

**BEFORE COMMISSIONERS APPOINTED BY
QUEENSTOWN LAKES DISTRICT COUNCIL**

IN THE MATTER of Resource Management Act 1991

AND

IN THE MATTER of submission of Jeremy Bell
Investments Limited

OS 782 and FS 1030

**LEGAL SUBMISSIONS ON BEHALF OF
JEREMY BELL INVESTMENTS LIMITED**

**GALLAWAY COOK ALLAN
LAWYERS
DUNEDIN**

Solicitor to contact: P J Page / B Irving
P O Box 143, Dunedin 9054
Ph: (03) 477 7312
Fax: (03) 477 5564
Email: phil.page@gallawaycookallan.co.nz
Email: bridget.irving@gallawaycookallan.co.nz

MAY IT PLEASE THE PANEL:

Introduction

1. Jeremy Bell Investments Ltd ("JBIL") own land opposite Wanaka Airport. In OS 782 they sought that 14ha be rezoned to Wanaka Airport zone. A map showing the relevant land is **attached** at appendix 1.
2. These legal submissions are made in anticipation of JBIL's land being rezoned to Wanaka Airport and the desire for the Wanaka Airport provisions to be workable for both the current airport and the land to be rezoned.
3. The Airport Zone provisions drafted by Council and notified on 2 November 2016 make it clear that Wanaka Airport is to be provided for as a distinct activity within the District Plan. JBIL is supportive of this. There are, however, some matters that require addressing in order to fully provide for Wanaka Airport as regionally significant infrastructure.
4. JBIL has for many years been an active supporter of the growth of Wanaka Airport. JBIL's view is that Wanaka is a tourism destination in its own right. The growth of the Wanaka economy requires its own basic infrastructure, a prime example of which is inbound tourism air transport. At the present time Wanaka's tourism industry is served largely from Queenstown Airport under QAC's management. With the exception of the Warbirds show, Wanaka is operated largely as a spill-over facility for general aviation to avoid conflict and pressure at Queenstown. Sooner or later, pressure will require the better utilisation of Wanaka Airport to serve the whole district's needs.

Some History: Plan Change 26 and Designation 64

5. JBIL made a submission on Plan Change 26. Plan Change 26 sought to introduce new air noise boundaries to the District Plan. Those boundaries, together with obstacle limitation surfaces in designation 64 had major implications for the future use of JBIL land adjacent to State Highway 6 (partially occupied by Have A Shot). JBIL appealed Council's decisions.

6. The purpose of JBIL's appeal was not to inhibit the growth of the airport, indeed quite the opposite. The point was to recognise that the airport must and will grow, and to confront future compatibility issues by identifying the land resource best directed to supporting the growth of the airport rather than continuing their existing rural use. Land use compatibility has bedevilled the growth of airports nation-wide for years. JBIL took the view that the QLDC through PC 26 had not thought sufficiently about the land use implications around the airport margins. JBIL's view is that the flat land adjacent to State Highway 6 is best devoted to airport-related activities than rural uses, and is partially already used for that purpose (tourism). Those appeals were subsequently referred to mediation.
7. JBIL's appeals were subsequently settled. As part of that settlement, the Wanaka Airport Management Committee and the Council agreed to do various things including:
 - (a) Proceed with a review of the extent of land requirements for airport-related activities and the possibility of introducing an airport use zone for Wanaka Airport.
 - (b) Include the findings of a review as part of the section 32 process to evaluate the merits of the introduction of an airport mixed use zone for Wanaka Airport as part of the District Plan review process.
8. This process made sense to JBIL as it would allow the formulation of a zone and a strategic analysis of the long term needs of Wanaka Airport to be examined in a holistic fashion, with input from neighbours. Despite this, there has been no meaningful subsequent contact from Wanaka Airport Management Committee, QLDC or QAC with JBIL to inform them about the outcomes of those processes, or whether those processes have even occurred.
9. JBIL has therefore lodged a submission seeking the rezoning of the approximately 14 Ha of land adjacent to SH 6 and Mt Barker Road that it considers is more closely associated with the future of Wanaka Airport than it is with JBIL's farming future. The merit of that issue will be for a later hearing.

Objective 17.2.2

10. The sole policy focusing on Wanaka Airport is Objective 17.2.2. This has been the subject of discussion in the planning evidence of Queenstown Airport Corporation (“QAC”).
11. JBIL is supportive of the general direction of this objective, however, shares the same concerns as Mr Kyle (for QAC) relating to the drafting of the objective. “Aviation activities” are not defined in the Plan. Given the regional importance of the Wanaka Airport and the requirement that objectives inform policies which inform rules,¹ provision in the objective should be made for more than just aviation activities. There is no reason why the objectives that apply to Queenstown are not equally applicable in Wanaka.
12. JBIL is generally supportive of the drafting proposed by Mr Kyle for QAC which recommends the objective be redrafted to: *Social and economic wellbeing is supported by enabling airport and airport related activities at Wanaka Airport.*
13. This objective provides a wide basis for policies to implement it. It would also enable the continuance of existing activities, that may otherwise be incompatible with the current drafting, to remain irrespective of any existing use rights.

Policies

14. The policies seek to provide for the Airport to grow but do not want the commercial aspects associated with airports to detract from the Wanaka Town Centre.
15. This has resulted in the policy framework for the Wanaka Airport being cast too tightly. There are a number of activities that already take place at the Wanaka Airport which would not meet the requirements of the proposed policy framework. It is important that the policy framework recognises the lawfully established existing environment, as it is the existing environment with which people are familiar, and derive their amenity from. These include attractions for tourists and visitors to the

¹ Resource Management Act 1991, s 75(1).
PP-716819-14-59-V3

region. A wide range of such activities already occur on the existing Airport footprint, and also across the road at Have A Shot on JBIL's land.


16. Mr Kyle has proposed a redrafting of policies 17.2.2.2 and 17.2.2.3. JBIL is generally supportive of policy 17.2.2.2 which states: *Enable a range of airport related activities provided they are ancillary to the use of the Airport, and avoid those activities that are not.*
17. JBIL does not support the word "avoid" in the above policy. The meaning of the word "avoid" is well known in the policy context since the *King Salmon* case.² Particularly in objectives and policies the word "avoid" should be avoided. The policy is sufficiently clear with the words: "...and avoid those activities that are not." deleted.
18. The reason why "avoidance" is not appropriate is that it is too literal and so begs the question of what "ancillary to the use of the airport" means. Very little of what happens at airports is literally "necessary" to support them in a functional sense. However there is much that happens around airports because they are there. Airports support a range of activities by virtue of being a place that people go to and commercial opportunities arise. Skydiving is an example. Skydiving needs an airport, but does an airport need skydiving? It is doubtful that skydiving is literally ancillary to the use of the airport, but no-one would suggest that airports are the wrong place for skydiving.
19. The range of existing tourism ventures already at the airport is also useful to observe. Airports create a market for activities that support the needs of the travelling public (e.g. cafes), but those activities do not necessarily support the airport itself. Aircraft are perfectly able to take off and land without cups of coffee. The experience nationwide is that functioning airports support a wide range of related business opportunities, and that is what JBIL seeks for Wanaka.
20. The better approach is to identify what is not appropriate at the Airport. The issue here is incompatibility. The Airport is a significant strategic asset and the focus should be on avoiding activities that might be

² *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593.
PP-716819-14-59-V3

incompatible with airport operations. Mr Kyle's policy 17.2.2.3 is supported. Indeed it is considerations of future compatibility (identified by the noise contours introduced in Plan Change 26) that gave rise to JBIL promoting airport zoning for its land in the first place.

Rules

21. JBIL is generally supportive of the proposed rule framework for the Wanaka Airport contingent on the basis that the definition for Airport Related Activities is expanded to include freight facilities and other activities which support the functioning of the Airport as a gateway to the Queenstown Lakes District. In a district such as Queenstown-Lakes, these services may include providing for the operation of tourist activities. Tourism ventures are already established without any evidence that they are hurting the viability of the town centre.
22. The gross floor area rules for non-aviation commercial activities (1000m²/100m²) are not acceptable. It is impossible to know how those values were arrived at, or why such controls are required at all. It is submitted that the issue will be self-regulating by land supply and available market for the foreseeable future.
23. It is a little artificial to be attributing numerical values to performance standards until the boundaries of the zone are decided. It is submitted that the issues need to be determined together, which is what JBIL had thought the Council had agreed to do in 2012 following plan change 26.



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P J Page

Solicitor for Jeremy Bell Investments Limited

Dated: 4 December 2016

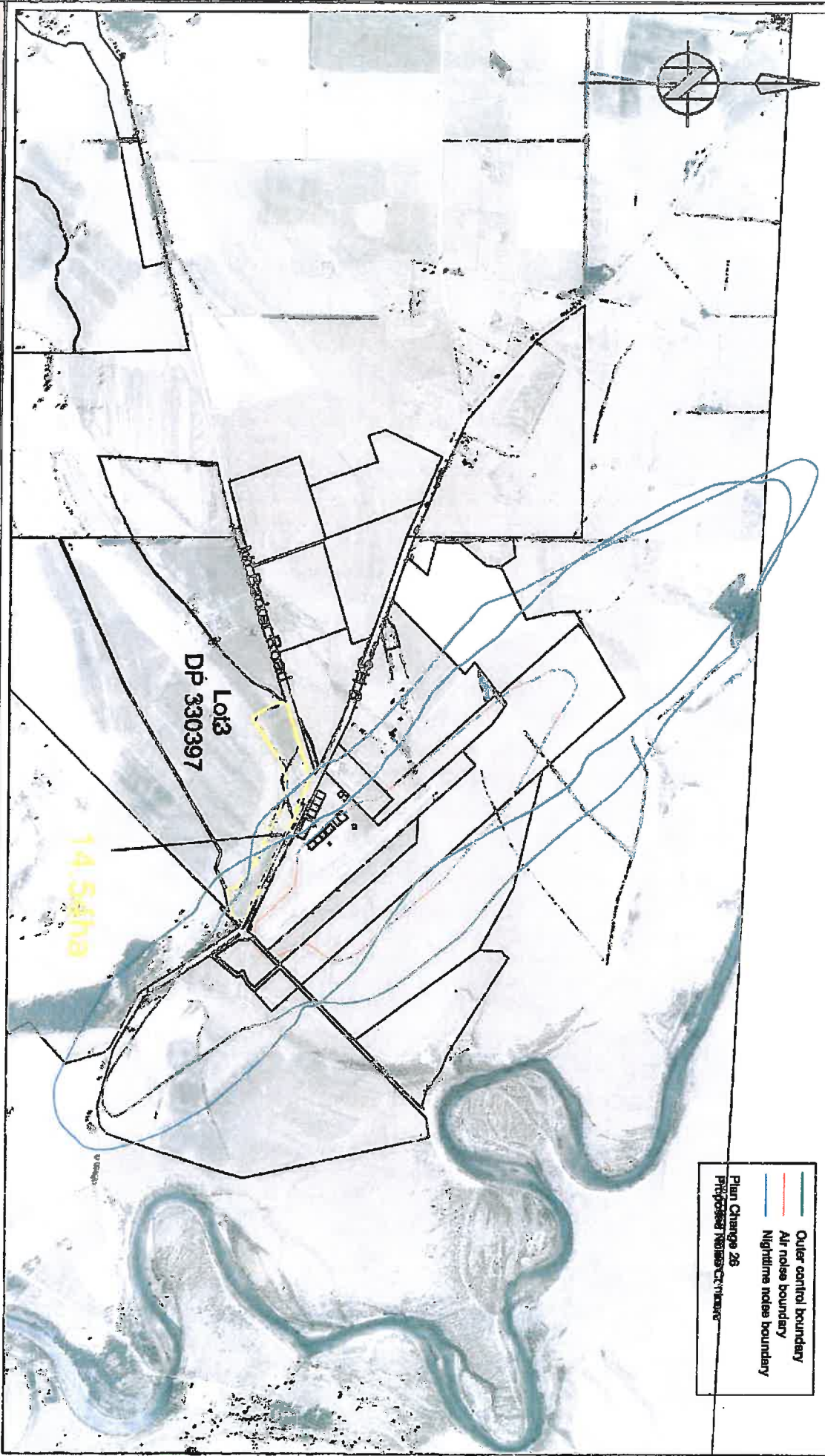
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Land Suitable for Airport-Related Activities
Plan Change 26
QLDC District Plan

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Notes:
Areas & dimensions subject to final survey

Scale: 1:20,000 @ A3
Drawn By: DFS
Job No.: W3642
Date: MAY 2011
Layout: Scheme A

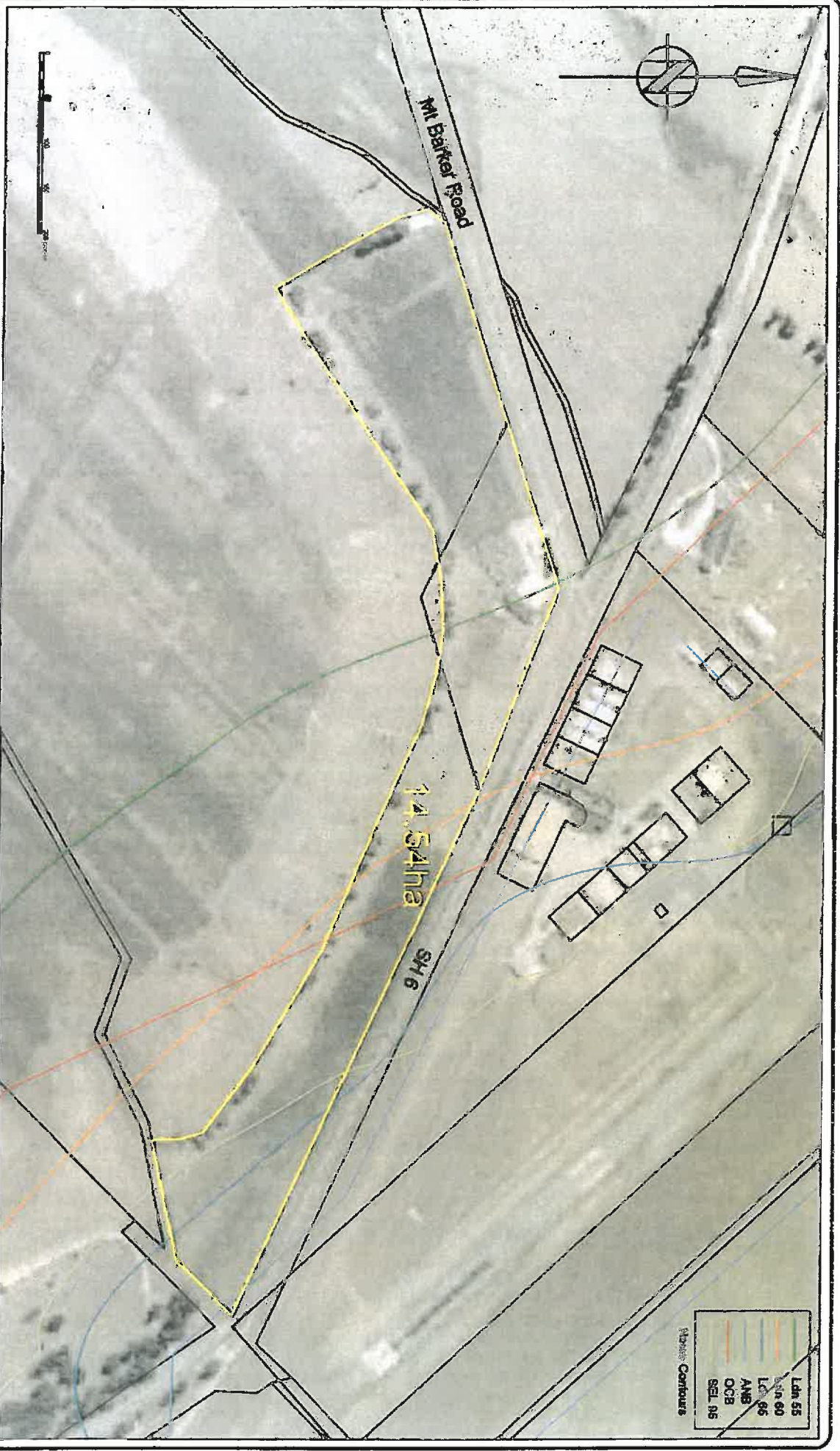


PATERSON PITTS LTD
 Planning & Land Development - Resource Management
 100-102 St. Albans Street, Dunedin
 Phone: 03 478 4100 Fax: 03 478 4101

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 Areas & dimensions subject to final survey

Scale 1:4000 @ A3
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Linda Mosley

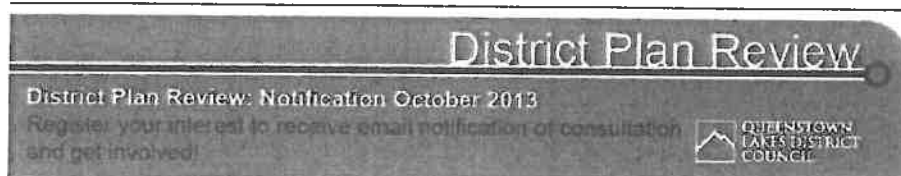
From: Ralph Henderson [Ralph.Henderson@qldc.govt.nz]
Sent: Thursday, 9 August 2012 9:48 a.m.
To: Phil Page
Cc: Tony Ray; Karen Castiglione
Subject: RE: Wanaka Airport

Hi Phil

I can confirm that the Queenstown Lakes District Council will include the findings of a review of the land requirements and associated investigations as part of the section 32 process to evaluate the merits of the introduction of an airport mixed use zone for Wanaka Airport as part of the District Plan review process.

Kind regards

Ralph Henderson | Senior Policy Analyst | Policy and Planning
Queenstown Lakes District Council ... Making Life Better
 Private Bag 50072, 10 Gorge Road, Queenstown, New Zealand | www.qldc.govt.nz
 P: +64 3 441 0493 | F: +64 3 450 2223



Follow the Council  

From: Karen Castiglione [mailto:Karen@zqn.aero]
Sent: Wednesday, 8 August 2012 4:54 p.m.
To: Phil Page
Cc: Tony Ray; Ralph Henderson; Shikha Singh-Lochan
Subject: Wanaka Airport

Hi Phil

Thanks for attending yesterday's Wanaka Airport Committee meeting.

I confirm that following your presentation, the Committee resolved to adopt the recommendations set out in the Report that you reviewed and approved. The Minutes of the Meeting record:

(Mr Phil Page and Mr Jerry Bell on behalf of Jeremy Bell Investments Limited (JBIL) joined the meeting at 11am)

Noise Plan Change and Designation – Mr Page outlined JBIL's view that WKA should introduce an Airport Use Zone that should include JBIL's land. Mr Page confirmed that he supports the recommendations at Appendix 1 of the Committee's Paper dated 7 August 2012.

Mr Page also requested confirmation from Mr Ralph Henderson at QLDC that QLDC in its regulatory capacity will support the Airport in undertaking the Review. On the basis that the recommendations are passed by the Committee and Mr Henderson's support is confirmed, Mr Page confirmed that JBIL will withdraw its appeals.

On the motion of Leigh Overton, seconded by Lyal Cocks, the Committee resolved:

That Airport Management proceed with a review of the extent of land requirements for airport related activities and the possibility of introducing an airport use zone for Wanaka

11/08/2012

Airport;

**That consultation is undertaken with JBIL throughout the review.
Carried**

The Committee requested Management follow up Mr Henderson and report to Mr Page.


I have notified Ralph Henderson of this today and he has confirmed that he will write to you separately to acknowledge that QLDC in its regulatory capacity supports the Airport in undertaking the review.

Could you please confirm that JBIL will now withdraw its appeals.

I also note that I'm moving on from QAC and my last day will be 5 October 2012. Not sure who will be taking on the management function for Wanaka Airport yet, however, in the meantime, you can continue to direct things to me.

Kind regards
Karen

Karen Castiglione | Corporate General Manager
Queenstown Airport | P O Box 2641, Queenstown 9349
T +64 3 450 9222 | M +64 21 608 364
E karen@queenstownairport.com | www.queenstownairport.com

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Thank You.

Linda Mosley

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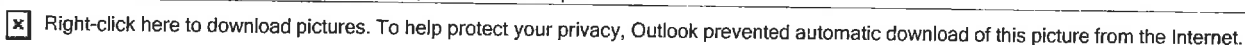
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 Karen

Karen Castiglione | Corporate General Manager
Queenstown Airport | P O Box 2641, Queenstown 9349
 T +64 3 450 9222 | M +64 21 608 364
 E karen@queenstownairport.com | www.queenstownairport.com



11/08/2012

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Thank You.
