

# MINUTES

**TITLE:** Environment & Planning Subcommittee  
**DATE:** Wednesday, 27 July 2005  
**TIME:** 10.30 am  
**VENUE:** Council Chamber, 189 Queen Street, Richmond.

**PRESENT:** Crs E M O'Regan (Chairman), Crs R G Kempthorne, N Riley and E J Wilkins

**IN ATTENDANCE:** Environment and Planning Manager (D C Bush-King), Harbourmaster (G Caradus), Administration Officer (B D Moore)

## 1. OPENING, APOLOGIES, WELCOME

Moved Crs Kempthorne / Riley  
EP05/07/21

**THAT apologies from Cr Higgins for absence be sustained.  
CARRIED**

## 2. GOLD RUSH JETS LIMITED, UPPER BULLER GORGE, MURCHISON, COMMERCIAL VESSEL OPERATOR'S LICENCE

### 2.1 Application

The applicant, Gold Rush Jets Limited, represented by Mr Mark Allen, submitted an application for a commercial vessel operator's licence on 20 December 2004. His application was for a commercial vehicle operator's licence to operate one commercial jet boat on the Upper Buller Gorge.

### 2.2 Introduction

Cr O'Regan stated the proceedings of this hearing which was to consider the application from Gold Rush Jets Limited, for a commercial operator's licence, pursuant to clause 5.4 of the Navigation Safety Consolidated Bylaw, Chapter 5. He said that the Environment and Planning Subcommittee had delegated authority to hear this matter. The agenda contained a report of 21 July from the Harbourmaster Mr G Caradus and that this report had been made available to the representatives for Buller Experience Jet and Gold Rush Jets Limited.

## 2.3 Discussion of Application

The Managing Director of Buller Experience Jet, Mr P Goodwin, is the operator of two commercial jet boats in the Upper Buller Gorge. He provided copies of six letters from the main regular river users, both commercial and private and the only two landowners adjacent to this, the Ariki/Red Jackets stretch of the Buller River. Those letters also expressed the concerns of the writers about the potential for a further jet boat commercial operator to use this stretch of the Buller River. Mr Goodwin explained the current radio usage and systems of communication currently practised by the operators of Buller Experience Jet. He said that he was not trying to prevent anyone using a further jet boat on this part of the Buller River, and explained that he needed further assurance on all operating safety issues.

Mr G Praat, Solicitor, tabled and read a submission on behalf of Buller Experience Jet. The submission listed those risks which were claimed to be threats to other activities in the vicinity or risk of congestion or unsafe practice. The submission said that Buller Experience Jet had not been provided with documentation that supported the application by Gold Rush Jets Limited such as a Safe Operation Plan. The submission from Mr Praat said that the report dated 21 July 2005 from the Harbourmaster did not identify the particular risks presented to other river users and how these might be mitigated. The submission said that Gold Rush Jets Limited has no backup boat for itself or others.

Mr Praat said that the Harbourmaster's report of 21 July 2005 is a long way from being independent or objective. Mr Praat tabled copies of e-mail letters between M Black, Harbourmaster Queenstown and G Caradus, Harbourmaster Tasman District Council. At a later time during the meeting it was confirmed that the representatives of Buller Experience Jet had authority to circulate that correspondence at this meeting.

In his submission, Mr Praat stated that the options available to the Council are to decline the application based on the existing state of the supporting information, or to require that a full assessment of river safety be undertaken by an independent consultant over the peak summer period, to determine whether the licensing of the applicant as a second commercial jet boat operator, on this stretch of the river, could be undertaken in a way that would not diminish the level of safety to other activities in the vicinity or lead to congestion or unsafe practices.

Mr Goodwin advised that up to the present time most Buller Experience Jet passengers entered and exited the boat at a point about 100 metres below the Buller Gorge Swingbridge.

He said the backup boat is located about 30 minutes away in a shed or sometimes near the launch site while operations are underway. He said he launches his boat at a site about 1 kilometre downstream from the swingbridge and that the site could be made suitable for passenger access.

Mr Goodwin advised that prior to 2001 he operated one boat from the Riverview Campground near Murchison. He said that the Buller River in the area serviced from the Riverview site is wide and slower, and that he saw no problems with multiple commercial power boats operating in this section.

He said that however the use of the Buller River for recreation purposes is becoming more congested as there are presently 38 commercial operators including polytechs and schools. He spoke about the improvement in facilities and equipment and that the use of jet skis is becoming more prevalent. He said that however he would not like to see the Gorge areas of the Buller River restricted to certain uses.

Mr Goodwin said he did not know why the Council took so long to grant a commercial vessel operator's licence to Buller Experience Jet as the company complied with Maritime Safety Authority audits. He said that Buller Experience Jet safe operation plan requires a backup boat. He said the safe operation plan has to reflect physically what the company is doing every day. He said that in late April the passenger numbers drop off and that in the past the jet boat business had not operated in the winter. He said that kayaks and rafts do not operate in winter.

Mr J Hohneck spoke of his experience with the NZ Commercial Jet Boat Association and said that the Shotover River Empowering Act uses limitations on areas of river use and that the radios used can be monitored by the police. He said there are two operators in the Shotover Canyon and the Association was formed to help operators to understand the hazards. He said the operators working areas are defined and a working study is going on in order for a safe system to evolve. He said he could not compare the Buller River to any other area or river in New Zealand as they are all different with different types of water flows.

Mr Hohneck said that in order to determine if two operators can safely work in the Upper Buller Gorge area an analysis is needed of the river route. He also added that the type and standard of radio communications is critical but it was important that people have to be willing to implement the systems developed. Mr Hohneck said that things have to be addressed and assessed more thoroughly.

Mr Hohneck said that he did not think that there is a similarity with the subject application and other operations around New Zealand. He advised that in Queenstown Lakes District Council, the operators have to be a standalone operation. He explained that those applications are assessed under the Resource Management Act. He explained that without providing a draft protocol, another assessment would be required. He said that both the Council and Maritime NZ would monitor those operations. He explained that if an accident occurs then the Transport Act applies. He said it was necessary to have good radio communications throughout the extent of the total area of operation. If an emergency vessel was required as a condition of a safe operation plan, that vessel would have to be licensed and serviced to meet the requirements of the Commercial Jet Boat Association.

Mr N Hamilton was introduced as an experienced commercial jet boat operator and a former Maritime Safety inspector. He said that the speed restrictions had been uplifted by gazette notice on the river from Westport up to the Mangles River and included the Maruia, Matakītiki and Matiri. He said he was aware of problems which had occurred between commercial jet boat operators and recreational boats on the Dart River.

Mr Praat advised that the Buller Experience Jet boat had been ordered off the river by the Maritime Safety Association on 19 May 2005 with a requirement that the radio protocol had to be met. He said they were consequently told informally that this order had been uplifted. He said that there had been no consultation about the proposed conditions and licences to be issued for the subject application. He acknowledged that this was not a Resource Management Act application requiring that type of process. Mr Praat said that there was an increased risk with more than one operator working on this area of the river. He said that a pattern had emerged as a result of Buller Experience Jet interaction with other operators on the river.

## **2.4 Presentation of application by Gold Rush Jets Limited**

Mr T B Harley, Solicitor, advised that he acted for the applicant, Gold Rush Jets Limited. He said that he was concerned that each jet boat operator be granted the same terms and equal treatment. He said that an enforceable document is required and referred to a best endeavours clause. He suggested that the processing of the application will become an evolving thing, with a protocol as a stepping stone. Mr Harley said that the Council can choose to become involved in the safety issues and monitoring issues to a greater or lesser extent and spoke of the existence of a Certificate of Compliance and a Safe Operational Plan.

Mr Harley spoke of the concern that Gold Rush Jets Limited did not get a licence, as applied for, when the Harbourmaster no longer had delegated authority to grant that consent. Mr Harley said that the applicant company agrees that the safety issues are important and will co-operate. Mr Harley said that the Harbourmaster's report is considerably data rational. He said some other river users have expressed views on safety issues. He said that the number of trips or tickets sold is not the correct approach to the safety issue. He said that licensees should co-operate. Mr Harley said that Gold Rush Jets Limited is unlicensed and has spent \$70,000, although Buller Experience Jets has not been on the river since May 2005. He said in terms of Section 27 of the Commerce Act, Council cannot side with one operator. Mr Harley said that despite 35 phone calls from Mr M Allen, on behalf of Gold Rush Jets Limited, to the existing operator Buller Experience Jet, the radio protocol has not been sorted out.

Mr Harley said that the Harbourmaster is Council's expert and that it was unwise for Council to revoke his delegated authority. He said that no primacy should be given to the pioneer Jet Boat operation. Mr Harley expressed concern about the defamatory comments regarding Mr M Allen's skills, referred to in paragraph 7 of Mr P Goodwin's report. Mr Harley said that the Marine Safety Authority did audit tests to assess Mr Allen's skills and that those tests were carried out by Inspectors N Hamilton, L Munro and J Horn.

Mr Allen said that the Safe Operating Plan for Gold Rush Jets Limited included remaining in contact with the swingbridge office by radio, the provision of a backup boat manned by Simon Blakemore and the availability of a helicopter located five minutes flight away. Mr Allen said he intended using the Buller Gorge Swingbridge as a passenger loading and unloading location. He advised that he had worked for Mr P Goodwin of Buller Experience Jet for two years and believed that both parties could co-operate.

Mr J Wiseman, owner of Buller Gorge Swingbridge Limited, noted that the existing jet boat operator does not wish to operate in the winter season. He said he did not envisage two operators in the same stretch of the river as there is not enough business to support that. He said he was surprised that Buller Experience Jet wants to operate in the Upper Buller Gorge and that there is no logic and no commercial sense in that. He said that one boat should be tied up when the other is operating and there could even be some revenue sharing agreement. He said that there would be one rescue boat ready to go if needed. Mr Harley said that Mr Allen has 77 hours experience as a commercial jet boat operator and 44 hours as a co-pilot. He said that 50 hours is considered to be a baseline for sufficient experience as a commercial operator. He said the trips are 40 minutes in duration.

Mr J Wiseman advised that there is a second handheld radio used between the boat and the operator at the swingbridge office. The radio at the office had been taken away as it is not part of the Safe Operating Plan required for Buller Experience Jet Boats to communicate with the office. He said that this is a requirement of Mr Allen's Safe Operating Plan for Gold Rush Jets Limited to have radio communication with the swingbridge office. Mr Allen advised that he had been in the process of trying to obtain a licence from the Council since December 2004 and this had been held up for safety reasons.

Mr R Borcovsky said he had worked in the tourist industry in Murchison at the Commercial Hotel and his wife had worked in the Murchison Information Centre. He said that Murchison had suffered from part time tourism operators and that the swingbridge is a full year operation and has positive aspects.

## **2.5 Harbourmaster's Report**

Mr Caradus said that an e-mail had been sent by MSA on 1 June 2005, uplifting the imposition and allowing both operators to carry on their operations subject to electronic radio protocols being received.

Mr Goodwin said that he had advised the MSA that he was not happy with the proposed protocols and advised MSA of some changes which he believed were required. He said the extra amendments were endorsed draft number 2.

Mr Harley said that the applicant company was happy with the protocol presently held by the Harbourmaster dated 3 June 2005.

Mr Caradus suggested that the hearing committee may wish to add that protocol to a list of conditions and that he suggested it be put in the Safe Operation Plan. Mr Borcovsky said he was present at the radio protocol meeting and that his record ties in with the official version. Mr Caradus said that these types of arguments are generally agreed to out in the field. He said that he believed that this licensing situation cannot incur liability for the Council.

Mr Caradus tabled a sheet to identify some of the rules that assist with the safety of boats on rivers including Maritime Part Rule 80 and Rule 22 which is duplicated in the Navigation Safety Bylaw. The same sheet contained a summary of radio protocol and Mr Caradus said that this radio protocol is about trying not to meet somebody on the river in difficult situations. He said that the area of the river below the swingbridge is not busy at all and that other users are a reminder to jet boaters that care is necessary.

Mr Caradus said that the submission requesting detailed analysis of risk is a delaying tactic and that a further special report is not needed to tell people about the risks involved. He referred to some of the matters in the draft licence attached to the report noting the need for the owners name to be changed to Gold Rush and correction to the name of the waters and that a protocol was required to be established by the commercial vessel operators, not a third party agreement. He said that operating timetables will only be imposed if operators could not agree or decide that for themselves. He spoke of a potential requirement for the swingbridge operation to be a communication base. He said that a new set of rules will apply.

Mr Caradus said that Maritime NZ will administer Maritime Part Rule 80 and this may need an improved radio communication set up. Council becomes the eyes and ears for MNZ. If the relationship and communications fall over Council would be involved, to pass that information to MNZ. MNZ will do a regular audit of the Safe Operation Plan. Mr Caradus said that 31 October 2005 is the expiry date for all commercial vessels operator's licences.

Mr Harley advised the Hearing Panel that the Health and Safety Act applies to the operation and that the do nothing approach may be a good approach for the Council.

Mr Caradus saw little point in canvassing the views of other river users as other users such as kayaks have opposing views to jet boat operators.

Mr Bush-King advised that it is the convention that Council does not normally have third party involvement in this type of application.

Mr Caradus said that Mr Mark Allen as the operator for Gold Rush Jets Limited has gained performance certificates from Maritime NZ.

Mr Caradus said that he is happy with the ability and confidence of Mr Mark Allen as a jet boat operator. Mr Caradus said that it would be expensive for a jet boat operator to obtain a resource consent for a site alternative to the swingbridge location. He said alternatively BEJ could run a bus from an office location to another launch site.

Mr Harley reminded the Hearing Panel that the Buller Gorge Swingbridge is a seven days operation and manned constantly.

## **2.6 Decision**

Cr O'Regan advised that the Hearing Panel would reconvene during the next week to formulate a decision.

The Subcommittee reserved its decision at 4.15 pm.

The meeting reconvened at 2.00 pm on Thursday, 4 August.

**PRESENT:** Crs E M O'Regan (Chairman), Crs R G Kempthorne, and E J Wilkins

**APOLOGIES:** Cr N Riley

**Moved Crs O'Regan / Wilkins**  
**EP05/07/22**

**THAT the public be excluded from the following part of the proceedings of this meeting, namely:**

Gold Rush Jets Ltd

**The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:**

<b>Subject</b>	<b>Reasons</b>	<b>Grounds</b>
Gold Rush Jets Ltd	Consideration of a commercial vessel operator's licence	To maintain effective conduct of public affairs

**CARRIED**

**Moved Crs Wilkins / Kempthorne**  
**EP05/07/23**

**THAT the public meeting be resumed and that the business transacted during the time the public was excluded be adopted and that the following resolutions be confirmed in open meeting.**

**CARRIED**

**3. GOLD RUSH JETS LIMITED, UPPER BULLER GORGE, MURCHISON, COMMERCIAL VESSELL OPERATOR'S LICENCE**

Cr Higgins did not take part in the vote.

**Moved Crs O'Regan / Kempthorne**  
**EP05/07/24**

**THAT the Subcommittee DECLINES the application of Goldrush Jets Ltd for a Commercial Operators Licence on that part of the Buller River from the Ariki Falls downstream to the Tasman District boundary.**

**REASONS FOR THE DECISION:**

1. The Subcommittee having followed the process detailed below, has heard much evidence concerning whether it is safe to licence more than one commercial power boat operator on the Buller River. We have assessed the proposal in light of the current activities and the prospect of changes in the future.

2. With reference to the new river access constructed by the principal of Goldrush Jets Ltd, the subcommittee concurs with the Harbourmaster's conclusion that *"the expectation is that there will be increased recreational jet boating as knowledge of this improved access point disseminates."* (Page 5; para 1).

However, the estimate (at page 5; para 2) namely: *... Recreational jet boaters are likely to be seen in the Upper Buller Gorge on less than ten days a year: ...* is considered to be something impossible to substantiate at least until the end of the next summer season. Any increase is still an increase beyond current conditions.

The Subcommittee was made aware that previously some recreational jet boaters launched by arrangement at the BEJ launch site, thereby enhancing safety by the automatic knowledge of each others presence.

With the advent of the improved access point at Redjackets, the increased recreational use is very likely to include not just jet boats but other powered water craft as well and, more importantly, most of this increased use is likely to arrive without the knowledge of the existing commercial users; be they rafters, kayakers or jet boaters. The Subcommittee believes it to be prudent to limit multiple power boat operations.

3. The Subcommittee notes that a significant issue on this particular section of the Buller River is the existence of two licences for underwater mining. The subcommittee was made aware of letters from both licence holders expressing concerns at the prospect of another commercial powerboat licence on this section of the river.

The Subcommittee agrees with the Harbourmaster's statement that *"it is critical that passing vessels do not interfere with the air hose or create a wake that may cause the air pump to stop"*. (Page 5; para 5) In this respect, the Subcommittee is concerned that multiple jet boat operations will increase the risk to underwater mining operations (see 4. below). It is noted that a high degree of co-operation is necessary and concerns expressed by those operators are understandable given the near impossibility of them identifying persons breaking any rules.

4. The Subcommittee points out that the reference in the Harbourmaster's report to *'summer patrols'* (Page 7; para 2) refers to patrols along the coastline. There are currently no patrols along the Buller River and this factor makes the investigation of complaints and enforcement of rules extremely difficult. In this situation the creation of another powerboat licence where there are already indications of conflicts between activities could lead to unsafe situations, which are better avoided in the first place than having to deal with "after the event".
5. While the Subcommittee is aware that the figures of patronage (Page 3 of the Harbourmaster's report) are disputed by one party, it is noted that even if doubled, they indicate a somewhat marginal operation. While economic viability is not a direct concern of Council, there is the prospect that splitting the indicated patronage could lead to two very marginal operations. In that situation the maintenance of safety standards could be compromised or even become impossible. Life experience and observations of other transport modes leads the Subcommittee to consider that the issue of a second powerboat licence at this time would be more likely to diminish safety standards than to enhance those standards.



6. The Subcommittee disagrees with the Harbourmaster's report in relation to the "*pivotal role*" of the Buller Gorge Swingbridge (Page 10; para 6) and the implication that any powerboat licensee in this part of the river is tied to that operation of necessity (Page 11; para 2).

The Subcommittee has tried to keep clear of any relationship problems between various parties, but is quite clear that the swingbridge is not a necessary factor in maintaining or enhancing safety considerations on this part of the river. We have tried to assess the operation of two commercial power boat operators on this stretch of river independent of the swingbridge operation and still find it difficult to accept that safe operations of vessels on the water can be achieved.

7. The Subcommittee received evidence that radio communication between operators was critical to achieving safe operations on the river. The Subcommittee was not confident that effective communication in this location between different operators would be achieved.
8. The Subcommittee notes the experience of the Queenstown Lakes District Council Harbourmaster and his past acquaintance with the Buller River. The Subcommittee concurs with his opinion noted in the report and also tabled at the hearing; namely "*allowing further jet boats in this area without a full independent study being done of what the level of use actually is of all users would be unwise. As we all know, with so many users the risk of an incident through confusion suddenly increases despite the best intentions of the parties involved.*"
9. In summary, the Subcommittee considered that to grant a second powerboat licence on this section of the Buller River would diminish the level of safety for other activities in the vicinity to an unacceptable degree.

#### **PROCESS FOLLOWED:**

The Subcommittee became aware that a second jet boat Commercial Operators Licence was being seriously considered for the particular part of the Buller River during May 2005. The matter was canvassed in the Chair's report to the meeting of 1 June 2005 and resulted in Resolution EP05/06/33, which set in train the following process:

#### **On 6 July:**

- A meeting with the present commercial powerboat operator;
- A trip through the relevant section of the river with the applicant present;
- A meeting with the applicant and the owner of Buller river Swingbridge.

Throughout this day, the Harbourmaster, the Maritime NZ Safety Auditor and the President of the NZ Commercial Jet Boat Association were present.

#### **On 27 July:**

- A hearing was held in Richmond where the present commercial operator was heard and presented supporting evidence;
- Some comment was received from the President of the NZ Commercial Jet Boat Association;

- The applicant was heard, together with supporting evidence;
- The Harbourmaster's report (EP05/07/05) was discussed.

All the above parties were questioned by members of the Subcommittee.

About the end of June, the decision of Commissioner T J Shiels declining the second commercial jet boat operation on the Wilkin River was received and circulated among the Subcommittee members as related information. (Ref. Queenstown Lakes District Council RM No. 030908).

**CARRIED**

**Moved Crs Wilkins / O'Regan  
EP05/07/25**

**THAT Council invite all commercial operators on the Buller River to a meeting to discuss the Navigation Bylaw 2004 and its implications for behaviour on the river and the need for different parties to work together in the interest of safety.**

**CARRIED**

The meeting concluded at 3.15 pm.

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**Confirmed:**

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**Chair:**