

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KOTI TAIAO O AOTEAROA
OTAUTAHU ROHE**

**ENV-2018-CHCH-000119
ENV-2018-CHCH-000127
ENV-2018-CHCH-000131
ENV-2018-CHCH-000138
ENV-2018-CHCH-000142**

UNDER THE

Resource Management Act 1991 ("**Act**")

IN THE MATTER OF

An appeal under Schedule 1, Clause 14(1), of the Act

BETWEEN

HALFWAY BAY LANDS LIMITED

Appellant ENV-2018-CHCH-000119

BETWEEN

QUEENSTOWN PARK LIMITED

Appellant ENV-2018-CHCH-000127

BETWEEN

REAL JOURNEYS LIMITED

Appellant ENV-2018-CHCH-000131

BETWEEN

**REAL JOURNEYS LIMITED (TRADING AS GO
ORANGE)**

Appellant ENV-2018-CHCH-000138

BETWEEN

QUEENSTOWN WHARVES GP LIMITED

Appellant ENV-2018-CHCH-000142

AND

QUEENSTOWN LAKES DISTRICT COUNCIL

Respondent

**NOTICE OF KAWARAU JET SERVICES HOLDINGS LIMITED'S
WISH TO BE PARTY TO PROCEEDINGS**

10 JULY 2018

Counsel instructed:

JGH BARRISTER

J D K Gardner-Hopkins


Phone: 04 889 2776

james@jghbarrister.com

PO Box 25-160

WELLINGTON

Solicitors acting:

KensingtonSwan 

89 The Terrace

PO Box 10246

Wellington 6143

P +64 4 472 7877

F +64 4 472 2291

DX SP26517

Solicitor: N McIndoe

E nicky.mcindoe@kensingtonswan.com

TO: The Registrar
 Environment Court
 PO Box 2069
 20 Lichfield Street
CHRISTCHURCH
 (Christine.McKee@justice.govt.nz)

AND TO: The Appellants
 By email: ben@jea.co.nz
 By email: youngj@brookfields.co.nz / ward@brookfields.co.nz
 By email: maree.baker-galloway@al.nz | rosie.hill@al.nz

AND TO: The Respondent
 By email: dpappeals@qldc.govt.nz

Wish to be a party

1. Kawarau Jet Services Holdings Limited ("**KJet**") wishes to be a party to the following appeals:
 - (a) *Halfway Bay Lands Limited* ENV-2018-CHCH-000119 ("**HB Appeal**");
 - (b) *Queenstown Park Limited* ENV-2018-CHCH-000127 ("**QPL Appeal**");
 - (c) *Real Journeys Limited* ENV-2018-CHCH-000131 ("**Real Journeys' Appeal**");
 - (d) *Real Journeys Limited (Trading as Go Orange)* ENV-2018-CHCH-000138 ("**Go Orange Appeal**"); and
 - (e) *Queenstown Wharves GP Limited* ENV-2018-CHCH-000142 ("**QW Appeal**");

(together the "**Appeals**")

Interest

2. KJet made a submission on the subject matter to which the Appeals relate. KJet is also a person who has an interest in the proceedings that is greater than the interest that the general public has, given that its current or future business will be affected (positively or adversely) by the relief sought in the Appeals.

No prohibited trade competition purposes

3. The KJet is not a trade competitor for the purposes of Section 308D of the Act. In particular, KJet is not joining the Appeals for any of the following purposes:
 - (a) protecting itself from trade competition; and/or
 - (b) preventing or deterring a trade competitor from engaging in trade competition.

Extent of interest

4. KJet is interested in all aspects of the Appeals, to the extent that they may adversely or positively affect its current or future business and operations (subject to any specific exclusions identified below). In particular, KJet is interested the relief or issues raised as follows:
- (a) **BH Appeal:** At [10], to “[a]mend the Strategic Direction objectives and policies in Chapters 3 and 6 to recognise and provide for the significant benefits of tourism and associated industry in the Strategic Direction/higher order provisions. This is supported by KJet.
 - (b) **QPL Appeal:**¹ The following matters are generally supported by KJet:
 - (i) At [23](g), to amend Policy 3.3.1 to recognise the contribution of rural areas to the "Visitor Industry".
 - (ii) At [23](k), the deletion of the words "and on the basis that they would protect, maintain or enhance landscape quality, character and visual amenity values" from Policy 3.3.21.
 - (iii) At [28](a), to add a policy that expressly recognises that tourism activities may establish in the Rural Zone;
 - (iv) At [31](a), to amend the opening words of policy 21.2.1.1 to read "Enable a range of activities while protecting, maintaining or enhancing ... ";
 - (v) At [31](c), to delete Policy 21.2.1.11;
 - (vi) At [31](g), to amend Policy 21.2.12.3 to read "Enable people to have access to a wide range of recreational and educational experiences on, along and near the lakes and rivers ... ";
 - (vii) At [31](j), to add a new activity to Table 1 "Commercial Activities linked to the natural and physical resources of the rural area" and apply "Controlled" Activity Status, with control limited to the location of the activity and buildings, and rural amenity and landscape character;
 - (viii) At [31](j), to add a new activity to Table 1 "Commercial Water Transport" and apply "Controlled" Activity Status;
 - (c) **Real Journeys' Appeal:** The following amendments sought are largely supported by KJet, although aspects may require modification or go beyond what is most appropriate:
 - (i) Amend policy 3.2.4.3 as follows: The natural character of the beds and margins of the District's lakes, rivers and wetlands is preserved or enhanced where possible, and otherwise protected from inappropriate development.

¹ This notice does not, in any way, oppose any of the following that might be impacted by the QPL Appeal: (a) a gondola proposal; (b) any footbridge or footbridges across the Kawarau River; and (c) any application for a wharf or jetty servicing the appellant's land.

- (ii) Amend policy 3.3.1 to include it as a strategic objective, and amend it as follows: “3.3.1 Make provision for the visitor industry to maintain, and enhance, upgrade and expand attractions, facilities and services, including supporting infrastructure within the Queenstown and Wanaka town centre areas and elsewhere within the District’s urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone.”
- (iii) Insert new strategic objective: “The local, regional and national importance of the district’s visitor industry is recognised and provided for by protecting established visitor attractions and facilitating appropriate growth in the industry.”
- (iv) Add a new Objective: “Achieve sustainable water based transport linkages between the Kawarau River and Queenstown Bay, recognising the river and land as a strategic transportation resource.”
- (v) Add a new Policy: “Recognise and provide for the benefits associated with provision of a water based transport system, including the provision of strategically located jetties and associated structures, that will provide a key linkage between Queenstown Park, Remarkables Park, and the Frankton Arm and Queenstown.”
- (vi) Add new policy 3.3.1.2: “Promote growth in the visitor industry and encourage investment in lifting the scope and quality of attractions, facilities and services across the district.”
- (vii) Insert new strategic policy: “Provide a planning framework that protects established visitor attractions.”
- (viii) Insert new strategic policy: “Provide a planning framework that protects established transport activities and services.”
- (ix) Insert new strategic policy: “Enable a planning framework that provides for the integrated management of transport networks including both private and transportation systems.”
- (x) Amend policy 3.3.19 as follows: “Manage subdivision and / or development that may have adverse effects on the natural character and nature conservation values of the District’s lakes, rivers, wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced where possible, or otherwise mitigated.”
- (xi) Amend policy 3.3.21 as follows: “3.3.21 ~~Recognise that~~ Facilitate commercial recreation and tourism related activities ~~seeking to locate~~ within the Rural Zone ~~may be appropriate where these activities enhance the~~

~~appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values.~~"

- (xii) Amend policy 6.1 as follows: "The lakes and rivers both on their own and, when viewed as part of the distinctive landscape, are a significant element of the national and international identity of the District and provide for a wide range of amenity and recreational opportunities. They are nationally and internationally recognised as part of the reason for the District's importance as a visitor destination, as well as one of the reasons for residents to belong to the area. Managing the landscape and recreational values on the surface of lakes and rivers is an important District Plan function."
- (xiii) Amend policy 6.3.30 as follows: "~~Control~~ Manage the location, intensity and scale of buildings, jetties, moorings and infrastructure on the surface and margins of water bodies recognising the importance of the lakes and rivers as a tourist, transport, recreational and landscape resource and ensure these structures do not have inappropriate adverse effects on ~~maintain or enhance~~ landscape quality and character, and amenity values."
- (xiv) Amend policy 6.3.33 as follows: "Provide for appropriate commercial and recreational activities on the surface of water bodies ~~that do not involve construction of new structures.~~"
- (xv) Amend policy 12.2.4.5 as follows: "Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements or the provision of on-water transport options, considering jetty applications."
- (xvi) Amend objective 21.2.12 as follows: "The natural character of lakes and rivers and their margins is protected from inappropriate development, maintained or enhanced, while providing for appropriate activities on the surface of lakes and rivers, including recreation, commercial recreation and public transport and associated infrastructure."
- (xvii) Amend policy 21.2.12.3 as follows: "Recognise the importance of providing a water based transport system while avoiding remedying or mitigating ~~e~~ the adverse effects of newly proposed frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft, in areas of high passive recreational use, significant nature conservation values and wildlife habitat."
- (xviii) Amend policy 21.2.12.4 as follows: "Have regard to the whitewater values of the District's rivers and, in particular, the values of parts of the Kawarau, Nevis and

Shotover Rivers as three of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers, while ensuring the safe maintenance and operation of established activities in these locations.”

- (xix) Amend policy 21.2.12.8 as follows: “Encourage development and use of water based transport public ferry systems—including necessary infrastructure and marinas, in a way that avoids adverse inappropriate effects on the environment as far as possible, or otherwise where avoidance is not practicable, remedies and mitigates such adverse effects.”
- (xx) Delete policy 21.2.12.9 or otherwise clarify how this will be determined and taken into account.
- (xxi) Amend policy 21.2.12.10 as follows: “Ensure that the nature, scale and number of newly proposed commercial boating operators and/or commercial boats on waterbodies do not adversely impact on exceed levels such that the safety of passengers and other users of the water body cannot be assured.”
- (xxii) Insert new policy: “Prioritise the safety and function of jetties and structures over effects on landscape and amenity values when determining resource consent applications for jetties and structures located in the Frankton Arm.”
- (xxiii) Insert new policy: “Protect key tourism and transport activities by ensuring the following principles are applied when considering proposals that will occupy water space:
- i. activities that promote the districts heritage and contribute public benefit should be encouraged;
 - ii. activities that result in adverse effects on established activities should be discouraged;
 - iii. long term occupation of water space should be avoided unless it has been strategically planned and is integrated with adjoining land and water use;
 - iv. occupation of water space shall not interfere with key navigational routes and manoeuvring areas;”
- (xxiv) Insert new rule to control Commercial boating activities carried out for the purposes of the water based transport. Matters of control should also be established. Suggested wording is as follows: “Commercial boating activities and water transport are controlled activities in respect of:
- Location, scale and intensity of the activity.

- Amenity effects, including loss of privacy, remoteness or isolation.

- Congestion and safety, including effects on other commercial operators and recreational users.

- Waste disposal.

- Cumulative effects.

- Parking, access safety and transportation effects.”

- (xxv) Amend standard 21.5.6 to exclude jetties associated with the operation of a water based transport activity OR amend standards to provide flexibility around the location and length of jetties especially if a certain location or length of jetty will facilitate water based transport.
 - (xxvi) Delete assessment matters 21.21 or otherwise amend to reflect higher order provisions.
 - (xxvii) Amend Chapter 36 Table 1 to include noise from vessels as a permitted activity (the permitted activity standards should not just be limited to noise from vehicles using roads).
 - (xxviii) Ensure that noise emitted from vessels operating low or moderate speed passenger transport services are excluded from Table 1 standards.
- (d) **Go Orange:** The following amendments sought are largely supported by KJet, although aspect may require modification or go beyond what is most appropriate:
- (i) All those amendments identified above in respect of the Real Journeys’ Appeal, which are repeated in the Go Orange appeal.
- (e) **QW Appeal:** KJet supports those aspects that seek to “to ensure that the Proposed Plan makes appropriate provision for the use and management of wharves, including for public transport and commercial recreation activities. QWL also seeks to ensure that the Proposed Plan provides sufficient flexibility for such activities.” In particular:
- (i) The addition of a Chapter 12 policy that reads “Enable use and development of existing wharves for waterbased activities including ferry services, commercial recreation, retail and food and beverage based activities”;
 - (ii) The amendment of Objective 21.2.12 to read “Avoid, remedy or mitigate any adverse effects on the natural character of lakes and rivers and their margins, while providing for appropriate activities on the surface of lakes and rivers, including recreation, commercial recreation and public transport”;

- (iii) Amend Policy 21.2.12.3 to clarify that it does not apply to the Kawarau River or the Frankton Arm;
- (iv) Amend Policy 21.2.12.8 by deleting the words "...in a way that avoids adverse effects on the environment as far as possible, or where avoidance is not practicable, remedies or mitigates such adverse effects";
- (v) Add a new policy that reads "Recognise that the Kawarau River between the Kawarau Falls Bridge and Bungy Bridge and the Frankton Arm provide an important resource for water-based transport";
- (vi) Amend Rules 21.15.6, 21.15.7 and 21.15.8 to provide for "public" jetties and moorings and "public" structures and moorings as a "Controlled" activity (and apply the current matters for discretion at (a), (b) and (f) of Rule 21.15.6 as matters for control);
- (vii) Amend Rule 21.16.2 to provide for "public" jetties and moorings as a "Controlled" activity (and apply the current matters for discretion at (a), (b) and (f) of Rule 21.15.6 as matters for control).

Relief sought

5. KJet generally supports the relief sought in each of the Appeals to the extent that it is consistent with the outcomes sought in KJet's submissions, further submissions, and its own notice of appeal, subject to the relief achieving the purpose of the Act and other provisions of the Act and subordinate planning instruments (which may require some modification of that relief).

Mediation

6. KJet agrees to participate in mediation or other alternative dispute resolution of the proceeding.

DATED 10 July 2018



J D K Gardner-Hopkins

Counsel for KJet

KJet's address for service is 89 The Terrace, Wellington 6011.

Documents for service on KJet may be left at that address for service or may be:

- (a) posted to Kensington Swan, PO Box 10 246, Wellington 6143; or

- (b) left at a document exchange for direction to c/o Kensington Swan, SP26517, Wellington; or
- (c) emailed to nicky.mcindoe@kensingtonswan.com, copied to james@jghbarrister.com.