

Minutes of a hearing of submissions on the proposed QLDC Shotover River Bylaw 2021 held in the Council Chambers, 10 Gorge Road, Queenstown on Friday, 26 February 2021 beginning at 10.00am.

Present:

Councillor Quentin Smith (Chair), Councillor Penny Clark and Councillor Glyn Lewers

In attendance:

Mr Anthony Hall (Manager, Regulatory), Mr Tom Grandiek (Team Leader Monitoring and Enforcement), Mr Marty Black (Harbour Master) and Ms Jane Robertson (Senior Governance Advisor); five members of the public

Commencement of the hearing: Election of Chairperson

The Governance Advisor called the meeting to order and asked the Councillors to elect a Chairperson for the hearing.

It was moved (Councillor Clark/Councillor Lewers):

“That Councillor Smith be appointed to chair the hearing.”

The motion was carried, and Councillor Smith duly took the chair.

Declarations of conflicts of interest

No conflicts were notified.

Confirmation of Agenda

On the motion of Councillors Lewers and Clark it was resolved that the agenda be confirmed without addition or alteration.

Officer’s covering report

Mr Grandiek presented his report, stating that it principally focused on analysing the submissions received.

Mr Black advised that he supported the report, noting that since introducing the permit system to access the Shotover River there had been no major incidents on the river.

Councillor Clark noted that the word ‘vessel’ had replaced ‘craft’ in the draft bylaw. She asked whether this also encompassed other devices such as paddleboard, kayak, Jet Ski and so on. Staff noted that it had been changed to be consistent with the QLDC Navigation Safety Bylaw and the Maritime Transport Act 1994.

The Chair noted that this point needed to be clear for the public as according to the QLDC Navigation Safety Bylaw a ‘vessel’ included *“every description of boat or craft used in navigation, whether or not it has any means of propulsion, and includes: (a) a barge, lighter or other like vessel; (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates; (c) a submarine or other submersible; (d) a seaplane when operating on the surface of the water; (e) a personal water craft; (f) a raft; (g) a white water raft; (h) a kiteboard, sailboard or paddleboard; (i) an inner tube; (j) a kayak or canoe; but does not include a surfboard.”*

Mr Hall advised that the intention of the bylaw was to encompass all types of conveyance on water and legal advice would be sought to ensure this was clearly presented.

Councillor Smith asked how the bylaw could facilitate regular public access to the Shotover River for non-motorised recreational activities. He asked the Harbour Master whether there was a further break down of the 130 permits issued each year into the type of craft involved, specifically: motorised vs. non-motorised. Mr Black advised that this information was not recorded. The majority were jet boats but he had noticed an increase in the number of kayakers seeking permits.

It was noted that Shotover Jet’s resource consent allowed it to operate between 7.30am and 9.00pm but actual operations normally finished at 7.00pm. Shotover Jet currently finished operations at 5.00pm because of fewer customers due to COVID-19.

Councillor Smith acknowledged that Shotover Jet was an iconic brand with historic use of the Shotover River, but without restricting the business, he was keen to provide regular recreational access to the Shotover River provided that this could be achieved safely. He asked whether a regular uplift of access would be possible.

The Harbour Master noted that under the permit system, access to the river was reserved for that person. An open session would provide no such assurance and he was concerned about the possible safety ramifications of multiple parties using the river at the same time.

Mr Grandiek noted that staff had considered how to improve the present permit system and had thought that an on-line system could help with up-to date public information.

Mr Black did not believe it was appropriate for the Council as regulator to administer the permit system and Shotover Jet had managed it well to date. In his view, the permit system was better to be run by the party that worked on the river daily and whilst he agreed more information on line would help the public, this service should still be run by the company.

Hearing of submissions

1. Stuart Daniel (speaking to personal submission and on behalf of Central Otago White-water)

Mr Daniel acknowledged that Shotover Jet was a well-respected and longstanding Queenstown business, but since restructuring post COVID-19 it had done nothing to

improve access to the Shotover River for non-motorised vessels. The area of river from the Oxenbridge Tunnel and through the gorge was the only area of grade 1-2 moving water close to Queenstown and was ideal for kayaking and rafting.

Shotover Jet's resource consent permitted operations until 9.00pm although operations actually finished at 7.00pm, but this left a small window of opportunity for casual use which could only be achieved with a pre-arranged permit. Shotover Jet's decision to close operations at 5.00pm had opened up opportunities for more casual recreational use. However the permit process was still onerous and because a permit was issued to a specific group, the river could not be opened up for wider use which was frustrating.

Mr Daniel agreed that it was inappropriate to mix passive water users with jet boats but with that in mind, he believed it would still be possible to open up the Shotover River to the public at specified times when Shotover Jet was not in operation. This would require Shotover Jet to commit to operating in specific hours and also for some system to be in place that would cater for recreational jet boaters as well as passive users. He accepted that it would not be desirable for multiple jet boats to use the river at the same time, which would require users to be allocated specific times or for the current permit system to continue.

Mr Daniel stated that section 128 of the Resource Management Act permitted consent conditions to be reviewed on their tenth anniversary if there had been a change in circumstances. Since Shotover Jet received resource consent in 1999, the district had changed hugely, with the population growing from 16,100 in 1999 to its present 47,400. He considered that the population increase alone was enough to trigger a review of the consented operating hours and to review whether they were still a proper fit with the community. It was unsustainable for a single entity to monopolise this world-class resource and now was a golden opportunity to reset both the permit system and the consented operating hours to be fair for all.

Councillor Lewers asked what was wrong with the current permit system. Mr Daniel said it was impractical for impromptu use. He suggested instead the introduction of a regular opening of the river to non-motorised craft as it would be safe for all passive users to use the river at the same time. There was further discussion about the best times for regular openings. Mr Daniel noted that the present arrangements allowing access by permit after 7.00pm was too late but after 5.00pm on weekdays would be fine. Over a lunch break period in weekends would also be good. He noted that it took about one hour to paddle, float or swim down-river to Tucker's Beach and he accepted that travel only one way would be appropriate.

In reply to a question about how often he had applied for permits, Mr Daniel confirmed that he had done so a couple of times. He noted that Shotover Jet's induction was somewhat unnecessary for non-motorised craft. He expressed support for the suggestion earlier in the meeting about publicising river opening times on line.

2. Andrew Blackford on behalf of the Arthurs Point Community Association

Mr Blackford advised that the current form of the Shotover River Bylaw was no longer fit for purpose as it marginalised and alienated the local community who wanted greater access to the Shotover River.

The situation created by the COVID-19 pandemic had reawakened the Arthurs Point community to the opportunities provided by the river as a local recreational resource. The Council seemingly did not understand how much use was sought by recreational users of the Shotover River and how much could be possible. Shotover Jet was closing each day at 5.00pm and swimming in the river after this time had become possible. It was important for the Council to ensure passive recreation opportunities (that is, no powered vessels) could be maintained when full tourist activity returned. The Shotover River was a recreational activity that people did not need to drive to in order to use.

Mr Blackford did not believe it was reasonable or justified for the Council to grant Shotover Jet exclusive use of the river. The community had grown and changed a lot since the original concession had been granted and Shotover Jet's current permitted hours of operation were not appropriate. The present situation indicated a clear bias to the commercial operator and he favoured amending the hours of operation to address the balance between commercial and recreational activities. He favoured the establishment of a standing permit that would provide permanent access to non-powered users between 5pm and 7pm all days of the year.

The current permit system had been designed to manage powered craft access and it worked well for this purpose, but it was a barrier to impromptu uses like swimming.

The Chair noted that two representatives from Shotover Jet were in attendance at the meeting. He observed that Shotover Jet had not made a submission and was therefore not entitled to speak at the hearing. Nonetheless, as the concession-holder and the party with resource consent to operate on Shotover River he thanked them for their interest in the hearing and for attending to hear the submitters' comments.

The Chair thanked the submitters for taking the time to address the panel and for providing useful feedback on the draft bylaw.

The meeting adjourned at 10.44am and reconvened at 10.46am.

Resolution to Exclude the Public

On the motion of the Councillor Smith and Councillor Lewers the hearing panel resolved that the public be excluded from the following parts of the meeting:

The general subject of each matter to be considered whilst the public is excluded, the reason for passing this resolution in relation to each 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:

Agenda item

Item 1: Proposed Shotover River Bylaw 2021

General subject to be considered.	Reason for passing this resolution.	Grounds under Section 7 for the passing of this resolution.
1. Proposed Shotover River Bylaw 2021	That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of information is necessary to: e) avoid prejudice to measures protecting the health and safety of the public;	Section 7(2)(e)

This recommendation is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982 as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public as shown above with respect to each item.

The meeting went into public excluded at 10.47am.

PUBLIC EXCLUDED

The panel considered the issues raised in the submissions and to what degree, if any, their comments would impact upon the form of the bylaw.

There was extensive discussion about whether a blanket permit system for passive water recreation activities was workable and whether this could be explored with Shotover Jet. The panel recognised that the main message from the hearing was the public wish for the Shotover River to be opened up regularly for passive recreation. Key points of discussion were as follows:

- Shotover Jet managed the permits system but it would be user-friendly for there to be information about it (and a link) on the QLDC website.
- Any impromptu use needed to be balanced with ensuring public safety.
- It would be unsafe to mix motorised vessels with passive water recreational activities, but passive users were still generally safe even if there was a lot of them.
- The panel discussed whether there was an opportunity for a blanket uplift after 5.00pm, because Shotover Jet was concluding its daily operations at this time at present. The staff view was that the new hours were temporary and the existing hours under the concession remained in place. The concession would be next reviewed in 2024.
- The panel acknowledged that Shotover Jet's induction for permit holders was aimed at jet boats but river conditions could change quickly and Shotover Jet had a duty of care to ensure that all users understood this.
- The bylaw should use the term 'vessel' and its definition needed to be consistent with the Navigation Safety Bylaw.

The panel directed Mr Grandiek to investigate whether a system that enabled a blanket permit for passive users of the Shotover River was possible. This would only be available for non-powered craft and swimmers/floating flamingos travelling in a down-stream direction. It was acceptable to discuss with Shotover Jet what style of uplift would work for them and whether a small change to the permit would help, noting that regard would also need to be held to the consent conditions and those under the concession agreement.

The meeting adjourned at 11.20am pending further advice from Mr Grandiek.

Actions post-hearing

On 3 March 2021 Mr Grandiek emailed Ms Burton in the QLDC legal team seeking guidance on the hearing panel's key points of discussions:

1. For the term 'vessel', refer to the definition prescribed within the Navigation Safety Bylaw 2018 for consistency.

2. The hearing panel wishes to see a bylaw that provides for the ability of 'open recreational permits'. Enabling the permit system to provide for an 'open session' for non-powered, passive recreational users, for example rafters and kayakers.
3. QLDC to provide a webpage with greater information around the permit process and link to application form. And providing a booking calendar which is managed in conjunction with the delegate.

This was followed by an email to the panel on 25 March. It confirmed adoption of the term 'vessel' to align with the Navigation Safety Bylaw 2018. It also suggested that the current permit system already catered for a general/blanket permit for non-powered, passive river users. However, this would be supported by a more modern permitted system on the QLDC website with the permit itself amended to encompass applications specifically for non-powered recreational use.

The panel reconvened on Friday, 16 April 2021 in Interview Room 1, 10 Gorge Road, Queenstown at 9.45am. Councillor Smith joined the meeting via Zoom.

Mr Grandiek described the proposed improvements to the permit system. He advised that the new system would be supported by improved information about the Shotover River permit on the QLDC website, with electronic applications to be enabled. Users would be able to view available times on a calendar (which would also show Shotover Jet operational hours) and the permit could be issued to groups. QLDC and Shotover Jet would have shared responsibility, but Shotover Jet would issue the permits and fill out the bookings. Shotover Jet would still need to brief users, but the safety induction could be adjusted for those not using jet boats. It was considered that these actions addressed the points discussed at the hearing and could be implemented under the existing provisions of the bylaw.

Councillor Clark asked if Shotover Jet could commit to a definite day a week for passive users to access the river. Mr Grandiek advised that it appeared this idea did not appeal to any of the parties involved.

It was noted that further change may be possible when the concession was reviewed, but the review was not due to take place until 2029. The Shotover River Bylaw would also be up for review in 2029.

Members agreed that the proposed booking system was a significant step forward.

There was further discussion about the need to demonstrate the panel's deliberations in the officer report, and it was agreed that the Chair would contribute some text to show the panel's decision-making process and the progress made on enabling greater public access.

On the motion of Councillor Lewers and Councillor Clark it was resolved that the Shotover River Bylaw 2021 hearings panel:

- 1. Note the contents of this report;**

2. Consider the submissions to the proposed Queenstown Lakes District Council Shotover River Bylaw 2021;
3. Recommend to Council the final form of the Queenstown Lakes District Council Shotover River Bylaw 2021 Bylaw following consideration of public feedback from the submissions;
4. Agree to include a comment from the Hearing Panel Chair in the officer report to reflect the deliberations; and
5. Agree to make the minutes of the hearing public.

The meeting concluded at 10.11am.