

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a Notice of Requirement pursuant to s 168A of the Act to:

- 1 Designate an area of land at the Wanaka Airport for *waste water treatment and disposal purposes*.
- 2 Designate an area of land at the Wanaka Airport for *waste water disposal purposes*
- 3 Alter an existing designation for the Albert Town Sewage Oxidation Ponds to a designation for *waste water management purposes*.

by

QUEENSTOWN LAKES DISTRICT COUNCIL

**DECISION BY COMMISSIONERS FOR
QUEENSTOWN LAKES DISTRICT COUNCIL
JOHN MANN AND NEVILLE MARQUET**

Hearing Panel:	Cr Duncan Butcher (Chair)	ORC
	Cr Louise Croot	ORC
	Cr John Mann	QLDC
	Mr Neville Marquet	QLDC

Decision issued: / 7 October 2006

NEVILLE MARQUET
Solicitor
Dunedin

“PROJECT PURE” – WANAKA BASIN WASTEWATER UPGRADE

DECISION OF COMMISSIONERS APPOINTED BY QUEENSTOWN LAKES DISTRICT COUNCIL

INTRODUCTION

- 1 In September 2005 the Queenstown Lakes District Council (“QLDC”) made application to the Otago Regional Council for three discharge permits and one land use consent to provide a new waste water treatment and disposal system to serve the Wanaka-Albert Town area filed at the same time as the Notice of Requirements by the QLDC to the Council as the territorial authority to designate land at the Wanaka Airport where the treatment station and disposal to land was to take place. There was an allied notice to change the designation extant with respect to the Albert Town sewerage oxidation ponds.
- 2 Following the statutory processes a hearing on these applications took place before the Joint Panel sitting at Wanaka on 31 August and 1 September 2006. Those proceedings are comprehensively reviewed in the decision of the Otago Regional Council (“ORC”) to be issued contemporaneously with this decision. That review is adopted in full and is to be treated as incorporated herein. It is also appropriate to say that Messrs Mann and Marquet concur with the deliberative findings of Councillors Butcher and Croot. This decision therefore will be concise and be directed solely to the Notice of Requirements.

SUMMARY PROPOSAL

- 3 The following summary is taken from the report of Mr Daniel Curley, Resource Management Planner:

SUMMARY

Applicant:

QUEENSTOWN LAKES DISTRICT COUNCIL

Location:

The proposed site to be designated for ‘wastewater treatment and disposal purposes’ is located at the north-western end of the Wanaka Airport and on the northern boundary of the expanded Wanaka Airport site. The area of land proposed to be designated for wastewater treatment and disposal purposes is 2.32 hectares.

The proposed site to be designated for wastewater disposal purposes is located on Wanaka Airport land. This area effectively covers the majority of Wanaka Airport owned land. The area proposed to be used of wastewater disposal purposes is approximately 175 hectares, of which 96 hectares is currently designated for ‘aerodrome purposes’.

The current Albert Town oxidation pond is located alongside the Cardrona river to the south of the township. The ponds cover an area of 0.61 hectares. The site is currently designated for the purpose of ‘sewage oxidation ponds’.

Proposal:

The Queenstown Lakes District Council has proposed to

designate land at Wanaka Airport for 'wastewater treatment and disposal purposes' to achieve internationally accepted standards of wastewater treatment, which will involve disposal to land.

The designation of 2.32 hectares of land which is located at the north-western end of the Wanaka Airport and on the northern boundary of the expanded Wanaka Airport site has been proposed for the purpose of treating and disposing of wastewater.

The designation of approximately 175 hectares of Wanaka Airport~ land has been proposed for the purpose of disposing of wastewater.

Note:

An alteration to the existing Albert Town oxidation pond designation (Designation 69) has been proposed to change the use of the existing ponds from 'sewage oxidation ponds' to ponds used for 'wastewater management purposes' in association with the proposed wastewater treatment system.

This application relates only to the requirements outlined above. The earthworks associated with the WTS reticulation system will require separate consent.

Legal Description:

The land to be designated for 'wastewater treatment and disposal purposes' and 'wastewater disposal purposes' is legally described as:

Lot 1, Deposited Plan 341605 and Lots 4-5, Deposited Plan 340031, contained in Certificate of Title 164476.

Lot 1, Deposited Plan 300052, contained in Certificate of Title 12576.

Lot 1, Deposited Plan 341605, contained in Certificate of Title 171181.

Lot 1, Deposited Plan 26239, contained in Certificate of Title 18B/856.

Land currently designated in Albert Town is legally described as:

Section 4, Survey Office Plan 21420, Block IV, Lower Wanaka

Survey District and Block VI, Town of Albert Town.

Zoning:

Rural General

Public Notification Date:

1 April 2006

Closing Date for Submissions:

3 May 2006

Submissions:

Nine submissions were received in respect of this application.

The following submissions have been received in opposition to the application:

- | | |
|---|---|
| 1. Pembroke Stud Limited* | Stevenson Road, Poplar Beach, RD2, WANAKA |
| 2. Bruce & Justine Ansley | P0 Box 684, WANAKA |
| 3. Mark Fraundorfer* | P0 Box 56, TAURANGA |
| 4. New Zealand Air Line Pilots Association* | P0 Box 53183, Auckland Airport, AUCKLAND |
| 5. John Roberts* | Rapid 283, Luggate Highway, WANAKA |
| 6. Transit New Zealand* | Private Bag 5241, DUNEDIN |
| 7. Te Ao Marama Incorporated | P0 Box 7078, INVERCARGILL |

The following submissions have been received in support of the application:

- 6. N & D Pittaway* C/-Clark Fortune McDonald P0 Box 76, Dunedin
- 7. Otago Fish & Game

[* indicates those who wish to be heard]

- 4 Paragraphs 3-6 of the ORC decision are also apt. That decision will be referenced in this decision by "ORC" followed by the paragraph number.

Possible Built Structures

- 5 Whilst the applicant was able to accurately describe the permits required from the Regional Council, it could give no final design for the necessary built structures. This is because the Council has elected to proceed on the basis of "design and build". Hence the evidence could not predicate a final form of any structures. What was requested was a decision based on criteria and conditions which would ensure a satisfactory environmental outcome. However the matter was not at large because Dr DJ Stewart with some vigour affirmed the only process to be used for treating the waste water was that *"the facility will have to be a type of activated sludge (biological nutrient removal) process in order to reduce the nitrogen content of waste water as required to meet the proposed consent conditions"*. Annexed to his evidence were two photographs of such a plant and reference to the process is contained in Appendix D to the report of **MWH** which is included in the agenda papers as part of the Environmental Impact Assessment. The consent given by this decision is limited to a proposal which contains such a plant process or the like only.
- 6 The buildings required to house the operation are minimal, the largest of which will be akin to a farm barn. Odour will be captured and treated by the most modern technology available and it is asserted that there will be no odour nuisance outside the site of the treatment facility. This assurance is accepted. The maximum height proposed for buildings by the applicant is 4 metres (excluding guard rails, aerators, decanting and security lighting, hoists, etc). The Panel acknowledges that the disposal to ground of up to 26,400m³/d which is an essential feature of the system is large enough. However, the sub-surface ground conditions at the site appear uniquely capable of disposing of this effluent without harm. No cogent evidence to the contrary was placed before the hearing panel. The evidence in support was compelling.

STATUTORY REQUIREMENTS

- 7 When a territorial authority wishes to impose a designation within its own district it must comply with the provisions of s 168A of the Resource Management Act 1991 ("RMA" or "the Act"). Subsection (3) requires the Council to consider the effects on the environment and it reads:
 - (3) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—
 - (a) any relevant provisions of—
 - (i) a national policy statement;
 - (ii) a New Zealand coastal policy statement;

- (iii) a regional policy statement or proposed regional policy statement;
 - (iv) a plan or proposed plan; and
 - (b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—
 - (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or
 - (ii) it is likely that the work will have a significant adverse effect on the environment; and
 - (c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and
- (4) The territorial authority may decide to—
- (a) confirm the requirement;
 - (b) modify the requirement;
 - (c) impose conditions;
 - (d) withdraw the requirement.]]
- (5) Sections 173, 174, and 175 apply, with all necessary modifications, in respect of a decision made under subsection (4)

SPECIFIC CONSIDERATIONS S 168A SUBSECTION (3)

Subsection (a)(i) and (ii) – National Policy Statements

There is no national policy or New Zealand coastal policy statement relevant.

Subsection (a)(iii) – Regional Policy Statements

The Panel has had regard to the relevant regional policy statements which are set out in ORC paragraphs 226-231. These have been considered by this Panel and the conclusion reached by the Regional Council is adopted. The relevant provisions are also discussed in the report of Mr Curley at paragraph 7.2.3 and following. His conclusion is also noted:

The above provisions of the Regional Policy Statement require an emphasis to be placed on promoting the sustainable management of Otago's land resources while meeting for the reasonably foreseeable needs of Otago's people and communities. To achieve this result, the Regional Policy Statement has emphasised the need for land use activities (including structures) to be undertaken with high consideration of the actual and potential effects that development has on affected parties (such as Kai Tahu) while also achieving the preservation and enhancement of the landscape values of the District. 0 Having regard to these provisions in terms of the effects identified above, it is considered that with the inclusion of appropriately worded conditions, the adverse effects associated with the proposed WTS designation will be no more than minor. It is therefore considered that the WTS is on the whole consistent with the Regional Policy Statement.

Subsection (a)(iv) – District Plan

This requires consideration of the provisions contained in the partially operative District Plan and assessment of the effects against those provisions. The relevant sections of the Plan are stated in paragraph 7.2.4 of the planner's report (p 29 et seq). The planner notes that consideration of the "District Wide Objectives and Policies" is necessary to understand how the Plan looks to

achieve the purpose of the Act in this district. He also notes there is no court classification of the landscapes of the Wanaka area and agrees with his landscape architect's assessment that the land is a Visual Amenity Landscape. This was also the view of the Council as requiring authority. Important provisions of the District Plan to which particular regard must be had are:

4.2.5

Objective:

Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.

Policies:

1. Future Development

- (a) To avoid, remedy or mitigate the adverse effects of development and/or subdivision in those areas of the District where the landscape and visual amenity values are vulnerable to degradation.
- (b) To encourage development and/or subdivision to occur in those areas of the District with greater potential to absorb change without detracting from landscape and visual amenity values.
- (c) To ensure subdivision and/or development harmonises with local topography and ecological systems and other nature conservation values as far as possible

It is the Panel's finding that the site has the capacity to absorb the proposed built form as envisaged in the Requirement without detracting from landscape and visual amenity values. When completed the development will harmonise with local topography. The disposal field is below ground while the built form is comparatively low.

8 The clause dealing with Visual Amenity Landscapes reads as follows:

4. Visual Amenity Landscapes (Plan page 4-10)

- (a) To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes, which are:
 - highly visible from public places and other places which are frequented by members of the public generally; and
 - visible from public roads
- (b) To mitigate loss of or enhance natural character by appropriate planting and landscaping.

This clause will be discussed below.

The provision relating to structures reads:

9. Structures

To preserve the visual coherence of

- (a) outstanding natural landscapes and features and visual amenity landscapes by:
 - encouraging structures which are in harmony with the fine and form of the landscape;
 - avoiding, remedying or mitigating any adverse effects of structures on the skyline, ridges and prominent slopes and hilltops;

- encouraging the colour of buildings and structures to complement the dominant colours in the landscape;
- encouraging placement of structures in locations where they are in harmony with the landscape;
- promoting the use of local, natural materials in construction;

(b) visual amenity landscapes

- by screening structures from roads and other public places by vegetation whenever possible to maintain and enhance the naturalness of the environment.

- 9 This is a key provision. The final built form and operation of the plant and disposed systems will not be “highly visible”. Visibility from the State Highway (710 metres distant) will significantly diminish over time. The evidence of Mr Espie responds in particular to that of Mr Rewcastle, part of which he adopts. The Panel accepts the Espie landscape solution, which entails some perimeter planting and earth mounding, low building height and the use of recessive colours. These latter measures are expressly promoted by clauses 4(b) and 9(b) above.

There is a further provision relating to Utilities.

10. Utilities

To avoid, remedy or mitigate the adverse effects of utilities on the landscapes of the district by:

...

- Requiring that structures be as unobtrusive as is practicable with forms appropriate for the landscape and finished in low reflective colours derived from the background landscape

It is clearly the applicant’s intent to faithfully implement this policy.

Reference should be made to Earthworks which appears at paragraph 4.10. This requires any developer to avoid, remedy or mitigate adverse effects with respect to six stated factors and further specifies 12 policies. The proposal and terms of effects are such that none of these objectives or policies will be imperilled in any way provided there is adherence to the terms and conditions of this consent.

All surface earthworks and mounds will be returned to a pastoral surface finish.

10 District Plan: Section 5 Rural Areas

The land is zoned Rural General and the plan provisions relating to this zone are contained in Section 5 of the plan. The members of the Panel are familiar with these provisions to which particular regard has been had in coming to its conclusions. Each of the objectives and policies have been considered specifically and the Commission finds that the proposal is not contrary to any of them on the contrary the development as proposed is generally in accordance with them. Reference was made in the officer reports to the assessment criteria contained in the rules and these have been considered. The evidence was that the site was in the visual amenity zone and this is necessarily accepted but having regard to the immediate proximity of the Wanaka Airport the area must be close to being in the third category of “other” although that was not suggested by any witness.

GENERAL DISCUSSION ON THESE PROVISIONS

- 11 The principal issues for the ORC are listed in paragraph 186 of that decision. The principal issues for the QLDC are:
- visual amenity include visibility from public roads and neighbours
 - the ability of the site to absorb change
 - of any loss to natural character by planting and landscaping
 - the height and colour of built structures
 - adverse effects from noise, traffic or dust
 - the likelihood of bird strike hazard
 - alternative sites or methods
 - whether any significant adverse effect on environment
 - whether work and designation reasonably required
 - compliance with Part 2 of the Act
- 12 By the time the hearing concluded there was substantial agreement on the advice which the Panel received from its reporting officers and the evidence by the planner and landscape architect called for the applicant. There were, however, some differences and these are now discussed.
- (a) **Height** – QLDC volunteered a height limit of 4 metres above existing ground level for all structures. Mr Rewcastle, the reporting landscape architect, suggests a maximum for all structures of datum 349 masl. It is noted that the maximum building height for the Rural General Zone is 8 metres (see Rule 5.3.5.2). That is also the height limit in respect of the adjoining Poplar Beach Subdivision. The point here is that there is a swale which transverses the building site and the suggestion is that more use could be made of the swale by way of adjusting the building layout or otherwise by way of excavation. The applicant's response is that there are other considerations, in addition to cost, which militate against this. In particular the need not to impinge on possible airport development or aircraft operations. Cost is factor also. The real answer lies in the fact the building is of low height and can thus never become an over dominant form. The Panel considers that a 4 metre height limit is appropriate, particularly as recessive colours will be stipulated for.
- (b) Mr Curley in section 8 of his report suggested that further information should be given relating to building restriction height and approval and implementation of the landscaping plan. Issue was taken with this, both by Dr Stewart and Mr Espie. The final landscape plan is the subject of conditions to this consent and the provision of any further information at this stage is inappropriate. Mr Curley acknowledged this in his final comments.
- (c) **Bird strike** – The reporting planner and the New Zealand Airline Pilots Association were concerned about the possibility of bird strike resulting from the increase in bird numbers attracted to open water associated with the proposal. This issue was also canvassed in the requiring authority's Notice of Requirement. To prevent birds being attracted by reflective

water surface Mr Curley suggested that all such water should be screened from sight. This was strongly opposed by the applicant who called evidence from Mr TH Caithness, a long standing research scientist, particularly in the field of applied-aviation ornithology. The thrust of his evidence was that bird attraction was unlikely to follow from the process proposed to be adopted in this case because the water is always in a state of agitation. Dr Stewart refuted the suggestion that the plant will be “*a dangerous attractant of birds*”. He has seen more than a hundred facilities of the type that will be constructed at Wanaka, in New Zealand and elsewhere and has “*never on any occasion seen a bird on or near the aeration basins that contain open water*”. He also indicated that he had never known of a requirement for any such facility to cover open water with bird netting. The Panel accepts the evidence of Dr Stewart and Mr Caithness. The position can be covered by a condition requiring the hazard to be reasonably eliminated by appropriate measures if and when it arises.

- 13 Other environmental effects include dust noise and traffic effects all of which are the subject of appropriate conditions. The Requiring Authority has agreed to comply with the General Noise standard and the Construction Noise standard NZS 6802:1991 and NZS 6803:1999 respectively. Dust and traffic control measures will be put in place. The Panel accepts the evidence of the applicant and determines that the adverse effects, if any, will be minor.
- 14 A significant positive effect is the contribution the facility will make to public health. A region cannot grow without adequate waste water infrastructure. In this respect the proposed scheme will give assurance and benefit to the community at large.

ALTERNATIVE SITES, ROUTES OR METHODS [s 168A(3)(b)]

- 15 The requiring authority, QLDC, does have an interest in the land sufficient for undertaking the work. Hence, subsection (i) of this subsection does not apply. Subsection (ii) is relevant and requires a determination as to whether or not the work will have a significant adverse effect on the environment. None of the experts who gave evidence at the hearing gave it as their opinion that there would be any significant adverse effect on the environment. The Panel has no difficulty in making a decision to this effect. The applicant’s case is that there will be no adverse effects and certainly that if there are effects they will be minor. The Panel so determines.
- 16 However, the notice of the requirement indicates that a number of possible sites for the treatment plant and disposal field were considered. The following extract is cited as background to the decision making (see Curley paragraph 7.3):

Sites considered were:

- Airport site — Big River Block;
- Emmerson Block;
- Halliday Block;
- Albert Town pond site; Hill End/Gritter — Maxwell Extension”

The Requiring Authority has provided significant details of each “site option” within the “Project Pure” application (Page 76-78)

A further background extract is taken from page 35 of the Curley report.

In addition, the airport manager and Airport Committee were supportive of the concept following initial contact. Following further assessment of the site in terms of site investigations, namely potential bird hazard and capital cost implications; the airport was confirmed as the preferred site by the 'Project Pure' team. This was endorsed by Council in June 2005.

The benefits that area considered to be associated with this site area;

- The technical suitability of the site for wastewater disposal;
- The site is owned by Council;
- It is a considerable distance away from the Clutha River/Mata-au;
- Kai Tahu have stated that it is the preferred location for disposal, given its distance from the river;
- It is a considerable distance away from Wanaka's future boundary;
- It would financially assist the airports purchase of/and;
- There is good access to the site;
- There is a power supply available;
- There is sufficient room for future expansion of both the treatment and disposal components for the scheme;
- The nature of airport operation within a rural environment has similarities with the WTS. Thus, similar activities are being grouped together;
- Although there has been rural-residential development around the airport, further subdivision of this land is restricted as covenants have been placed on the titles.

Mr Fraundorfer advised that he had offered Council land below the eastern threshold of the runway which he said would be completely hidden, not near future building sites and where groundwater contamination would not be a disaster. He said the offer was not followed up. That land is still further away from Wanaka and lacks the advantages of the chosen site. The Panel is satisfied that adequate consideration has been given to alternative sites, routes or methods of undertaking the work. As already noted this requirement is not in fact triggered by either of the provisions in subsection (i) and subsection (ii) of subsection (3)(b).

WHETHER WORK AND DESIGNATION REASONABLY NECESSARY [s 168A(3)(c)]

- 17 The Panel must also consider the effects on the environment having particular regard to *"whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought"*. No party or witness at the hearing submitted that the work and designations were not reasonably necessary for achieving the objectives of the Council for which the designation is sought. Indeed all of the evidence was to the contrary.
- 18 A copy of the Notice of Requirement appears following the letter of 16 September 2005 from MWH. It is headed Form 18 of the Resource Management Act 1991. It notes that the first designation will be for waste water treatment and disposal purposes whilst the second designation provides for the disposal of treated waste water only. The Notice also includes a requirement to alter the existing designation for the Albert Town Sewerage Oxidation Ponds which are now to be designated for use as a site for waste water management purposes. The first designation relates to the treatment plant, the second designation relates to major portion of the disposal field and the third

designation relates to the existing oxidation ponds. The plant treatment site has an area of 2.32ha whilst the disposal site includes the remainder of the land on which the airport is situate. This will have an approximate area of 104ha (all up). There is presently in place a designation for airport purposes in respect of approximately 96ha. At page 14 of the MWH overview the following statement appears under paragraph 2.3.1:

2.3.1 Procurement Approach

The Working Party recommended that the contractual approach for the proposed WTS be a design build, rather than the more traditional design, tender and contract approach. Although Council endorsed this, it is intended that this approach will be reviewed given the current state of the construction industry.

Irrespective of the option chosen, the basis of the contract will be one where performance criteria are set that the WTS must meet once commissioned. Within the bounds established by the performance criteria, it is anticipated that the delivery approach will provide the opportunity for innovative solutions to be developed.

The key performance parameters that are likely to be incorporated into the contract were outlined by the Working Party and are as follows:

- A system, both reticulation and treatment plant, which is capable of processing highly variable flows and loads (ie especially during the peak holiday periods)
- A system which is capable of expansion such that the area's future population, up to 2060 and beyond, can be served by the WTS. The WTS shall be initially designed for the 2021 population
- Secondary treatment of the wastewater. Technical experts have defined secondary treatment as resulting in biochemical oxygen demand (BOD₅) and suspended solids (SS) concentrations in the order of 30mg/L. Nutrient removal, where technical experts have defined it to mean a nitrogen concentration in the treated wastewater of around 10mg/L to 15 mg/L
- Disinfection of the treated wastewater, where disinfection results in a four log reduction of bacterial contaminants (ie from 10⁷ to 10³)
- Capable of reliable operation with little operator control
- A system that produces no offensive odour at the land boundary of the WTS site
- Land disposal of the treated wastewater by rapid infiltration

- 19 The Panel affirms that the work and designations are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.

OTHER MATTERS [s 168A(3)(d)]

- 20 This subsection stipulates for "*any other matter the territorial authority considers reasonably necessary in order to make a decision on the Requirement*". Under this heading the Panel believes it is appropriate to take into account the strong views of the Wanaka and Albert Town communities for a new system, thus bringing to an end the present limited capacity and the general abhorrence of the need for the continuing discharge of effluent to the Clutha River / Mata-au.

PART 2 RMA

- 21 The provisions of this Part of the Act are familiar to the Panel and are not repeated here. The evidence and reports given in hearing have all been considered. It is the view of the Panel that the construction and subsequent operation of this plant will accord with the conditions imposed and if so will afford appropriate implementation provisions of the relevant sections. The Commission in particular identifies sections 6(a) and (e), section 7(a), (b), (c) and (f) and also section 8 as being apposite.
- 22 Mr Edward Ellison, a member of Te Runanga O Otako and formerly Deputy Chair to Te Runanga O Ngai Tahu, being an iwi member of Kai Tahu and Te Atawa, noted the relevance of the above sections. He described the historical connections which Kai Tahu has with the Wanaka area and advised that Kai Tahu and tangata whenua across the country have long advocated the cessation of discharge of human effluent direct to the waterways. His evidence is further described in paragraph 64-68 of the ORC decision. His concluding paragraph reads:

Summary

51. In summary I conclude that "Project Pure" land based treatment methodology achieves the cultural requirements of Kai Tahu in respect of:

- a) consistency with cultural values by not mixing human wastes directly with waterbodies such as the Clutha River/Mata-au
- b) will give a positive improvement on the current practice of discharge to the Clutha River/Mata-au
- c) result in an incremental step toward restoring the mauri of the Clutha River/Mata-au waters
- d) complements the Kai Tahu Whanui stance on land based treatment of human wastes
- e) benefits the environment and the people who live within the wider catchment
- f) gives a strong signal to other councils and the wider community of the merits of land based treatment of community based wastewater treatment.

These are important considerations in the context of Part 2 RMA. The Panel fully accepts their relevance.

THE SUBMITTERS

- 23 The persons who filed submissions are listed in paragraph 3 above. At the hearing appearances were entered by:

Pembroke Stud (Mr Aaron Heath),

Mr Bruce Ansley

Mark Fraundorfer who gave evidence and was represented by Mr Page, counsel

New Zealand Airline Pilots Association represented by Captain Jacquierey

John Pawson

Mr Heath - A record of Mr Heath's evidence is contained in ORC report paragraphs 152-156. Paragraph 152 records that Mr Heath indicated that the

houses in his subdivision had a restriction of 8 metres in height, whilst 10 metres was stipulated for farm buildings. In the opinion of the Commission the evidence of Mr Heath was not persuasive. The right of way is not capable of being created as a roadway by this Commission.

Mr Bruce Ansley – Mr Ansley's evidence is summarised at ORC paragraphs 138-141. At the hearing Mr Ansley did not speak to the land use consents but his written submission did refer to adverse effects on the rural and visual amenity "*we currently enjoy*" and said that the proposal would detract from the landscape and visual amenity values and does not harmonise with the local Outstanding Natural Landscape – especially if viewed from the air. The landscape category is Visual Amenity and not Outstanding Natural Landscape. Mr Ansley shares the use of the common right of way. His property is approximately 1 km from the proposed built structures. Dust and noise are subject to controls and the Commission finds that taking into account the distance and proposed landscaping there will be no adverse effect to landscape amenity in any meaningful way. He indicated that he was pleased that the effluent would no longer be discharged into the Clutha River.

Mr Mark Fraundorfer – The submissions of Mr Page are set out in ORC paragraph 118 and following and the evidence of Mr Fraundorfer from paragraph 130-133. The majority of Mr Page's submissions and the evidence of Mr Fraundorfer and his written submission were directed to the discharge permits sought from the ORC. The terms of sale of some of his land to the Council whether favourable or otherwise are not relevant. Mr Todd affirmed that at the time of purchase the site was not under discussion for use as a sewerage treatment works. The Commission finds that the proposed buildings are not a visual scar and generally notes that his evidence is somewhat overdrawn. His assertion of outdated and expensive technology is completely rejected. Whilst there will be building noise associated with the construction phase after that the plant traffic will be limited to two or three vehicles a day and that traffic will have no adverse effect at all on the submitter or his interest in the Poplar Beach subdivision. He produced a paper from Dr Martens which is a matter for the Otago Regional Council.

New Zealand Airline Pilots Association – The essence of the Association's written submission was that the consents applied for are incompatible in their present form with safe airport operations. The site would create a hazard by facilitating bird strike. Mr Jaquier called no expert evidence in support of his submissions but sought to support his proposition by a paper from Dr Peter Harper and other extracts which he had obtained via the Internet. As already noted, the Commission has accepted the evidence of Dr Stewart and Mr Caithness on this issue, it being the only evidence having cogency which was placed before the Commission. The Panel is required to deal with the specific incidents associated with the proposed waste treatment plant and its operation and evidence in the generality is of no assistance. It has already been noted as being that the essence of the proposal before the Panels is based on the installation and operation of an activated sludge process. The unique characteristics of this process may well, however, have not been appreciated by the submitters. This is understandable but the application papers where in the processes are described, were available for consideration by all interested persons following service of the notices to designate and application for discharge permits.

John Pawson – Mr Pawson has a property which bounds both sides of the Cardrona River, is adjacent to the Albert Town oxidation pond site and has a 1 km boundary with the Clutha River downstream of the current discharge point for treated wastewater. He supported the removal of the present discharge to the Clutha River and the provision of a higher standard of treatment and discharge to ground. His concerns related to the choice of the airport location “in terms of pumping 7,000 cum of untreated waste 12 kms and uphill”. His submission that there were alternative sites that had not been given to weight and consideration by the Project Pure committee and consultants. He referred to the Ballantyne Road site and the Camp Hill/Emmersons site. The Commission has made a decision above that adequate consideration has been given to alternative sites. Mr Pawson concluded saying that he supported the airport site if it can be shown to be sustainable and cost effective, otherwise he believes the application should be declined. It is noted that Mr Pawson’s submission although in the agenda was not included in the Council’s summary.

The submissions from each of the above have been fully considered. The remedies they sought are rejected.

THE CONDITIONS

- 24 The conditions as adopted below are substantially in accord with the evidence and opinions expressed by the professional witnesses for the Requiring Authority and in preference to some of the recommendations made by the reporting officers. Where not contested the officers’ draft is accepted.

The issue of height has already been discussed but the adoption of a level of 4 metres above existing ground level has been made in the expectation that as much as practical of the development will take place within the swale area.

The other contentious issue was that of bird strike and should this become a hazard it must be eliminated.

The fact that there is no requirement for sealing of the entire right of way is reflective of the small component of traffic which will be generated by the waste water treatment station. Moreover third party interests are involved in respect of whom no consents were produced to the Panel.

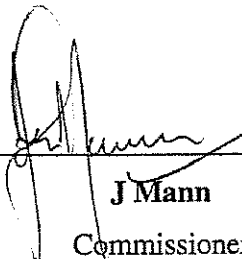
There is a provision for the submission of management plans covering most aspects of the project and these will facilitate control by the Requiring Authority and at the same time assist in providing transparency.

FINAL DETERMINATION


- 25 The Panel has considered all of the evidence and information put before it and records that the case for confirming the requirements is overwhelming. Hence the requirement is hereby confirmed and the conditions set out in the Addendum are imposed. This decision accords with the provisions of sub-section 4 of Section 168A RMA. The Panel acknowledges with gratitude the assistance received from the reporting officers, from counsel for the Queenstown Lakes District Council, as applicant, Mr GM Todd, from all of the witnesses who

appeared in support of the applicant's case, to Mr Philip Page, counsel for a submitter, and the submitters who are an essential part of this process.

DATED this 17th day of October 2006



J Mann
Commissioner



NS Marquet
Commissioner

APPENDIX - CONDITIONS

The following conditions are imposed:

1. The development be undertaken in general accordance with the application as submitted and the only process to be used for treating the waste water is that *“the facility will have to be a type of activated sludge (biological nutrient removal) process in order to reduce the nitrogen content of waste water as required to meet the proposed consent conditions”* or the like only.
2. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council’s policies and standards, being New Zealand Standard 4404:1981 with the amendments to that standard adopted on 1 June 1994, except where specified otherwise.
3. Prior to commencing earthworks for the establishment of the WTS, the Requiring Authority shall submit to Council for review a full set of plans and specifications detailing all earthworks proposed.
4. The Requiring Authority shall install measures to control and or mitigate any dust, silt run-off and sedimentation that may occur. These measures shall be implemented prior to the commencement of any earthworks on site and shall remain in place for the duration of the project. The Requiring Authority shall liaise with the Wanaka Airport to ensure that there are no adverse effects on airport operations or safety as a result of dust generated by the proposed earthworks.
5. The Requiring Authority shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the Requiring Authority shall take immediate action, at their expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.
6. Prior to commencing works, the Requiring Authority shall submit to Council for review and approval management plans for the development covering all construction works, traffic management, lighting and operational management (including dust and noise, mitigation dust and noise mitigation).
7. At the completion of the earthworks all earth-worked areas shall be top-soiled and grassed or otherwise permanently stabilised within 4 weeks.
8. Earthworks, including earth mounds, shall have a height restriction of 2m above existing ground level.
9. To ensure the mounds appear consistent with the natural topography, the angle of the bunds shall be no greater than 1:3.
10. Topsoil shall be reinstated to a minimum depth of 100mm.

11. All areas of exposed soil shall be reseeded with grass seed within the first planting season after completion of earthworks and so as to blend with the surrounding landscape.
12. Mounding shall be in naturalistic form consistent with the existing natural topography.
13. Trenches created for the installation of infiltration pipes within the disposal field shall be exposed for no more than 5 working days prior to being backfilled to the original ground level.
14. All areas of exposed soil resulting from the installation of infiltration pipes within the disposal field shall be reinstated with pastoral grasses or otherwise vegetated in accordance with the approved landscape plan within the first planting season from completion of work.
15. In the event that bird strike by aircraft with birds attracted to WTS becomes a hazard the Requiring Authority shall forthwith take all practical steps to eliminate that risk.
16. All fencing of the area outside of the WTS designation shall be in standard post and wire (traditional livestock fencing to a maximum height of 1.2m).
17. All fencing of the area within or bordering the WTS designation shall be in either:
 - Standard post and wire fencing (traditional livestock fencing to a maximum height of 1.2m); or
 - Security fencing (wire mesh fencing) to a maximum height of 2.5m. Mesh (wire) and poles on any security fencing shall be a black or dark green powder coated finish, or otherwise a dark colour submitted for approval by the Principal: Landscape Architecture, Queenstown Lakes District Council.
18. Any entranceway structures shall be to a height of no more than 1.2m, a total length no greater than 10m, and shall be constructed of natural materials such as unpainted timber or schist stone. Any new entranceway structure that varies from those described above shall be subject to certification as appropriate by a qualified landscape architect retained by the Council to ensure it is not visually obtrusive (monumental) and is in keeping with traditional rural elements.
19. No building or other structures shall exceed a height of 4m above existing ground level save where essential, for guard rails aerators decanters security lighting and hoists.
20. The site shall be landscaped in accordance with the Structural Landscape Plan: Appendix 1 Espie with any variation being subject to Council's approval.
21. All exterior lighting within the WTS shall be security lighting. Exterior lighting shall be no higher than 4m above ground level and below the height of adjacent buildings. Exterior lighting shall be directed downwards and away from

property boundaries, so that light spill beyond property boundaries does not occur, and shall be triggered by movement sensors.

22. The Requiring Authority shall at all times keep the emission of noise to a minimum and shall comply with standards NZS 6802:1999 and NZS 6803:1999 Acoustics Construction Noise.
23. Consultation with the Airport Committee shall occur prior to any planned development within the WTS to ensure that any development does not adversely affect:
 - Planned future airport development; and
 - Safety requirements regarding bird and glare hazards.

(For the purpose of this condition, development shall include utilities).

24. All structure and car-parking areas shall be contained within the WTS site.
25. All of the site outside of the WTS shall be maintained in pastoral appearance by grazing and/or mowing.
26. All buildings shall be finished in one of the following Resene colours: 'Karakā', 'Lignite', 'Charcoal' or 'Iron sands'.
27. If archaeological materials such as koiwi (human skeletal remains), taonga or artefact material are discovered during construction, all work that may affect the material or site shall cease. The New Zealand Historic Places Trust shall be contacted and Kai Tahu ki Otago shall also be contacted and Kai Tahu ki Otago shall also be contacted should the materials or sites be of significance to Iwi. The action required shall be decided following a site visit of the appropriate authorities.
28. The condition attached to the existing Designation #69 which states that "no dwellings are to be erected within the 'no build' buffer zone shown on the District Plan Maps" shall remain in force.
29. Prior to the operation of the WTS, all applicable consents required by the Otago Regional Council must be obtained.
30. The term of the proposed designation shall be 55 years from date of the commencement of this consent.

Rules

The following conditions (of which also appear above) shall become 'Rules' that shall apply on an ongoing basis for any works within the sites to be designated. If any future work proposed under designation does not comply with the following rules, that proposal will not qualify for Outline Plan Approval:

Designation for 'wastewater treatment and disposal purposes':

1. All fencing of the area within or bordering the WTS designation shall be in either:

Standard post and wire fencing (traditional livestock fencing to a maximum height of 1.2m); or

Security fencing (wire mesh fencing) to a maximum height of 2.5m. Mesh (wire) and poles on any security fencing shall be a black or dark green powder coated finish, or otherwise a dark colour submitted for approval by the Principal: Landscape Architecture, Queenstown Lakes District Council.

2. Consultation with the Airport Committee shall occur prior to any planned development within the WTS to ensure that any development does not adversely affect:

- Planned future airport development; and
- Safety requirements.

(For the purpose of this condition, development shall include utilities).

3. All structure and car-parking areas shall be contained within the WTS site.
4. All of the site outside of the WTS shall be maintained in pastoral appearance by grazing and/or mowing.
5. All buildings shall be finished in one of the following Resene colours: 'Karaka', 'Lignite', 'Charcoal' or 'Iron sands'.
6. All plans of buildings and/or structures to be constructed within the WTS that are compliant with all applicable 'rules' as specified above shall be submitted for Council approval via Outline Plan Approval under s 176A.

Designation for 'wastewater disposal purposes':

1. No buildings or structures which are directly related to the WTS shall be constructed within the area designated for 'wastewater disposal purposes'.
2. Consultation with the Airport Committee shall occur prior to any planned development within the area designated for 'wastewater disposal purposes' to ensure that any development does not adversely affect:

- Planned future development; and
- Safety requirements regarding bird and glare hazards.

(For the purpose of this condition, development shall include utilities).

3. Trenches created for the installation of infiltration pipes within the disposal field shall be exposed for no more than 5 working days prior to being backfilled to the original ground level.

4. All areas of exposed soil resulting from the installation of infiltration pipes within the disposal field shall be reinstated with pastoral grasses within the first planting season from completion of work.

Albert Town designation for 'wastewater management purposes':

1. No buildings are to be erected within the 'no build' buffer zone shown on the District Plan Maps.