



## STAFF REPORT

**TO:** Environment & Planning Subcommittee

**FROM:** Graham Caradus, Harbourmaster

**REFERENCE:** CO 0085

**SUBJECT:** **JET BOAT OPERATIONS UPPER BULLER GORGE - REPORT EP05/07/05** - Report Prepared for 27 July 2005 Meeting

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### ABBREVIATIONS USED IN THIS REPORT

**CVOL:** Commercial Vessel Operators Licence; document issued by council pursuant to the requirements of the Navigation Safety Bylaw 2005 to allow any commercial vessel to operate.

**MNZ:** Maritime New Zealand; known as Maritime Safety Authority until 1 July 2005; government agency responsible for administering among other things, Maritime Rule Part 80 – Marine Craft used for Adventure Tourism.

**LGA:** Local Government Act 1999

**SOP:** Safe Operation Plan; the document produced by a commercial jet boat operator detailing safe operational procedures and which must be approved by MNZ prior to carrying passengers.

**QLDC** Queenstown Lakes District Council

**BEJ:** Buller Experience Jet; the trading name used by Alpine Holdings (Murch) Ltd, the Managing Director and owner of which is Pete Goodwin. He is the operator of two commercial jet boats operating in the Upper Buller Gorge.

**Goldrush:** The trading name used by Mark Allen, applicant for a CVOL to operate one commercial jet boat on the Upper Buller Gorge.

**Swingbridge:** The swingbridge that is part of “The Buller Gorge Swingbridge and Heritage Park”, owned and operated by Buller Gorge Swingbridge Ltd. Principal is Julian Wiseman whom Councillors met on 6 July 2005.

### 1. BACKGROUND

This report is intended to be complimentary to the visit that Councillors had to the Upper Buller Gorge on 6 July 2005, and information provided to date by the interested parties.

BEJ has operated on the Upper Buller Gorge since 2001. An application for a CVOL was received 26 July 2004 and after protracted discussions a CVOL was issued to BEJ on 13 May 2005. Goldrush submitted an application for a CVOL on 20 December 2004.

The speed limit for any vessel operating in the Upper Buller Gorge has been uplifted by the Navigation Safety Bylaw within 200 metres of shore and within 50 metres of another vessel or person in the water. This effectively removes all speed restrictions except for that imposed within 200 metres of a diver's flag.

## **Initial Safety Assessments**

An audit of the BEJ operation was carried out on 25 August 2004, and Councillor O'Regan was present for the trip on the river. Also in attendance was the QLDC Harbourmaster, who was acting as a consultant to BEJ. During that trip, I identified unsafe practices that may have endangered other potential river users. There is little doubt that if more than one jet boat was to be operated simultaneously on the same stretch of the river and in that same somewhat carefree manner that some very real hazards could exist. The disquiet expressed by the Environment and Planning committee relating to the prospect of another operator on this stretch of the river is therefore quite understandable.

In reality, the concern in the first instance was whether a commercial jet boat could continue to operate on the river. My clear perception was that the operation as I first saw it would be a danger to other river users. Management of the risks was seen as a practical and reasonable option. A draft set of conditions was established and subsequently after a number of redrafts incorporated into the CVOL for BEJ. I am satisfied that provided the common sense conditions that have been imposed are followed that the Upper Buller Gorge can be safely plied by commercial jet boats. I am aware that MNZ's Safety Auditor Adventure Tourism shares this view. The question of how safely two or more vessels could simultaneously operate on the same stretch of river is examined in depth later in this report.

## **2. RESPONSE TO E&P COMMITTEE REQUEST FOR INFORMATION**

### **2.1 The Buller River from Maruia Confluence to Eight Mile Creek**

Through this stretch, the Buller River enters a section of gorge with steep bedrock walls. The waterway tends to be a series of deep but steadily flowing pools with rock outcrops producing eddies, and rapids between. A dominant feature in this section is Ariki Falls, a drop of some 3 metres at lower flows, although this drowns out at higher flows. The flow then becomes more sedate down to the TDC boundary, although some rapids and comparatively narrow gorgy sections are also present.

Flows range between very low flows of 40 cumecs (cubic metres per second) up to a maximum flood flow of 4,000 cumecs. The flow that occurs 50% of the time (the median) is 150 cumecs, and 80 cumecs occurs for more than 90% of the time. Flood flows can rise some 8-10 metres in height, depending on how incised the channel is.

The Ariki Falls present a barrier for jet boats travelling up the river, but kayaks and white water rafts are able to travel down the falls. The comments in the next section are focussed on the section of the Buller below the Ariki Falls as this is the only section that is likely to be commercially used by jet boats.

## 2.2 The Nature and Extent of Activities within the Upper Buller Gorge

### Commercial Jet Boating

Records of numbers of persons (passengers) crossing the swingbridge with the intention of taking a jet boat ride have been provided by the swingbridge owner. Passenger numbers show a pattern of growth from December 2000 through to the last summer. Some passenger numbers data provided for last summer is shown in the table below. Detailed break down of the 191 day period between 21 October 2004 and 29 April 2005 shows that 997 passengers were carried on 265 jet boat trips. These trips were run on 103 days within that period with an average 2.57 trips per day. The maximum number of trips run on any single day was six (three occasions) and the minimum number of trips run on any single day was one (27 occasions). On 88 days there were no trips because the river or weather conditions were not conducive to jet boat operations, the boat was not available, or no tickets were sold.

Month	Passenger Numbers
August 2004	12
September 2004	20
October 2004	28
November 2004	107
December 2004	151
January 2005	243
February	137
March 2005	153

### Recreational Kayaking

Murchison is the white water kayaking capital of New Zealand; a reputation that is recognised both nationally and internationally. Whilst the West Coast has a greater number of testing rivers for the expert paddlers, it does not have the number and diversity of runs that are generally within half an hours drive from Murchison Township. The area is well known throughout the New Zealand white water kayaking fraternity, and large numbers of kayakers can be found there at any time of the year, and in virtually any weather conditions.

For white water kayakers, a popular run involves starting at O'Sullivan's Bridge (at the junction of SH 6 to the West Coast and SH 65 to Springs Junction) and kayaking down to below the Ariki Falls. The usual pull out point is at the swingbridge, as the river does not have a great deal of technical merit for some considerable distance downstream of this point. A small percentage of white water kayakers may choose to float further down the Buller simply to enjoy the scenery and to reach the next challenging white water section near the earth quake slip in Buller District. Best estimates are that this may happen on 10 to 20 days a year.

A new but growing trend is for “sea kayakers to launch their kayaks at Harry’s Track (about 2 kilometres above the earthquake slip) and to paddle upstream to the base of Fantail Rapids. Standard sea kayaks, racing sea kayaks and double kayaks are all reported to have made this journey. Whilst these activities are guesstimated to be occurring on less than 10 days a year at the moment, there is a clear expectation amongst the kayaking fraternity that it will become more popular amongst recreational sea kayakers in future.

### **Commercial Kayaking**

Very little commercial white water kayaking is undertaken below the Ariki Falls, with trips on less than three days a year being the expectation. When such trips do occur it is to enjoy the scenery rather than the white water challenges.

### **Commercial Rafting**

The season for commercial rafting is generally from about August or September through to April; with a peak of activity focussed on the summer holiday period. During this period, commercial rafting activities occur on a daily basis from O’Sullivan’s Bridge downstream to the pull out point just below the swingbridge. In addition to that core activity, on about 50 to 100 occasions, commercial rafting operations continue past the usual pull out point at the swingbridge and drift further down the river beyond the TDC boundary.

### **Recreational Rafting**

The most popular section for recreational rafters is the more passive section from the swingbridge downstream to a pull out point at Redjackets, a short distance into the Buller District. It is guesstimated by one of the commercial rafters that operate in this area that such recreational activities would occur between 50 and 100 days per year.

### **PWC’s**

In very experienced hands, personal water craft (PWC or jet ski) are reputedly very capable of handling rough fast moving water because of their very high power to weight ratio, and the ability of a skilled operator to make them hop clear of the water to pass obstacles. The Ariki Falls remains a substantial barrier to all but the most expert riders, who apparently can pass this point if river flows are suitably elevated.

PWC use is reported to be increasing in the Buller River with organised trips being made by clubs from other districts on a routine basis. However, the numbers of days in any year when PWC’s may pass through this area is believed to be limited to a handful.

## **Recreational Jet Boats**

The section of river in question was until about a year ago, generally only accessible to those with smaller boats, or heavy duty tow vehicles. This was a consequence of the access point at Redjackets being a testing, narrow and step track. The other alternative was for private individuals to gain permission from the land owner downstream of the swingbridge, to access the river flats over which a jet boat could be launched. This changed dramatically about a year ago when the Goldrush principal bulldozed a better track through to the river at Red Jackets. This improved track has made it much easier for recreational jet boaters to gain access to the river, and the expectation is that there will be increased recreational jet boating as knowledge of this improved access point disseminates.

This stretch of the river has been recreationally boated, with one such boater reporting 15 or more trips in this area over the years. It is not an area that can be taken lightly by jet boaters as the multiple reports of boats being sunk in Fantail rapids attests. Recreational jet boaters are likely to be seen in the Upper Buller Gorge on less than 10 days a year.

## **Recreational Fishers**

The inaccessibility of the Upper Buller Gorge limits the popularity of this stretch of river amongst recreational fishers. It tends to be fished during periods of low flow, both in a conventional manner from the river bank, and also in drift boats. The drift boats may also be used simply to gain access to sections of the river that can't be reached on foot, and the lightweight inflatable varieties allow them to be launched almost anywhere foot access can be gained. Thus they could be expected to be launched near the Newton River confluence (1½ kilometres below the swingbridge) or at Redjackets.

## **Swimming**

The locals are known to frequent some of the slower moving pools over summer months for swimming. Access to the river is otherwise very limited, and can be achieved with relative ease by passing travellers in only one location between the swingbridge and the TDC downstream boundary. This access point is across DoC land just upstream of the Newton River Bridge, about 1½ kilometres downstream of the swingbridge.

## **Gold Dredging**

The gold dredging that occurs in the river is undertaken by a diver using an air supplied dive suit. The deeper and slower moving sections of the Upper Buller Gorge are targeted. Air is pumped down to the diver through a flexible pipe that runs from a compressor unit floating on a small pontoon. The diver's life is dependant on an uninterrupted flow of air reaching him, and 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. It is appropriate to note that the diver is obliged to show a diver's flag on the vessel (pontoon) that he is working from. This in turn places an obligation on any vessels to slow to 5 knots or less within 200 metres of the flag despite the fact that the speed limit has been otherwise uplifted.

## Summary of River Users

The most regular used section of the Buller River between Ariki Falls and the TDC boundary with Buller District is above the swingbridge. At the height of the season there may be a number of commercial raft and kayak trips every day as well as up to six commercial jet boat trips. Below the swingbridge, with the exception of the commercial jet boat operations, usage of the river is at a lesser frequency.

The crux of this matter is that although numbers of river users may be sparse, they all share the river with a variety of other users, who may choose to be there, unannounced and at any time. The conduct of those using commercial jet boats should recognise that other river users may be just around any corner, and boat speed and sightlines need to be adjusted to manage those risks.

### 2.3 Commercial Powerboat Accidents: Potential Liability

For commercial jet boats, close encounters with the bottom and sides of waterways, are accepted as part of the operation. The danger is effectively managed by the driver, but perceived to be significant by the passengers, and adds to the excitement and attraction of the whole experience. The driver's task is to ensure that the risks although perceived by the passengers, are in reality managed to the extent that they are acceptable. I make the observation that minor contact and resultant damage occurred during one of the trips that I have completed on the Upper Buller Gorge, but that the damage on the boat appeared minor, particularly by comparison with the drivers embarrassment. The risk to passengers as a consequence of that incident was considered negligible, and whilst it would be expected to be analysed and recorded by the operator, no action would be necessary by controlling authorities.

Occasionally major accidents in adventure tourism do occur, some resulting in serious injury and death. Such occurrences are all highly publicised, and inevitably result in the tourism industry suffering in some degree of downturn.

The regulatory authorities such as regional councils and MNZ have avoidance of maritime accidents and incidents as a very high priority. It is an overarching philosophy behind the Navigation Safety Bylaws administered by Council and the powers provided by the LGA to Harbourmasters, and Maritime Rules.

The Harbourmaster's colleagues around the New Zealand have been contacted and requested to provide details of any occasions when they or their Councils have been exposed to litigation as a consequence of a commercial jet boat accident. No such reports were received back, but one case that Councillors may have heard about concerned a death on a commercial rafting trip near Queenstown. Threatened litigation is understood to have resulted in a substantial out of court settlement being reached. The circumstances differ from any situation that may occur in Tasman District, as in the rafting case the Harbourmaster apparently had a duty to allow or disallow operations depending on river conditions. It was understood to have been argued that he was negligent in allowing a trip to proceed when it subsequently resulted in the death of a passenger.

I have been advised of Environment Court decisions that imply that if Council imposes conditions that it incurs a corresponding responsibility to monitor. This same principal if applied to on the water activities would require monitoring of the CVOL conditions routinely.

Whilst Tasman District Council's Harbourmaster has authority to prevent any vessel from sailing pursuant to powers that all Harbourmasters are afforded under the LGA (frequent use of this authority is made during summer patrols), this Council has no obligation for closing bars, beaches or rivers if conditions become dangerous. The ultimate responsibility for assessing the safety of a journey and the various components of the journey remains solely that of the vessel skipper. Should such litigation have presented a feasible course of action it is likely that there would be some well known case law or precedents available in connection with actions against Harbourmasters, or MNZ (or its predecessors) as a result of the multitude of nautical mishaps that have taken lives in our coastal waters, lakes and rivers over the decades. It would at best be a tenuous link to suggest that the local Harbourmaster is in any way to blame for the skipper of a vessel incorrectly assessing the risks of a journey, even if the harbourmaster was to some extent consulted prior to departure.

The Tasman District Council Navigation Safety Bylaw (clause 5.4.2) also places an additional layer of responsibility by preventing a CVOL from being issued by Council unless (in this case) a "Certificate of Compliance for Commercial Jet Boats Operating on Rivers" is obtained from MNZ. That document certifies that the boats operated have been inspected, the SOP approved and the jet boating operation audited by MNZ specialist staff or contractors.

### **Recent Case: Wilkin River, QLDC**

Considerable research and effort has gone into the safety and other studies and the subsequent case relating to the operation of a second jet boat company on the Wilkin River. This is a different situation to the current one being considered as it was under the provisions of the Queenstown Lakes District Council Resource Management Plan. Safety considerations differed as well as the depth of the river in many places did not allow vessels to come off the plane or stop as they would risk becoming grounded. Despite this, some guidance can be taken from the decision of the Commissioner. The problem for the applicant in the Wilkin case (Southern Alps Air Ltd) was that they did not have a "Certificate of Compliance for Commercial Jet Boats Operating on Rivers". I note that the Commissioner in his concluding comments raises the suggestion that resolution could be reached between the parties, something he would be loath to do if he considered that there were underlying issues regarding safety. The then MSA, but now MNZ also took an interest in this case and have provided me with some "in house" correspondence which they have asked me not to circulate. However, the covering email from Tim Workman, Manager of MNZ Legal Services, succinctly summarises the salient matters, and states:

*“This was done for internal use and is not for circulation.*

*The decision is obviously in respect of an application for resource consent under the Resource Management Act. As such, the case does not have much relevance to what TDC are doing with their navigation safety bylaws under the Local Government Act.*

*That said, the central (but not the sole issue) was the fact that the applicant in that case did not have Part 80 certification. The Commissioner considered that an acceptable level of risk could be achieved with multiple operators on the river, but that no system had been fully developed to address the risk (as is required for Part 80). And it wasn't for the Commissioner to impose such a system.”*

### **3. ASSESSMENT OF HAZARDS**

Earlier comments about the improvement in operational standards observed in the BEJ vessel are considered in part a consequence of the requirements imposed by Councils CVOL conditions. In particular, condition 10 says:

10. *As well as the provisions otherwise controlling safe navigation including the river rules, collision with other river users shall be avoided either by:*
  - (a) *Controlling the speed and position of the vessel to such extent that it can stop or turn through 180° within half the distance of clear water visible ahead of the driver at any time; or*
  - (b) *The driver has verified that no other person or vessel is within a particular stretch of water immediately before passing through that stretch of water at any speed greater than that required to comply with condition 10. a.*

Earlier criticism received from other more passive commercial users of the river that the jet boat was “driven as if they own the river” are no longer thought valid.

In addition, an agreed radio protocol between the commercial jet boat users will ensure that each vessel skipper has a reasonable idea about the location of other commercial jet boats, and passing locations can be agreed ahead of time, or additional caution taken in case of doubt.

In the writer’s opinion, the greatest risk exists not from two commercial jet boats colliding, but in an incident being caused by the unannounced arrival of a recreational user such as a PWC.

One of the expressed views is that two similar jet boats will create substantially more danger on the river than one such vessel. The argument goes along the lines that if only one jet boat is present, it is impossible for it to crash with another jet boat, but if two jet boats are present; such a collision is now possible. It is then concluded that the increased risk is unacceptable.



It is argued by some that Clause 5.4.1.(b) (i) of the Navigation Safety Bylaw, such decrease in safety cannot be condoned by Council. That clause states:

*(b) No such licence will be issued if Council is of the opinion that the operation is likely to:*

*(i) diminish the level of safety for other activities in the vicinity;*

However a pragmatic approach is appropriate in assessing that clause of the Navigation Safety Bylaw, and “diminish the level of safety for other operations in the vicinity” must be interpreted as a measurable or significant change in risk, and not simply something that can be argued in purely hypothetical terms. We would otherwise be obliged to cancel all but one of the CVOL’s for the almost 1000 vessels currently licensed by that process and operating in the coastal marine area.

The path of these commercial jet boats on the river is not a random action: rules, protocols and agreed plans control how two or more commercial jet boats will interact, in much the same way that the road rules control how we drive our cars. The similarity between condition 10 of the existing CVOL and the road codes provisions for roads without a centre line will have been noted. The drivers of these jet boats will also both be professional drivers, a situation that also has a parallel on the roads with an associated expectation of decreased risk.

It is the writers view that the arrival of a second vessel operator adds to the safety of all other river users as it is more likely that a jet boat will be working or on standby on the water at the swingbridge during normal business hours, perhaps just a few minutes away from being able to perform a rescue should the need arise. This apparently substantial increase in safety and reduction of risk for other river users, needs to be weighed against the very small risk of two commercial jet boats colliding.

I have taken advice from both the MNZ Safety Auditor Jet Boating, and the Queenstown Harbourmaster. A letter about the CVOL currently under consideration from the MNZ Safety Auditor Jet Boating is attached and labelled “Appendix 1”.

Email and telephone conversations with the Queenstown Harbourmaster (who has considerable experience in overseeing jet boat operations) and his comments after the initial check of the operation on 25 August 2004 are relevant. After checking the operation run by BEJ he concluded that more than one vessel could safely operate on the Upper Buller Gorge, but that an effective communication system would be a critical requirement. In subsequent comments to me he has indicated that in such circumstances, it is his preference to have all vessels operating under one management system, so that personalities or commercial rivalries do not get in the way of effective communications. He sites the Shotover Jet operation where four vessels can carry as many as 1000 passengers a day as an example of multiple vessels communicating well. Such areas as the Shotover also differ from the Upper Buller Gorge as there is not a jumble of other potential users all trying to share the same patch of water. In fact the QLDC District plan allows them very tight control over such matters in many locations. That control can’t be immediately imposed in this region.

## **4. OTHER MATTERS OF RELEVANCE**

These are not issues that Councillors need make any decision on, but are included to provide a better understanding of the detail behind some of the argument about the second operator.

One of the issues that had continually perplexed me was the insistence of the current operator that another boat on the same stretch of the river would create an unacceptable risk to the safety of his operation. This is despite the fact that there are a set of nationally consistent rules administered by regional councils or MNZ to ensure that vessels are driven at a safe speed for the circumstances; stay on the correct (right hand) side of a river; and have give way rules defining relationships between vessels travelling in opposite directions. In addition, some assistance has been provided by Councils licence conditions further defining what a safe speed is in condition 10, and requiring a radio protocol to be agreed between the commercial jet boats that will ensure they are aware of the other vessel approximate location.

My recent inquiries have therefore been aimed at other possible reasons that may exist for the concern frequently and vociferously expressed by BEJ. Information that is of relevance in understanding some of the behind scenes motives has been discovered.

### **4.1 The Swingbridge**

Any person operating a business that is dependant on access to the waters of the Upper Buller Gorge is confronted with issues of access for their passengers. Factors such as having resource consent to operate a business adjacent to a state highway, including provision of exit lanes, car parking facilities and other amenities are critical. The swingbridge is the only operational business that meets these criteria, and offers a package of tourist based attractions, one of which is a jet boat ride.

### **4.2 Relationships**

The relationship between Goldrush and the owner and operator of the swingbridge is of importance in understanding the implications for other operators. The principal of Goldrush; Mark Allen, is employed by the owner of the swingbridge. The relationship between these two parties appears to be that of a very good working rapport. The same cannot be said for the relationship between the BEJ and swingbridge management. Swingbridge management report concern and disappointment that a jet boat is not available to take passengers for jet boat rides on any feasible occasion during business hours as publicised in their brochures and other advertising material. BEJ's usual absence from the river over much of the winter is the example cited. The relationship between the principals of the swingbridge and BEJ appears less than convivial, and from a business perspective has the appearance of being somewhat dysfunctional.

The pivotal role that the swingbridge plays cannot be overemphasised. At the moment, any jet boat operation is absolutely dependant on using the swingbridge and its associate facilities to get passengers onto a jet boat. There is simply not another practical option at present, although several possibilities exist.

The owner and operator of the swingbridge has expressed a preference to having the Goldrush jet boat on standby at the swingbridge during any business day when jet boating may be safely undertaken in the Upper Buller Gorge. His employee, Mark Allen would otherwise work on the other attractions at the swingbridge, and simply take clients on the jet boat when required. The stated preference was for BEJ to be available at Riverview to cater for persons that wished to have a jet boat ride, but were not able to bring themselves to cross the swingbridge. This is clearly an suggestion that does not please BEJ.

Should BEJ wish to continue to operate in the Upper Buller Gorge, it would have to retain a working relationship with the swingbridge so that passengers can get access to their jet boat by that means, or go to some considerable effort to devise an alternative process to attract and get passengers to their jet boat.

#### **4.4 Summary of Other Relevant Matters**

Whilst BEJ has pioneered commercial jet boat operations in the Upper Buller Gorge, the sad and unfortunate fact is that it now finds its future viability potentially threatened because of a lack of an assured access for passengers to its jet boat. Effectively the swingbridge operator controls sales of tickets and access across the swingbridge for jet boat passengers. The swingbridge's prime location, combination of tourist attractions, and desire of management to control the growing business places them in an extremely powerful position. The business manoeuvres that appear to be occurring between two potentially similar jet boat operators is something that Councillors may feel strongly about, but should be cautioned to avoid the temptation to control per se, by using the Navigation Safety Bylaw. It is suggested that the expressions of concern about safety issues are grossly exaggerated and not realistic, but are a tangible process by which a potential operator that will hold a clear tactical business advantage could be prevented from starting his operation.

### **5. SUMMARY OF SAFETY ISSUES**

- MNZ believe that the operation of two boats in the Upper Buller Gorge will not produce unreasonable risk.
- The Queenstown Harbourmaster agrees that more than one vessel could safely operate in the Upper Buller Gorge provided an effective communication system exists, and expresses a preference to have one controlling company to enhance radio communications and co-operation.
- This Councils Harbourmaster believes that more than one vessel could safely operate in the Upper Buller Gorge, and has imposed conditions on the existing operator to achieve that goal and to assure the safety of other unknown river users.
- The applicant believes that more than one jet boat can operate safely on the Upper Buller Gorge.
- The existing operator repeatedly expresses concern about more than one vessel operating in the Upper Buller Gorge.

## **6. SUMMARY OF LEGAL ISSUES**

- MNZ take the lead role in assessing the safety of commercial Jet Boat operations.
- The skipper of a vessel is primarily responsible for the safety of his craft and its passengers.
- National standards control the speed and safe operation of all power driven boats.
- No precedents have been found where councils have been exposed to litigation as a consequence of a commercial jet boat accident.
- Council will have a responsibility to monitor the additional conditions it imposes to ensure that operations are safely conducted.

## **7. OPTIONS AVAILABLE TO COUNCIL**

A number of options are available to Council and are set out in what the writer perceives to be a priority order:

- Issue the CVOL and require that the safety of both operations is reviewed prior to renewal at the end of October; or
- Issuing the CVOL for a short trial period during which time a number of monitoring visits could be undertaken; or
- Issuing the CVOL on the basis that Goldrush may enter or remain in this section of the river only when BEJ is not operating or present on the water to operate.

There appears to be no grounds on which Council could refuse to issue a licence when the existing operator is not present, unless cancellation of the existing CVOL was also contemplated to remove all commercial jet boat operations from this section of the river.

## **8. RECOMMENDATION**

1. That a Commercial Vessel Operators Licence be granted to Goldrush and that it includes additional conditions. (A draft CVOL is attached as appendix 2.)
2. That the Commercial Vessel Operators Licence granted to Goldrush expire on 30 October 2005 and that no renewal be granted unless the harbourmaster is satisfied that appropriate risk management and safety strategies are in place.

3. That Council examines the necessity of establishing a rule in the Tasman Resource Management Plan to control and protect amenity values in areas such as the Upper Buller Gorge.

Graham Caradus  
**Harbourmaster**

Appendix 1: Letter from MNZ

Appendix 2: Draft CVOL

