the right choices we can still have a vibrant economy and excellent transport system. Below is a summary of how transport could perform if some of the choices discussed in this document are adopted in the years ahead.

MOVING PEOPLE

INTO AND OUT OF NEW ZEALAND...

- International air services and airports provide an excellent range of connections, with a high degree of efficiency.
- Safety standards are maintained at world-best levels.
- High security standards as appropriate for New Zealand.

- Users face full costs including the cost of emissions.
- Transport greenhouse gas emissions and energy use per passenger are significantly reduced through use of renewable fuels, more fuel efficient aircraft, and improved operating practices.

AROUND NEW ZEALAND...

- Regional airports and air services provide an excellent range of domestic connections with a high degree of efficiency.
- Road systems provide a reliable network for cars, coaches and commercial vehicles with reliable journey times.
- Inter-town/inter-city bus and coach services are operating at increased frequency, and further selected passenger rail services are operating.
- Safety is significantly improved through improvements to the vehicle fleet, road networks, and vehicle operating practices.
- Users face full costs including the cost of emissions.
- Greenhouse gas emissions and energy use are significantly reduced through use of renewable fuels, more fuel efficient technology, and improved operating practices.



IN OUR CITIES AND TOWNS...

- Improved public transport, including more frequent and higher quality services.
- More walk and cycle-friendly transport environments that 'invite' rather than just 'allow' for the use of these modes.
- Good connectivity between modes provides improved accessibility.
- Road networks operate more reliably through effective use of traffic management, traveller information, and demand management measures and selected capacity improvements.
- Priority provisions (eg dedicated lanes) are provided for buses and other multi-occupancy vehicles on congested sections of networks.
- Improved safety and public health through engineering improvements to vehicle fleet and road networks, vehicle operating practices, and greater use of active modes.
- Electric vehicles are a significant component of road transport.
- Road users pay full costs including carbon charges, but subsidies may be provided for public transport and active modes in recognition of the health, environmental and congestion reduction benefits.
- Social subsidies continue to be provided for the elderly and transport disadvantaged.
- Greenhouse gas emissions and energy use are significantly reduced through better town planning, more fuel efficient vehicles and use of renewable fuels, improved operating practices, and increased use of shared and active modes.
- Land use and transport are planned in an integrated way.

MOVING FREIGHT

INTO AND OUT OF NEW ZEALAND...

- Shipping lines and ports provide an excellent range of services with a high degree of efficiency.
- Airfreight continues to play a vital role for time-critical freight.
- Safety standards are maintained at world-best levels.
- High security standards as appropriate for New Zealand.
- Users face the full costs, including the cost of emissions.
- Transport greenhouse gas emissions and energy use are significantly reduced per tonne-kilometre of freight through use of renewable fuels and larger, more fuel efficient ships operating to best environmental practice.

AROUND NEW ZEALAND...

- Transport operators provide an excellent range of reliable and cost effective freight services.
- Effective road, rail and coastal shipping networks provide greater choice for freight users, and there is good connectivity between modes, with minimal delay and damage to freight at intermodal connections and terminals.
- Safety is further improved through improvements to road and rail networks, and vehicle operating practices.
- Users face full costs including the cost of emissions, with start-up support and subsidies targeted at selected modes when justified by externality benefits.
- Greenhouse gas emissions and energy use per tonne-kilometre of freight are significantly reduced through greater use of rail and shipping modes, use of renewable fuels, improved freight logistics and vehicle operating practices, and investment in energy-efficient and greenhouse gas reducing technologies.



Photo courtesy of Ports of Auckland Ltd

IN OUR CITIES AND TOWNS...

- Improved connections for freight traffic between ports, airports, rail and other terminals, and developments that generate significant freight movement, including providing priority lanes for freight vehicles on congested sections of the network.
 - Road networks operate more reliably through effective use of traffic management and demand management measures and selected capacity improvements.
 - Safety is further improved through improvements to road networks and heavy vehicle operating practices.
 - Users pay full costs including the cost of emissions.
 - Greenhouse gas emissions and energy use per tonne-kilometres are significantly reduced through better planning, use of renewable fuels, more fuel efficient vehicles, improved operating practices, and greater use of more sustainable modes for freight movement.
-

TRANSPORT TARGETS

A series of high-level transport specific targets are proposed for each objective under the NZTS within the context of overarching targets already decided by the government in the areas of sustainability, energy and climate change.

These high-level targets relate to outcomes for 2040 and will be regularly monitored based on a systematic measurement framework with results published. The targets will also be reviewed in the light of new knowledge and considerations such as cost-effectiveness. This will allow the NZTS to evolve in response to the performance of the New Zealand transport network.

Each high-level target is supported by one or more intermediate target which either relate to an earlier year or represent how the overall target will be achieved.

Summary of Targets

GOVERNMENT AGREED HIGH-LEVEL OUTCOME TARGET FOR 2040

Halve per capita domestic greenhouse gas transport emissions.

PROPOSED HIGH-LEVEL OUTCOME TARGETS FOR 2040

Travel times by all modes will be predictable.

Travel times by principal routes to be improved relative to 2007 for identified critical intra and inter-regional connections, as determined with each region.

All individuals have access to the facilities and activities they need, such as work, education, medical care and shopping centres, to participate in society.

Public health effects of transport to be at accepted international standard.

Local environmental impacts of transport (including air and water quality) to be at accepted international standard.

Operate to world best-practice safety standards for all modes of transport.

GOVERNMENT AGREED INTERMEDIATE OR DETAILED TARGETS FOR 2040

Become one of the first countries in the world to widely deploy electric vehicles.

A biofuels sales obligation that will begin at a level of 0.53 percent from 2008, increasing to 3.4 percent of annual petrol and diesel sales by 2012.

Reduce the kilometres travelled by single occupancy vehicles in major urban areas on weekdays by ten percent per capita by 2015 compared to 2007.



PROPOSED INTERMEDIATE OR DETAILED TARGETS FOR 2040

Identify and remove any barriers to the uptake of plug-in hybrid and full electric vehicles that meet appropriate safety standards.

Effective real-time information systems in place to enable road users to plan their journeys to avoid congestion, minimising delay and fuel wastage, by 2015.

Road deaths no more than 200 per annum.

Over 40 percent of the light vehicle fleet to have four star or better occupant protection (currently ten to 15 percent) by 2015 and 90 percent by 2040.

Over 25 percent of light vehicles to have electronic stability control (currently less than five percent) by 2015 and 95 percent by 2040.

Lift coastal shipping's share of inter-regional freight to around 30 percent (currently about 15 percent of tonne-kilometres).

Lift rail's share of domestic freight to around 25 percent (currently about 18 percent of tonne-kilometres).

Increase the public transport mode share of peak hour travel (journeys to work) in Auckland, Wellington and Christchurch from an average of nine percent to 20 percent and work with each region to optimise peak hour travel targets.

At least double the overall public transport mode share to seven percent of all passenger trips (currently about two to three percent).

Increase walking and cycling and other "active modes" to 30 percent of total trips in urban areas (currently about 17 percent).

Ensure a substantial reduction in premature deaths and serious illnesses arising from air pollution from motor vehicles.

Manage noise to minimise any public health effects.

No net loss of indigenous vegetation or fauna from infrastructure construction or maintenance.

GOVERNMENT AGREED TARGETS TO REDUCE HARMFUL EMISSIONS FROM CARS AND TRUCKS

Reduce the rated CO₂ emissions per kilometre of combined average new and used vehicles entering the light vehicle fleet to 170 grams CO₂ per kilometre by 2015 (currently around 220 grams CO₂ per kilometre), with a corresponding reduction in average fuel used per kilometre.

Ensure 80 percent of the vehicle fleet is capable of using at least a ten percent blend of bio-ethanol or bio-diesel, or is electric powered, by 2015.

PROPOSED TARGETS THAT WILL HELP FURTHER REDUCE HARMFUL EMISSIONS FROM CARS AND TRUCKS

Thirty-five percent of the vehicle fleet to have emissions technology consistent with Euro 4 (or equivalent) standard by 2015.

Imported used petrol, LPG, CNG and diesel vehicles (light and heavy) are to be of Euro 4 (or equivalent) standard by 2012.

Imported new petrol, LPG, CNG and diesel vehicles (light and heavy) are to be of Euro 4 (or equivalent) standard by 2009.

DISCUSSION POINTS

Are our high-level targets appropriate – are there other approaches we could take?

Are additional targets needed?

Are our targets achievable given the necessary investment and behaviour change needed to reach them?

Are our intermediate or detailed targets appropriate – are there other approaches we could take?

What pathways allow New Zealand's sustainability objective to be reached while also making good progress against all the New Zealand Transport Strategy objectives?

Are there other measures and targets you believe should be considered? If so, what are they, and how would they help achieve the objectives of the New Zealand Transport Strategy?

Do you agree that transport problems cannot always be solved with transport solutions? If so, what ideas do you have for new ways of working to solve transport issues?

For more information or to make a submission, visit:

www.transport.govt.nz

Email your submission form to:

sustainabletransport@transport.govt.nz or post to:

Sustainable Transport

Ministry of Transport

PO Box 3175

Wellington 6140

by Friday 15 February, 2008.

ATTACHMENT TWO: TEMPLATE FOR COUNCIL SUBMISSION

UPDATE OF NZ TRANSPORT STRATEGY: DRAFT COUNCIL SUBMISSION

Sustainable Transport
Ministry of Transport
PO Box 3175
Wellington 6140

Dear Sir/Madam

Thank you for the opportunity to make a submission on the discussion paper "Sustainable Transport: Update of the New Zealand Transport Strategy." The Queenstown Lakes District Council (QLDC) recognises the importance of the document in setting directions for the transport sector in New Zealand and, consequently, the influence the updated strategy will have on transport in the Otago Region and the Queenstown Lakes District through the Government Policy Statement and the upcoming review of the Otago Regional Land Transport Strategy.

Accordingly, the QLDC appreciates the efforts of the Ministry of Transport in entering into dialogue with transport stakeholders over the review.

Support for Review

The QLDC agrees with the contention of the Minister of Transport that a review of the NZ Transport Strategy is timely given the changing context for transport both in a legislative sense (with the progress on the Next Steps Review) and in the wider economic and environmental sense.

The fact that many of the fundamental transport trends are running counter to the objectives of the 2002 Strategy provides a sound rationale for a greater sense of urgency towards achieving changes in transport.

General comments – Freight

It is agreed that the movement of freight is an important consideration of the strategy. However, the concern of the strategy must be the extent to which the movement of people is causing congestion - thereby making the reliable and efficient movement of freight more difficult. The degree to which transport strategies can move people into more efficient means of transport is a critical part of any freight movement strategy. This is particularly the case in districts such as Queenstown Lakes where the inter-district movement of freight by water or rail is not an option.

That said, the QLDC welcomes the Ministry of Transport's proposed investigation into freight and the potential for initiatives that rationalise freight movements around regional distribution centres.

General Comments – Urban Design and Amenity

The importance of a good urban environment and high quality amenity appear to be undervalued by the discussion document.

The quality of urban design in a district has the potential to constrain or enable the achievement of many of the objectives of the NZ Transport Strategy. Over the past five years the importance of good urban design in transport has been recognised. It is essential that the design of transport system be context sensitive (what's right for Auckland may not be right for Queenstown) and that, as well as being functional in a

pure transport sense, it contributes to the community outcomes sought by the LTCCP. The QLDC is a signatory to the New Zealand Urban Design protocol, as are many central government agencies. It would be appropriate that “good urban design” becomes a principle of the strategy alongside sustainability, integration, responsiveness and safety. Alternatively good urban design should be a guiding concept of the updated strategy.

With respect to amenity, it must be recognised that the transport system is a key occupier of public space in every district. The form of the transport system will determine the quality of the district in terms of noise, visual impacts, and air quality. In the Queenstown Lakes District, the quality of amenity has economic impacts given the district’s reliance on the visitor industry. Recently, through discussions with Land Transport New Zealand over the visual impact of crash barriers on the Crown Range Road, the QLDC has come up against Land Transport NZ’s argument for functional but low amenity solutions. The QLDC is concerned that the effect of these decisions is the incremental degradation of the district’s special environment.

Queenstown is a premium resort town with a tourist-based economy that is “at risk” if the development of the transport system is mismanaged. The district is demanding of a transport system that enhances the area as a destination. Construction of a transport system that degrades amenity could lead to a fundamental downturn in tourism that would impact on local employment and tourism earnings. With 45% of Queenstown’s employees working within the tourism and construction related sectors and Queenstown’s visitor expenditure at almost \$500m in 2006, a fundamental downturn would have local, regional and national impacts.

Accordingly, in Queenstown’s case, and in the case of other tourist centres and tourist routes, it is essential that economic considerations reach beyond evaluations of trip time savings and improvements in trip reliability.

General Comments – Using Market Signals to influence travel behaviour

Central Government has, through its control of taxation and road user charges the opportunity to develop incentives to specific changes in behaviour. This is an area which is not effectively used at the present. There are opportunities, for example, to incentivise a shift towards diesel cars in the private car fleet through targeted reductions in charges.

Innovative consideration of tax incentives to promote changes in travel behaviour should be a major theme of the strategy targets.

General Comments – Targets

The attention being given now to the development of targets will help focus effort on the achievement of the objectives. Without meaningful targets, the vision for the future put forward in the discussion document comprises “motherhood and apple pie statements” that will have little effect.

Overall, the selection of targets does appear to be piecemeal. A comprehensive series of targets that promote innovation in achieving the strategy objectives needs to be developed. Unfortunately, the strategy update gives a sense that New Zealand’s responses to its transport issues will be “more of the same”, with some tweaking around the edges. The recent statement from the Ministry of Transport’s General Manager Strategy that the updated strategy should contain a much more comprehensive series of targets is supported.

As a general comment on all the targets proposed by the discussion document, it is essential that they be able to be translated to the local level so that performance of local transport systems can be measured and assessed. Land Transport New Zealand is already making good progress on this in the area of road safety where reports on road safety in each district are produced annually. A challenge for the transport sector will be to report in similar fashion on district level performance in respect of the other four objectives (economic development, access and mobility, public health and environmental sustainability). This is important because not all “solutions” will be nationally based. There is considerable potential for local initiatives – such as well-founded bio fuel development – to be part of the mix of local, regional and national initiatives that result in fundamental changes in the transport system.

Other comments

The following comments follow the structure of the submission form developed by the Ministry of Transport

Guiding concepts

- a) *In addition to the New Zealand Transport Strategy objectives and the targets, do you agree with the guiding concepts outlined in the discussion paper on page 21?*

The guiding concepts proposed by the discussion paper (end to end transport solutions, getting best value for transport assets, integrating land use and transport planning, non-transport solutions, new technologies) are supported.

This submission has referred earlier to the importance of urban design and amenity outcomes. Given the importance of these as enablers or inhibitors for the achievement of strategy objectives, it would be appropriate to elevate these to guiding concepts within the strategy.

1. Assisting economic development

- a) *Are our high-level targets appropriate – are there other approaches we could take?*

This submission has referred to economic factors that are quite different from the “travel times” targets proposed by the strategy. While reference to travel time savings and improvements in the predictability of trip times has traditionally been used in New Zealand to judge the economic value of a transport project, its application has in the past caused concerns – the value of bus passenger’s time has traditionally been assessed as lower than that of a car driver, while there doesn’t appear to be any distinction between road freight and general traffic.

The tenor of the discussion document appears to suggest that distinctions do need to be made between projects on the basis of the types/purpose of trips that will benefit. Priority needs to be given to the movement of freight and efficient movement of people. The alternative appears to be a continuation of the status quo where the funding system support projects that deliver benefits to general traffic. If the Strategy is seeking changes to mode share, it would appear that the economic evaluations of projects need to be more sophisticated.

The reference to predictability of travel times is supported. Research has shown that managing expectations around travel times is important and enables the smoother operation of activities that are transport dependent

b) Are additional targets needed?

Yes – refer above.

c) Are our targets achievable given the necessary investment and behaviour change needed to reach them?

The intermediate and detailed targets are achievable, but they do require fundamental changes in public perceptions towards alternative modes and changes to project funding.

d) How can we best achieve the substantial increases in mode share suggested for domestic sea freight and rail freight?

It is noted that the Ministry of Transport has initiated a freight study. This initiative is supported as it will provide information on the needs of the freight industry and how the transport section should be responding.

2. Assisting safety and personal security

a) Is our high-level target appropriate – are there other approaches we could take?

The target of reducing road deaths is supported. However the effects of pursuing initiatives to improve vehicle occupant protection or to introduce electronic stability control need to be understood. Will, for example, the combination of greater vehicle occupant protection and stability control mean that vehicle designs change and vehicle speeds increase to the detriment of other road users in the event of a crash?

b) Are additional targets needed, for example, around security or perceptions of safety?

Yes. There is no target relating to personal security. Targets should be developed that reflect the quality of the road environment and public attitudes (is it safe to walk, and is there a threat of criminal activity?).

c) Are our targets achievable given the necessary investment and behaviour change needed to reach them?

No comment.

d) Should we, for example, develop initiatives to ensure turnover in our vehicle fleet is higher, to allow faster adoption of new safety technology?

This may be a valid strategy. However as it stands the existing targets (apart from reducing the road toll) surround technologies. The problem of road safety and personal security is a much wider issue.

There is also a need to consider how efforts to increase fleet turnover complement or contradict other objectives. The energy costs associated to the production of new cars should be a part of the equation.

3. Improving access and mobility

- a) *Are our high-level targets appropriate – are there other approaches we could take?*

The high level targets are supported.

- b) *Are additional targets needed, for example, one around urban design?*

Yes, but also other targets are needed. The concept of “universal access” (where the transport system enables reasonable access by people of all abilities) deserves greater prominence in any discussion on accessibility. Within the population there are wide ranges of abilities “negotiate” the transport system. These are influenced by factors such as age and impairment.

A key issue for rural areas is the future of school bus services that are provided by the Ministry of Education. It is important that the Ministry remain committed to the provision and appropriate expansion of good quality school bus services.

- c) *Are our targets achievable given the necessary investment and behaviour change needed to reach them?*

Yes. But there needs to be greater will to achieve the objectives. The development of the government policy statement for transport and a strengthened regional decision making could assist. There needs however to be a greater sense of purpose to achieve these targets across all government agencies.

- d) *Are we satisfied with 2007 travel times as the baseline to aim for in the future?*

Accessibility needs to be measured in more than travel times. It must consider ease of access and issues such as public security and cost.

- e) *How will our aim of reducing travel time on all modes (including road) affect our aim of increasing public transport?*

Given that funding will always be limited there is a need to establish priorities between modes and between trip purposes.

- f) *Are our intermediate public transport targets appropriate and achievable?*

As mentioned earlier there is a need to address school bus services. In terms of vehicle qualities these appear to be a “poor cousin” to urban scheduled services. The quality of school bus services will frame attitudes of children and their parents towards public transport.

- g) *Should we develop a target for public transport in rural areas?*

Yes – the target should reflect a level of service (including vehicle quality), and include school bus services.

4. Protecting and promoting public health

- a) *Are our high-level targets appropriate – are there other approaches we could take?*

There is a need to better define “substantial” when creating a target for the reduction in premature deaths and serious illnesses arising from air pollution from motor vehicles.

b) Are additional targets needed?

The targets do not at present relate directly to public health. Links have been drawn between obesity levels and transport and these should be referred to here.

c) Are our targets achievable given the necessary investment and behaviour change needed to reach them?

No comment – see d) with respect to cycling and walking

d) Is our intermediate walking and cycling target appropriate and achievable?

Yes this target (30% of total trips in urban areas by walking and cycling) is achievable. It will however require fundamental improvements to infrastructure and funding, good urban design, and changes to public perceptions towards cycling and walking. This will rely on actions covering the full range of activities covered by:

- **Communications/education** – covering aspects that include raising awareness of why cycling and walking is being promoted, encouraging non-users to trial, reinforcing existing cycle and walking use, and encouraging appropriate road user behaviour;
- **Regulatory measures (and their enforcement)** involving the necessary changes to local planning policy documents, bylaws, subdivision standards, and
- **Roading Environment.** This will need to address measure to “engineer” a road environment that is conducive to cycling and walking (i.e. improved lane widths, appropriate placement of street furniture, lighting, etc)

It is important that national targets be translated to local level and that the impacts of local strategies in achieving those targets are monitored.

e) How can we best achieve the substantial increase in mode share suggested for walking and cycling?

Cycling and walking has to be seen as one small piece of the wider strategic response to our community outcomes. Measures to improve cycling and walking must extend beyond the traditional minimum requirements for footpath widths, but must be influence the wider road environment and the relationship between road space and the activities served by the transport system.

f) Should we develop initiatives to ensure turnover of our vehicle fleet is higher, to allow improved exhaust emission technology, for example, to be adopted more quickly?

There is a need to consider the environmental impact of accelerating the construction of new cars.

5. Ensuring environmental sustainability

a) Are our intermediate or detailed targets appropriate – are there other approaches we could take?

The current targets appear to reflect an incomplete strategy – it is important that the document provide the rationale behind particular targets. On the face of it initiatives relating to electric vehicles and changes in fuel source (to renewable sources) appear worthy. However the strategy does not include a discussion on the environmental gains to be made or the feasibility of these initiatives.

- b) *Are additional targets needed, for example, one around engine size?*

No comment

- c) *Are our targets achievable given the necessary investment and behaviour change needed to reach them?*

No comment

- d) *How can the reduction in single occupancy vehicle travel best be achieved?*

As with initiatives to increase use of cycling and walking, efforts to reduce single occupancy vehicle travel need to be a part of a wide set of complementary initiatives that will influence the quality of alternatives (and public perceptions towards those alternatives), personal security, and urban form.

There is a need to incorporate transport initiatives and consideration of transport effects in decision making across government at central regional and local government levels.

- e) *Should we develop initiatives to ensure turnover of our vehicle fleet is higher, to allow faster adoption of electric vehicles, for example?*

Refer to earlier comments

6. Making Progress towards all the New Zealand Transport Strategy objectives

Refer to earlier general comments.

7. Transport choices

- a) *Is this an accurate summary of the transport choices facing New Zealand in the foreseeable future?*

There is a need to consider technologies that enable the reduction of trips (teleconferencing, teleworking, etc). The strategy should address the quality and coverage of broadband as one technology that has potential to reduce the need for trip making.

- b) *Do you agree that transport problems cannot always be solved with transport solutions? If so what ideas do you have for new ways of working to solve transport issues?*

Yes. It is essential that transport initiatives be a part of wider strategies aimed at improving quality of life and environment.

- c) *In particular, how do you see transport planning and land use working together?*

It is essential that transport planning and land use planning have the same strategic reference points (LTCCP, Growth Management Strategy) and that initiatives do deliberately give regard to integration issues.

The strategy needs to establish a direct link between land use patterns and transport and highlights the need for transport strategies to sit within the context of growth management strategies that define preferred urban forms for districts.

It is important that transport planning achieves wider integration with the governmental activities. It is essential to consider the development of transport alongside utility development, development of open spaces, urban design, and communications.

QUEENSTOWN LAKES DISTRICT COUNCIL

FOR MEETING OF 29 FEBRUARY 2008

REPORT FOR AGENDA ITEM: 15

SUBMITTED BY: Denis Mander – Transportation Planning Manager

REPORT DATED: 14 February 2008

BUS STOP LEGALISATION

PURPOSE

To obtain Council approval to commence a special consultative procedure on a proposal to confirm the legal status of bus stops in the Wakatipu Basin by way of Council resolution pursuant to the Queenstown Lakes District Council Traffic and Parking Bylaw 2006.

BACKGROUND

The Wakatipu Transportation Strategy envisages significant improvements in passenger transport services within the district. A number of projects are underway within the district to improve the provision of service information, and bus stop facilities.

With the help of key bus operators (principally Connectabus), a study completed last year identified on GIS maps the locations of existing stops. The manner in which bus services have grown in the district has meant that the legal status of some bus stops is unclear.

This status is important because the uncertainty does restrict the Council's ability to contribute to bus service improvements (through installation of facilities such as seating, shelters and information) and to enforce parking restrictions that contribute to the convenience and safety of bus services. Following from the legalisation of bus stops, statutory signage would be installed from funding within this year's budgets.

Accordingly, the February meeting of the Utilities Committee received a report on bus stops in the Wakatipu Basin. The Committee resolved to recommend that proposed locations for bus stops set out in the report be reported to Council.

Traffic and Parking Bylaw 2006

Clause 12.1 of the Traffic and Parking Bylaw 2006 states that:

“The Council may, from time to time, by resolution (subject to the erection of the required signs under the Traffic Control Devices Rule 2004, or under any Rules made under the Land Transport Act 1998) set aside any specified part of any road or any specified part of a public place, as a parking place or a transport station exclusively for the use of:....

12.1.2 Passenger transport...”

Accordingly, it is proposed that the bylaw resolution proposal proceed through the following process

1. *Report to Utilities Committee (February 2008), recommending Committee endorsement of the proposed changes and referral on to the full Council (completed)*
2. Full Council (February 2008) considers the proposed changes and, if it wishes the proposal to proceed, resolves to undertake a Special Consultative Procedure in respect of the proposal. **(this report)**
3. Following a hearing of any submissions in respect of the proposal, Council considers the resolution proposal. This would occur at the April meeting of the Council at the earliest.

SIGNIFICANCE OF DECISION

This is significant in terms of the Council's policy on significance. This is because of the number of stops being addressed by this report.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

During October 2007, GHD consulted with 31 parties affected by the positioning of existing bus stops. These bus stops are shown in the map below. Public submissions closed on 2 November 2007.

Comments were received on three of the bus stops affected by this report. Comments concerned the location and size of the stops, which in some cases are identified as a safety issue. These are discussed under "Responses to Submissions" below.

If the Council agrees to accept the recommendation, then the special consultative procedure as required by the Local Government Act 2002 will commence, and, if needed, a hearings panel will hear submissions.

RELEVANT COUNCIL POLICIES

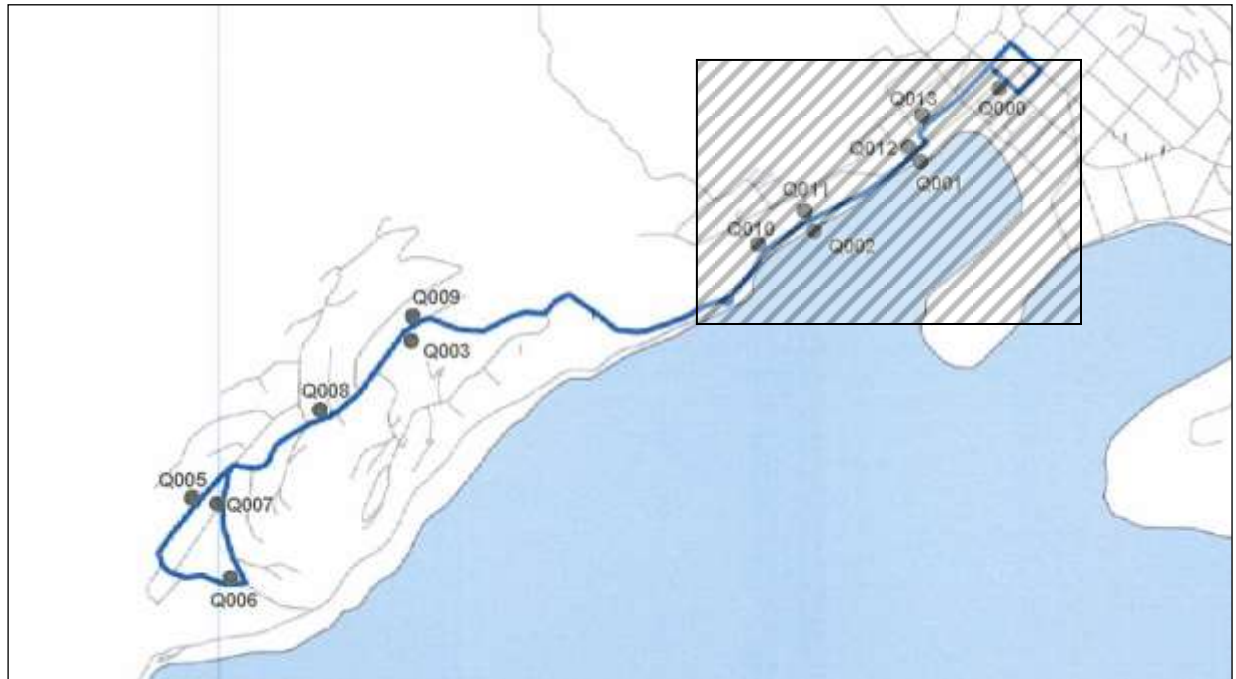
The following policy documents have been considered in the preparation of this report:

- The Council's "policy of significance"
- The Queenstown Lakes District Council Traffic and Parking Bylaw (2006)
- Wakatipu Transportation Strategy, 2007

DISCUSSION

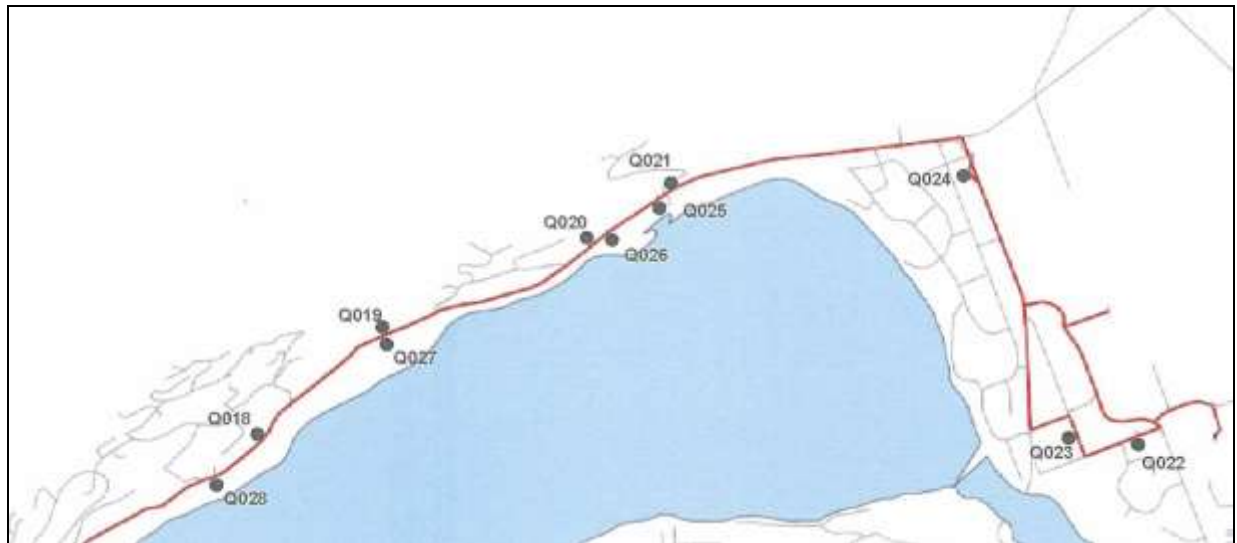
Figures 1, 2 and 3 show the Connectabus routes and the bus stop locations addressed by this report (those that are not addressed by the report are shaded).

Figure 1: Fernhill / Sunshine Bay



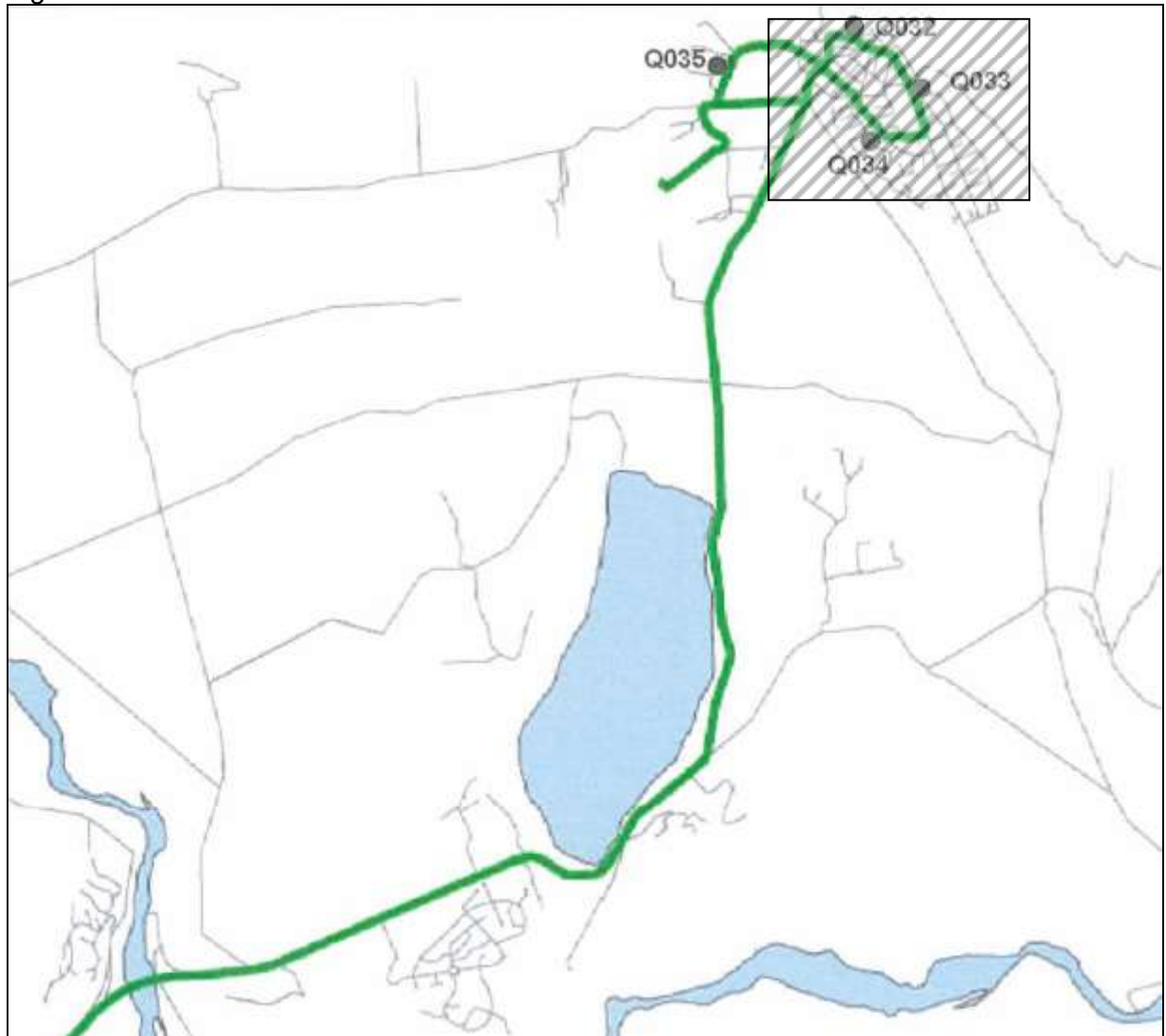
Map ID	Road/Street name	Location	Submission Received?
Q003	Fernhill Rd	On the southern side of Fernhill Rd southwest of the junction with Cameron Street.	No
Q005	Arawata Tce	On the southern side of Arawata Tce south of the junction with O'Leary's Paddock.	No
Q006	Arawata Tce	On the northern side of Arawata Tce slightly west of the intersection with Fernhill Rd.	No
Q007	Fernhill Rd	On the northern side of Fernhill Rd directly up the hill from the junction with Williams Street.	No
Q008	Fernhill Rd	On the western side of Fernhill Rd, east of the junction with Greenstone Place.	No
Q009	Fernhill Rd	On the northern side of Fernhill Rd to the west of Cameron Street.	No

Figure 2: Frankton



Map ID	Road/ Street name	Location	Submission received?
Q018	Frankton Rd (SH6A)	On the northern side of Frankton Rd below Sherwood Manor Hotel.	No
Q019	Frankton Rd (SH6A)	On the northern side of Frankton Road in front of the Greenstone Apartments.	No
Q020	Frankton Rd (SH6A)	On the northern side of Frankton Rd opposite the boat trailer park at the Marina.	No
Q021	Frankton Rd (SH6A)	On the northern side of Frankton Rd slightly east of the Shell Service Station.	No
Q022	Robertson St	On the south side of Robertson St between Riverside and Remarkables	Yes, refer to "Responses to Submissions", below.
Q023	Douglas St	On the western side of Douglas St north of the intersection with Robertson St.	Yes, refer to "Responses to Submissions", below.
Q024	Kawarau Rd (SH6)	Located in the bus lay-by area ("The Frankton Bus Stop") off Kawarau Rd (SH6).	No
Q025	Frankton Rd (SH6A)	On the southern side of Frankton Rd opposite the shell station.	No
Q026	Frankton Rd (SH6A)	On the southern side of Frankton Rd above boat trailer park in the marina.	No
Q027	Frankton Rd (SH6A)	On the southern side of Frankton Rd opposite Greenstone Apartments.	No
Q028	Frankton Rd (SH6A)	On the southern side of Frankton Rd.	No

Figure 3: Arrowtown



Map ID	Road/ Street name	Location	Submission received?
Q035	Manse Rd	On the western side of Manse Rd.	Yes, refer to "Responses to Submissions" below.

A number of the bus stop locations are on State Highways. A 1993 agreement exists between the Council and Transit New Zealand in respect of those sections of the State Highways subject to 50kph speed limits enabling Council to make and enforce bylaw controls for parking. It is proposed that this delegation be extended to 70kph sections of State Highway. This delegation will need to be in place before a recommendation is made to Council to "resolve" the bus stop restrictions – at present it is envisaged this report going to the April meeting of Council at the earliest.

Responses to Submissions

As mentioned earlier three submissions were received concerning the bus stops addressed by this report. Copies of the submissions are available from the Engineering Services Team. The summaries of the submissions and the course of action proposed by this report are set out in the following table.

Map ID	Road / Street name	Submission	Course of Action
Q022	Robertson St	The road width of Robertson Street is seen by the submitter as being too narrow to accommodate a bus stop therefore forcing vehicles to make risky passing manoeuvres. Also of concern from the resident was loss of parking, littering and loss of privacy due to the road being higher than the section.	It is proposed that the stop stay where it is as the width of the road here is 7.5m with approximately 7m of unsealed parking space on the northern shoulder. The road width is consistent over the length of the road - therefore no other locations on this stretch provide any advantages over the current location.
Q23	Douglas St	Not opposed to the current bus stop location. However there was concern with the safety of the stop and people using the road due to the width of Douglas Street and the parking occupying both sides of the road. The resident would like to see parking on only one side of this street not both. The width of the road is 8m at this location and seems to widen to 9m further north. At the current location there is already an established shelter.	Parking on both sides cuts the width down to 4m. No parking restriction on the eastern side of Douglas Street for a short stretch will decrease the safety issues created at this stop. The establishment of no parking restriction will be a separate process to the legalisation of the current bus stop.
Q035	Manse Rd	There was a concern from the submitter that the bus stop was encompassing the footpath and that the stop would become a bus park, although this is not proposed.	No change.

FINANCIAL IMPACT

An immediate follow on from this report would be that statutory bus stop signage would be installed. No changes to road markings are proposed. The cost of will be met from within existing budgets.

RECOMMENDATIONS

That the Council:

- a. *Commences by way of special consultative procedure, its consideration of a proposal to make a resolution confirming the following locations as bus stops*

Map ID	Road/Street name	Description
Q003	Fernhill Road	The bus stop is on the southern side of Fernhill Road southwest of the junction with Cameron Street. The position is a distance of 70m in a southwest direction off the western kerb face of Cameron Street and extends 12m southwest.
Q005	Arawata Terrace	The bus stop is on the southern side of Arawata Tce south of the junction with O'Leary's Paddock. Its position is a distance of 12m in the southwest direction off the northern kerb face of O'Leary's Paddock Road and extends 12m southwest.
Q006	Arawata Terrace	The bus stop is on the northern side of Arawata Tce slightly west of the intersection with Fernhill Road. The position is a

Map ID	Road/Street name	Description
		distance of 68m in the west direction off a westerly kerb face of Fernhill Road and extends 12m west.
Q007	Fernhill Road	The bus stop is on the northern side of Fernhill Road directly up the hill from the junction with Williams Street. The position is a distance of 18m in the north direction off the northern kerb face of Williams Street (perpendicular to Fernhill Road) and extends 12m north.
Q008	Fernhill Road	The bus stop is on the western side of Fernhill Road east of the junction with Greenstone Place. The position is a distance of 47m in the easterly direction off the eastern kerb face of Greenstone Place and extends 12m east.
Q009	Fernhill Road	The bus stop is on the northern side of Fernhill Road. The position is a distance of 28m in the westerly direction off the western kerb face of Cameron Street and extends 9m west.
Q018	Frankton Road	The bus stop is on the northern side of Frankton Road below Sherwood Manor Hotel. Its position is a distance of 14m in the northeast direction off the eastern kerb face (perpendicular to Frankton Rd) of Goldfield Heights Road and extends 13m northeast.
Q019	Frankton Road	The bus stop is on the northern side of Frankton Road in front of the Greenstone Apartments. The position is a distance of 206m in the southwest direction off the eastern kerb face (perpendicular to Frankton Rd) of Middleton Street and extends 12m southwest.
Q020	Frankton Road	The bus stop is on the northern side of Frankton Road opposite the boat trailer park at the marina. The position is a distance of 26m in the northeast direction off the western kerb face (perpendicular to Frankton Rd) of Perkins Road and extends 15m northeast.
Q021	Frankton Road	The bus stop is on the northern side of Frankton Road slightly east of the Shell station. The position is a distance of 21m in the northeast direction off the eastern kerb face (perpendicular to Frankton Rd) of Marina Drive and extends 12m northeast.
Q022	Robertson Street (East)	The bus stop is on the south side of Robertson Street. The position is a distance of 68m in the northeast direction off the eastern kerb face of Remarkables Street and extends 12m northeast.
Q023	Douglas Street	The bus stop is on the western side of Douglas Street north of the intersection with Robertson Street. The position is a distance of 86m in the northerly direction off the Northern kerb face of Robertson Street and extends 12m north.
Q024	Kawarau Road (SH6)	The bus stop is in the bus lay-by area off Kawarau Road (SH6). The position is at the toilets, a distance of 43m in the southeast direction perpendicular off the Southern kerb face of Gray Street and extends 30m south.
Q025	Frankton Road	The bus stop is on the southern side of Frankton Road opposite the shell station. The position is a distance of 23m in the southwest direction off the western kerb face (perpendicular to Frankton Rd) of Sugar Lane and extends 13m southwest.
Q026	Frankton Road	The bus stop is on the southern side of Frankton Road above boat trailer park in the marina. Its position is a distance of 105m in the northeast direction off the western kerb face (perpendicular to Frankton Rd) of Perkins Road and extends 15m northeast.

Map ID	Road/Street name	Description
Q027	Frankton Road	The bus stop is on the southern side of Frankton Road opposite Greenstone Apartments. The position is a distance of 223m in the southwest direction off the eastern kerb face (perpendicular to Frankton Rd) of Middleton Street and extends 12m southwest.
Q028	Frankton Road	The bus stop is on the southern side of Frankton Road. The position is a distance of 127m in the southwest direction off the eastern kerb face (perpendicular to Frankton Rd) of Goldfield Heights Road and extends 12m southwest.
Q035	Manse Road	The bus stop is on the western side of Manse Road. Its position is a distance of 106m in the southwest direction off the Northern kerb face of Essex Avenue and extends 12m southwest.

- b. ***Appoint a hearings panel consisting of three Councillors to hear public submissions.***

QUEENSTOWN LAKES DISTRICT COUNCIL**FOR MEETING OF 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 16****SUBMITTED BY: Mark Kunath, General Manager - Engineering Services****REPORT DATED: 24 FEBRUARY 2008****ROADING PROJECTS FOR 2007/08 PROGRAMME****PURPOSE**

To request that funding for the Royal Burn – Glencoe section of the Crown Range Road be increased from \$2.8M to \$3.883M.

BACKGROUND

The 3.64 km Royal Burn to Glencoe section of the Crown Range Road is part of the strategic route over the Crown Range between Wanaka and Queenstown. It is a key route to the destination of Cardrona and its ski fields and is used by many thousands of tourists and locals every year, especially during winter. Including this project over \$8M is being, or is proposed to be, spent on this key strategic route during 07/08 and 08/09.

In spring 2006 the road began to show major distress with increasing numbers of potholes. Following the winter of 2007, the road failed severely needing over \$55,000 in repairs. As the 2007 winter impact was so large the length needing to be rehabilitated now is a continuous length from the top of the Zig Zags to the Eastbourne Road gate – a distance of 3.64km.

Two projects in the LTCCP that related to adjacent sections of the Crown Range Road in the Glencoe area were known as the Royal Burn section and the Glencoe section. In the LTCCP both these projects are programmed for 2008/09. The collective budget for the projects was \$900,000. In November 2007 the Council considered the funding of the Royal Burn to Glencoe project at an estimated cost of \$2.8 M and it approved \$2.3M for the 07/08 year and the balance for the 08/09 year. The information considered by Council did not have the price from the Contractor which has now been received.



Photos of Royal Burn section and typical extent of pavement repairs

SIGNIFICANCE OF DECISION

This issue is not considered significant under the Council's significance policy.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

The projects were part of the LTCCP and consulted on through that process. In November 2007 the Council agreed to the proposal to advance the projects into the 2007/08 programme because the road is in such a bad state and needs immediate attention.

RELEVANT COUNCIL POLICIES

Relevant Queenstown Lakes District Council policies are:

- Queenstown Lakes District Council Asset Management Plans
- The Council's "policy on significance"

DISCUSSION

This work is part of the Contractor Panel allocation. This section of road is "well past its use-by date" and will cost excessive amounts of money to maintain it until it is rebuilt. It is at an altitude such that sealing it before winter is not recommended given the low temperatures.

The contract price negotiations were completed in January 2008. The full estimated costs of the project are shown below.

Draft Scoping Report Estimate (August 2007)	\$2,300,000
November 2007 Budget Request to Council	\$2,800,000
WT Work Package Estimate (excluding Risk Register) – November 2007	\$ 2,959,440.24
Initial Fulton Hogan Quotation (excluding Risk Register) – December 2007	\$ 3,406,442.97
Negotiated Final Contract Price – Feb 2008	\$ 3,415,146.19
Agreed Risk Register Value	\$ 291,685.92
Sub Total Contract Value	\$ 3,706,832.11
Land Acquisition	\$ 56,000
MSQA lump sum fee	\$ 120,000
Total budget Required – Feb 2008	\$ 3,882,832.11
Linear metre rate	\$1,067/metre

Even with the increased budget required to complete the works, the project still has a Benefit/Cost (B/C) ratio of 4.7 demonstrating that there are significant benefits to completing it. Most of the benefits are expected to be in the form of reduced accidents, therefore undertaking this project will result in a much safer road.

The costs of completing the project are favourable when comparing the project at \$1,067/m with the recently completed Malaghan's Road upgrade project which was completed at a rate of \$1,350/m.

The WT (quantity surveyors) work package estimate was completed from the Fulton Hogan (FH) rates provided during tendering for the Contractors Panel and rates from Malaghan's Road. Negotiations with FH followed and their quotation was increased to provide for increased provisional sums due to perceived risk. Provisional sums are only spent if the item is needed. A total of \$600K is included for provisional sums and the priced risk register. This 16% allowance for uncertainty on a project of this size is large and reflects in part the high altitude and remoteness of the site together with bitumen price uncertainties. Malaghan's Road had a 6% allowance.

The consequences of delaying the rehabilitation until the 2008/09 construction season are even more expensive. Delaying the project through the winter would mean considerable costs for temporary repairs, as happened in 2007 and previously in 2006. The extent of these additional costs can not be estimated because it depends to a great extent on the severity of the winter.

The pavement will be foam bitumen stabilised and maintained over the winter as an unsealed road, although stabilised. The Stabiliser is special and requires a lot of special support machinery. It is in the district now and confirmation over the funding for the project is needed to ensure the stabiliser stays in the District to undertake this project. Given the timing issues associated with the Stabiliser remaining in the District, approval has been given to the contractor to undertake works up to a value \$1M on the understanding that the Council may choose a different path following consideration of this item.

Council may enquire why a \$2.9M increase over what is provided in the LTCCP or why an over \$1M jump in the project cost in just 3 months?

In terms of the increase in value over the LTCCP budget, it has long been recognised that past practices of estimating for the LTCCP were not robust. Good processes have been put in place to provide more robust cost estimates together with the four step delivery process of Scoping, Concept Design, Detailed Design and Construction and Completion. On this project, the scope of the work has also increased measurably with now 3.64km of the road to be rehabilitated and made safer, compared to 2 much shorter sections provided for in the LTCCP.

Of perhaps more concern is the increase in cost in just over 3 months. The November 2007 report to Council was made on information from the updated Scoping Report. It did not include information from WT and if it had alarm bells would have gone off at the time. The information was behind where it needed to be as it did not have the contractor's price or the full suite of likely project costs. The author would like to assure Councillors that this will not occur in the future, but that would not reflect the real world. The four-step delivery process will reduce the likelihood of this occurring.

On this project the Concept stage was skipped to reduce the design time meaning that there was a large jump in cost between the Scoping stage and the Detailed Design. Also, the original estimates did not take adequate account of the contract risks. Measures are now in place to a) complete a concept phase for roading projects and b) to bring together project estimates, and not just contract cost estimates. There are some projects that are in Detailed Design phase now without having completed a Concept phase and these will need to pass through the process with additional focus.

Importantly though, is the need to be ahead of the failures occurring on the roading network and be doing work in the right year on the right section of road, and not 2-3 years late as in this case. Measures already in place are the appointment of the Roothing Manager, Ian Marshall, in November 2006 and the network professional services provider, GHD, in October 2007. The process of getting ahead is likely to take until about 2010 based on current delivery.

OPTIONS

There are 5 options that are apparent. These are:

1. **Do nothing.** This is not an option as the current budget will not complete the needed work along the full 3.64km of the project. Accordingly, this option is not recommended.
2. **Stop Construction and delay the project until 2008/09.** This will incur additional costs of maintaining the road through winter and these costs can be avoided. Also, given the continued increase in the price of oil, it is likely that bitumen and diesel costs will continue to climb making the project even more expensive. The cost of bringing a Foam Bitumen Stabiliser to this project would also be an additional cost and the project's timing would be dependent on that piece of kit, leaving the project timing uncertain. This option is not recommended.
3. **Stop Construction and tender the project, undertaking it in 2008/09.** Tendering the project on the expectation to save money will result in time delays and the costs associated with these delays. The costs of a tendering delay are tendering costs, maintaining the road through winter, likely increased oil and bitumen prices, Foam Bitumen Stabiliser relocation and delayed benefits accruing to road users (4.7 times the costs) through a much safer and better road. There is no certainty in a tender process - cheaper or more expensive prices could be received. There are only a small number of companies who would undertake this size of project thus limiting the potential competition. Given that all tendering this project would do at this time, until tenders are opened, is incur more cost this option is not recommended.
4. **Undertake only part of the project within the \$2.8M of funding already provided for.** The piece of road that would not be worked on would be the first 1400 metres of the project – the Royal Burn part. This section of road is also at the end of its life and so delaying work here will only result in increased maintenance costs now for ratepayers and increased rehabilitation costs at some time in the future when Council decides to fund the work. This option is not recommended.
5. **Fund the additional budget needed to complete the project right first time.** This project is the upgrade and rehabilitation of 3.64km of a key strategic route between Wanaka and Queenstown that has reached the end of its life 2-3 years ago. Any further delays to this project will result in additional costs being incurred. This is the recommended option.

FINANCIAL IMPACT

Land Transport New Zealand have confirmed that the Benefit/ Cost ratio is 4.7 and that their Board is likely to fund the project given the benefits of making the route safer and better.

It is proposed that funding be provided in the 08/09 annual plan for the needed \$1.083M and funding has been included in the draft annual plan (yet to be reviewed by Councillors) for this purpose.

RECOMMENDATION

- 1. That this report be received.***
- 2. That the Council increase the budget of the Royal Burn to Glencoe Project by \$1,083,000 from \$2.8M to \$3.883M (gross costs) and provide for the additional \$1,083,000 in the 08/09 Annual Plan.***

It is recommended that the public be excluded from the following parts of the proceedings of the meeting:

Item 17: Mayor's and Chairpersons' reports – Non public items

Item 18: QLDC Street Lighting

Item 19: Shotover Gravel

Item 20: Frankton Flats and Related Issues

The general subject of the matters to be discussed while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(a) of the Local Government Information and Meetings Act 1987 for the passing of this resolution is as follows:

General subject to be considered.	Reason for passing this resolution.	Grounds under Section 7 for the passing of this resolution.
17. Mayor's and Chairpersons' reports – Non public items: (a) Acquisition of Reserve Land at Kingston (b) Summary of Appeals or Plan Changes 6, 8 and 10.	That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to: (a) and (b) enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial negotiations;	Section 7(2)(i)
18. QLDC Street Lighting	That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to: (i) enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial negotiations;	Section 7(2)(i)
19. Shotover Gravel	That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to: (i) enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial negotiations;	Section 7(2)(i)

20. Frankton Flats and related land issues	<p>That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to:</p> <p>(g) Maintain legal professional privilege;</p> <p>(i) enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial negotiations;</p>	<p>Sections 7(2)(g) and 7(2)(i)</p>
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This resolution is made in reliance on Section 48 [1] [a] of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982 as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above with respect to each item.

PUBLIC EXCLUDED

QUEENSTOWN LAKES DISTRICT COUNCIL

FOR MEETING OF 29 FEBRUARY 2008

REPORT FOR AGENDA ITEM: 17

SUBMITTED BY: Chief Executive

REPORT DATED: 19 FEBRUARY 2008

MAYOR'S AND COMMITTEE CHAIRPERSONS' REPORTS: PUBLIC EXCLUDED ITEMS

Community Services Committee – Councillor Overton

Ratification:

- Acquisition of Reserve Land in Kingston

Strategy Committee – Councillor J R Wilson

Ratification:

- Summary of Appeals on Plan Changes 6,8 and 10

RECOMMENDATIONS

1. Community Services Committee

Acquisition of Reserve Land at Kingston – PUBLIC EXCLUDED ITEM

That the Council purchase Pt secs1, 23 and 24 Blk V Town of Kingston for recreation reserve for an amount up to \$200,000.

2. Strategy Committee

Summary of Appeals on Plan Changes 6,8 and 10

That the General Manager: Strategy and Planning be authorised to mediate the appeals on Plan Changes 6 (Access Widths), 8 (Car Parking), and 10 (Improving Amenity in the High Density Residential Zones).

PUBLIC EXCLUDED**QUEENSTOWN LAKES DISTRICT COUNCIL****FOR MEETING OF 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 18**

SUBMITTED BY: Mark Kunath, General Manager Engineering Services
Paul Wilson, General Manager, Community Services

REPORT DATED: 17 FEBRUARY 2008

QLDC STREETLIGHTING**PURPOSE**

To obtain the approval of the Council to purchase the remaining streetlight assets, not owned by the Council, from Delta Limited.

CONFIDENTIALITY

This purchase involves commercial negotiations which should remain confidential whilst still subject to discussion. The grounds relating to conduct of negotiations are found under Section 7(2) (i) of the *Local Government Official Information and Meetings Act 1987*, viz:

‘.... the withholding of information is necessary to...

(i) Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).’

BACKGROUND

The Council adopted its Lighting Strategy in 2006. One of the actions within the adopted Strategy is to “Initiate a replacement programme of DELTA leased lanterns with QLDC owned lanterns to achieve 100% ownership of lantern stock by 2010.”

More than 300 streetlights have been replaced in Kelvin Heights, Kingston and Fernhill, Arrowtown and Wanaka have been replaced with significant positive feedback from the communities who have received the new energy efficient full cut-off street lights. To date efforts have focused on replacing existing lanterns to reduce maintenance and operating costs and improve energy efficiency.

The streetlight assets in the District had been maintained by Delta on an exchange of letters basis and there was no actual contract. Delta did the ordered light replacement work and so co-operated with the return of their old assets.

In 2007 the streetlight maintenance and light replacement was tendered with a clear contract incorporating levels of service and awarded to Electrix. Electrix were around \$200,000 cheaper than Delta for the 3 year period. On being advised that they were unsuccessful for the tender Delta’s co-operation with the streetlight replacement ceased as they were no longer the contractor who would undertake this work. This has

left approximately 450 Delta owned streetlights in the District against the 2000 odd owned by the Council.

SIGNIFICANCE OF DECISION

This decision is not significant under the Council's policy of significance.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

There is support for the plan to replace the old Delta fittings. Consultation on the plan to replace them occurred through the consultation on the Lighting Strategy. The Strategy was adopted by Council and funded through the LTCCP.

RELEVANT COUNCIL POLICIES

The following policy documents have been considered in the preparation of this report:

- Council's "policy of significance"
- 2006/16 LTCCP
- 2006 Lighting Strategy "Southern Light"

DISCUSSION

With Delta not co-operating on the replacement of their old assets with new QLDC energy efficient assets negotiations were undertaken on how this impasse might be resolved so that this key part of the Lighting Strategy could continue to be implemented.

Delta proposed that they sell their remaining assets to QLDC for \$180,000. QLDC responded with a counter offer of \$50,000. After much discussion Delta are willing to sell QLDC their remaining streetlight assets for \$120,000. This is a position that can be justified on the following basis:

Current Lease and Maintenance Charge per annum	\$30,618
Purchase Price	\$120,000
Less Land Transport Subsidy	- \$TBA
Total Capital Cost to Council	\$120,000 (< subject to LTS)

Payback (four years or less excluding capital charges)

FINANCIAL IMPACT

The cost of the purchase is \$120,000. No provision is currently made in the LTCCP for this purchase. It is proposed to make payment for the assets on 1 July 2008. It is proposed that provision be made in the 2008/09 Annual Plan for the purchase price. The impact of the purchase on ratepayers is limited as the purchase is likely to be funded by rates.

DELEGATIONS REGISTER REFERENCE

No impact on delegations.

RECOMMENDATION

- 1. That the Council approve entering into a contract with Delta for the purchase of their remaining streetlight assets in QLDC for a sum of \$120,000 excluding GST with payment on 1 July 2008.***
- 2. That the Council make provision in the 2008/09 Annual Plan for the purchase.***
- 3. That the CEO be authorised to make media announcements and release any part of this report at the appropriate time.***

PUBLIC EXCLUDED**QUEENSTOWN LAKES DISTRICT COUNCIL****FOR MEETING OF 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 19****SUBMITTED BY: Project Manager – Roger Taylor****REPORT DATED: 19 February 2008****SHOTOVER GRAVEL****PURPOSE**

To report on recent analysis of the current consent position for gravel processing and storage at the Shotover River delta and a proposal for a mediated settlement to the resource consent appeals lodged by Steve Rout Contracting, Faulks Enterprises and Queenstown Gravel Supplies.

CONFIDENTIALITY

This report seeks authority to delegate to the Chief Executive power to enter into a consent order to resolve disputes over decisions of Commissioners hearing resource consent applications. The grounds for public exclusion are found in Section 7(2)(i) of LGOIMA.

BACKGROUND

The background to this dispute is set out in the main attachment to this report – the Economic Analysis. In summary, for a number of years various contractors have obtained consents from the Otago Regional Council (ORC) to extract gravel from the Shotover River and concessions from the Department of Conservation (DOC) to process and store extracted gravel on the true right bank of the lower Shotover River – mostly below the road bridge over the river on SH6.

Resource consent applications were made to the QLDC by four parties for a total volume of 430,000 m³ of gravel per annum. These parties hold resource consents issued by the Otago Regional Council to extract this volume of gravel.

The Commissioners considering the applications determined them on a first in first out (FIFO) basis and granted the consents for 130,000 m³ to the first applicant, Fulton Hogan and 30,000m³ to Steve Rout Contracting and declined the applications made by Queenstown Gravel Supplies and Faulks Enterprises.

ATTACHMENTS

1. Report on the economic assessment of gravel extraction and processing at the Shotover River Delta;
2. Copies of the proposals to resolve the appeals from Steve Rout Contracting and Faulks Enterprises.

3. Further report from Tim Williams, Planner, Lakes Environmental on the proposal from Steve Rout Contracting and Faulks Enterprises to resolve the appeals to the Commissioner's decision.

A further paper analysing the planning and landscape issues arising from any resolution of this matter and reviewing the decisions of the Commissioners will be tabled and presented by Ben Espie, Vivian+Espie at the meeting. (Note that Mr Espie provided expert evidence to two of the underlying consent hearings on behalf of submitters opposing the applications. Those parties have agreed to him undertaking this analysis).

SIGNIFICANCE OF DECISION

Not significant.

CONSULTATION - INTERESTED OR AFFECTED PERSONS

A series of discussions have been held with representatives from Fulton Hogan, Steve Rout Contracting, and Faulks Enterprises in preparing the economic analysis. Discussions between the parties and their legal representatives and Lakes Environmental planners have also taken place.

RELEVANT COUNCIL POLICIES

The following policy documents have been considered in the preparation of this report:

- ♦ Relevant Queenstown Lakes District Council Policies
- ♦ The Queenstown Lakes Council Partially Operative District Plan (2005)
- ♦ The Council's "policy on significance"

DISCUSSION

The economic analysis report sets out the estimated demand and supply for gravel for the district through to 2021 based on Council's estimates of population (and hence development) growth in the Wakatipu part of the district.

In addition, further analysis of the proposed resolution from a planning perspective is provided in a separate report from Tim Williams from Lakes Environmental. While he proposes partial resolution of the appeal by increasing the aggregate supply available from the river from the current 130m³ per annum to 200,000 m³ per annum, he continues to recommend that no gravel from other sources is processed or stored at the consent sites and the Steve Rout Contracting continue to be prohibited from crushing at the site. Mr Espie's report will consider these issues further.

The third factor that requires consideration is the underlying land used for storage and processing. The land is currently DOC reserve but is soon to be transferred to QLDC control. The Community Service management can see no issues with continuing concessions to the current operators to continue their activities at the current sites. The proposed walkway linking the western end of the Old Shotover Bridge and the Frankton Industrial Area is not aligned near to these sites. There are no current proposals for trails or general public access near these sites. Conditions or agreements would need to be reached in mediation to ensure safe pedestrian access for the proposed trail in the vicinity of the SH6 bridge underpass, where pedestrians will need to cross the haul road.

OPTIONS

Based on the reports attached and the additional information presented above, the Council has the options of:

1. Entering into mediation with the parties to resolve the appeals along the lines proposed by the appellants and summarized in the “amicable resolution” scenario in the economic analysis, or some other criteria; or
2. Continue to pursue the appeals through the Environment Court.

FINANCIAL IMPACT

There is no financial impact to Council, other than its costs of defending the Commissioner decision if the appeal proceeds. Those costs are budgeted for. There is significant potential financial impact to the Wakatipu community as identified in the economic analysis attachment

DELEGATIONS REGISTER REFERENCE

The resolution proposed to delegate to the Chief Executive to power to enter into mediation and execute a consent order to resolve appeals to the Environment Court from Steve Rout Contracting, Queenstown Gravel Supplies and Faulks Enterprises and to resolve the issues associated with the conditions on the Fulton Hogan consent.

RECOMMENDATION

1. ***That Council delegate to the Chief Executive power to enter into mediation and consent orders with the appellants to the resource consent decisions around the Shotover River delta associated with gravel processing and storage and with Fulton Hogan so that:***
 - a. ***Total annual supply (processing) from the Shotover River below the SH6 bridge is limited to 200,000m³***
 - b. ***Fulton Hogan has a total consented volume of 100,000m³ as per their current consent and the proposed joint venture between Steve Rout Contracting and Faulks Enterprises has consent for the remaining 100,000m³;***
 - c. ***Faulks Enterprises withdraws from extraction, processing and storage at the Tuckers beach site and remediates that site;***
 - d. ***Fulton Hogan and the joint venture are permitted to store and process gravel sourced from other locations at their Shotover River sites;***
 - e. ***Steve Rout Contracting is permitted to crush used concrete at the Shotover River site but only at times when no other processing is being undertaken at either site;***
 - f. ***Suitable conditions are drafted and agreed with the parties to mitigate adverse environmental effects, including sharing of the cost of sealing the haul road and, in the interim, jointly managing dust and noise control on the haul road and providing for the effects and safe transition of pedestrians in the vicinity of the underpass beneath the SH6 bridge following the development of a trail in that area; and***
 - g. ***All parties withdraw their appeals to the Environment Court.***

- 2. That, following the transfer of the reserve land from DoC to QLDC suitable long term concessions to occupy the relevant portions of the reserve land for processing and storage of gravel are made with the resource consent holders; and***
- 3. That this report and/or the resolution not be made available to the public***

**Attachment 1:
Economic Assessment of Gravel Extraction and Processing
at the Shotover Delta**

**SHOTOVER RIVER DELTA
GRAVEL EXTRACTION AND PROCESSING
ECONOMIC ASSESSMENT**

**Roger Taylor
Glentarn Group Limited**

February 2008

1 Summary

This is a report of an assessment of the economic implications of restrictions on the supply of gravel from the Shotover River delta. For a number of years various contractors have obtained consents from the Otago Regional Council (ORC) to extract gravel from the Shotover River and concessions from the Department of Conservation (DOC) to process and store extracted gravel on the true right bank of the lower Shotover River - mostly below the road bridge over the river on SH6.

Resource consent applications were made to the QLDC by four parties for a total volume of 430,000 m³ of gravel per annum. These parties hold resource consents issued by the Otago Regional Council to extract this volume of gravel.

The Commissioners considering the applications determined them on a first in first out (FIFO) basis and granted the full volume requested to the first applicant, 30% of the volume requested to the second applicant and declined the applications to the remainder.

This analysis finds that, under a high demand analysis, demand for gravel from the Shotover River could exceed the consented volume that may be supplied by 2012. Further, this analysis finds that the quantifiable external costs to the Wakatipu economy of not increasing the consented volume of gravel that may be extracted from the Shotover River to the levels proposed will add approximately \$16 million dollars of cost over 13 years if the current consented position is retained and the operators operate to consented volumes. If, as is possible, the operators withdraw from all excavation and processing from the Shotover River, the total costs to the Wakatipu economy over 13 years is approximately \$112 million.

2 Background

Following complaints and an investigation by CivicCorp, now Lakes Environmental (LE), it was determined that gravel storing and processing operations at the Shotover River Delta would be required to have land use consents from the Queenstown lakes District Council (QLDC).

A summary of the background to the issues giving rise to this report are presented in Commissioner Shiel's decision on a notified resource consent decision on an application by Fulton Hogan Limited. A copy of this summary is attached to this report as Attachment 1.

Subsequent to the Fulton Hogan application, applications for consents from the Queenstown Lakes District Council (QLDC) were received from Steve Rout Contracting (SRC), Faulks Enterprises (FE) and Queenstown Gravel Supplies¹ (QGS). Commissioners determined that these applications should be considered in the order they were received.

Having first granted FH consent for 100,000m³ of gravel per annum for an unlimited time, the volume requested, the Commissioners then restricted the SRC consent to 30,000m³ per annum for a maximum seven year period and refused consent for FE and QGS.

FE and QGS have appealed the SRC consent on the grounds that the priority decision of the Commissioners that determined that the SRC

¹ Queenstown Gravel Supplies is a subsidiary of Faulks Enterprises and their interests have become merged into one.

application should be considered in advance of theirs was faulty. SRC has appealed their consent to have the volume of gravel consented increased to the 100,000m³ per annum applied for, allow crushing on site, allow storage of gravels sourced from other locations and allow storage of bark and topsoil.

Initial hearings in the Environment Court (EC) have been held. The EC is due to hear the priority issue commencing from 3 March 2008. MacTodd are endeavouring to have the Court postpone this hearing date so that Council and the parties might come to some agreement on the resolution of these matters.

FH and SRC have detailed conditions imposed on their consents related to the operation of the sites and access to those sites. In particular they are required to seal the haul road from their processing sites (see map in Attachment 2).

Council management has been made aware of a proposal for a joint venture operation between SRC and FE/QGS for a combined extraction and processing operation to be based below the SH6 bridge on the site currently consented by SRC. A copy of these proposals is attached. In summary, they propose that:

- a. FE will withdraw entirely from the Tuckers Beach site and remediate the site;
- b. SRC and FE (including QGS) will form a joint venture (JV) to extract and process gravel, processing and storage to be at one site below the Shotover bridge on SH6;
- c. The JV be granted a combined consent for 100,000m³ per annum with an unlimited time on the consent, but review of conditions on a ten yearly basis; and
- d. The JV is permitted to store and process gravel sourced from other than the Shotover River at the site; and
- e. The JV is permitted to operate a crusher at the site.

The following section sets out the range of issues identified by each of the applicants/operators at the site. All these issues need to be resolved to ensure the on-going supply of gravel from the Shotover River.

3 Summary of Issues

The consenting process for processing and storing gravel from the Shotover River has produced a set of outcomes that are unsatisfactory to the applicants. If unresolved, these issues might result in the consent holders not giving effect to the consents they have been granted.

- a. Fulton Hogan (FH) has been granted a consent to process and store up to 100,000² m³ per annum of gravel from the Shotover River delta below the bridge over SH6 and a further 30,000 m³ from

² Fulton Hogan was also granted consent to store and process up to 30,000 m³ per annum at a site up-stream of the SH6 bridge. They have reached an agreement with the Quail Rise Residents and other parties that has the affect of deleting that additional consented volume. Fulton Hogan has withdrawn from their up-stream processing and storage site and is in the process of remediating it.

above the bridge, however there are external issues that are impacting their ability to give effect to the consent:

- i. Their application for renewal of their concession to operate on the DOC reserve is on hold pending the transfer of the reserve to QLDC. They have concerns that they will not get a concession that is commensurate with the duration of their consent; and
 - ii. They had a second resource consent application to use their existing site (below the bridge) as a site to stockpile gravels imported from their Parkburn quarry set aside by the Commissioner. This consent is still in abeyance and need to be resolved.
 - iii. A condition of consent is that they seal (or contribute to sealing) the haul road between their processing site and the intersection of Tuckers Beach Road. Given the uncertainty of their remaining on site they are loathe to commit to this investment of approximately \$450,000
- b. Steve Rout Contracting (SRC) has been granted consent to process and store up to 30,000 m³ per annum of gravel (they applied for 100,000 m³) and were declined consent for a range of other matters applied for. They have lodged an appeal on the following issues:
- i. The term of the consent was limited to 7 years. SRC argues that limiting the term to this short a period makes meeting the conditions of consent uneconomic - especially the requirement to seal the haul road - and introduces an unnecessary uncertainty;
 - ii. The volume of material that consent was granted for was limited to 30,000 m³ per annum;
 - iii. The application for crushing on the site was declined. SRC uses the crusher for, amongst other things, crushing waste concrete. The resulting product can be used as a substitute for gravels not available from the Shotover River in some circumstances.
 - iv. The SRC consent application included a provision to import and store gravels from other locations on site. Consent for this was declined. This is a similar issue to the FH (ii) issue. Without consent to deposit gravels from other locations, these gravels will have to be carted directly to site by truck and trailer, requiring at site stock-piling and the use of large truck and trailers in both rural and urban situations. An alternative ; and
 - v. Excluding the importing to and storage of bulk topsoil and bark chip at the site. In discussion, SRC has agreed that this is an exclusion they can accept.
- c. Faulks Enterprises (FE) and Queenstown Gravel Supplies (QGS) were declined consent. This decision was made on the basis of the priority of applications determined by the Commissioners whereby

their applications were considered after the FH and SRC applications. The Commissioners determined that, with the volumes consented to FH and SRC, there was sufficient supply to meet demand and sufficient competition to ensure no restrictive pricing practices would result. The FE application was for the Tuckers Beach location and the QGS application for a site near the FH and SRC downstream sites. They have lodged appeals based on:

- i. The priority determination made by the Commissioners; and
- ii. The volume of Shotover River gravel demanded in the Wakatipu area.

4 Gravel Demand and Supply in the Wakatipu

At the hearing to determine the consent application from SRC, detailed economic evidence was provided by Michael Copeland, a consulting economist. The Commissioners found “his evidence was a useful exposition of the economic implications” of the application, although they found there were some gaps that the evidence did not cover. This economic analysis builds on the base material provided by Mr Copeland and found to be acceptable by the Commissioners.

i. Total Demand

Demand for gravel aggregate within an area can be calculated a function of the population of the area and the rate of consumption per person³. The population of the Wakatipu is known as at census 2006 at 23,331 (Queenstown-Wakatipu ward 20,928 and Arrowtown ward 2,403)⁴. Aggregate demand per person is within a range of 8.5 tonnes to 13 tonnes per annum either directly or indirectly⁵. The long-term national average demand/capita from 1967 to 2005 is 7.6 tonnes. For the last two years for which data is available, the average demand/capita is 9.1 tonnes in 2004 and 9.9 tonnes in 2005. In his evidence at the FH resource consent application hearing, Mr Peacock estimated that the demand in Queenstown Lakes District is significantly higher than this national average at 12.5 tonnes. The conversion factor to convert weight in tonnes to volumes in cubic metres (m³)⁶ is 1.6666 tonnes = 1 m³.

Using this data with an estimated population of 25,235 people⁷, the total demand for gravel aggregate in the Wakatipu in 2008 is within the

³ In his evidence to the hearing on the SRC consent application, Mr Copeland cited evidence given by Mr Peacock at the earlier FH consent application, who had provided information from the Aggregate and Quarry Association of New Zealand (AQA) and information from the Ministry of Economic Development and Statistics New Zealand. This material is composed from Mr Copeland’s evidence sourced from those places.

⁴ Total population rather than usually resident population is used because visitors are indirect consumers of aggregate as infrastructure and public amenity is constructed to cater for the total volumes including visitors – for example hotel and apartment complexes, additional roading capacity etc.

⁵ Houses, schools, roads, hospitals, workplaces, shopping facilities etc.

⁶ The consent applications were expressed as volumes of material rather than weight of material, so this analysis is completed in volume for consistency.

⁷ Population estimates are calculated using the data contained in chapter 3 of QLDC Growth Projections, January 2008, prepared by Rationale.

range of 128,703 m³ to 196,839 m³. At 10 tonnes per person per annum, which is a conservative estimate based on 2004 and 2005 actual data, the total demand is 151,415 m³. Using the FH estimate demand per person of 12.5 tonnes, the total demand is estimated at 189,269 m³. By 2021, using the conservative 10 tonnes per capita estimate total demand will be 252,117 m³ and using the FH estimate, demand will be 315,146 m³.

The following data table sets out the range of likely volumes of gravel demand in the Wakatipu out to 2021 using a full range of demand per person multipliers:

Table 1: Estimated Total Demand for Gravel Aggregates - Wakatipu - m3

		Year													
		2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Est. Pop'n		25,235	26,244	27,294	28,386	29,521	30,702	31,930	33,207	34,536	35,917	37,354	38,848	40,402	42,018
Annual demand per capita	8.5	128,703	133,851	139,205	144,773	150,564	156,586	162,850	169,364	176,139	183,184	190,511	198,132	206,057	214,299
	9.0	136,273	141,724	147,393	153,289	159,421	165,797	172,429	179,327	186,500	193,960	201,718	209,787	218,178	226,905
	9.5	143,844	149,598	155,582	161,805	168,277	175,008	182,009	189,289	196,861	204,735	212,925	221,441	230,299	239,511
	10.0	151,415	157,472	163,770	170,321	177,134	184,219	191,588	199,252	207,222	215,511	224,131	233,096	242,420	252,117
	10.5	158,986	165,345	171,959	178,837	185,991	193,430	201,168	209,214	217,583	226,286	235,338	244,751	254,541	264,723
	11.0	166,556	173,219	180,147	187,353	194,847	202,641	210,747	219,177	227,944	237,062	246,544	256,406	266,662	277,329
	11.5	174,127	181,092	188,336	195,869	203,704	211,852	220,326	229,139	238,305	247,837	257,751	268,061	278,783	289,935
	12.0	181,698	188,966	196,524	204,385	212,561	221,063	229,906	239,102	248,666	258,613	268,957	279,716	290,904	302,540
	12.5	189,269	196,839	204,713	212,901	221,418	230,274	239,485	249,065	259,027	269,388	280,164	291,370	303,025	315,146
	13.0	196,839	204,713	212,901	221,418	230,274	239,485	249,065	259,027	269,388	280,164	291,370	303,025	315,146	327,752

ii. Demand by Sector

Nationally the demand for gravel aggregates is estimated at 34 million tonnes. Of this, approximately 20 M tonnes are used for roading purposes, 10 M tonnes for concrete and structures and 4 M tonnes for other purposes. Proportionately, this calculates as:

Table 2: Proportionate Demand for Gravel Aggregates Nationally.

Roading	59%
Concrete and Structures	29%
Other uses	12%

No evidence has been located that indicates that the proportionate demand for gravel aggregates in the Wakatipu is any different than for the remainder of New Zealand, and accordingly, these percentages are applied to obtain indicative sector demand (calculated using total demand at 12.5 tonnes/capita) as follows:

Table 3: Estimated 2008 Sectoral Demand for Gravel- Wakatipu - m3.

Roading	111,335
Concrete and Structures	55,667
Other uses	22,267
Total Demand	189,269

iii. Supply of Gravel in the Wakatipu

The quality issues associated with gravel aggregates sourced from the Shotover River are reasonably well documented and are not repeated here. Shotover gravels are not suitable for a majority of roading applications - although they are suitable for a large minority of applications and are not suitable for some concrete and structural applications. They are assumed to be suitable for all other uses for gravel aggregates.

It is assumed that, other things being equal, Shotover River gravels will be used in preference to other gravels in the Wakatipu because they do not have a price premium associated with cartage. It is also assumed that there is no material changes in the volumes of stockpiles of gravels in the area so that in any year, demand is met by new supply and that supply is sufficient only to meet demand. Whilst some stockpiles of materials are maintained, the volume of material is assumed to remain constant. Based

on these assumptions, the likely sources of supply to meet the estimated 2008 demand are as follows:

Table 4: Estimated Sources of Supply of Gravel - Wakatipu - m3 - 2008

Sector	Total	Shotover	Other Sources
Roading	111,335	41,751	69,584
Concrete and Structures	55,667	44,534	11,133
Other uses	22,267	22,267	
Total Demand	189,269	108,551	80,718

Based on the estimated demand and preferred sources of supply, there is sufficient consented quantity available for the likely demand for Shotover River gravel to be met in 2008.

However, as shown in Table 5 below, assuming population growth at Council proposed rates and the higher estimated per capita consumption in the Wakatipu, within four to five years the demand for Shotover River gravels is likely to be greater than the consented volumes.

iv. Validation

In order to validate the assumptions and, consequent demand and supply estimates for total and Shotover River gravels calculated above, a summary of returns made to the ORC was obtained for 2006 and 2007.

Those returns show the following volumes:

2006 47,456 m3

2007 33,920 m3

The reasons why there might be a difference between the volumes returned and the volumes calculated include:

- Because of the Lakes Environmental investigations and requirements for resource consents etc the operators were restricted in their ability to extract gravel from the Shotover River during 2006 and 2007.
- Because of these restrictions, other, less efficient extractions were developed and used - for example, SRC developed a consented operation at the Dart River and were carting gravel by truck and trailer from there to Queenstown.
- It is possible that the returns to ORC are not accurate and or incomplete, particularly for the 2007 year.
- Existing stockpiles of materials at the site may have been run down over the period because of the uncertainty of future access to the

site. For example, Fulton Hogan have cleared their above bridge site.

There is a significant difference between the estimated demand and the actual supply as determined by the ORC returns. Sufficient uncertainty exists around those returns to place greater certainty on the estimated volumes.

Table 5: Estimated Future Demand for Shotover River Gravels - Wakatipu - m3

		Year													
Est Pop'n		2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
		25,235	26,244	27,294	28,386	29,521	30,702	31,930	33,207	34,536	35,917	37,354	38,848	40,402	42,018
Annual demand per capita	8.5	73,815	76,767	79,838	83,032	86,353	89,807	93,399	97,135	101,021	105,061	109,264	113,634	118,180	122,907
	9.0	78,157	81,283	84,534	87,916	91,432	95,090	98,893	102,849	106,963	111,242	115,691	120,319	125,132	130,137
	9.5	82,499	85,799	89,231	92,800	96,512	100,372	104,387	108,563	112,905	117,422	122,118	127,003	132,083	137,367
	10.0	86,841	90,315	93,927	97,684	101,592	105,655	109,881	114,277	118,848	123,602	128,546	133,688	139,035	144,596
	10.5	91,183	94,830	98,623	102,568	106,671	110,938	115,376	119,991	124,790	129,782	134,973	140,372	145,987	151,826
	11.0	95,525	99,346	103,320	107,453	111,751	116,221	120,870	125,704	130,733	135,962	141,400	147,056	152,939	159,056
	11.5	99,867	103,862	108,016	112,337	116,830	121,504	126,364	131,418	136,675	142,142	147,828	153,741	159,890	166,286
	12.0	104,209	108,377	112,713	117,221	121,910	126,786	131,858	137,132	142,617	148,322	154,255	160,425	166,842	173,516
	12.5	108,551	112,893	117,409	122,105	126,989	132,069	137,352	142,846	148,560	154,502	160,682	167,109	173,794	180,746
	13.0	112,893	117,409	122,105	126,989	132,069	137,352	142,846	148,560	154,502	160,682	167,109	173,794	180,746	187,975

5 Marginal Cost of Supply from Other Sources

Bulk supply of gravel is primarily available from three other sources - Parkburn near Cromwell, the Dart River north of Glenorchy and Fairlight near Garston. In each case, the round trip between the alternative supply point and the Shotover River delta is approximately 140 kilometres.

The marginal costs are considered under two headings, internalities - those marginal costs that have to be met by the operators, and externalities - those marginal costs generated by the activity, but met by the community (or parts of the community) rather than the operator.

i. Internalities

In determining the internal marginal cost of supply from other sources the following assumptions are made:

- Each truck and trailer unit can carry approximately 25 tonnes - 15 m³;
- The cost of gravel and the cost of processing gravel are equal at all sites, the difference is freight;
- Freight costs are comprised of direct costs; fuel and operator costs and indirect costs; tyres, maintenance and depreciation.
- A 140 km round trip costs is estimated to cost \$700 - \$5/km;
- Marginal cost per m³ is, therefore, \$0.333 / km. The cost per m³ per trip is therefore \$46.67. Whilst the gravel is only carted one-way, the truck still incurs a cost in travelling to the supply site.
- The operation of an empty truck and trailer is more efficient than with a 25 tonne load. However, no allowance is made for this saving as the analysis does not factor in the costs of additional handling at two sites, including duplication in machinery etc.

ii. Externalities

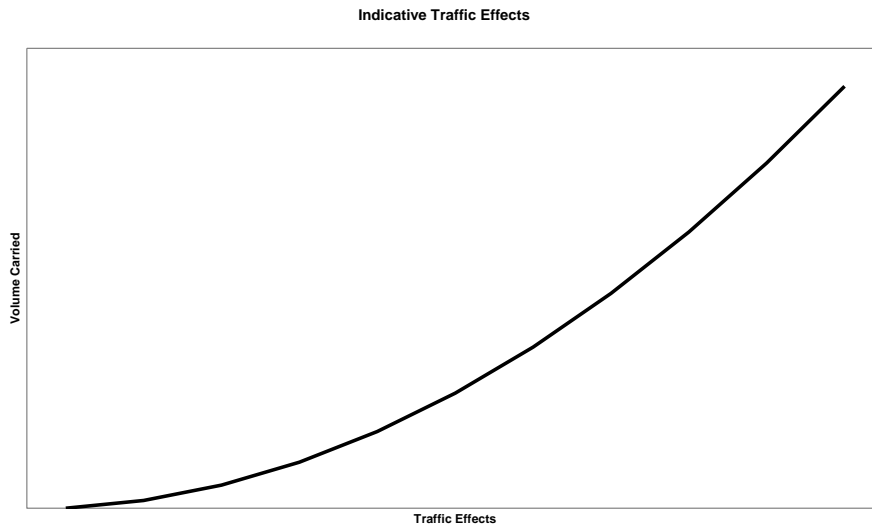
a) Traffic effects

Each of the remote alternative supply sites requires a round trip of approximately 140 kms. Travel to and from each site is over roads that have high use, particularly by visitors to the district, extended lengths where no passing lanes are available for other road users, extended lengths where the road is winding and climbing / descending. Loaded truck and trailer units travelling over these roads will travel at significantly lower speeds than the other traffic on the roads. The effects will include:

- Disruption to other road users;
- Increased rates of deterioration of the road surface and sub-surface, requiring higher maintenance and more frequent remaking of these roads.

It is difficult to quantify in dollar terms the value of these effects. However, it is reasonable to assume that these effects will be compounding, resulting in an increasing curvilinear effect - the more truck and trailer units on the roads then there is a compounding effect of other users and on the physical road - as follows:

Figure 1: Indicative Traffic Effects



There are additional traffic effects associated with the applicant's ability or not to stockpile gravels sourced from other locations at the Shotover River processing site. In essence these effects are related to having to transport directly from the source of supply to site using large truck and trailer units and the cumulative effects of this secondary delivery on the arterial and collector roads in the district. In addition to effects on the road, this secondary delivery has potential effects on the members of the community living along these routes and, particularly, near the sites.

To ensure these effects are factored into the cost analysis, a proxy rate of \$1/kilometer is used in the following analysis. This rate ignores the compounding effect discussed above.

b) Emissions

The primary problem with diesel engines emissions is that diesel exhaust is a hazardous mixture of gases and particles that includes carcinogens, respiratory irritants, and other toxins that have an effect on air quality and cause a wide range of diverse health problems and contribute to global climate change.

One of the major components of diesel exhaust is particulate matter (PM). PM, especially the ultrafine PM designated as PM_{2.5}, is a key health concern as because it is so small (less than 2.5 microns in size), and consist of a complex mix of engines oils, sulphates and inorganic materials. The exact composition of exhaust depends on operational parameters, such as speed, motor load, engine and vehicle type, fuel composition, ambient air temperature, and relative humidity. Estimating ambient contributions of diesel exhaust is difficult because there are many other sources of the most common compounds in diesel exhaust.

The chemical composition from medium duty diesel truck emissions have been estimated⁸ as:

Carbon Dioxide	935 g/km
Nitrogen Oxide	7.69 g/km
Carbon Monoxide	1.76 g/km

⁸ Lloyd, Alan C. and Thomas A Cackette. 2001. Diesel Engines: Environmental Impact and Control. Journal of the Air and Waste Management Association. 51:809-847.

Fine Particles

0.185 +/- 0.022 g/km

Based on prices clearing the London carbon trading market, an indicative price of carbon dioxide credits is \$40/tonne. There are no markets for the other emissions.

c) Flood management/mitigation

Consents granted by the ORC to disturb the bed and extract gravel from the Shotover River are done so for the purpose of river management. As noted above, they have consented greater than 400,000 m³ per annum for this purpose. All extraction activity in the river is undertaken at times and from locations directed by ORC river engineers.

The current river management focus is to retain the main flow of the Shotover River on the true left so as to minimise the potential impact on flows of the Kawarau River at the confluence of the two rivers. Lesser volumes of gravel extracted from the Shotover River will have an impact on ORC's ability to manage the flow of this river and maintain its course at the true left. ORC has confirmed that there will be a loss to their ability to manage the river, and a consequent increase in flood risk, at lower or no volumes of extraction from the river. They are unable to quantify these effects, however.

d) Accelerated landfill/cleanfill disposal

A part of the proposal from SRC is to continue to crush recycled concrete at the site. There is no market for "chunks" of used concrete and no provision for this material to be disposed of to landfill. This issue has the potential to be problematic to the construction industry in the Wakatipu. The likely consequence is illegal disposal of this material.

6 Price of Gravel from the Shotover River

In an efficient market where there are many buyers and sellers and information is readily available to parties, price and volumes will move freely to find an equilibrium price. The current position is that the supply market for Shotover River gravel is artificially constrained to two suppliers, who are assumed to be equal. Based on standard micro-economic theory, these two participants will compete freely up to the constrained volume of 60,000 m³ (twice the limit imposed in the SRC consent).

From this point, the market price for Shotover River gravel will, in all likelihood, rise to just below the marginal costs of supply from other sources. The affect of this is to impose a cost to the Wakatipu economy equal to this marginal cost over the 70,000 m³ additional volume that FH has in their consent. If externalities are not internalized, this is equal to approximately \$46.67/m³, a total annual dead-weight loss to the economy of \$3.267M.

7 Scenarios

This section of the report attempts to identify what might happen and quantify the marginal cost of some of the alternative scenarios using the costs and volumes estimated in the preceding sections. There are a range of other scenarios that could develop, but those proposed below are sufficient to give an indication of the range of possible outcomes. Costs are calculated for the 13 year period from 2008 to 2021, using a nominal 2008 dollars. For the sake of comparison, the aggregate demand at 12.5 tonnes per person per annum rate is modelled. Only those externalities where an estimated cost, or a reasonable proxy can be found are included in the cost analysis.

i. Amicable resolution

Under this scenario, the proposals as suggested by SRC and FE are accepted and JV is created and granted consent to process, import gravel and crush on site. FH and the JV both obtain long-term concessions to operate on site and combine to seal the haul road etc to mitigate the effects of their activities.

ii. No resolution - all parties withdraw from Shotover River gravel extraction and processing.

Under this scenario, FH and SRC both withdraw from their current consents and no gravel is extracted from the Shotover. All gravel required for the district is freighted in from remote locations and is taken directly to site. No concrete crushing is undertaken and the material instead goes to landfill.

iii. Current consented position

Under this scenario, the currently consented position is confirmed as the forward position. FH and SRC reach agreement on sealing the haul road. No imported gravels can be taken to the Shotover River sites and is freighted to existing yards at the Frankton Industrial area. No concrete crushing is undertaken and the material instead goes to landfill.

iv. Comparative costs of scenarios

The comparative costs analysis is a comparison of the relative costs of the scenarios set out above, not a determination of the absolute costs of the scenarios. Therefore, whilst in the analysis, the amicable solution scenario is shown to have no costs, it will and does have actual costs, what the analysis is showing is the additional (marginal) costs of the other scenarios.

The following table sets out, in summary the results of the analysis in aggregate over a thirteen year period. Each of the columns is referenced to the section of the report that discussed its composition.

Table 6: Summary of Relative Costs of Alternatives - \$000

Scenario	Freight (S5(i))	Traffic Effects (S5(ii)(a))	Emissions (S5(ii)(b))	Dead- weight loss (S6)	Total Cost
Amicable resolution	\$0	\$0	\$0	\$0	\$0
No resolution - Withdraw	\$92,688	\$18,532	\$693	\$0	\$111,893
Current consented position	\$10,625	\$2,125	\$79	\$3,267	\$16,096

Attachment 2:
Copies of the proposals to resolve the appeals from
Steve Rout Contracting and Faulks Enterprises

1. Letter from Duncan Cotterill, Lawyers

Jane McDonald
Macalister Todd Phillips
PO Box 653
Queenstown

WITHOUT PREJUDICE

Dear Partners

Resolution of Issues: Faulks Enterprises Limited ("FEL") Queenstown Gravel Supplies Limited ("QGSL")

1. At the prehearing conference in the above matter held on Tuesday last the Court resolved to set down the priority issues for determination by the Court notwithstanding that Steve Rout Contracting Limited ("SRCL") has appealed the Environment Court's decision relating to the Strike Out.
2. This hearing is set down for 3 March 2008 with requirements for exchange of affidavits commencing on 8 February 2008.
3. The Council and the applicants have subsequently met and it was agreed that I would write to you setting out the proposal for resolving these appeals.
4. It is accepted that resolution of these appeals is not a matter simply between the Council and the applicants – other 274 parties are involved as the series of appeals and the consent of these parties would be required – however, the indications from the parties are that subject to the wording of conditions the proposed outcome is acceptable. We will canvass that in more detail later in this letter.
5. It is accepted that SRCL will also wish to resolve its appeals and other High Court appeals through this process and I understand that Mr Parker will circulate his views as to resolution separately.
6. Accordingly the proposal on behalf of FEL and QGSL is set out as follows:
 - 6.1 FEL will withdraw its appeal at Tucker Beach;
 - 6.2 The remaining stockpiles at Tucker Beach will be worked out. No further material will be brought on to the stockpile site at Tucker Beach and to all intents and purposes the site will be closed.
 - 6.3 This will involve the removal of fences and the removal or breaking down of the bunds which will be done over a six month period.
 - 6.4 All buildings and structures on the site (such as screens) will be removed.
 - 6.5 The DoC licence pertaining to the area will be surrendered.
 - 6.6 The existing ORC consent will not be able to be utilised by FEL because there will be no "matching" QLDC consent relating to extraction.

7. QGSL is granted consent at the site applied for in the delta with storage / screening and supply of material being coordinated from site below the Stage Highway bridge site.
8. No administration will occur at that site.
9. No crushing is undertaken at that site – it has not been applied for.
10. Council will support the grant of consent to QGSL on the basis that FEL and SRCL have reached agreement between themselves to jointly manage the extraction process.
11. FEL will apply to discontinue its appeal on the priority issue – without issue of costs from any party.
12. Dealing with the lower Shotover extraction issues in a holistic way the only two remaining issues to resolve are:
 - 12.1 The resolution of conditions with respect to the SRCL's consent; and
 - 12.2 The grant of consent to QGSL.
13. The following issues are relevant:

Term

14. QGSL requests that the term is set for a period of ten years. The nature of this term reflects the long standing gravel extraction operation which has already occurred in the delta and which is required to continue as part of the strategic management of aggradation in Lower Shotover.
15. In addition, Faulks presented river engineering evidence to the panel in support of the long term strategic objective of the mitigating effect of gravel aggradation in the Lower Shotover that a longer term is preferable because the river does not aggrade at a constant rate.
16. Put more simply the Lower Shotover is a highly dynamic river with gravel extraction needing to be able to deal with the ORC's directions as to where and when the gravel requires removal on a longer term basis.
17. There appears to be other economic factors on the part of the applicant which point to a longer term of consent being granted. Issues such as the ongoing management costs and the costs relating to roading can only be economically viable if the consent is granted for a longer period.
18. Given the consents will provide that the ORC determines the point, timing, mode, volume and duration of extraction we do not believe that a longer term than that granted for SRCL will disadvantage QLDC in any way. To the extent that this remains an issue it is suggested that a review condition could deal with any adverse effects arising during the term of the consent which have not been anticipated – principally arising from the dynamic nature of the river system.

Volumes

19. As we have already indicated Faulks is proposing to relinquish that application to QLDC to take 100,000 cubic metres annually from Tucker Beach.

20. In considering the three applications for the extraction from FEL, SRCL and QGSL the total of 300,000 cubic metres was applied for with 30,000m³ being granted to SRCL at this point. We refer you to the evidence of Mr Bob Hall, the engineer which suggested that all applications could be granted provided they were subjected to control by ORC in the stretch of the lower Shotover are below the gorge. The volumes granted placed the other existing consent holder in the Shotover, Fulton Holgan in the dominant market condition. It is submitted that the volumes of the two remaining delta consents should be increased to 50,000 cubic metres annually giving the total extractable volume from that source of 200,000 cubic metres, one half shared by Fulton Holgan and the balance shared by the combined QGSL and SRCL's consent.
21. It is also submitted that overall volumes should provide latitude to the two businesses to grow over the duration of their consents.

Landscaping

22. In response to issues raised by Tim Williams at our meeting on 29 January 2008 we conducted a site visit of the QGSL's storage site below the bridge.
23. It appeared that the site was fully screened from the views from State Highway 6 at the Gorge Bridge by the existing willow vegetation along the true right bank of the Shotover River. Power lines run across the QGSL's site and the only "gap" in the willow is to allow power reticulation to occur. Accordingly we are somewhat mystified as to the potential differences in the site from landscaping perspective – particularly since the QGSL's site is not immediately adjacent to the State Highway bridge. Nevertheless our clients are prepared to landscape the site in accordance with a landscape plan as part of the consent. It is suggested that a landscape plan should provide screening from State Highway 8 and the river boundary.

Roading issues

24. In common with SRCL we advise that our clients have issues with respect to the requirement for the sealing and reconfiguring the existing access way from the Lower Shotover Bridge to its processing site. The issue is centred on the degree to which our clients would contribute towards any upgrade and particularly any sealing of the access way.
25. It is immediately apparent from visual inspection that there are a number of Council initiated projects occurring in the Lower Shotover and a number other projects anticipated are to occur over the next few years – noticeably the expansion of the Queenstown Airport and green waste disposal areas and any servicing and upgrade of the sewerage works. In addition the area has a public access component. Accordingly our clients could agree to a condition requiring a contribution to the roading upgrade provided was fairly arrived at having regard to the existing and anticipated usage. Further discussion on the quantum of contribution needs to occur.

Dust and noise issues

26. Given that SRCL and QGSL are proposing to integrate the management of the area issues relating to noise and dust mitigation are more easily coordinated through the resource consent process. In the first instance our clients are prepared to draft and abide by a dust management plan for the stockpiling area.
27. Our clients cannot crush aggregates at the site.

28. In addition they are prepared to not extract from the area immediately adjacent to the houses on the eastern side of the State Highway bridge. Indeed, extraction at that point is likely to have structural issues with respect to the bridge in any case. The area of the "no extraction zone" will require further discussion with our clients and its river engineer. Any condition of this nature would be entirely subject to any emergency works required by the ORC in this area.
29. QGSL are able to agree if between themselves and SRCL, only one extractor it would operate at any one time, in the delta area.
30. Our clients, as part of the dust management strategy, will agree to speed limit in the bed of the river consistent with consents already granted.
31. In all other respects our client has perused the conditions of the SRCL's consent, and considers, subject to amendments in this letter, it would have no issue with parallel conditions being formulated for both consents.
32. The abovementioned issues are an endeavour by Faulks to reach a practical solution to a number of appeals and consents both at High Court and Environment Court level. We apologise for the short delay in providing this letter to you. We would appreciate the Council's swift response, at least on a preliminary basis to this letter in order that matters can be finalised on the anticipated withdrawal of a priority hearing. Please confirm if there are any further details which you would require at this point.

Yours faithfully

Ewan Chapman
Partner

2. Letter from Michael E Parker, Lawyer

MICHAEL E. PARKER
BARRISTER & SOLICITOR • BA LLM GRAY'S INN

4 February 2008

MacTodd
Solicitors
P O Box 653
Queenstown 9348

Attention Jayne Macdonald

Dear Jayne

Steve Rout Contracting Limited – Shotover Delta Gravel Extraction Operators/Appeals

- [1] Further to our meeting at your offices last Tuesday, my client, Steve Rout Contracting Limited and the Faulks entities have been in discussions to rationalise their position regarding their operations below the State Highway 6/Shotover Bridge on the true right bank of the river.
- [2] I am able to indicate that those discussions have been fruitful to the extent that they are in a position to rationalise those operations and I understand that in a separate communication from Mr Chapman you will be informed of the willingness of the Faulks interests to relinquish their current ORC entitlement in the vicinity of Tucker Beach.
- [3] As you will be aware, my client's appeal relates to a number of issues, which are as follows:
- (i) the refusal to grant consent for extraction of gravel in excess of 30,000m³ (up to the applied-for 100,000m³);
 - (ii) the refusal of consent to process materials other than gravel at the site;
 - (iii) the refusal to grant consent to the use of the site for storage and processing of gravel and of concrete from elsewhere;
 - (iv) the refusal to grant consent for the storage of topsoil, bark or rock in accordance with the Appellant's concession form the Department of Conservation i.e. in the volumes of 3,000m³, 500m³ and 500m³ respectively;

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- (v) the refusal to permit more than 5,000m³ (up to applied for 10,000m³) of gravel on the site at any one time, contrary to a Department of Conservation concession;
- (vi) the decision to limit the duration of the consent to seven years;
- (vii) the requirement in Condition 30 of the consent requiring the full extent of the informal access road as far as the South Road site to be sealed within 3 months of the granting of the resource consent;
- (viii) The Appellant holds a concession from the Department of Conservation to stockpile gravel, topsoil, bark and rock and to undertake gravel crushing and to operate a screening plant and a glass recycling plant.

I will deal below with each of the headings as per that list:

Volume of Extraction

- [4] Faulks has the potential (which at the time of its application to QLDC had a consent from ORC (#2003.338)) to extract 15,000m³ of gravel from the Shotover River (this expired in June 2006), and there is currently a new consent applied for by that company to ORC to extract 100,000m³ per year of gravel. With the removal of Faulks as a separate operator, that potential is diminished and can result in a re-allocation of that resource.
- [5] It is my client's contention that is eligible for a significantly higher figure of volume of extractable material than allowed to it by the Commissioners. As you will be aware, the ORC consent comprises part of that Council's strategy for dealing with management of the riverbed and maintaining it so as to avoid flood risk.
- [6] This has an immediate benefit for this District and its community both as to the well being of nearby residents, but also because the material extracted and processed has immediate and genuine use in building and infrastructure undertakings in the District. The alternative of reasonable extraction would be that materials would be transported over significantly greater distances with the concomitant environmental impact.
- [7] It is worth recalling the history relating to the QLDC gravel extractors' consents whereby Fulton Hogan, the first to be dealt with under the District's consent regime, did so by agreement with fellow operators and with their financial support. They did

not 'go first' by virtue of any inherent right, merit, or longevity of use. However, the effect has been that by being permitted to be the first application to be processed, they have achieved a dominant position in the market by being granted a full 100,000m³ consent. It is not the purpose of the RMA to favour one party over another and to do so by restricting the extraction rights of my client and/or Faulks is anti-competitive and contrary therefore to the purpose of the Act which includes the promotion of people providing for their, among other things, economic wellbeing (Section 5). Under that aspect of Section 5 the economic effects of a proposal are considered to the extent that these affect the community at large; thus, anything which is anti-competitive and not for the benefit of the community are legitimate concerns under the Act (see *Imrie Family Trust v Whangarei District Court* [1994] NZRMA 452).

- [8] Accordingly, there is not only a beneficial environmental effect in permitting my client's consent to more closely mirror its consent from ORC, but also a genuine community benefit. The alternative would be that Fulton Hogan will be in a dominant position and be able effectively have significant sway on market price to its customers, including the Council.
- [9] While it is accepted that the previous extraction by my client has not reached the limits it seeks, that increase may at times be required by ORC (hence its grant of the volume of 100,000m³), and to be unduly restricted to 30,000m³ would be unnecessarily inefficient.
- [10] In addition, it has to be accepted that in such operations, a level of evolution, as the district requirements grow, must be expected and allowance needs to be made for that in the coming years, given that there is likely to be a significant expansion of population and therefore demand upon building resources and upon infrastructure.

Crushing

- [11] As you are aware the Appellant holds concessions from the DOC to stockpile gravel, topsoil, bark and rock and to crush gravel and operate a screening plant. It has to be emphasised that this is a limited operation which would occur on only 35 days per year (i.e. two to four times at 5-10 days) of which advance notice can be given to designated neighbours who might be most closely affected; and further, it is not proposed that that include glass. It should be noted that my client's crushing plant meets the relevant noise standards for the Zone under the PODP and that is not even measurement at notional boundaries of neighbours who might conceivably be affected.

Imported Material

- [12] It has long been the practice of my client to import materials for processing to the site. This is particularly important as it means that inbound and outbound vehicles are fully efficient, and what's more the level of noise from laden vehicles as opposed to unladen vehicles is markedly better and to be encouraged for the benefit of neighbours. My client blends recycled materials so that vehicles are loaded both coming in and going out of the site thereby reducing the number of truck movements.

Storage of Material on Site

- [13] As you will recall, my client has a concession from DOC to store topsoil, bark, and rock in the volumes of 3,000m³, 500m³ and 500m³ respectively. There is no reason why that should not continue, given the care with which DOC approaches such matters; and furthermore, given the rationalised operations between my client and the Faulks interests, the area in which this can occur is now that much greater with the effects, visual and otherwise spread over a larger area.

Amount of Gravel on Site

- [14] It is submitted that the Commissioners' refusal to permit more than 5,000m³ (as opposed to the 10,000m³ applied for) of gravel on the site at any one time did not fully understand the DOC concession which permitted 5,000m³ on each of the two lots comprising my client's site (hence a total of 10,000m³ is permitted). This is a misunderstanding that is clear from the documentation and we can discuss this with you further, but seems a clear error on its face and should be rectified.

Duration of Consent

- [15] For continued extraction to be economically viable for my client, and for it to continue to invest in the plant, vehicles, trained personnel etc requires it to be able to plan long term. As you will be aware, my client has been on this site for many years operating in a responsible way and for it to continue to do so on a commercial basis it needs certainty of continued operations which restriction of the consent to seven years does not provide. In my client's view, a period of 15 years would be more appropriate, particularly given that it has operated in this way for the better part of 30 years. (eg a ten year term with a five year automatic extension unless declined by my client). A lesser term could possibly be considered, subject to there being an ability to apply for, and not be unreasonably refused, an extension or succeeding extensions

Sealing of the informal Access Road as far as the South Road Site.

- [16] My client fully appreciates the benefits of sealing this road. What my client takes issue with is that it is being asked to put in a financial responsibility for a use which is proportionately much less than that of many other users of the road who at present will not and cannot be required to contribute. Many of the users do so at the behest of Council which does not appear to regard itself as having any responsibility for contribution to the upkeep of the road.
- [17] My client believes that there should be an equitable arrangement regarding contribution to the sealing of the road which should, at the very least include Council contributing a share, as well as perhaps a proportional contribution based on the level of extraction (and therefore use of the road) by each party.

Again, we would ask for your careful consideration of this.

My apologies that this letter was not available to you earlier. But I trust that its conciseness will be an encouragement for Council to see the discrete issues that are requiring its engagement and look forward to the Council's constructive responses and suggestions so that a resolution can be found that accommodates the gravel extractors requirements as well as contemplates Council's wider intentions for the Shotover Delta.

Yours sincerely



 **Michael E Parker**

Attachment 3:

**Further report from Tim Williams, Planner,
Lakes Environmental on the proposal from Steve Rout
Contracting and Faulks Enterprises to resolve the appeals to
the Commissioner's decision.**

Report from Tim Williams, Planner, Lakes Environmental Ltd

Issues:

Quantity

The proposal put forward by Queenstown Gravel/Faulks and Routs in their joint venture (JV) is to extract 100,000m³ of gravel, which would bring the total extracted from the Shotover River to 230,000m³, consisting of the amount proposed by the JV and 130,000m³ by Fulton Hogan (consented). It is considered the main issues surrounding the volume proposed versus that consented (being 160,000m³ made up of 130,000m³ for Fulton Hogan and 30,000m³ for Routs) is the increased truck movements and noise associated with extraction activity in the river bed and the effects of this on the landscape and on adjoining properties. In respect of adjoining properties a number of submitters to the original application have joined proceedings with the desire to ensure their amenity, privacy etc is maintained with a number of these parties being located on Old School Road which adjoins the proposed extraction area.

It is considered the JV would reduce the potential adverse effects by reducing the level of machinery in the river bed and also ensuring that there is not a continual presence of machinery which could otherwise occur if each operator was extracting gravel individually. It should be noted that it is not the volume of gravel being extracted per se that is considered to result in adverse effects, rather the trucks and machinery required to extract the level of gravel proposed.

It is understood evidence now exists in addition to that provided at the hearing that supports from an economic perspective the level of gravel proposed to be extracted. Therefore it is considered this goes some way to justify the amended proposal. However, it is considered further evidence is required regarding how many truck movements etc can be anticipated over what period of time if 100,000m³ is to be extracted by the JV before an informed assessment of the adverse effects of the amended proposal can be made. Given the volume of gravel proposed to be extracted it is likely there will be an increase in the number of days that extraction activity occurs along with an increase in truck movements, compared to that required to extract 30,000m³. It is considered the effects of the increased gravel extraction could be mitigated by the size of machinery being used (larger trucks could result in less truck movements) etc, which may assist to mitigate the effects of the increased activity. Furthermore to mitigate the effects on neighbours an exclusion area has been suggested that would ensure no extraction occurs in close proximity to neighbouring properties on Old School Road. Therefore, in principle an increased level of extraction is supported however determining the volume will depend a better understanding of the effects and mitigation proposed.

Crushing

As identified by the Commission the primary concern with the use of a crusher is the associated noise and to this end the expert noise evidence provided at the hearing confirmed that in isolation this activity would comply with the relevant noise standards, but when combined with other activity ie, associated extraction it was likely noise standards would be breached. Furthermore, Routs was the only company seeking to utilise a crusher and there was no evidence to identify why they required its use when the other operators did not. It is considered that these issues are still relevant and no evidence has subsequently been produced that identifies why the crusher is required. Therefore, at this stage given the sensitivity of landscape and concerns of neighbours, unless further mitigation/evidence is provided to support the use of the crusher and reduces the noise it generates, it is not considered the use of a crusher can be supported.

Imported materials

As identified by the Commission the landscape of the area is important and classified as an outstanding natural feature therefore it is not considered appropriate for the area to effectively be utilised for industrial activity in the form of processing and storage of materials. It is recognised that there is a clear association with processing of gravel extracted from the adjacent river, however due to the sensitivity of the landscape the importation/storage and processing of other material is not considered appropriate. Therefore, it is not considered the storage of other material can be supported with the possible exception of some glass or other material if it can be illustrated that this is blended with material on site for roading purposes or similar, which has some obvious other environmental benefits in terms of waste minimisation.

Storage of Material

In respect of the volume of material stored on site, as the JV will aggregate the two sites, it is considered there is the potential to provide for a revised site layout/landscaping plan that adequately mitigates the visual effects of gravel storage. It is considered the level of gravel that can be stored on site should be dictated by the ability of the amended site layout and associated landscaping to contain the visual effects of the storage. Therefore, it is considered the exact volumes that are stored can be determined based on revised plans and assessment of the ability of the amended layout to contain the visual effects.

Duration

In association with the consent granted to Routs the Commission imposed a condition that would see the consent expire in 7 years. As identified in their decision there were several reasons why a limited life was considered appropriate one being that in the future the establishment of a management plan for the Delta would provide for an effective means of rationalising all activity in the Delta and achieve an overall appropriate level of activity. In addition the Commission thought to relevant that the Department of Conservation concessions and Otago Regional Council consents were limited and relatively short.

It is considered the JV would provide for some of the benefit a future management plan would provide for through the co-ordination of these two operators if Fulton Hogan (who have no restriction on the life of their consent) can also become involved then at least as far as gravel extraction goes this activity within the Delta would be managed in a comprehensive manner. Taking into account the JV and the ability to provide for a robust review condition that would provide for review of adverse effects, (particularly on neighbours) which could be monitored, it is considered an extension of the life of any consent granted could be supported.

Sealing

Both applicants volunteered through the consideration of their applications to seal the access road as this was identified as a major source of noise and dust. The provision for sealing was also accepted by a majority of submitters as going some way to mitigating the adverse effects of the gravel extraction activities. It is also noted Fulton Hogan as part of their consent also volunteered to seal the access. Taking these matters into account it is considered fundamental to the grant of any consent that the sealing of the access occurs. It is noted both applicants have identified that other users would benefit from the sealing of the access and accordingly they should not bear the burden of the full cost of the upgrading. It is considered the Council may wish to consider this issue further but in terms of effects it is not considered consent to the JV could be supported unless the proposal encompassed the sealing of the access.

PUBLIC EXCLUDED**QUEENSTOWN LAKES DISTRICT COUNCIL****FOR MEETING OF 29 FEBRUARY 2008****REPORT FOR AGENDA ITEM: 20****SUBMITTED BY: Chief Executive – Duncan Field****REPORT DATED: 21 February 2008****FRANKTON FLAT AND RELATED LAND ISSUES****PURPOSE**

This report discusses progress with a range of issues affecting our key relationship with the developers at Five Mile. Collectively these issues have the potential to enhance or detract from Council's ambitions for the District.

CONFIDENTIALITY

The issues involved range across a set of fundamentally commercial relationships and concern the Council's negotiating position. Disclosure of those positions publicly, and therefore to the other party, can only undermine our ability to achieve community objectives. There are 3rd parties (including trade competitors) who might also act to the detriment of Council and Mr Henderson if there was disclosure at this point.

The grounds under LGOIMA are Section 7(2)(g) and (i) relating to legal professional privilege and conduct of negotiations respectively.

DEFINITIONS

'Dave Henderson', 'Gardez', 'Property Ventures' and 'Five Mile' are used, according to the context, to refer to the owners / developers of the land represented by Mr Henderson.

'QAC' means the Queenstown Airport Corporation Ltd.

'QEC' means the Queenstown Events Centre (now Lakes Leisure Ltd).

'RPL' is used to refer to the Remarkables Park Ltd and a range of other entities owned by the same owners (e.g. Shotover Park Ltd).

'2000 agreement' means a contract between QAC, QLDC and RPL to resolve issues between the parties. The agreement is discussed further below.

BACKGROUND

A thorough background is provided in the attached report from the December 2007 meeting. It is not proposed to recover that material. Representatives of MacTodd will be present to advise on the issues raised in this report.

Airport Issues

There are a number of issues derived from the work of the QAC board which impact on the Five Mile developers:

- a) The introduction of new flight fans. For example this affects maximum heights of the terraced housing proposal on the 'small block'. Negotiations between the QAC and Mr Henderson appear to be moving towards a position which both parties can adopt.
- b) The RESA proposals. Mr Henderson is likely to be a contributor of fill to achieve this project.
- c) Airport noise boundaries. These will impact on the Five Mile development (and other proposals on the Frankton Flats). See discussion of Plan Change 19 below.

New threshold requirements for the airport cross-wind runways also affect the newly created sports field at the QEC / Five Mile (i.e. both the upper and lower fields). As the cross-wind runway is currently configured some goal posts will intrude into the control surfaces. While balls are not 'structures' and not caught by CAA regulations, further work is being done to understand the implications of this issue.

Terrace Houses

The second set of resource consents relating to the block west of Grant Rd has been received by Lakes Environmental. This relates to a set of terraced houses facing onto the Events Centre.

It is understood breaches of the new notified height fans are being resolved by negotiations between the QAC and Five Mile.

As a result of landscape architecture / urban design concerns this application is proceeding to a notification determination before independent commissioners, unless the issues can be resolved in an imminent meeting between Five Mile and Lakes Environmental representatives.

Land Swap

The land swap proposals between Council and Five Mile have been live for a considerable period.

Initially they involved just Council and Five Mile. The Council was to get land for recreation. Note: the land swap did not provide for the land to be developed. That came from later discussions concerning storm water solutions, Golden Oldies and reserves contributions.

In the land swap the parties were to exchange land of equivalent area. For Five Mile this includes certain land that is very desirable to their development (including the land over which vehicles will drive to access their underground car-park) and the closed road created by the stopping of Grant Road.

Given that the land to be given by Five Mile was part of the density requirements in their approved zone, and given the Council's need for the land was strategic rather than urgent, settlement was to be deferred for 3+ years. Reciprocal leases were to be negotiated to cover the interim.

Subsequently, Council introduced the 'yard based zoning' provisions affecting parts of the land covered by Plan Change 19. Five Mile considered this diminished the value of the Council's contribution (although zoning wasn't part of the original deal) and sought a revised 3 way land exchange between Council, Five Mile and QAC.

This had an advantage in that the QAC would own land directly out from the centre line of the runway (instead of relying solely on zoning / noise boundaries to protect it from noise sensitive activities). The QAC however would have to give up to Five Mile a significant development site.

There was an inequality of exchange to the detriment of the QAC which Council 'made up' by a reduced price for land to be transferred from QLDC to QAC within the current airport designation.

This revised proposal was approved by Council, and by the QAC board, but fell over when it became apparent that the land sought from the QAC was subject to 'first right of refusal' provisions in favour of RPL (from the 2000 agreement).

Since then a meeting with Mr Henderson on 11 December 2007 led to a version of the original agreement being resubmitted to him. To complete the deal all Mr Henderson needs to do is sign that document. He has declined to do so, linking the land swap to a whole lot of other considerations discussed elsewhere in this report (and as previously reported due to his view of my behaviour). He appears to believe that pressure created by the impending 'Golden Oldies' tournament (plus other threats) will lead to a better deal for him on a wide range of issues.

Council on 19 December 2007 re-authorised the CEO to complete this land swap deal in its most recent form.

Reserve Contribution Improvements – Five Mile

The Council and Five Mile have collectively developed three playing fields and a cricket oval over land owned by either Five Mile or QLDC (leased to the QEC). The fields on the lower level are to be given to Council from Five Mile under the land swap and the upper fields are already on QEC land.

The total cost of the works was approximately \$1.2M. \$700,000 of this sum came from Council reserves contribution funds and the remainder came from Five Mile (being a cost equivalent to an alternative storm-water 'super-design' solution for the Five Mile development). Of this sum, \$351,000 of the reserves contribution expenditure is estimated to be on land currently owned by Five Mile.

These works were funded by resolution of Council in anticipation that the signing of the land swap was imminent, in a period where relations with Five Mile were good, and where there was considerable pressure for the land to be developed for the Golden Oldies cricket.

MacTodd have advised that there will be a range of legal remedies to address this dispute but it is not straight forward.

Golden Oldies Cricket

Immediately prior to Christmas Mr Henderson issued a trespass notice against all Council related individuals requiring they not enter Five Mile land (i.e. the lower of the two new playing fields). This has led to the fields being watered (because the tap is on our side) but not maintained.

There have been a number of 3rd party requests to Mr Henderson to resolve the land swap so that the 'Golden Oldies Cricket' can use this facility. Council's position has been that there is nothing to stop Mr Henderson allowing the Golden Oldies Cricket to use this field at any time. It does not require Council consent. The access would be between Five Mile and the Golden Oldies (and not Council).

Arrangements have been made so that this lower field is not essential to the event.

The 'Upper Field'

Of the two fields formed recently adjacent to the Five Mile site, one is on land currently owned by Gardez (but subject to the land swap) and the other is on land owned by Council and leased to Lakes Leisure Ltd (previously QEC). This latter field is available for the Golden Oldies Cricket.

It is however subject to new Civil Aviation requirements that cast doubts on its suitability for active sport given the proximity to flight paths. Sports 'balls' are not 'structures' and therefore are not technically caught by CAA requirements. The QAC is however pursuing the significance of this issue further with CAA.

In the meantime the QAC has agreed to manage air traffic through the cross-wind runway during the period of the Golden Oldies (subject to specific requirements that might arise due to strong cross winds).

Litigation / Contact With Mr Henderson

A number of threats of litigation have been made in the context of discussions since December 2007:

- a) From David Henderson via Mayor (appendix three).
- b) Through Cousins and Associates in regard to the CEO (see appendix four). They suggest that the CEO has defamed Mr Henderson. A response has been sent to Cousins & Associates by Mac Todd denying the CEO has defamed Mr Henderson.
- c) Goodman Steven Tavendale Reid advising of judicial review of 2000 Agreement / Haul Road agreement. They allege that the 2000 agreement was illegal and that the Haul Road agreement was illegal as influenced by improper motives.

Given this correspondence MacTodd have advised that Council should not have direct contact with Mr Henderson, other than through the respective solicitors. The Mayor has offered for the Mayor and CEO to meet with Mr Henderson, in the presence of solicitors, to seek to resolve the issues involved. The scope of the issues to be discussed at that meeting need to be agreed in advance between the solicitors. We are waiting for Mr Henderson to advise who his solicitor will be.

It should be appreciated that a number of business-as-usual contacts occur between Council and staff of companies of whom Mr Henderson is a shareholder. This will not be affected other than General Managers have been asked to ensure that their staff members are fully briefed about how they handle themselves in these contacts.

Plan Change 19 – Frankton Flats

Gardez Investments Ltd became seriously concerned about indicated delays in bringing Plan Change 19 to hearing before independent commissioners recently. This led to an approach from Mr Russell Bartlett (barrister of Auckland) to Mr Todd and the CEO, and a consequent discussion at Strategy Committee on 12 February.

This issue was satisfactorily resolved (see attached draft minutes of Strategy Committee).

Glenda Drive and Grant Road Roundabouts

Transit NZ has made it a priority to conclude discussions with RPL and Five Mile over the formation of roundabouts at a revised Glenda Drive location and at Grant Rd.

They are undertaking the necessary designation work to justify the formation of these works (including the Council's portion connecting Glenda Drive to the State Highway).

There have been a number of mediations with Five Mile, RPL, QAC, Transit NZ and QLDC (mediated by Nick Davidson QC) to resolve the location of these roundabouts. On location we have been successful and the agreed location will be included in the Plan Change 19 reports. On contributions there is as yet no agreement although progress is being made.

It is the confidentiality agreement from one of these mediations that Mr Henderson claims the CEO has breached. A response by Mac Todd has been sent to Cousins & Associates denying any breach of confidentiality.

Stopping Of Grant Road

The stopping of Grant Road and the legalisation of the new alignment, and all of the land exchanges proposed in the land swap will be implemented under the Public Works Act.

Mr Ant White and Mr Don Hatfield (under the CEO's instructions) have completed all of the survey and legalisation work necessary to complete these transactions.

Mr Hatfield has submitted these documents to Mr Henderson for signature.

Five Mile Haul Road

Five Mile continue to resist executing a bond to give effect to the Haul Road Agreement. They dispute the amount required, being in their view \$15,000, and in our view (revised) \$37,500.

This was addressed by the Utilities Committee on 5 February 2008 (draft minutes attached). The Committee confirmed a bond was required to a sum derived by Council engineers.

Councillors will note from correspondence that Five Mile have renounced the agreement. Council has advised it regards the agreement as still binding on all parties.

The Christmas Eve Experience

On 24 December two things happened:

- a) Solicitors for Gardez Investments asked for Council consent to a refinancing arrangement. This consent was needed because Council had registered an encumbrance on the Five Mile titles to protect some of the undertakings given in the Haul Road agreement.
Quite frankly this encumbrance draws the Council into matters it wouldn't normally need to address and MacTodd have been asked to suggest an alternative way to protect the terms of the Haul Road agreement.
- b) As CEO I was only prepared to consent if a solicitors' undertaking was given that funds to the (then) expected sum of the bond was held in the solicitors' trust account. Unbeknownst to me, or the firm of solicitors acting for Five Mile, one of Mr Henderson's other legal firms had already given an undertaking to the Transportation Manager as to \$22,000. Council (as of today) holds solicitors' undertaking totalling some \$80,000 between the two firms and has advised both firms that it will not release them from those undertakings.

In my view these problems arose because of the short notice given to address this request on Christmas Eve. Mr Henderson believes my behaviour was improperly motivated. A letter from Mac Todd has been sent to Cousins & Associates seeking a retraction and apology for comments that have been made by Mr Henderson to both the Mayor and Chairman of the Utilities Committee recently about the CEO following these problems experienced on Christmas Eve.

The 2000 Agreement

When the Council publicly notified the draft district plan in 1995 it started the process of appeal rights that have governed the formation of the district plan ever since.

When RPL purchased the Grant Farm in 1996 they acquired rights that arose from submissions made by prior owners of the property.

In order to settle a range of issues over a considerable period the QAC entered into agreements in 1997, 1998 and 1999 with RPL. In 2000 a further agreement was entered into, to which the Council was a signatory. It was negotiated by the then Mayor and a QAC director (Mr Smolenski). As CEO I witnessed the affixing of the seal.

All of these agreements were never held by the Council until I recovered a set from the QAC's solicitors in Oamaru in June 2004.

A further agreement was entered into in 2006 between RPL and the QAC. Council does not have a copy of that agreement.

The 2000 agreement involves a number of provisions concerning the stopping and shifting of roads on the north of the airport, first rights of refusal on QAC owned land, design controls on QAC land, and a provision relating to development north of the runway (which is attached).

Mr Henderson believes these provisions have coloured Council's response to many aspects of his proposals on the Five Mile site. In essence he claims the Council has been legally obliged to oppose every application he has made. He particularly believes this agreement coloured Council's approach to his Section 293 application and the Haul Road agreement. He appears to regard both the 2000 agreement and the Haul Road agreement as illegal (and thereafter threatens judicial review of the former and rescinds the latter).

Attached is MacTodd's advice at the time on this agreement. Council has acted throughout on the basis of this advice. Council's position has been that the 2000 agreement cannot bind the Council in the exercise of its RMA functions. Given that we have acted to facilitate many aspects of the Five Mile development, our actions dispel Mr Henderson's claims.

Gibbston Water Services

A brief for the concept design, as approved in December, has been prepared.

Council continues to pursue consent from the ORC for the expired water bore which it acquired from Mr John Lane. Acquiring that consent will cost the Council \$3,500 being Mr Lane's costs in progressing the application to that point.

Council has been informed that Mr Henderson, through his solicitors, has indicated he intends to take legal action against Mr Lane who, it is argued, is in breach of his contract with Gibbston Water Services Ltd by seeking the alternative consent and then offering it to Council; and in being a submitter supporting Council in that application.

Rafters Road

Given that Mr Henderson no longer wishes to deal with Mr Don Hatfield, Mr Ant White of Aurum Survey has been briefed to prepare a survey plan of the land to be exchanged ('formed road' for 'legal road') and present these to Mr Henderson. The proposal will include Mr Henderson paying market value for the portions of the legal road which will be closed and vested in his company (less any prior investment he has made in the formed road which has added permanent value to that facility).

Hunter Land – Victoria Bridge

Pursuant to a resolution of the previous Council negotiations are proceeding with Mr Dale Hunter to purchase land surrounding the Victoria Bridge landfill. Note this is land to the south of the State Highway and not the land below the road debated at the special meeting in January.

Mr Hunter has informed Council representatives that Mr Henderson has also expressed interested in purchasing the land.

Official Information Requests

After discussion with MacTodd, Mr Taylor has been appointed to manage all official information requests. Given the nature of the threats of litigation the opportunity is being taken (where practical) to gather information that might otherwise have only been in the minds of parties (including past staff).

While a number of requests were overdue at the time of the last report, they are now all up to date with only one outstanding.

The School Site

I would like to report verbally on this issue at the meeting.

ATTACHMENTS

The following are attached:

1. Appendix one – report of 19 December 2007
2. Appendix two – map of land involved in latest land swap proposal
3. Appendix three – file note – mayor re threat of litigation
4. Appendix four – correspondence Cousins & Assoc re CEO
5. Appendix five - threat of judicial review – 2000 Agreement
6. Appendix six – draft minutes of Strategy Committee – Plan Change 19
7. Appendix seven – extract from 2000 agreement (development north of airport)
8. Appendix eight – legal advice MacTodd relating to 2000 agreement **(To be tabled at meeting)**
9. Appendix nine – draft minutes of Utilities Committee – Haul Road Bond

RECOMMENDATION

It is recommended that the Council:

- 1. Receive this report;*
- 2. Note the threats of legal action and the responses to them;*
- 3. Confirm that contact with Mr Henderson should only be in the presence of Council's legal representatives while threats of legal action persist (subject to the comments in the report relating to normal business transactions between council staff and staff of companies in which Mr Henderson has an interest); and*
- 4. Confirm that this report and/or the resolution not be made available to the public.*

Appendix one – Report of 19 December 2007**PUBLIC EXCLUDED****QUEENSTOWN LAKES DISTRICT COUNCIL****FOR MEETING OF 19 DECEMBER 2007****REPORT FOR AGENDA ITEM: 14****SUBMITTED BY: Chief Executive- Duncan Field****REPORT DATED: 13 December 2007****FRANKTON FLAT AND RELATED LAND ISSUES****PURPOSE**

This report discusses progress with a range of issues affecting our key relationship with Dave Henderson. Collectively these issues have the potential to enhance or detract from Council's ambitions for the District.

CONFIDENTIALITY

The issues involved range across a set of fundamentally commercial relationships and concern the Council's negotiating position. Disclosure of those positions publicly, and therefore to the other party, can only undermine our ability to achieve community objectives. There are 3rd parties (including trade competitors) who might also act to the detriment of Council and Mr Henderson if there was disclosure at this point.

The grounds under LGOIMA are Section 7(2) (f), (g) and (i): relating to the free and frank exchange of views, legal professional privilege and conduct of negotiations respectively.

BACKGROUND

Mr Dave Henderson of Christchurch is the major owner of business interests in Frankton and Gibbston. At various times these aspects have been separately reported to Council. If any Councillors would like more specific detail on any of these matters please contact the District Secretary.

Overview

It is worth stating at the outset:

- a) Council's objectives in engaging over 5 Mile and Anthem / Tomanovich (Gibbston) issues is to achieve the highest levels of good urban development (e.g. urban design, architecture, transportation, open space, facilities, etc). In 5 Mile that means exemplary examples of high density urban live / work environments. At Gibbston it means high standards of public access, trails, water quality, etc. Achieving that outcome requires high levels of Council co-operation.
- b) Council has no alternative, given that objective, of engaging openly with the owners of the properties involved.

- c) Mr Henderson sees all his property interests, and the consequent relationship with Council, as connected. Council, by law and by preference, needs to deal with each issue at arms length from the others.

From 1997 to 2001 the Council, QAC and Remarkables Park (RPL) entered into a number of agreements to resolve primarily District Plan issues. The agreements provide for a number of land exchanges, design controls, first rights of refusal, covenants as to land uses (e.g. RPL is limited to recreational use on land closest to the southern boundary of the airport) and reciprocal obligations (Council in its corporate capacity and the QAC have an obligation to use their best endeavours to reflect these limitations on the southern side of the airport across onto the equivalent land on the northern side).

Council has for a considerable time now taken the view, based on legal advice, that none of these obligations can fetter its powers and obligations as a regulatory authority. That is the basis on which the Frankton Flats plan change has been prepared and notified.

In a meeting held on 11 December 2007 (between QLDC, QAC and Mr Henderson) it was evident he was concerned that the Council and the QAC may be influenced by its obligations under these agreements to frustrate his various 5 Mile proposals. Council representatives made it clear that Council was not acting in any way to frustrate the 5 Mile proposals as a result of these provisions.

Issues Resolved

Council has been able to successfully work through a large range of issues with Mr Henderson. They include:

- a) Gibbston Reserve. In this case a reserve offered by Mr Henderson (including the old school house) was not the preferred option by the community.
- b) Anthem development. This substantial development in Gibbston was declined resource consent by Trevor Shiels. Mr Henderson then appealed the consent to the Environment Court. A mediated solution was achieved involving reducing the size of the development and setting it back so that it was harder to see. Mr Henderson has recorded his frustration at the quality of the Shiels decision, the time taken to deliver it, and the performance of a range of staff involved.
- c) Rafter Road tree house. This structure was consented retrospectively after a considerable period of at times terse compliance activity.
- d) 5 Mile consents. Often with considerable debate between the developer and Lakes Environmental, a range of consents have been granted on a non-notified basis for a range of activities including landscaping of the buffer zone at 5 Mile, the state highway intersection, earthworks and most recently the supermarket (and 'living space' product). The 'terraced housing' product is currently filed for consent and is affected by QAC 'airport fans'.
- e) Haul Road. Council has granted 5 Mile an agreement to use an unformed portion of legal road to haul concrete from Glenda Drive to their current construction site. This was in the face of concerns from RPL based on an agreement that this road would be closed and transferred to them when other alternative routes were available. An obligation to complete a bond is outstanding.

Airport Issues

The meeting of 11 December 2007 facilitated discussion between 5 Mile and the QAC regarding impacts that the development could potentially have on the airport. The Chair and CEO of the QAC expressed a willingness to discuss solutions with 5 Mile based on sound accurate information (with examples of where that was not currently forthcoming).

Among the matters raised were:

- a) Affect of current and recently notified operating fans.
- b) The effect that height encroachments into fans would have on cross-wind runway widths.
- c) The QAC view of the current Grant Rd site for the proposed Frankton primary school.
- d) Progress with assessing changes to the airport noise boundaries.
- e) The need to consider the process for dealing with the timing of the Frankton Flats Plan Change, the forthcoming airport noise plan change and designations, and any RPL private plan change.

Land Swap – QLDC / 5 Mile

On 31 August 2007 the Council authorised the CEO to put in place a set of land exchanges between the Council, QAC and 5 Mile. A copy of the relevant report is attached. Basically the Council secured the western end of the 5 Mile site (where sports fields have been formed), the QAC gained ownership of land that allowed it to better protect itself from noise sensitive activity, and 5 Mile gained land that gave it better eastern access and the opportunity to rationalise land holdings with RPL.

This proposal was a significant extension of an earlier proposal for a land swap solely between the Council and 5 Mile. The report to the 31 August meeting explains why this was necessary – mainly because of Mr Henderson's disappointment at the industrial zoning introduced in the Frankton Flats Plan Change.

The deal authorised on 31 August cannot be completed. That portion of the land that was to go from QAC to 5 Mile is subject to a first right of refusal to RPL who will not release that option unless the QAC releases portions of a covenant it holds over land south of the airport. The QAC is not prepared to negotiate that in the context of this land swap.

Council has received the attached letter from Cousins and Associates on behalf of 5 Mile expressing concern at delays in finalising the land swap. 5 Mile has given notice that the land the Council is to receive as sports fields is not to be accessed until the land swap has been perfected. While MacTodd believe this is not a reasonable response given the \$700,000 in reserves contributions Council invested as its share of the costs of forming the sports fields, litigation however is not the way to resolve this issue.

As the result of considerable work done by the QAC regarding existing and recent changes to CAA requirements, and the provisions of the District Plan, we have a more thorough understanding of the limitations that may apply to these playing fields. Structures such as goal posts may be limited in the future or they may curtail the operating flexibility of the cross-wind runway. Long term it may be better for this land to be owned and administered by the QAC rather than Council or Lakes Leisure. That is a choice for another day - right now it's important that the land be brought into public ownership through the land swap.

At the meeting of 11 December 2007 it was put to Mr Henderson that we revert to the original land swap. He has indicated a willingness to accept this and has asked for a draft agreement to be prepared and submitted to him. A copy of that draft agreement is attached (note: at the time of writing the agreement had only just been forwarded to Mr Henderson).

The land swap proposed is different from the original proposal in several respects:

- a) The original proposal was for an equality of area. There is now a minor variation with Council receiving approximately 3.22 ha and 5 Mile receiving approximately 3.85 ha (in both cases I have included the land under the old and new roads). This difference simply reflects the negotiated outcome from the meeting of 11 December.

Using the valuation information in the 31 August report this suggests a difference in value of approximately \$500,000 in favour of 5 Mile. Given the uncertainty over these valuations (due to the uncertainty over ultimate zoning) this discrepancy should not be cause for concern.

- b) There is an additional covenant in the agreement that Council (in its corporate capacity) will not oppose any submission that 5 Mile make to change the zoning proposed for the land to be swapped from that proposed in the Plan Change. The difference between the Council acting corporately, and acting in its regulatory capacity, are discussed further in the agreement.

The recommendations below include authority to conclude this arrangement.

Grant Road Roundabout

The zoning for the small block at 5 Mile (west of Grant Road) was approved by the Environment Court and included a 'T' intersection between the state highway and Grant Rd. There is general acceptance that a roundabout should be installed and in discussion with Transit NZ Mr Henderson has agreed to fund and build that facility.

He has subsequently linked that commitment to the outcome of the above land swap process.

It is important to appreciate that a roundabout of dimensions similar to Lucas Place / SH8 is in the order of \$2M depending on land acquisition and associated underground services.

Glenda Drive

The attached plan represents the outcome of several mediations (using Nick Davidson QC of Christchurch) between 5 Mile, RPL, Transit NZ, QLDC and QAC over future roading patterns in this vicinity.

The achievements to date appear to be:

- a) There is general consensus over the location of the main roads. In particular the roundabout and the eastern arterial can now be carried forward into updated versions of the Frankton Flats Plan Change. Mr Henderson acknowledged this at the meeting of 11 December although 5 Mile did not attend due to his view that I had defamed him, breeched confidences from the mediation process, or exhibited a belligerent attitude over issues such as Gibbston water and Rafters Rd.
- b) There is considerable further mediation to occur over the location, dimensions and design of subordinate roads on the plan.
- c) Transit is to produce traffic micro-modelling data to RPL, the QAC and Five Mile as the basis for a shared funding arrangement for the roundabout. Council will be asked in the future to agree to a funding contribution to portions of the internal roads (for which general sums are already provided for in development contributions). It is important to appreciate that this is the route to getting a roundabout to replace the current hazardous Glenda Drive intersection, which is why Council is pushing hard on a process that would otherwise be a Transit NZ responsibility.

Gibbston Water Services

On 15 December 2006 the Council passed the following resolution:

“Councillors Neal and Overton Council resolved:

- 1. That the Council authorise the CEO to commit \$30,000 (from the CEO contingency budget) to purchase ownership of assets in the Gibbston potable water supply scheme.***
- 2. That the report and resolutions be made available to the public.”***

This decision was taken in order to address serious concerns about the working of this private water scheme. Among these were the facts that the water right had expired, there were no easements for the piped network, serious issues were being raised about risks to public health, and the system does not meet Council's current standards (let alone new potable water standards).

The current pipes of the Gibbston scheme are owned by Gibbston Water Services Ltd, a company then owned by Reid & Saville and since purchased by Dave Henderson.

The position has now been reached where the Council has acquired the application for renewal of the water right, Henderson has acquired GWS which owns the pipe network, and there are still no easements for the pipes which run through easements owned by the Gibbston Irrigation Co Ltd. No one can perfect a suitable water scheme for Gibbston from this position. In the meantime continuity of supply in Gibbston will be unreliable and Council will need to take compliance action in some form against GWS as problems arise.

At the meeting of 11 December it became evident:

- a) that Mr Henderson's desire was to protect access to 50 connections to support his other developments in Gibbston.
- b) that Council would need to lead on a design for an appropriate water scheme for Gibbston and put a commercial proposal to Mr Henderson, and thereafter discuss the alternatives with the Gibbston community.

Rafters Road

The decisions of 30 November have been communicated to Mr Henderson. At the meeting of 11 December the discussion focused on the economic values inherent in the land involved. The Mayor has undertaken to provide Mr Henderson with a proposal whereby the portions of the legally recorded legal road alignment adjacent to Tomanovich properties would be vested in Tomanovich as part of the proper legalisation of the piece of land that MacTodd have advised has been 'impliedly dedicated' as road.

Official Information Requests

Mr Henderson, and separately his lawyers, have made a number of LGOIMA requests for information. These have each been processed in the normal way with some granted and some refused. Principally these relate to the RPL agreements and Gibbston Water Services issues. Mr Henderson has expressed frustration at the way Council does its business in this respect and I expect them to escalate to the Ombudsman in the way that some others do.

Delegated Authority

There are a range of separate Council resolutions dealing with each of the matters covered by this report (e.g. most recently those dealing with Rafter's Rd). These resolutions provide adequate authority for the CEO to progress the matters (e.g. taking the next procedural steps with the Frankton Flats Plan Change) or resolve matter. The exception is the proposal to revert to the original land swap and authority is sought for that step.

ATTACHMENTS (NOT ATTACHED)

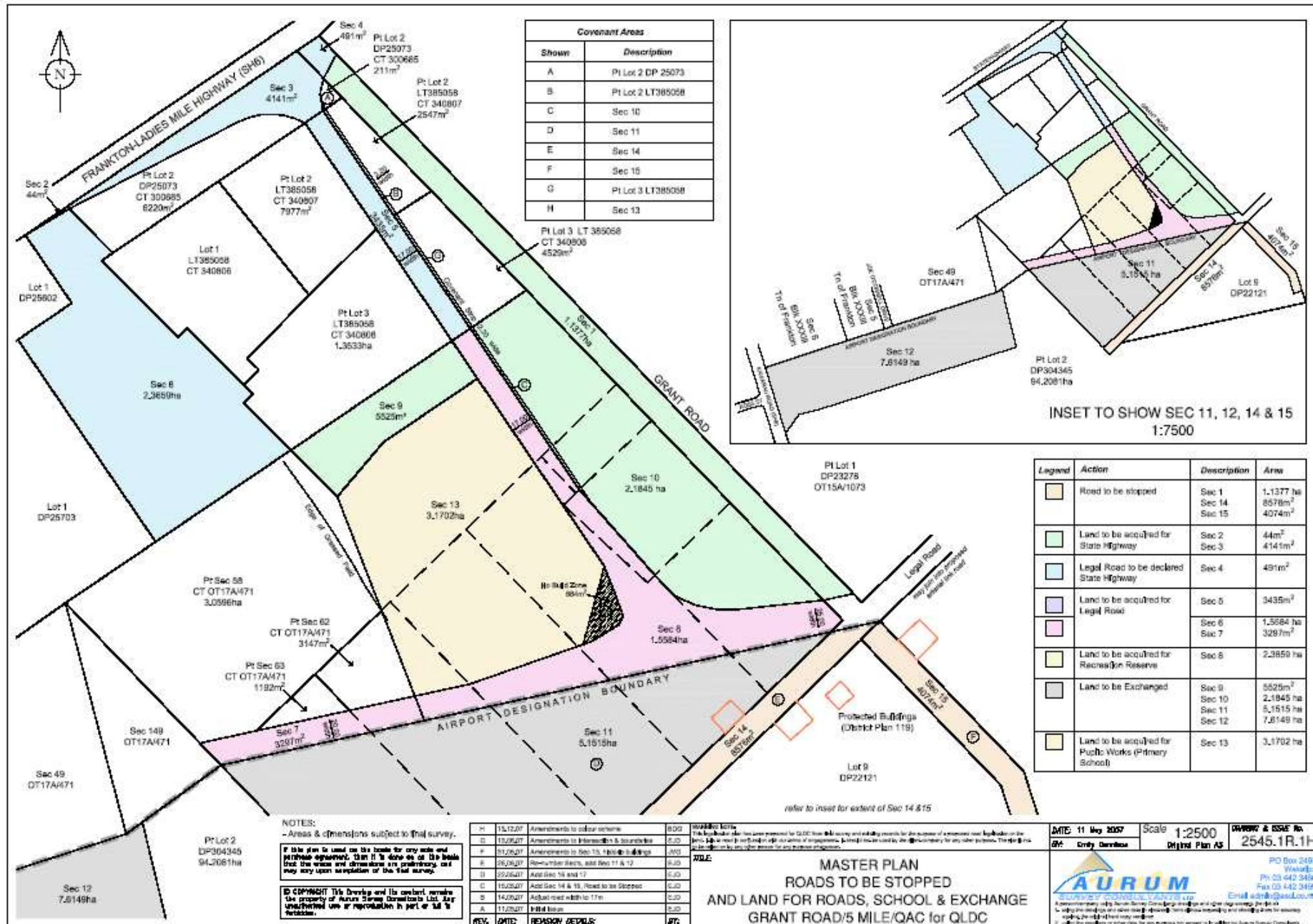
- ~~1. CEO report to Council on Frankton Flats issues 31 August 2007~~
- ~~2. Cousins & Associates letter re land swap~~
- ~~3. Draft Agreement for land swap between QLDC and 5 Mile~~
- ~~4. Aurum Map of land swap Frankton Flats~~
- ~~5. Aurum Map of Roads to be stopped~~
- ~~6. Apex Map of proposed road alignments~~

RECOMMENDATION

It is recommended that the Council:

- 1. Receive this report;**
- 2. Authorise the CEO to conclude the land swap with 5 Mile on the basis proposed in this report;**
- 3. Authorise the CEO to initiate further work on design of an alternative water scheme for Gibbston;**
- 4. Confirm the general tenor of this report regarding Council's ongoing response to its relationship with Mr Henderson; and**
- 5. Acknowledge specifically those parts of this report dealing with:**
 - a) the view taken that issues with Mr Henderson's companies, over a wide range of locations and activities, need to be addressed on a site and issue specific basis due to legal and other requirements.**
 - b) the view that Council has not, and cannot, allow agreements between QLDC, QAC and RPL to govern the Council in its regulatory capacity (e.g. in decisions to initiate and determine changes to the District Plan, or in processing resource (or other) consents.**

Appendix Two – Map of land involved in latest land swap proposal



Appendix Three – File Note re Advice of Litigation

"I have had a lengthy discussion with Dave over a range of issues - towards the end of that conversation he advised that he has instructed "solicitors and QC's" to take action against council on a number of matters - I advised him that he should have let me know that at the start of our conversation because I would probably not have discussed some of the matters we did and I did not agree with his point that advising council in writing of an intent to seek judicial review is the same as advising council of litigation - I am making this file note (trimmed to co/001/007) to summarise the matters we discussed -

- the haul road agreement - Dave insists that the sole reason for council requiring this agreement is the existence of the Nov 2000 RPL/QAC agreement - I have re affirmed to him ;

- that council does not regard that its statutory role is bound by that agreement and has acted accordingly.

- that councils obligation under the "Porter" agreement in regards to the road closure were clearly described in the haul road agreement which Justin signed - there were no surprises

- that council would have in any circumstance required an agreement for exclusive use of an unformed legal road and its re instatement

- that councils view of the matter was that the only outstanding matter that was stopping Dave from using the haul road was the bond and that the utilities committee had discussed that on Feb 5

- Dave advised that councils actions in requiring the illegal haul road agreement will result in millions and millions of dollars of compensation being sought from council

- that council has completed procedures for closing grant road (he said he was not aware of this though I have previously advised him), undertaken the plan change and various other statutory matters for the Frankton Flats. In none of these has it felt bound by the 2000 agreement.

- Dave raised various other matters from LGOIMA requests, to advice that he was instructing litigation against John Lane (and other parties in relation to Gibbston water), councils CEO, Dave said he would be prepared to "sell the farm" in order to see that he received justice over a wide range of issue he says council has obstructed him on e.g. sec 293, Gibbston water, consent applications, information supply, Council/RPL joint venture via Brookfields to obstruct his 293.

- I have advised Dave that I will reply to the e mails he has sent and will then take advice from Macalister Todd as to whether I should continue to discuss these various matters with him or not and that I would let him know what I decide either later today or tomorrow morning

Clive"

Appendix Four – Correspondence from Cousins and Associates re CEO

31 January 2008

Duncan Field
Chief Executive
Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN



**COUSINS
& ASSOCIATES**
SOLICITORS & NOTARIES

Level 1, 501, Square
PO Box 2572
Christchurch 8140
New Zealand

Tel: +64 3 377 0792
Fax: +64 3 377 0793
email: admin@cousins-associates.com
www.cousins-associates.com

Dear Sir

re: **FACILITATION AGREEMENT - FIVE MILE HOLDINGS LTD AND QLDC
AND OTHERS**

1. We refer to recent correspondence and discussions between you and Dave Henderson relating to (amongst other things) applications to the Otago Regional Council for water take consents by Gibbston Water Services Ltd and the Queenstown Lakes District Council.
2. In particular, an email from you to Mr Henderson dated 26 October 2007. In this email you discuss specific matters relating to the Five Mile development with which Mr Henderson is closely associated. The matters you raise in this email were the subject of 'mediation' and between various parties, including QLDC, and Five Mile Holdings Ltd. This process was subject to a 'facilitation agreement' executed by all parties to the mediation including you.
3. This agreement contained a 'confidentiality clause'. The email we refer to above was copied to a variety of persons who were not part of that mediation or signatories to the facilitation agreement. Accordingly, we consider it likely that you personally and / or the QLDC is now in breach of that agreement.
4. In addition our client has significant concerns not only at the fact of the breach of confidentiality, but also the substance of the statements you have made and with this in mind we have been instructed to investigate whether or not you have defamed Mr Henderson – again either in your personal capacity or as agent for the QLDC.
5. A clear and unequivocal retraction of the offending statements and a written apology (copied to all persons whom you have now brought into this matter) may go some way to appeasing our client's concerns. Accordingly we ask that

2

you indicate your intentions by return mail. Obviously this matter is significant and your immediate response is required.

Yours faithfully
COUSINS & ASSOCIATES
per:

A handwritten signature in blue ink, appearing to read 'Matthew Rush', with a stylized flourish at the end.

Matthew Rush
Solicitor

Direct email: Matthew@cousins-associates.com

3

14 February 2008

MacAlister Todd Phillips
Barristers and Solicitors
PO Box 653
QUEENSTOWN

Attention: Richard Cunliffe

Dear Partners

re: FACILITATION AGREEMENT: QLDC AND FIVE MILE HOLDINGS LTD

1. We refer to our letter to Duncan Field dated 31 January 2008 and your fax in response of 1 February 2008.
2. By that letter we advised Mr Field of our client's concerns in respect of comments he made to Mr Henderson about matters subject to the 'facilitation agreement' and copied to a number of parties in relation to Gibbston Water Services Ltd's application for water take consent from the Otago Regional Council.
3. Included were concerns that either Mr Field in his personal capacity may have breached that agreement and / or defamed Mr Henderson. Or that the QLDC (via the actions of its agent Mr Field) may have breached the agreement and / or defamed Mr Henderson.
4. We should imagine that Mr Field is of the view that he was acting on behalf of the QLDC and any subsequent liability will lay with the Council – conversely we anticipate the QLDC may be of the view that Mr Field was acting in a personal capacity and outside of any agency position vis-à-vis the council.
5. By our letter we asked for some urgency in Mr Field providing a response so that this matter might be resolved if possible without causing unnecessary disruption to client's activities in the Queenstown area – this is in the best interests of both Mr Henderson and the QLDC.
6. Accordingly and so that our client might consider options can we have a response to the matters raised – particularly a view as to whether Mr Field



**COUSINS
& ASSOCIATES**
Barristers & Solicitors

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701, 702, 703
Clarendon Street
New Zealand

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considers his actions relevant to this matter were carried out in his personal capacity or on behalf of the QLDC? – and an indication as to the QLDC's view about Mr Field's actions?

Yours faithfully

COUSINS & ASSOCIATES

per:

A handwritten signature in black ink, appearing to read 'Matthew Rush', followed by a stylized flourish or second signature.

Matthew Rush
Solicitor

Direct email: Matthew@cousins-associates.com

Appendix Five – Threat of Judicial Review; MacTodd Responses

1. Feb. 2008 14:56

GST & R

No. 0085 P. 2

**goodmanstevens
tavendale reid**

■ COMMERCIAL, PRIMARY INDUSTRY AND RESOURCE MANAGEMENT LAWYERS

1 February 2008

The Chief Executive Officer
 Queenstown Lakes District Council
 Private Bag 50072
 Queenstown

Five Mile Holdings Limited – Grants Road

- 1 We are instructed to commence judicial review proceedings in respect to the arrangements around the agreement between the Council and (amongst others) Remarkables Park Limited (RPL) in which the Council has bound itself by contract to pursue a road closure process under the Tenth Schedule to the Local Government Act (a public participatory process) and to transfer that closed road to RPL.
- 2 The illegality of that agreement has tainted the Deed of Agreement between Five Mile Holdings Limited and the Council as to the temporary formation of Grants Road. That agreement required the implementation of measures to ensure that the road closure process would not be frustrated by Five Mile so as to enable the Council to perform under its contract with RPL.
- 3 The agreement required the registration of an Encumbrance, and a Bond the terms of which were to be agreed. The need to register the Encumbrance and execute a Bond and to hold funds in accordance with the same is founded solely in this contract with RPL rather than any statutory provision (for instance section 108 RMA).
- 4 There is currently no agreement over the quantum of the bonded sum, and there is no process in train to resolve that impasse. The Council has refused mediation offered (more than once) by our client, albeit that more recently it has come down from its originally stated sum. Consequently the basis upon which the undertaking has been given by Cousins & Associates who holds the disputed sum, is incapable of resolution except now by way of judicial review.
- 5 There is little useful purpose served in referring the matter to the Council's Utility Committee for consideration at its February meeting. The Utility Committee made its decision as to the terms of approval for the formation of the road on the basis of legal advice from Macalister Todd Phillips that the Council would not be in breach of its obligations under the 2000 agreement (with RPL) by authorising the construction of the unformed road so long as it is careful to take measures not to enable the frustration of the road closure process by Five Mile.
- 6 Our earlier correspondence to you was responded to by the Council lawyers although regrettably, our concerns over the legality of the arrangements have thus far been ignored. Unless we hear to the contrary we assume that Macalister Todd Phillips will be authorised to accept service of proceedings as address for service for the Council.

Yours faithfully

Goodman Steven Tavendale Reid

Pru Steven

Partner

Direct Dial: (03) 353-0722

Email: pru.steven@gstlegal.co.nz

Mobile: 021 471 822

125811\1\080201PAS_dh

PARTNERS: DAVID GOODMAN LL.B, LL.M (Lond), PRU STEVEN LL.B (Hons), MARK TAVENDALE B.A, LL.B, KELVIN REID LL.B

Level 1, 98 Oxford Terrace, PO Box 442, Christchurch, New Zealand
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MACTODD

BARRISTERS SOLICITORS NOTARIES

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IR 2785001 Trust Account: UN202-0540-010000-000

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21 February 2008

Cousins & Associates
Barristers & Solicitors
Level 1
Sol Square
PO Box 2377
CHRISTCHURCH 8140

Attention: Mr Matthew Rush**BY FACSIMILE: 03 377 0795**

Dear Mr Rush

PROPERTY VENTURES LTD – DAVE HENDERSON - FIVE MILE DEVELOPMENT, QUEENSTOWN
(Our Ref: 349767-491)

- [1] As you know, we act for Queenstown-Lakes District Council ("QLDC").
- [2] Mr Henderson has, through your office and through other solicitors as well as directly, made various allegations and threats of legal proceedings directed at QLDC and its Management staff, in particular, its Chief Executive, Duncan Field.
- [3] We are writing to you under separate cover in relation to the allegations directed at Mr Field.
- [4] It is fair to say that there has been a barrage of accusations contained in numerous emails and letters received by QLDC – both the Executive and Management – from Mr Henderson over a period of months. Legal proceedings have been threatened on more than one occasion. The Executive and Management have not responded to all the accusations. That they have not does not mean that these are to be accepted. Both the Executive and Management at QLDC have continued to carry out their duties and functions responsibly in the face of what can be described at times as personalised and vitriolic attacks.
- [5] The various accusations are not accepted by QLDC. For the record, any liability of QLDC to Property Ventures Ltd ("Property Ventures") or its subsidiaries or Mr Henderson, is denied. Our client, its members and officers have always acted lawfully in accordance with their statutory duties and obligations under the Local Government Act 2002 ("LGA") and the Resource Management Act 1991 ("RMA") and in the best interests of its ratepayers. The Council, councillors and the Chief Executive have gone out of their way to provide assistance and support to Property Ventures and

RSC-349767-491-14-V3/SIS
349767-491

Partners: Richard Goodby, Bryan Jack, Dale Lloyd, James Macdonald, Clark Peck, Graham Todd, John Todd
Associate: Marina Krowder *Consultant:* Alan Macalister

Mr Henderson over a period of years and in particular in respect to his development at Five Mile. As you will be well aware, such assistance and support is constrained by QLDC's statutory obligations under the LGA and RMA. The Council and its various officers remain committed to meeting its obligations and duties under those statutes.

- [6] The various threats and allegations (which are not accepted) do not provide an acceptable environment in which QLDC is able to continue dialogue directly with Mr Henderson.
- [7] The purpose of this letter is to set out clearly QLDC's position in relation to ongoing communication with Mr Henderson and in particular in respect to issues at the Five Mile Development.
- [8] In relation to all non-statutory matters, in other words issues which are not subject to statutory duties or obligations imposed on QLDC through either the LGA or the RMA, Council is no longer prepared to deal with Mr Henderson directly while ongoing threats of litigation hang over its head. Neither the Executive nor Management are prepared to continue direct ongoing dialogue with Mr Henderson in the present circumstances. Issues that Property Ventures, its subsidiaries or Mr Henderson wish to raise will need to be raised through solicitors on a lawyer to lawyer basis. In respect to that, please advise who has authority to speak on behalf of Property Ventures/Mr Henderson in relation to all issues associated with the Five Mile development? I note that this office has liaised in the past with three different lawyers, with your office in respect to issues surrounding the exchange of land at Five Mile, Pru Steven of Goodman Steven Tavendale & Reid in relation to the "Haul Road" at Five Mile and Mr Russell Bartlett in relation to issues surrounding Plan Change 19.
- [9] In relation to the various issues that have arisen at Five Mile and which have been the subject of correspondence between QLDC and Mr Henderson, we summarise QLDC's position:
 - (a) QLDC is prepared to meet with representatives of Property Ventures including Mr Henderson (with solicitors present) to see if issues surrounding the development at Five Mile can be resolved. It is prepared to do so on a without prejudice basis.
 - (b) In relation to the various issues, we comment:
 - (i) Our client responded to a request from Mr Henderson/Property Ventures to create the Haul Road. It disclosed the existence of the 2000 agreement with Remarkables Park Ltd. Five Mile Holdings Ltd ("Five Mile Holdings") (a wholly owned subsidiary of Property Ventures) agreed to be bound by the terms of the deed dated 2 October 2007 ("the Haul Road Agreement").
 - (ii) The requirements of a bond arise out of the Haul Road Agreement. Our client's position in relation to this agreement, the bond, and the encumbrance instrument (along with the earlier 2000 agreement with Remarkables Park Ltd) is that these are all lawful. As a consequence QLDC considers that these are all fully enforceable and binding.
 - (iii) Our client has, despite suggestions to the contrary, been prepared to attend mediation over issues surrounding the Haul Road and the bond. It is, with

respect, your client who has delayed the resolution of these issues by threatening legal action including judicial review proceedings.

- (iv) Our client reiterates that it is prepared to meet with Mr Henderson to see if the issues can be resolved. Our client is prepared to consider looking at alternative security to the bond and encumbrance instrument to avoid Property Ventures experiencing any future funding issues. The Council has no desire to hinder Property Ventures and its subsidiaries' funding arrangements. What it requires is security in support of the promise given by Five Mile Holdings in the Haul Road Agreement that it will meet the costs of the road's maintenance, removal and reinstatement back to pasture upon closure of the road (refer clause 3.1).

[10] In relation to other issues surrounding the Five Mile development, QLDC's position is as follows:

- (a) **Land Exchange;** your client has been given a draft agreement relating to the land exchange proposal based on negotiations and understandings reached in the past. The ball is squarely in your client's court on this issue. In order to advance this, please arrange for the agreement to either be executed or alternatively forward comments to this office on the draft agreement for our client's consideration.

Our client has always been open to discussing the timing of the settlement of the land exchange as it is aware that this may affect the development of other land at Five Mile.

- (b) **Road Closure – Grants Road;** the plans and other documentation to give effect to the agreement to close the existing Grants Road and realign it has been completed and awaits execution by your client. This is associated with the land exchange agreement. Details of this are recorded in that draft agreement. All that is required to give effect to the road closure and realignment of Grants Road is your client's consent.
- (c) **Zoning at Five Mile;** in relation to zoning in the Five Mile area, QLDC has never promised your client that any land in that area will be given a particular zoning. Your client would know that a Local Authority is unable to make such promises. It has consulted extensively with your client in relation to Plan Change 19. That Plan Change will continue to be dealt with in accordance with QLDC's obligations under the LGA and RMA.

[11] We reiterate that the point has now been reached, having regard to the various threats and allegations made by your client against QLDC and its Management that it is no longer prepared to deal with these issues in an informal way directly with your client while threats of litigation remain. Further correspondence on the Five Mile development and the issues canvassed above will need to be on a lawyer to lawyer basis. That will remain the position until further notice.

[12] This does not mean that our client is not prepared to meet with your client in a genuine attempt to resolve the various issues currently outstanding. However it requires such discussions to be held with legal counsel present to ensure that there are no misunderstandings about QLDC's position,

- 4 -

that its position is not misconstrued and that discussions are carried out in a constructive and professional environment.

- [13] If your client wishes to advance discussions on these matters, we invite you to take instructions and confirm that your client is prepared to meet with solicitors to discuss these issues in order to achieve some finality.

Yours faithfully

MACALISTER TODD PHILLIPS



Richard S Cunliffe
Partner

Direct Dial: 03 441 0220

Mobile: 027 315 1963

Email: rcunliffe@mactodd.co.nz

- cc Pru Steven
Goodman Steven Tavendale & Reid
PO Box 442
CHRISTCHURCH
- cc Russell Bartlett, Barrister
PO Box 4338
AUCKLAND
- cc Queenstown-Lakes District Council
Duncan Field Esq, Chief Executive Officer
- cc Graeme Todd & Jayne Macdonald, Mactodd

MACTODD

BARRISTERS SOLICITORS NOTARIES

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21 February 2008

Cousins & Associates
Barristers & Solicitors
Level 1
Sol Square
PO Box 2377
CHRISTCHURCH 8140

Attention: Mr Matthew Rush

BY FACSIMILE: 03 377 0795

Dear Mr Rush

FACILITATION AGREEMENT - FIVE MILE HOLDINGS LTD AND QUEENSTOWN-LAKES DISTRICT COUNCIL ("QLDC") & OTHERS (Our Ref: 349767-491)

- [1] I refer to your letter of 31 January 2008 addressed to the Chief Executive, QLDC and our interim response of 1 February 2008. I also refer to your further letter of 14 February 2008. We have now had an opportunity to take instructions, review relevant correspondence and consider the contents of your correspondence, in particular of your letter of 31 January 2008.
- [2] In your letter of 31 January, you allege breaches of confidentiality by Mr Field and also state that you have been instructed "to investigate whether or not" Mr Field has defamed Mr Henderson. In correspondence between Mr Henderson and Mr Field, your client has gone further by alleging that Mr Field has deliberately defamed Mr Henderson. Mr Field denies defaming Mr Henderson.
- [3] Before turning to these issues, I wish to deal with your letter of 14 February. There is nothing to suggest from the email of 26 October 2007 from Mr Field to Mr Henderson, or the circumstances in which that email was sent, as we understand them from our client, that suggests that Mr Field was acting in any other capacity other than as Chief Executive of QLDC and that the email was sent in the course of his employment. We do not intend to respond or comment further on this issue. I confirm we act for Mr Field in both his personal capacity and his capacity as Chief Executive. How your client wishes to pursue the matter is for him guided by you and we do not intend to give either you or Mr Henderson advice on that. Finally, QLDC's views on Mr Field's conduct as Chief Executive are views which are confidential to QLDC and Mr Field.

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349767-491

Partners: Richard Carlisle, Bryan Jack, Dale Lloyd, Jayne Macdonald, Gail Price, Graham Todd, John Tison
Associate: Marina Kooiker Consultant: Alan Macfarlane

[4] I now turn to the specific issues raised in your letter of 31 January 2008:

- (a) ***Alleged breach of confidentiality:*** You refer to a facilitation agreement without specifying any date, nor providing Mr Field with a copy. You do not specify which matters raised in the email of 26 October 2007 were in fact the subject of mediation. If you are referring to the comments in the second paragraph relating to the roundabout, there have been various discussions about roundabouts in various positions on State Highway 6. Mr Field is of the view that nothing in his email of 26 October 2007 discloses matters discussed at any confidential mediation and accordingly denies any breach of confidentiality.

If you wish to take this matter any further, you will need to provide us with a copy of the facilitation agreement which provides detailed particulars of the matters discussed at the mediation and which were subject to confidentiality.

- (b) ***Defamation:*** In your letter you refer to your instruction to investigate whether or not Mr Field has defamed Mr Henderson. You do not specify the words which have been used by Mr Field which may or may not give rise to an action in defamation. We have reviewed the email of 26 October 2007. We can find no words in that email which, in our view, give rise to a defamatory statement made by Mr Field. That your client may have subsequently on a number of occasions stated that Mr Field has defamed him does not change the character of the original words in that email. In order to take the matter any further, you will need to provide particulars of the words which your client says are defamatory and the reasons why. For the record, Mr Field denies defaming Mr Henderson in the email of 26 October 2007 or on any other occasion.

Defamatory statements of Mr Field:

- [5] You will have or will soon receive a letter from this office outlining the serious concerns of QLDC, its Executive and Management, at the ongoing communications being received directly from Mr Henderson on a range of issues principally dealing with the Five Mile development and making various accusations and threatening legal proceedings. The purpose of that letter is to set out clearly QLDC's position in relation to ongoing communication with Mr Henderson.
- [6] In this letter we write concerning specific comments made by Mr Henderson about the Chief Executive, Mr Field, in recent email correspondence with both the Mayor, Clive Geddes, and the Chairman of the Utilities Committee, John Mann. We detail the statements below. These are defamatory of Mr Field and must cease immediately.

The statements are as follows:

- (i) Email of 12 February 2008 from Mr Henderson to John Mann. This email included the following statements:

"Your CEO was a complete smart arse: sending that document to your committee for approval for its meeting on Jan 7.He's an

- 3 -

arsehole.I will never have anyone control my property like that again. You should be appalled that this is how this town is run. A childish bureaucrat venting his personal frustrations in this way. I can assure you none of this would have been a problem were it not for this appalling behaviour."

"In addition, given this destruction of goodwill between us, I have trespassed the QEC off the new cricket pitch we have created. We had pulled out the stops to have this ready for the golden oldies tournament but given the town is run by a 12 year old, this will not now be available."

- (ii) Email from Mr Henderson to Clive Geddes of 10 February 2008. In a similar vein to the above emails, Mr Henderson stated:

"As you well know, the goodwill between us was essentially drained when your CEO played his childish games with us on Xmas Eve."

- [7] We have not reviewed all emails from Mr Henderson, to Messrs Geddes and Mann, so there may well be more examples. These statements clearly suggest that Mr Field has been abusing his position as Chief Executive, engaging in unprofessional conduct and is incompetent. These statements are made without justification and are calculated to injure Mr Field's reputation. They are without doubt defamatory.
- [8] Mr Field requires a retraction and an apology in respect to these statements. In respect to further action, he reserves his position. Mr Henderson is required to cease and desist from making any further defamatory statements about Mr Field.
- [9] Unless and until we have a response to the questions we have raised above, we are not in a position to respond further to the issues raised in your letter of 31 January 2008.

Yours faithfully

MACALISTER TODD PHILLIPS



Richard S Cunliffe
Partner

Direct Dial: 03 441 0220
Mobile: 027 315 1963
Email: rcunliffe@mactodd.co.nz

Appendix Six
Draft minutes of Strategy Committee, 12 February 2008 – Plan Change 19

UPDATE ON PLAN CHANGE 19 – FRANKTON FLATS (B) (Item 2)

Ms Schuler and Mr Sanderson attended the meeting.

Mr Sanderson briefed the Councillors on planning initiatives the QAC are promoting being:

- a. Amendments to flight fan requirements for the Cross Wind Runway(already notified)
 - b. RESA extension- consultation underway and hope to file necessary applications by end February
 - c. New designations and or Plan Change(private or Council initiated) for New Air Noise Boundaries and Outer Control Boundaries
1. The Outer Control Boundary line is the one most likely to move in the new provisions.
 2. The Noise Boundary work is still being confirmed following monitoring so uncertain as to the effect this will have on the potential school site. It is also proposed that there be separate 60dbI and 65 dbI Noise Boundaries
 3. Proposed Jet Blast Fence will be an angled metal fence in place of the current bund.
 4. 15 people attended the public consultation day, main interest was about any changes to flight paths, but these will remain the same.
 5. QAC Board is to consider the Air Noise contouring at its meeting next week, and thereafter consultation is to occur. It is hoped that they can file designations and section 32 reports for a Plan Change and any request for the same in March

Ms Schuler's report to council highlighted the potential conflict between Plan Change 19 and the QAC's initiatives.

It was noted that in respect of Plan Change 19:

6. All submissions and further submissions have been received. Many submissions raise issues relating to the airport
7. Urban Designers, Planners, traffic expert and airport planning expert will be have input into the Planning Officers reports and recommendation and may be called by Council to appear before the hearing panel of completely independent commissioners.
8. Landowners in the area showing concern that the timeline for hearing PC19 could be affected by the issues in the Airport Noise Boundary, discussion needs to be held regarding how this is progressed.
9. Mr. Field drew a white board chart of the processes and made it clear that:
 - a) The preparation of the planners report for Plan Change 19 was progressing;
 - b) Ms Schuler's advice was that there was 3 months work in preparing that report, indicating that a date of hearing of the Plan Change in May was achievable.
 - c) That the report needed to deal with the implications of the QAC noise proposals on the Plan Change. That required that the airport's noise proposals should if possible be notified before the last parts of the planners report was available.
 - d) Mr. Bartlett and Mr. Todd would do more work to clarify exactly the nature and timing of the planners report.

On the motion of Councillors Overton and Perkins it was resolved to set aside Standing Orders to allow Mr Bartlett of Five Mile to attend the meeting.

Mr Bartlett spoke to the meeting:

10. Agrees with the outline of flow of process for the Air Noise Boundary and PC 19. Real concern is that PC 19 is being held up by the airport - which has still yet to decide on the process it wishes to follow.
11. Location and effect of these new contours proposed by the Airport will affect PC19. Outcome of the noise contour designation is very uncertain at this.
12. Five Mile would like to see a report of what we know and an appendix attached stating that if the contours were to take effect what the likely outcomes will be.

On the motion of Councillors JR Wilson and Overton it was resolved to reinstate Standing Orders.

13. Mr Pannett summed up the process, Council need to know where the airport stands- Mr Sanderson's presentation updated us on this and Option 2 as suggested by the report by Ms Schuler fits in with the timeframes suggested and is the most practical option.

On the motion of Councillors Overton and J S Wilson it was resolved:

- 1. That this report is received.**
- 2. That the presentation from the Queenstown Airport be received**
- 3. That Option 2 relating to Plan Change 19 be adopted.**

Appendix Seven – Extract from 2000 Agreement

- 4 -

6. Budget Rent-A-Car Relocation

- 6.1 RPL will reimburse to QAC up to a maximum of \$20,000 the net sum that QAC demonstrates it has paid to Budget Rent-a-Car ("Budget"), as the total of RPL's ex gratia contribution to the cost of the relocation of Budget's leased area as part of the design and construction of the Western Access Road.
- 6.2 QAC is required to obtain from Budget its consent in writing to RPL having access to its existing forecourt as required for placement of services and landscaping along the Western Access Road notwithstanding that they may not have fully relocated by the time RPL requires to undertake those works. If necessary this will be done by QAC providing Budget with temporary alternative parking.

Lakes Contracts Services ("LCS")

- 6.3 It having been noted that LCS has extended its operation to beyond the area of its land purchased from QAC, it is agreed that QLDC shall forthwith effect the withdrawal by LCS of its operations from the Western Access Road back onto its purchased area.
- 6.4 In the event that LCS exercises its option to purchase the balance of the former Budget leased area from QAC (Budget's relocation having been funded by RPL), QLDC will ensure that LCS does not move any of its operations onto the Western Access Road reserve.

7. Caveats and Covenants

- 7.1 QAC and RPL have each registered a caveat against parts of the land of the other. These will be withdrawn immediately upon this agreement being unconditionally executed by all parties, and receipt of the written approvals provided for in subclause 16.3.
- 7.2 RPL will then immediately complete registration of the restrictive covenant on CT 14A/1069 as required by the 1999 deed.
- 7.3 At the time the restrictive covenant provisions were provided for in the 1997 agreement much of the land lying between the northern boundary of QAC's land and State Highway 6 to the north of it was zoned Rural General. There are currently proposals to rezone some of that Rural General land for urban activities. QLDC and QAC agree that consistent with maintaining the restrictive covenant over RPG's land they will use their best endeavours to the extent permitted by procedures under the Resource Management Act 1991 to avoid such rezoning in the equivalent area located equidistant from the centre line of the main runway to the north, as the land of RPH the subject of the restrictive covenant required by the 1997 deed is south of the centre line of the main runway.
- 7.4 Notwithstanding the restrictive covenant required on RPH's land by the 1997 deed abuts the northern boundary of Hawthorne Drive east of the crosswind runway, QLDC and QAC consent to RPG at its option from time to time realigning some or all of the position of Hawthorne Drive east of the crosswind runway starter

Appendix Nine**Draft minutes of Utilities Committee, 5 February 2008 – Haul Road Bond****PUBLIC EXCLUDED****22. FIVE MILE HAUL ROAD**

- A report from Denis Mander (Transportation Planning Manager) dated 18 January 2008 advised of a dispute about payment of a bond by Five Mile related to a temporary Haul Road in Frankton Flats. The purpose of the bond was to cover the cost of removal and reinstatement of the road back to pasture upon its closure and maintenance. Council had been asked by Five Mile to forgo payment of the bond. A determination was now sought on this matter.
- Mr Mander remained at the table and was joined by Ms Macdonald and Mr Cunliffe (Legal Advisors).
- The following additional documents pertinent to the matter under discussion were circulated:
 - A series of email exchanges between the Mayor and Mr Henderson;
 - Letter from Goodman Steven Tavendale Reid to CEO advising of the commencement of judicial review proceedings;
 - Letter from Cousins and Associates to CEO dated 31 January 2008;
 - Letter between Cousins and Associates and Mr John Lane dated 29 January 2008 regarding Gibbston Water Services Ltd;
 - Extract from agreement between QLDC, RPL and Mr Henderson;
 - Diagrammatic representation of options prepared by the CEO.
- The CEO stated that the Committee had two options available, namely, to rescind the existing agreement or to advise Five Mile of the agreement's validity. The preference was for the latter option. Legal Counsel confirmed that this was a defensible position.
- Discussion focussed on the ramifications of the two alternatives presented. The Committee formed the view that it was reasonable to conclude that the agreement was valid.

On the motion of Councillors Cocks and J R Wilson it was resolved that the bond to be lodged by Five Mile Holdings Limited in compliance with clause 3.1 of the agreement between Five Mile Holdings Limited and Queenstown Lakes District Council, dated 2 October 2007, be \$37,680.