



DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	T A Roberts
RM Reference:	RM180396
Application:	Application pursuant to Section 88 of the Resource Management Act (RMA) to establish and operate an airport (helipad)
Location:	Malaghans Road, Wakatipu Basin
Legal Description:	Lot 1 Deposited Plan 485618 held in Computer Freehold Register 690433
Operative Zoning:	Rural General
Proposed District Plan (Stage 1 – Decisions Version 2018) Zoning:	N/A Deferred to Stage 2
Proposed District Plan (Stage 2) Zoning:	Wakatipu Basin Rural Amenity Zone
Activity Status:	Non-Complying
Notification:	Limited Notification
Commissioners:	Rachel Dimery and Wendy Baker
Date of Decision:	30 November 2018
Decision:	Granted subject to conditions

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of the Queenstown Lakes District Plan
IN THE MATTER	of an application for resource consent to operate a heliport
BY	T A Roberts – RM180396

DECISION OF COMMISSIONERS RACHEL DIMERY AND WENDY BAKER

Introduction

1. The applicant sought to operate a helipad from the property at 704 Malaghans Road, Wakatipu Basin.
2. We have been delegated the Council's powers pursuant to Section 34A to hear and decide this application and decide on any procedural matters related to the hearing of it.

Hearing and Site Visit

3. We undertook a site visit on 24 October 2018 accompanied by Ms Alicia Hunter, Council Senior Planner, visiting the site and also the properties of Submitters #1 (Llewellyn), #2 (Saville), #3&4 (Bayley) and #5 (Dawson).
4. The hearing was held in Queenstown on 25 October 2018.
5. We adjourned the hearing on 25 October 2018 having heard all evidence. The adjournment was to allow Mr Beatson to provide closing submissions in writing. These were received on 2 November 2018. On 6 November 2018 we were advised by Ms Evans that Counsel for Submitter #2 sought to provide a memorandum to the Commission. We declined to accept this memorandum as following closing submissions there is no reason for further input from the submitters.

Abbreviations

6. "ODP" – the Operative District Plan
 "PDP" – the Proposed District Plan
 "RPS" – the Regional Policy Statement
 "PRPS" – the Proposed Regional Policy Statement

“the Applicant” – T Roberts

Appearances

7. For the applicant:

Mr A Beatson – Counsel
 Mr T Roberts – Applicant
 Mr J Edmonds – Planner
 Dr J Trevathan – Acoustic Engineer
 Mr D Mahoney - Neighbour

Submitter # 2 Saville

Mr J Gardner-Hopkins – Counsel
 Ms A Collie – Planner
 Mr J Styles – Acoustic Consultant
 Mr Faul - Neighbour

Submitter # 5 Dawson

Ms S Dawson - Resident

Council Officers

Ms A Hunter – Reporting Planner
 Dr S Chiles – Acoustic Engineer
 Ms C Evans – Committee Secretary

8. The Council’s 42A report and the applicant’s evidence were pre-circulated. We pre-read that material and took it as read.
9. No party raised any preliminary matters at the commencement of the hearing. During the hearing Mr Gardner-Hopkins sought to introduce evidence on the idling time necessary to warm up and cool down the helicopter via a lay witness who had not prepared evidence and also via legal submissions. Mr Beatson objected to this and we declined to hear this evidence. Paragraphs 9 through 12 and 15 through 19 were accordingly struck out of Mr Gardner-Hopkins’ submissions.

The Application

10. Consent is sought to establish a heliport adjacent to the residential dwelling on 704 Malaghans Road. The proposal is set out in paragraph 3.0 of the Assessment of Effects on the Environment (AEE) lodged by the applicant with the application, prepared by Mr Edmonds as follows:

The applicant seeks consent for the use of a Bell 429 Global Ranger helicopter for:

A total of 120 flights per year – allocated as:

- *A maximum of 20 flights per month*
- *A maximum of 7 flights per week*
- *A maximum of 2 flights per day*

A flight includes one trip in and one trip out. No flights will be undertaken between 80pm and 8am. Standard idling procedures would involve a one-minute period for warm-up and warm-down of the engine.

No physical works are proposed to the site. The helicopter will take off and land to the north or the existing shed on the Property. Take-off and landing of the helicopter will be via the proposed flight path which is in a westerly direction.

11. During the hearing it became clear that:

- the applicant sought the ability to change the helicopter for another model with a reduced noise profile in the future if required; and
- the idling time of one minute may be exceeded in some exceptional circumstances such as a door not being correctly closed and the pilot needing to quickly close it.

12. We consider that these changes are within the scope of the application as notified as the changes do not materially affect the effects resulting from the proposal. We record here that Mr Gardner-Hopkins raised further matters of scope at paragraph 8 of his legal submissions. We do not consider any of these points to alter the scale, intensity or character of the effects or the impacts of the proposal nor do they prejudice the parties or the public to any material extent.

Submissions

13. The application was publicly notified with submissions closing on 4 September 2018. Seven submissions were received; six in opposition and one in support.

Reasons consent is required

14. The site is zoned Rural General in the ODP.

15. The Applicant and the Council Planner agreed that the proposal falls to be considered as a non-complying activity and that resource consent is required for the following reasons. We concur.

- *A **discretionary** activity resource consent pursuant to Rule 5.3.3.3v for an airport. The District Plan defines 'Airport' as "any defined area of land or water intended or designed to be used whether wholly or partly for the landing, departure, movement or servicing of aircraft." The proposed helipad will meet this definition.*

- A **non-complying** activity resource consent pursuant to Rule 5.3.3.4(vi) as the proposal breaches Zone Standard 5.3.5.2(v) with regard to sound from non-residential activities. Zone Standard 5.3.5.2(v)(a) states that sound from non-residential activities shall be measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 and shall not exceed the following noise limits at any point within the notional boundary of any residential unit, other than residential units on the same site as the activity:

Daytime	(0800 to 2000 hours)	50dB LAeq (15mins)
Night-time	(2000 to 0800 hours)	40dbLAeq (15mins)
Night-time	(2000 to 0800 hours)	70dB LAFmax

- Ms Hunter noted that Zone Standard 5.3.5.2(v)(d) states that noise limits specified in 5.3.5.2(v)(a) does not apply to airports, however the standard goes onto state that the reference to airports in this clause does not include helipads unless located within land designated for Aerodrome Purposes.
- The subject site is zoned Rural under Stage 1 of the PDP. Decisions on the site were deferred to Stage 2 of the PDP and a variation was notified under Stage 2 which zones the site Wakatipu Basin Rural Amenity Zone. No decisions have been released on Stage 2.
- No party identified relevant rules with Chapter 36 of the PDP (Noise) as being breached. We note that Rule 36.5.10 as per the Council decision on Stage 1 is not breached. This rule sets the noise limits for helicopter activity and is subject to appeal. The scope of the appeal is such that if upheld, the rule would be breached by the proposal.

Relevant Statutory Provisions

- Section 104 sets out the matters to be considered in determining an application for resource consent. Under Section 104B we may grant or refuse consent. Pursuant to Section 104D we cannot grant consent if both of two 'gateway' tests are failed; i.e. if the adverse effects of the proposal are more than minor AND the proposal is contrary to the objectives and policies of the Plan and the Proposed Plan. If we grant consent we may impose conditions under Section 108.

Relevant Regional Policy Statement Provisions

- Neither the AEE, nor the Council's 42A report made reference to the RPS. We accept that the District Plan is required to give effect to the RPS and that in this case where the issue is narrow

and defined, there may not be much to gain from a detailed analysis of the Regional Policy documentation.

Relevant District Plan Provisions

21. The S42A report referred us to Parts 4, 5 and 14 of the ODP, which we agree are the relevant provisions to consider.
22. The AEE referred us to Chapter 36 (Noise) of the PDP. The Council's S42A also referred us to Chapter 24 (Wakatipu Basin). We questioned Mr Beatson on the relevance of Chapter 21 (Rural)¹ and he advised that until the Stage 2 variation to the zoning 'caught up' with the Stage 1 notified version, both co-existed. To the extent that this has weight, we consider all these are relevant.
23. We discussed with Mr Beatson how we should treat the objectives and policies of Chapter 36 of the PDP, given no appeals have been lodged in respect of these provisions. Mr Beatson told us we should give these provisions full weighting, however that it becomes murky in respect of the other provisions because we do not know what zoning will apply under the PDP. We consider that given the appeals to the relevant Stage 1 decisions, the deferral of the decision on zoning² and the limited extent to which both stages have been tested, extremely limited weight should be given to the PDP in the context of this application, with the exception of the Chapter 36 objectives and policies. In terms of policy direction we observe the PDP and ODP to be similarly aligned, with the PDP decisions as they currently stand providing for somewhat more ability to operate low scale informal airports.

The existing environment

24. The site is sufficiently described in Section 2.0 of the AEE and we adopt this description. We particularly note that the site is bisected by an esplanade reserve which is currently landlocked and therefore not accessible to the public. It was also clarified to us that the bridle path mentioned in various briefs of evidence is not the esplanade reserve but rather the road reserve along Hunter Road.

Permitted baseline

25. There parties agreed that helicopter landings are permitted for emergency purposes and for activities ancillary to farming activities.
26. Both Mr Edmonds and Mr Beatson considered that the use of the helicopter by the applicant to travel to his farm properties located elsewhere could be considered to be activities ancillary to farming activities. The Applicant did not seek to rely upon this and it was clarified that the

¹ Stage 1 of the PDP (as notified) zones the site Rural

² The decision on the zoning of the land has been deferred and will be considered in the yet to be released decisions on Stage 2

application include all helicopter use other than for emergency purposes and for farming activities on the subject site.

Legal Submissions and Evidence

Applicant - Legal Submissions

27. Andrew Beatson presented legal submissions for the applicant. He pointed out that the only effects in contention are noise and that in terms of Part 2 of the RMA the contest is essentially between the amenity and efficiency afforded to the applicant by the use of the helipad and the amenity impacts of that use upon neighbours. We concur with this succinct statement.
28. He drew to our attention the supporting submission #6 (Wiles) and advised another neighbour, David Mahoney, would also provide evidence supporting the application.
29. Mr Beatson spent considerable time taking us through the Dome Valley³ decision. Essentially confirming the applicant's position that any noise effects arising from aircraft are outside the ambit of the RMA and the resource consent process if it is over 500 feet above a rural area.
30. In his submission, Mr Beatson considers that Ms Collie and Ms Styles have failed to consider the existing environment. He put to us that we should prefer the evidence of Dr Trevathan, Mr Edmonds and Ms Hunter. Mr Beatson also set out for us the relationship between the District Plan provisions that the New Zealand Standard for measuring helicopter noise NZS6807:1994.
31. In terms of cumulative effects, Mr Beatson put to us that the cumulative effect of a dispersed number of airports is only of relevance when forming an overall view of the existing acoustic amenity of the area. He advised that in his view the noise of overflying aircraft above 500 feet excluding the subject of this application, could be considered as forming part of the existing environment. We note here that we have not formed a view on this matter, because, as will become clear this decision does not hinge on the existing noise of overflying aircraft.

Applicant

32. Timothy Roberts is the applicant and resides at the subject site. He advised that the primary use of the helicopter will be to attend regular meetings at his properties at Walter Peak and Halfway Bay and to undertake regular aerial inspections of these properties. Due to the difficult road access, Mr Roberts advised helicopter transport is both desirable and necessary. He drew our attention to the substantial savings for him of departing from the subject site rather than using the main airport.
33. Mr Roberts is an experienced helicopter pilot. He explained to us the scenarios that may lead to a longer idling period. In his experience a one-minute average is readily achievable and in

³ *Dome Valley District Residents Society Inc v Rodney District Council* 14 ELRNZ 237

the rare occasions this may be exceeded, it would be due to a technical issue such as a door not being properly shut.

34. Mr Roberts confirmed that subject to the changes sought by Mr Edmonds, the conditions recommended by Ms Hunter would be acceptable to him.

Applicant Planner

35. John Edmonds presented planning evidence for the applicant. He also prepared the AEE submitted with the application. He considered that the proposed helicopter activity is consistent with the relevant objectives and policies and gives effect to the purpose of the Act. Of particular relevance this meant that Mr Edmonds was of the opinion that the proposal passed both the Section 104D gateway tests and we had discretion under Section 104B to grant consent.
36. Mr Edmonds provided rebuttal evidence and particularly of relevance addressed Objective 5.1(iii), pointing out to us that Ms Collie in her evidence quoted only part of the objective. Mr Edmonds considers that the more comprehensive statement demonstrates that the zone anticipates a range of activities and that we should look at whether what is proposed is a genuine nuisance; or a health risk. He considers it is neither.
37. Mr Edmonds also provided us with a table setting out helicopter resource consents granted for nearby sites and the conditions imposed. He advised that a duration has historically only been imposed on commercial consents. He provided us with an amended set of conditions.

Applicant - Acoustic Engineer

38. Jeremy Trevathan prepared the original acoustic report submitted with the application and presented acoustic evidence and rebuttal evidence for the applicant. He advised that he had used NZS6807:1994 to assist in determining what noise emissions may be appropriate for this location. Dr Trevathan considers that the guideline noise limit of 50 dB Ldn provided in NZS6807:1994 is appropriate in this instance. Taking into consideration the conditions volunteered in respect of flight numbers, flight paths, warm up and cool down times and hours of operation, Dr Trevathan concludes that the adverse noise effects of the proposal will be minor.
39. In his rebuttal evidence, Dr Trevathan refers to disagreement between Mr Styles and himself in relation to the modelling results. It is understood the disagreement is not significant and relates to a difference which is within the margin of errors. Dr Trevathan detailed in his rebuttal evidence why his modelling is conservative and can be relied upon as demonstrating the most significant effects. In particular he explained to us that the modelling for the idling period of 1 minute before take off and after landing occurred at full throttle, when in reality it would be largely at a reduced throttle.
40. Dr Trevathan explained the difference between the standard used in the District Plan being LAeq(15min) and the Ldn standard used in NZ 6907:1994 and how depending on the

hypothetical situation considered either method could result in a more or less conservative outcome.

Applicant – Neighbour

41. David Mahoney is a neighbour to the south of the site. He provided brief verbal evidence and confirmed that he could hear a helicopter take off at his property, and that this would briefly interrupt any conversation. However, he advised he and his family enjoyed watching the helicopters and did not find them to have an adverse effects.

Submitter #2 Saville - Counsel

42. James Gardner-Hopkins presented legal submissions for the Savilles. He raised concerns with the scope of the application changing from that which was notified in respect of the longer than one minute warm up and warm down, the use of any other helicopter than the Bell 429 Global Ranger, the use by any other person than Mr Roberts and travel to anywhere other than Mr Roberts two farms across Lake Wakatipu.
43. Mr Gardner-Hopkins cautioned us with regards to the need to take a real world view in relation to the existing environment and opined that we should include the existing effect of existing helicopters flying over 500 feet when considering cumulative effects.
44. He further submitted that the ODP includes noise emission controls prescribed in relation to the use of airports which therefore apply to aircraft flying over 500 feet. Mr Gardner-Hopkins contends that this is a key difference to the Dome Valley case where no such noise emission controls were in place. We pause here to consider this matter in detail as we consider it crucial to our decision.
45. Mr Gardner-Hopkins finds support for his argument in that the Council when preparing and determining the ODP was under the impression that the rules would apply to overflying aircraft related to the use of airports. He provides an extract from the 1998 decisions on the District Plan. It seems to us that Counsel has omitted to be cognisant of Plan Change 27A that amended the District Plan noise provisions breached by this application. That Plan Change was notified, decided and mediated during and after a period of increased helipad consenting in the Queenstown Lakes District and in the context of the Dome Valley decision which at that time (and to date) was interpreted as meaning excluding aircraft over 500 feet. This interpretation was confirmed to us by Council officers. Therefore this first argument is not accepted; there is nothing in the wording of the rule to lead us to conclude it is intended to apply to noise effects from aircraft over 500 feet.
46. On balance, we prefer Mr Beatson's position as set out in his closing submissions. Dome Valley has been determined by the Environment Court and the High Court and is therefore binding on us. To depart from the decision would require us to find that there is a clear difference between Dome Valley and the current situation. We do not accept that this is the case. Whilst we accept that the provisions could be read as interpreted by Mr Gardner-Hopkins, we do not consider that this is necessarily mandated by the wording in the ODP. In our opinion, and given the timing of Plan Change 27A, if the Council had intended the rule on

helicopter noise to apply to overflying aircraft in relation to informal airports, this would have been explicitly included in the wording of the rule to avoid any doubt.

Submitter #2 – Acoustic Consultant

47. Jon Styles provided acoustic evidence on behalf of the submitter. He considers that NZ6807:1994 is not designed to facilitate an assessment of noise effects arising from helicopter movements in an area where a conservative standard for helicopter noise has been applied. He considers the 50dBLdn limit it recommends for rural areas is irrelevant to this proposal.
48. Mr Styles concludes that the noise effects arising from the proposal will be unreasonable in terms of section 16 of the Act and more than minor on the closest receivers. We asked Mr Styles to clarify his conclusion that the noise was unreasonable and how that fitted with his conclusion that the noise effects were more than minor. Mr Styles told us that it was a continuum and that he considered the effects to be 'at least minor', but did provide any further explanation as to how this translated into it being unreasonable.
49. Mr Styles was critical of Dr Trevathan's approach; he considered that insufficient measurements of the existing acoustic environment had occurred and that Dr Trevathan had applied Standard NZ6907:1994 as a one-size-fits-all, disregarding the provisions of the District Plan and the particulars of the site.

Submitter #2 - Planner

50. Anita Collie presented planning evidence for Submitter #2. She raised concerns with the location of the helipad close to sensitive receivers and advised that this removed the ability for significant adverse effects to be mitigated. Ms Collie relies on Mr Styles evidence that the application will generate an unreasonable level of noise in terms of section 16 of the Act and therefore concludes that the resultant impacts on rural character and amenity will be significant particular on the Saville family (Submitter #2).
51. Ms Collie provided us with an overview of helicopter consents within the vicinity and helpfully concluded that there are around 15,000 helicopter movements per annum in the area. She considers that this has already compromised the environment and raises a very real issue about cumulative effects.
52. In terms of the objective and policies of the ODP and PDP, Ms Collie has undertaken a comprehensive analysis and stresses that there is a requirement to maintain a level of rural amenity, avoid land uses which create unacceptable or significant conflict with neighbouring land uses and retain the amenities, quality and character of the environment (Ms Collie's emphasis). She concludes that the proposal is contrary to the objectives and policies, and that both s104D threshold tests are failed and consent cannot be granted.
53. Ms Collie advises that in the event we disagree in terms of S104D, she has significant reservations about whether consent should be granted as the objective and policy framework

weigh against it, there are inadequacies in the assessment and there are cumulative and precedent effects.

Submitter #5 - Submitter

54. Shelley Dawson resides at 49 Hunter Road, the property owned by Submitters #3 and #4 (the Bayleys) and provided us with evidence as a resident. Ms Dawson considered that the application provided insufficient mitigation from noise effects that would be experienced at her dwelling. In particular Ms Dawson raised concerns with an airport being located just 780m from her residence with flights every three days. She stated that the lack of consideration of flights over 500 feet meant there was no certainty over the flightpath over that altitude.
55. Ms Dawson seeks the application be declined, however, if it is to be granted she seeks reduction in the number of flights, hours of operation, and further certainty on the flight path. She also seeks that the consent be limited to the current owner and Mr Roberts (or another designated person) as the pilot.

Council - Planner

56. Alicia Hunter, Council Planner prepared a report pursuant to Section 42A containing an acoustic peer review. She listed the following actual and potential effects on the environment as relevant:
- Noise
 - Amenity and Rural Character
 - Cumulative effects
 - Frequency of Use
57. In her assessment, Ms Hunter considered that the adverse effects in terms of noise, on amenity and rural character and the cumulative effect will all be no more than minor. She also concludes that the effects in terms of frequency of use will be no more than minor. Ms Hunter confirmed that she considers that the noise and amenity effects on owners and occupiers located within the 50dB LAeq(15min) contour are minor.
58. Ms Hunter is of the view that the proposal is consistent with the relevant objectives and policies of the District Plan.

Council – Acoustic Engineer

59. Stephen Chiles has peer reviewed the application. He considers that the District Plan noise limits are more restrictive than NZ607: 1994. Dr Chiles concludes that given the short and infrequent sound that will be associated with the proposed helicopter operations and that helicopter sound is already present in the environment, should be acceptable. He recommends that (based on noise) the application should be granted subject to a number of conditions managing the noise.

Effects Assessment

60. We consider that the effects of this application are fairly constrained and as no other effects were raised by any party, we only address those in contention, being:

- Noise effects and associated effects on rural character and amenity
- Cumulative effects
- Effects on social and economic well-being

Noise, Rural Character and Amenity

61. Noise is the adverse effect at the centre of this application. The adverse effects on rural character and amenity are a direct result of the noise generated by the helicopter. For reasons we have set out earlier, we are considering only the effects from the aircraft up to 500 feet.
62. Although the sound has been modelled rather than measured, the acoustic experts are in agreement that modelling provides an accurate and reliable noise profile. On this basis there does not appear to be any disagreement that at properties located within the 50 dB LAeq(15 min) contour area, there will be a short period of a couple of minutes around the helicopter taking off or landing where it will be clearly audible. And for a few seconds of this period the sound level may be such that it interrupts conversation. Ms Dawson advised that when a helicopter flies over her property she cannot hear her daughter indoors if she speaks in a quiet voice and equally Mr Mahoney advised that conversation on his property is briefly interrupted when a helicopter flies over. The proposal will allow for this to occur up to four times a day (but not every day). We conclude that there is no substantial disagreement in regards to these facts. The matter in contention is how to assess these effects.
63. We do not accept the views of Mr Styles and Ms Collie in regards to the existing environment. They both consider that the rural area is relatively quiet and that the character of the helicopter noise is such that the proposal represents a significant departure from the anticipated rural character. In our opinion the views of Dr Trevathen and Dr Chiles are preferable. We consider this an area with a rural character which is subject to relatively high levels of traffic noise from Malaghans Road and Hunter Road as well as noises associated with rural activities and machinery. Whilst the characteristics of helicopter noise are distinctive, we consider that at the level at which this activity is proposed, being a maximum of two return flights a day, these effects do not substantially change the character of the area. It is of relevance that we reach these conclusions without taking into consideration existing overflying helicopters. If these are to be taken into consideration, we consider that the helicopter activity noise will no longer stand out in terms of character and the effects will be less than assessed in this paragraph.
64. In terms of amenity, the disruption of conversation up to four times a day for substantially less than a minute is considered to be an amenity effect anticipated in a rural environment. This can equally happen when permitted activities occur, such as starting up farm machinery, riding a motorbike, helicopter activity associated with farming activity on a site or shooting practice. We are comfortable that the further restrictions on maximum flights volunteered and on hours of operation will reduce the activity to a level where changes to the noise environment are perceptible, but not significant.

In terms of noise, there are no effects not covered within the paragraphs above relating to character and amenity. The noise levels will not be such that they represent a health risk.

Cumulative Effects

65. There are various relevant cumulative effects which we consider below.
66. We have been provided with evidence of consented heliports in the surrounding area and all parties are in agreement that a real world view means that we should take a real world view of the number of helicopter landings and take off which actually occur in fact, as opposed to the number consented, which could therefore occur in law. In other words, there are actually less flights than are consented and the cumulative effects should be a summation of the flights that in fact take place. That having been said, no party provided details of the flights that actually occur.
67. Our next consideration is of cumulative effects of flights below 500 feet. We have been given evidence that the all consented heliports are over 1km away and that there will be no noise effects that overlap if only considering flights under 500 feet. We therefore conclude that in terms of cumulative helicopter noise, the effects are nil.
68. Cumulative noise effects from all sources are also relevant. The activity will add up to 4 flights a day to the existing noise arising principally from road traffic, farm machinery and activity and rural residential uses. We consider that the addition of the noise from the activity to this profile will be perceptible, but will that noise will not reach a threshold that is unacceptable in this environment.
69. Finally, we consider the adverse cumulative effects of the noise up to 500 feet from this activity combined with the existing overflying aircraft. We remain somewhat unclear on the caselaw in this regard and do not reach a conclusion on whether this is the correct approach in law. This issue is a moot point in any event and we are not required to reach a conclusion on this matter as we consider that the number of flights proposed is so low, that they will not change the cumulative effects to a perceptible extent. On this basis, we conclude that the cumulative effects of overflying flights is not changed, if it is relevant at all.

Effects on social and economic well-being

70. We accept there are positive effects for the applicant from being able to travel efficiently from his residence to other rural properties he owns or has an interest in.

Overall Consideration of the Effects of the Proposal on the Environment

71. We consider that the adverse effects arising from the establishment and use of the helipad can be mitigated by the restrictions on use which are volunteered by the applicant. We also find that the proposal will enhance the social and economic well-being of the property owner, Mr Roberts, as it will enable him to conduct his business affairs in a more efficient manner.

Objectives and Policies

Operative District Plan

72. Part 4 contains District Wide objectives and policies. None of these relate to helicopters, noise or character and amenity in relation to noise.
73. Part 5 (Rural General), 5.2 Objective 1 Character and Landscape value seeks to protect the character and landscape value of the rural area, with Policy 1.1 directing us back to the district wide provisions considered above. Policy 1.4 seeks that activities not based on rural resources (and we consider a heliport is not) occur only where the character of the rural area will not be adversely impacted. Based on our conclusions above, we consider that the character of the rural area is maintained and that the effects on rural character will be minimal and the proposal is deemed consistent with this objective.
74. Part 5, 5.2 Objective 3 relates to rural amenity. Of relevance, Policy 3.3 seeks that adverse effects of activities located in rural areas are avoided, remedied or mitigated. In this case as set out above, we consider that the effects of the heliport are mitigated by the restrictive conditions on flights, hours of operation and flight path to the extent that the proposal is consistent with this policy and objective.
75. With regards to Part 14, Transport there are no particularly relevant objectives or policies.
76. We conclude that the proposal is consistent with the objectives and policies of the ODP.

Proposed District Plan

77. Chapter 3, Strategic Direction, contains objective 3.2.5 which seeks to maintain the rural character. As discussed the rural character is not materially affected by this proposal and the activity is therefore considered consistent with this objective.
78. No other objectives and policies in Chapter 3 are relevant to this proposal.
79. Chapter 21, Rural, Objective 21.2.11 seeks to manage the location, scale and intensity of informal airports. Supporting Policy 21.2.11.1 recognises that informal airports are an appropriate activity in the rural environment, provided the airport is located, operated and managed so as to minimise adverse effects on the surrounding rural amenity. Policy 21.2.11 similarly seeks to protect rural amenity values. In this case we have concluded that the rural amenity is largely unchanged and therefore the proposal is considered to be consistent with this objective and the policies.
80. Chapter 24, Wakatipu Basin, Objective 24.2.2 seeks that non-residential activities maintain and enhance amenity values. Supporting Policy 24.2.2.6 states that it should be ensured that informal airports are located, operated and managed to maintain the surrounding rural amenity, having regard to the differing densities of the Zone and Precinct. We have concluded

that the rural amenity of the area will not be compromised by this proposal and we consider that the proposal is consistent with this objective.

81. Chapter 36 (Noise) contains one Objective 36.2.1 seeking to control the adverse effects of noise emissions to a reasonable level to manage the potential for conflict arising from adverse noise effects between land uses. Supporting Policy 36.2.1.1 requires that effects of unreasonable noise from land use is avoided, remedied or mitigated. As discussed we do not consider that the proposal results in unreasonable noise. We acknowledge that Mr Styles for the Submitter #2 stated in his written evidence that the proposal would result in unreasonable noise pursuant to Section 16 of the RMA. However, we consider that the remainder of his evidence does not support this assertion. In our view the adverse noise effects will be managed by the volunteered conditions and we consider that the proposal is consistent with this objective and policy.
82. To the limited extent however that the PDP has weight, we conclude that the proposal is consistent with its objectives and policies.

Other matters

83. We consider that precedent and plan confidence are relevant considerations for this proposal. We agree with Ms Hunter that any future application for a helipad would need to be assessed on its merits and find that the grant of this consent would not create a precedent. This is a location where in our view, the activities proposed are appropriate and would not undermine confidence in the administration of the District Plan.

Section 104D

84. Section 104D(1) of the Act confirms that a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either;
- a. The adverse effects of the activity on the environment will be minor; or
 - b. The application is for an activity that will not be contrary to the objectives and policies of the relevant plan and proposed plan.
85. In this instance the Commission has concluded that both gateways are passed and consent may be granted.

Conditions

86. We received a final set of conditions through the applicant's reply. We have accepted those conditions, with a small amendment to condition one to cross reference the application material and approved plan of the flight path. We are satisfied that the adverse effects will be avoided or mitigated by adherence to these conditions.

Overall Assessment

87. We have concluded that the proposal will not be contrary to the relevant objectives and policies relating to character, amenity and noise. The changes to the rural character and amenity will have only limited and temporary adverse effects. Overall, we consider that the

proposal will achieve the purpose of the Act and that any adverse effects will be appropriately avoided or mitigated.

88. For these reasons the application is APPROVED to operate a helipad at 704 Malaghans Road, Wakatipu Basin subject to the conditions Appended to this decision.

30 November 2018



Wendy Baker



Rachel Dimery

APPENDIX 1 – Consent Conditions

APPENDIX 1 - CONDITIONS OF CONSENT

General Conditions

1. That the establishment and operation of a helipad must be undertaken/carried out in accordance with Figure 1.1 – Helipad location and flight paths:

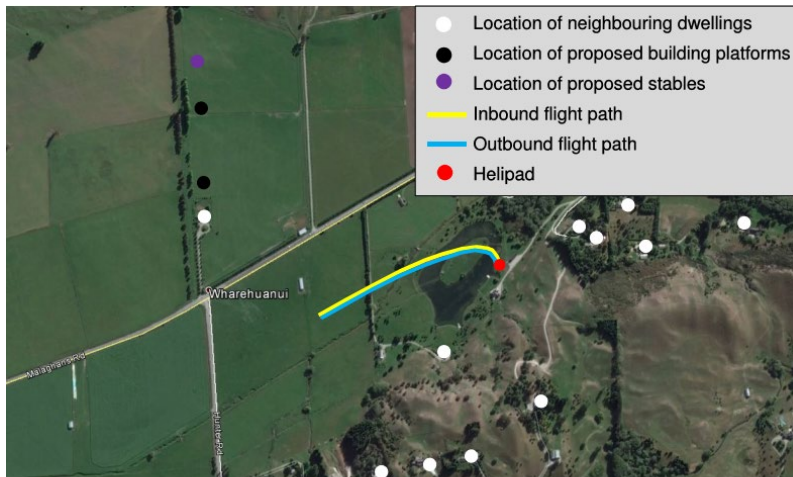


Figure 1.1 – Helipad location and flight paths

stamped as approved on 29 November 2018 and the application as submitted, with the exception of the amendments required by the following conditions of consent.

2. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
3. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.

Aircraft Landing Conditions

4. There shall be no helicopter use, including idling, between 2000 and 0800 hours.
5. Maximum length of idling shall be restricted to maximum of two-minute warm-up and two-minute cool down period for each flight.
6. The maximum number of flights per year shall be limited to 120 (240 movements), comprising;
 - a) 20 (40 movements) per month;
 - b) 7 (14 movements) per week; and
 - c) 2 (4 movements) per day.
7. The following helicopters may be used:
 - i. Bell 429 Global Ranger.

- ii. Any other helicopter that is certified by the Queenstown -Lakes District Council. The Council shall certify alternate helicopter usage where it is demonstrated by an appropriately qualified acoustic consultant that the helicopter produces an equivalent or lower Sound Exposure Level (SEL) than the Bell 429 Global Ranger, calculated in accordance with NZS 6801:2008.
- 8. No commercial operation shall be undertaken from the subject site.
- 9. The consent holder shall ensure that all pilots endeavour to operate their aircraft along the approved Flight Path adopting the “Fly Neighbourly” guidelines, as far as is consistent with applicable safety and aviation law requirements.
- 9. All helicopter arrivals and departures shall be flown in accordance with the flight path indicated in Figure 1.1 – Approved Flight Path. All approaching and departing flights shall be conducted so that the aircraft reaches a minimum height of 500 feet above ground level as soon as practicable when passing over the boundary of the application site (excluding the boundary of the Local Purpose Reserve).

Record of Flight Numbers

- 10. The consent holder shall keep a log of the flights into and out of the site and shall submit this to Council every year within 10 working days on 1 January. The log shall include the date of each flight, the type of aircraft operated and shall clearly show the total number of flights on each day and the landing/take off locations. The first log will be due within 10 working days of 1st January 2019.
- 11. The consent holder shall ensure that the log of flights into and out of the site is kept up to date at all times, and made available upon request for inspection by Council (with 24 hours-notice), to ensure on going compliance. This shall include GPS records to verify the flight paths used (for all helicopters using the helipad which have GPS tracking capability).

Review

- 12. Within ten working days on the anniversary of the effective date of this consent, the Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
 - a) Monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse effect on the environment.
 - b) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
 - c) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.

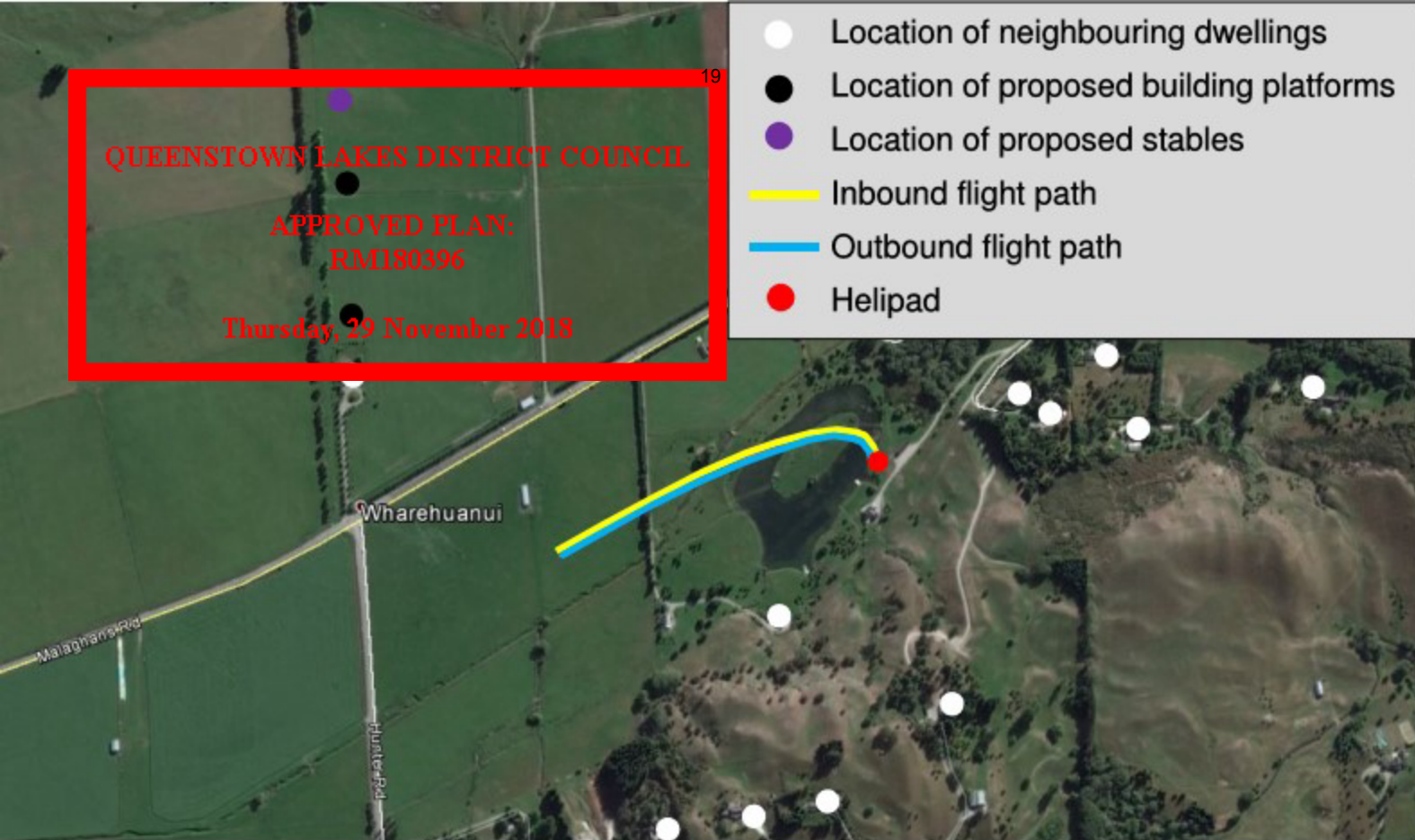


Figure 1.1 – Helipad location and flight paths