



**SUBMISSION ON PLAN CHANGE 30 – SPECIAL PURPOSE ZONES, VARIATION 2 TO
PLAN CHANGE 23, VARIATION 3 TO PLAN CHANGE 26 AND VARIATION 3 TO PLAN
CHANGE 27**

**FORM 5
UNDER CLAUSE 6 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT
1991**

Please note all information provided in this submission will be made publicly available

Details of Submitter

Full Name: <small>(Required)</small>	Robin Max McCarthy
Contact Person: <small>(If different from above)</small>	Robin McCarthy
Email Address: <small>(Required)</small>	robin.mccarthy@xtra.co.nz
Postal Address: <small>(Optional)</small>	23A Fraser Crescent, Twizel 7901.
Telephone Number: <small>(Required)</small>	027 560 9618

Trade Competition

I could / I could not (*delete one*) gain an advantage in trade competition through this submission.

If you have selected could, please answer the question below:

I am / I am not (*delete one*) directly affected by an effect of the subject matter that:

- a. adversely affect the environment; and
- b. does not relate to trade competition or the effects of trade competition.

Submission Details

The specific provisions of the proposal that my submission relates to are as follows:

Replacement of existing Aviation Strategy with Special Purpose Zones/Special Purpose Airport Zones.

I support/oppose these provisions:
(include whether you support or oppose in full or in part)

Oppose.

The reason(s) for my submission are:
(state in summary your reasons, and whether you seek any amendments)

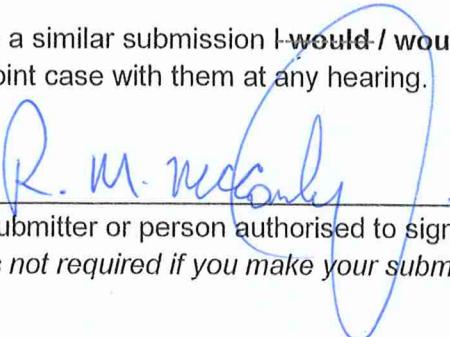
The proposed Special Airport Purpose Zone does not address the long-standing problem where council has granted one aviation operator a monopoly in perpetuity to operate both both fixed wing and rotary wing aircraft from Tekapo.

I seek the following decision from the Mackenzie District Council:
(give precise details)

1. Provision in the District Plan for the submitter being able to operate competing fixed wing and rotary wing aviation services from Tekapo.
2. Council acquisition of Tekapo Airport as a requiring authority under the Public Works Act for infrastructure as required for both the current Aviation Strategy and the proposed Tekapo SPAZ.
3. Prosecution of Richard Rayward.
4. Compensation in the sum of \$20,000,000
5. Public Apology.

I wish to be heard in support of my submission.
 I do not wish to be heard in support of my submission.
(Tick one box)

If others make a similar submission I **would / would not** (circle one) be prepared to consider presenting a joint case with them at any hearing.


Signature of submitter or person authorised to sign on behalf of submitter
(A signature is not required if you make your submission by electronic means)

January 22nd, 2025.

Date:

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least one of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious;
- it discloses no reasonable or relevant case;
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further;
- it contains offensive language; or
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Once the closing date for submissions has passed, Council will publicly notify all submissions received, prepare a summary of submissions, and will allow a period for further submissions in support of, or in opposition to, those submissions already made.

Council hearings for the plan changes will then be arranged to consider all submissions. Anyone who has made a submission and indicated that they wish to be heard will have the right to attend the hearings and present their submission.

If you have any questions regarding Plan Change 30 and the variations, or the submission process, please do not hesitate to contact the Planning Department at 03 685 9010 or via email districtplan@mackenzie.govt.nz

Mackenzie District Council – District Plan Change 30

Submission of Robin McCarthy on Aviation Strategy

1. The submitter repurposes his earlier submission dated August 29th, 2023 on the District Plan review and attaches it hereto as being part of this submission.
2. The public notification document for Plan Change 30, dated 5 November 2024 (page 15) gives a brief of the Aviation Strategy history. This was implemented in 1997. Initially, provision was made for a heliport to the east of Tekapo but was withdrawn without notification or reason. Richard Rayward of Air Safaris was appointed by the Council to formulate the Aviation Strategy. It also draws to the reader's attention that some elements of the strategy would have been amended through the District Plan development process. This was the case with the Tekapo B helipad at the Mt Cook Salmon farm on the Tekapo hydro canal which had operated, but no longer does due to public vehicle access along the canal road having been extinguished. Mr Rick Ramsay was the former deputy mayor and planning committee chairman at the time and also manager of Mt Cook Salmon.
3. The significance of the Mt Cook Salmon farm heliport was its location as being the first heliport in the Mackenzie District for tour coaches travelling south from Christchurch. At the time most South Island International flights arrived in Christchurch. A heliport at Tekapo would have been first, thus negating the need for coaches to go down to the canal for passenger alpine helicopter flights. It would also have meant less sales of Salmon and products for Mt Cook Salmon. Coaches would simply have gone to the competing salmon farm in Twizel. As it was, Council objected to the submitters resource consent application just over the border in the Waitaki District on the shore of Lake Ruataniwha. The Waitaki District Council objected to the Mackenzie District Councils objection. This site was opposite High Country Salmon. Rick Ramsay wanted the submitter to establish at Pukaki Airport, but again Council did not own the airport at that time and didn't for a long time afterwards. This would have taken the submitter away from the competing salmon farm. Vested interests have always dogged the Council, who themselves have been complicit.
4. The purpose and principles of Part 2 of the Resource Management Act, is to provide for the sustainable management of natural and physical resources which enables people and communities to provide for their social, economic and cultural well-being. This is highlighted in referenced comments on pages 11, 12, 13, 30 and 59 of the notification paper of 5 November 2024. Council is selective in these principles.
5. The current Aviation Strategy is proposed to be replaced by the “Special Purpose Airport Zones” [SPAZs] encompassing the three individual existing airports of Tekapo, Glentanner and Pukaki.
6. The Special Purpose Zones (SPZs) are intended to provide “direction, tourism, recreation, activities and social benefits” related to aviation. Reference pages 11, 12, 30 and 59 of the notification paper.
7. The Council sought public feedback on proposed District Plan Changes in which the submitter engaged. It also consulted with the landowners of SPZ's incorporating future SPAZ owners. The Council will hold a SPAZ designation in being the owner of Pukaki Airport. The benefits being attributed to SPAZ owners are benefits to only those owners themselves. It is of no benefit to the submitter.

8. The council considers that the introduction of an “Other District Plan” (ODP) process will reduce the risk of fragmentation and uncoordinated development to occur. This was the original goal of the Aviation Strategy, but it failed to take account of those who did not own an existing airport. The assumption was that all airports would have available access to all operators. It was not to be the case. Referencing the notification paper, it is stated that management of the built form rather than through a consenting pathway is also a common approach taken in other ODP’s. That makes sense, but other ODP’s relate to public use airports, unlike Tekapo Airport which has gone from being State owned to a private airport.
9. The submitter does not own any of the airports in the district. He has been consistently denied access to the Tekapo aviation tourism market through the District Plan’s Aviation Strategy, the Council refusing to grant resource consent and upholding objections from the proprietor of Tekapo Airport who also owns Air Safaris. Air Safaris is both a fixed wing and rotary wing operator. The change from the Aviation Strategy to the SPAZ brings no relief to the submitter.
10. The submitter has gone far beyond what any other person might be expected to with Council public hearings, Environment Court Appeals and District Court proceedings, consistent engagement with the District Plan process, the submission process and speaking in person to all those proceedings. He has also personally appealed to respective CEOs (Beban, Barlow, Bartlett, van Aswegen and Oosthuizen) and numerous councillors (including Mayors) to resolve the monopoly position which the incumbent Tekapo Airport owner and aircraft operator has been granted by the Council contrary to their original planning consent approval. During an earlier hearing on the District Plan review held last year, Council’s legal counsel asked the submitter for copies of his documents on Tekapo Airport, then said he would get back to him. He hasn’t to date.
11. More recently, the submitter has appealed to the current Council CEO, Ms Angela Oosthuizen to resolve the matter of a lack of access to Tekapo Airport under the Aviation Strategy. He has also proposed a solution to the Council to purchase Tekapo Airport for \$1 as a ‘requiring authority’ under the Local Government Act and the Public Works Act.
12. Ms Oosthuizen advises that Council has again been unable to locate the Tekapo Airport and related documents. History repeats. The submitter had a chance meeting with Mr Rick Ramsay a few months ago and advised him that he had written a book. Mr Ramsay said, “I know what that is about”. The submitter asked him “what”. He said ‘Tekapo’. The submitter confirmed that he was right. He said that he had kept all the documents. The submitter advised Ms Oosthuizen of this and after a while of no further response, he asked her if she had obtained the records from Mr Ramsay. She said she had not. The submitter then made a public appeal on Twizel Community facebook for Mr Ramsay to return the Tekapo Airport documents back to the Council, which incidentally he should never have had. A Mr Tim Rayward, son of Richard Rayward posted a “like” to the submitters posting (now deleted). It is not known what his motive was, whether he supported Mr Ramsay retaining the documents or for some other reason. The submitter has heard nothing from Mr Ramsay. Ms Oosthuizen’s update advises that she has asked Mr Ramsay and he now says that he has not got any documents.
13. The injustice to the submitter in not being able to go about his legitimate business in his chosen vocation at Tekapo in the Mackenzie District (where he was born and grew up), has consumed half his working life. Richard Rayward of Air Safaris originally came from Wellington. Air Safaris were allowed to operate illegally without either a resource or planning consent for 24 years. Air Safaris secured additional resource consents for infrastructure without holding any primary consents for the

airport.

14. Richard Rayward filed fraudulent submissions to the submitters company's resource consent applications. The Council never intervened, thus engaging in complicity with Air Safaris. Council's conflicts of interest also extended to legal representation. Air Safaris engaged solicitors Timpany, Mayman and More. Councils legal counsel at the submitters Environment Court appeal was Adrian More, the same former Air Safaris lawyer. It is also a matter of record that Councils former office for Tekapo over many years was the office of Air Safaris. A clear case of a conflict of interest. The submitter has asked Council to prosecute Richard Rayward, but they refuse to do so. Historically, even James Mackenzie, the sheep stealer was held to account for wrongful doings and incarcerated in Lyttelton Jail on conviction.
15. Through the process of the recent District Plan reviews, Air Safaris sought additional funding to be placed at Tekapo Airport. That aspect of the District Plan was adopted. Whatever they want they get. The submitter accepts that they had a legal right to do this, rather than seek a resource consent. The submitter also has a legal right to choose to operate at Tekapo in the expectation that the Council will not prevent him from doing so. But the Council prevents him from obtaining additional infrastructure for his own purposes through the same method. Council has no right to protect Air Safaris from competition for just short of 50 years. It would be morally repugnant and offensive to all fair-minded people of the Mackenzie District if they all knew the full story as this submission now exposes.
16. The Council has consistently failed in both its management and governance in respect to aviation at Tekapo to "grow the pot" through innovation and competition. Having got it right at the outset in respecting Air Safaris publicly stated wishes of providing a public use airport at Tekapo, it regressed into a monopolistic protectionist command economy. The Council is also in breach of the Commerce Act in granting an absolute monopoly to Air Safaris as the only operator permitted to provide both fixed and rotary winged services at Tekapo. Indeed, the RMA also prevents such a Council policy.
17. The submitter seeks the following relief: -
 1. Provision in the District Plan for the submitter being able to operate competing fixed wing and rotary wing aviation services from Tekapo.
 2. Council acquisition of Tekapo Airport as a requiring authority under the Public Works Act for infrastructure as required for both the current Aviation Strategy and the proposed Tekapo SPAZ.
 3. Prosecution of Richard Rayward.
 4. Compensation in the sum of \$20,000,000 (see below).
 5. A public apology.
18. The submitter has been subjected to enormous costs, had his good reputation destroyed and his lifetime career progression in aviation destroyed by Air Safaris, and Council acting in complicity. At all times the Council had the power to resolve matters (as it still has today) but has chosen not to.
19. The submitter should not still be having to pursue to correct this injustice at his age, when most others have now retired. Those others have not been excluded from their chosen vocation. He is firmly of the opinion that the Councils continuing pushback on resolving the impasse is that they are mindful of both exposing Council to considerable liability and public opprobrium for the problem they created.

20. For all the above reasons, the submitter seeks further relief in compensation for costs, damages, stress, loss of reputation, ongoing societal ostracism amongst a percentage of the district's population, lost opportunity costs and containment of past and future career prospects in the sum of \$20,000,000. The submitter is of the belief that Air Safaris must be required to meet an equal portion of this compensation as sought.

21. The submitter is aware that the Council had a recent meeting to discuss the issue of the submitters historical concerns and being locked out of the aviation market in Tekapo for decades. He has not been advised of any outcome. Neither did the Council provide any minutes of this meeting. One must presume that the Council has no wish to rectify matters for the submitter, or any other person who may wish to operate at Tekapo in the future. It continues with monopolistic command economy policy at Tekapo.

22. In mitigation, the submitter has recently corresponded with the lessee proprietor of Sawdon Station and Land Information New Zealand to renew the Recreation Permit which the submitter's company previously held, but this has not succeeded as permission was not forthcoming. For the record, the earlier permission to use Sawdon Station was with-drawn before the long-reserved Environment Court decision was released. At that point the submitter had nowhere to go after incurring substantial costs for no outcome. He had to leave the District at even more cost to rebuild his business career.

23. The submitter advises the Council that he has always been willing to engage in negotiations with them and any other party including Air Safaris to arrive at a resolution. At all times previously, Air Safaris has been an unco-operative party. If that is their continuing stance, then that is their problem, not the submitters.

24. The submitter firmly believes that the Council had earlier waged a personal vendetta against the submitter for challenging vested interests and exposing illegal activities which took place over many years. It is long overdue for any residual persecution and market protectionism to stop. The submitter considers that this may be the last chance that he will ever have to obtain justice, and for this reason, he yet again seeks a resolution. He notifies the Council that if relief is not forthcoming, then he will appeal any inadequate decision to the Environment Court, and any higher Court thereafter.

The submitter wishes to be heard.

.....
Robin McCarthy

January 15th, 2025.

23A Fraser Crescent,
Twizel 7901.

Angela Oosthuizen,
Chief Executive Officer,
Mackenzie District Council,
53 Main Street,
Fairlie.

8th September, 2023.

Dear Ms Oosthuizen,

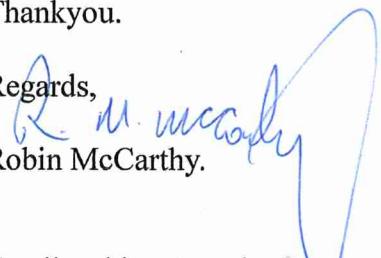
District Plan Review – Aviation Strategy

I attach my submission to the Mackenzie District Councils District Plan review.

I wish to be heard at the hearing on this review.

Please acknowledge receipt.

Thankyou.

Regards,

Robin McCarthy.

Email: robin.mccarthy@xtra.co.nz

Tel: 027 560 9618.

Mackenzie District Council – District Plan Review

Submission of Robin McCarthy on the Aviation Strategy

Tekapo Airport

History and Planning Status

Air Safaris and Services (N.Z.) Limited (Air Safaris) were granted planning consent under the Town and Country Planning Act on August 5th, 1975 to establish, construct and operate an Airport on Mt John Station, Lake Tekapo to the west of Tekapo township on the southern side of State Highway 8. A copy of that planning consent is attached hereto.

The planning consent contained a condition “e” that the airport be made available to other aviation operators subject to Air Safaris being able to charge a reasonable fee. Air Safaris filed an appeal to the Planning Tribunal seeking to remove condition “e”. This appeal sat on the record unheard for nearly 24 years.

Air Safaris' Richard Rayward was appointed by the Council to put together the Councils Avaiton Strategy.

Legislation

All planning consents granted under the Town and Country Planning Act were subsumed under the Resource Management Act, 1992.

No planning consent/resource consent comes into force until such time as all appeals are disposed of.

Tekapo Airport was built and operated illegally by Air Safaris from 1975 up until the 11th June, 1998 without any lawful status.

Resource Consent Applications

Prior to lodging applications for resource consent, I visited Tekapo Airport along with Mr Tom Trevor (helicopter pilot) and sought initial permission from Richard Rayward (Air Safaris) to uplift fuel from an external fuel company owned facility. When asked as to whether it would be for commercial purposes to which I said yes, permission was declined. He made it clear that I would not be able to operate any commercial aviation from Tekapo Airport. I accepted this in good faith, assuming that he had the authority to do so. Richard Rayward went on to deny that this conversation ever took place. Tom Trevor swore an affidavit that it did.

Air Safaris Director, Mr Richard Rayward, went on to fraudulently misrepresent Tekapo Airports legal status in submissions of objection he made to Aviation Activities Limited (AAL) resource consents to operate a helicopter business, initially on Cowans Hill (West) and then on Cowans Hill (East).

The objections raised by Air Safaris forced a public hearing on both Cowans Hill (West)

and Cowans Hill (East). Environment Court appeals followed on from the Councils hearings outcome for both applications, but during the first hearing on Cowans Hill (West), the appeal was withdrawn in favour of the Cowans Hill (East) application.

Air Safaris (Richard Rayward) gave evidence in opposition to the applications for resource consent at the Environment Court appeals. At no time did Richard Rayward disclose at the public hearings or the Environment Court appeals, that Tekapo Airport/Air Safaris had no lawful planning status, and was therefore unable to make submissions or give any evidence.

Implications of Air Safaris operations/submissions

Air Safaris unlawful submissions resulted in unnecessary costs, work and time wasting for AAL and myself as its (Director/Shareholder) as well as the ratepayers of the Mackenzie District.

Air Safaris made numerous resource consent applications for further development at Tekapo Airport predicated on their lawful legitimacy when that was not the case. All resource consents granted up to and into 1998 were obtained unlawfully.

Land ownership changes at Tekapo Airport

Mt John Station was transferred to the New Zealand Defence Force (NZDF). Owning Tekapo Airport allowed the RNZAF's Andover aircraft to use it.

I became aware that Air Safaris had no tenure of occupation on Defence Force land. Only following on from my inquiries, was Air Safaris granted a licence to occupy over the area of 4 hectares in accordance with the area of the original Crown recreation permit. Air Safaris paid rates to the council on this 4 hectares only.

On an approach to the Rt Hon Jenny Shipley (Prime Minister), she brought to the attention of the Hon Max Bradford (Minister of Defence) that there was no reason why another operator could not be on Defence Force land (no different to Woodbourne). Mr Bradford instructed the NZDF to make provision for AAL to occupy part of the enlarged (120 hectares) Council designation for Tekapo Airport. This resulted in me being asked to provide an operating site plan to the NZDF, which was duly forwarded.

The NZDF then claimed that Air Safaris had a licence to occupy 40 hectares and the 4 hectares was a mistake. This enlarged area then meant that AAL had to be a sub-licensee of Air Safaris. This was not what was agreed. Furthermore, their licence required that they abide by all statutory planning instruments. They didn't.

As a Director of AAL, I came under a sustained personal credibility attack resulting in intense lobbying of NZDF officials in Wellington and Burnham by Air Safaris. Despite a meeting with Burnham's commanding officer (Col. W. Whiting) at Burnham, I was unable to head off the ongoing personal attack which also involved two lower ranked Defence Force employees who answered to Col Gray at Burnham at the time. Col. Gray subsequently left the Defence Force for conduct unbecoming of an officer. One of these lower ranked employees also had his employment terminated. The NZDF never

honoured the Prime Ministers assurance or the Minister of Defences directive.

NZDF decided that Tekapo Airport was surplus to their requirements and transferred it to Ngai Tahu, who on-sold it to Air Safaris despite giving me an assurance beforehand (following on from a meeting with their CEO Mr Tony Sewell in Christchurch) that it would contact me if they decided to sell the land.

Outcome of Environment Court appeal on Cowans Hill (East)

AAL won its appeal against the Council for Cowans Hill (East), but was not awarded costs. Appealing this decision would have further delayed any operation from the site, and could have come at even greater cost in Councils fees if not successful. A condition was that flight path procedures had to be negotiated with Air Safaris. In other words, this brought to an end one aspect of Air Safaris continual objections using “safety” on commercial grounds to stop the competition.

Cowans Hill (East) was on the pastoral lease of Sawdon Station. AAL was granted a Crown recreation permit.

Unexpectedly, and without prior warning, Rob Allan of Sawdon Station withdrew permission for AAL to be on Sawdon Station. He gave no reason. Although I noted subsequently, that a meeting was held amongst a number of organisations concerning the future of Sawdon Station, which may have been a precursor to a proposed tenure review.

Tekapo Aviation Demand

Air Safaris has secured a long-time ongoing monopoly in operating fixed wing aircraft at Tekapo through unlawful means.

I am locally born and brought up, and still wish to operate commercial fixed wing aircraft from Tekapo. I qualified as a commercial pilot in 1976 and had extensive operating experience as an Air Operator Certificate holder in the United Kingdom.

New aviation operators offering competition are required at Tekapo in order to develop new services to enhance Tekapo's economic growth. This is unlikely to come from Air Safaris as they have shown little innovation other than introducing helicopters despite Richard Rayward giving hypocritical evidence in the Environment Court of his distaste for them.

There is no other suitable (or available) land to establish a second airport at Lake Tekapo. It would also be wasteful of resources to have duplication. Furthermore, neither does the aviation strategy of the District Plan permit it without a resource consent. Air Safaris on past form will likely file submissions of objections to any initiative. They even objected to the resource consent applications by Glacier Southern Lakes Helicopters on Ferintosh Station.

As it was, Air Safaris refused permission for Tekapo Helicopters (successor to AAL) to operate from Tekapo Airport, stringing negotiations out for over a year. This outcome was precisely as I stated would happen. Those negotiations involved a well known Tekapo

resident who acted as an independent intermediary. His comments to me many years later were that you can't negotiate with Richard Rayward. The final outcome was yet another heliport facility in the Tekapo area which the Aviation Strategy has always sought to prevent.

Going forward

Through their unlawful actions, Air Safaris/Richard Rayward have lost their social licence as good citizens.

Air Safaris had initial access to Mt John Station under a Crown "recreation permit" to the pastoral lessee. The Council got it right initially in attaching condition "e" to the original planning consent of 1975. That is what Air Safaris publicly stated as being needed and what they wanted.

At one stage I stood my ground on Tekapo Airport in accordance with the Council's original resolution where the Council was refusing to do anything about it. At that stage, I was not made aware that condition "e" had been appealed and that the Airport had no planning status whatsoever. I was arrested, expecting the Council to then support me. It didn't.

An attempt was then made to have me committed on the further complaints of Richard Rayward. A psychiatrist was brought in whilst I was being held in custody to examine me. After a few questions he suddenly stopped and said; "there is nothing wrong with you, and I don't know why I am here". I was then subjected to further substantial legal costs in a successful defence against any conviction.

I brought the matter back to the Environment Court. The Council unexpectedly withdrew condition "e" in 1998 creating the ongoing monopolistic problem which still exists to this day, rather than standing by their original decision. Council would have won, if they had sought my support. It was a short-sighted and disastrous decision. Earlier Council members were entirely complicit in granting Air Safaris an inter-generational undeserved monopoly.

I filed an application into the Environment Court for an enforcement order to close Tekapo Airport as it had no planning status. Judge Jon Jackson said in a written minute that I had made out a legitimate case. I had faith at that point (and at long last), that the Council would act in the public good. It didn't.

I then sought a further order in the Environment Court that the Council, as a "Requiring Authority" purchases Tekapo Airport in accordance with its Aviation Strategy and again as a public good. The Court ruled that as I was not the Council, it did not have the statutory authority to grant the order as sought.

However, the Council now has the opportunity through the District Plan review process to make good its Aviation Strategy of having aviation of all kinds concentrated on Tekapo Airport. It can do so by using its powers to acquire Tekapo Airport and making it a public use airport for all operators.

Council acquired Pukaki Airport by initially purchasing the land under Pukaki Airports runway and waited until the lease with Mt Cook Airlines expired. Acquiring Tekapo Airport

would not be a foreign concept to the Council.

The cost to the Council in acquiring Tekapo Airport is not likely to be great as it has less value as a one incumbent commercial operator. Further discounts can be argued on the acquisition price due to the costs imposed on ratepayers and others by Air Safaris/Richard Rayward's actions as offset compensation. .

I am prepared to raise the money myself and gift it to the Council in order to alleviate any cost to the ratepayers.

Conclusions

Council has a hand to play in ensuring economic development and fostering investment and competition. Competition gives the greatest incentive for driving new products and services.

I urge the Council to use its powers as a requiring authority to acquire Tekapo Airport and bring to an end a situation which should never have been allowed to happen, and will never go away if the status of Tekapo Airport's ownership is allowed to stay as it is.

Furthermore, this will also bring to an end a gross injustice to myself and others who were subjected to enormous costs, stress, lost opportunities and in my case having my reputation falsely destroyed as being unjustly labelled the antagonist at the time. The problem has always been Richard Rayward, not me.

I have acted lawfully at all stages within the knowledge I had or was given by the Council, whereas Air Safaris and Richard Rayward have consistently and knowingly acted dishonestly and unlawfully.

I wish to be heard.

Robin McCarthy.

robin.mccarthy@xtra.co.nz

Tel: 027 560 9618.

8th September, 2023.

Attachments;

1. Press coverage of proposed Tekapo Airport
2. Mackenzie County Council Planning Consent
3. Mackenzie County Councils response to Air Safaris appeal.

Any other document is available on request.

Extract from "Lindisfarne Herald" "Newspaper. 5"
Published at Lindisfarne, on [date] 10-12-74
S U B J E C T: 19

Scenic flights firm seeks to develop Tekapo airfield

Air Safaris, an air charter company based at Mesopotamia Station, would like to have the Lake Tekapo airfield enlarged so its scenic flight operations could be based in the Mackenzie Country.

In a letter to the Mackenzie County Council yesterday, the company said it had used its Cessna 185 to service Tekapo on a trial run in January, and sees potential for transferring operations to the area.

But the company wants to add a second aircraft, and an improved and longer airstrip would be necessary for that expansion.

Mr M. G. H. Murray, the

county chairman, said it is "highly unlikely" the county would put substantial funds into the airport development, but could possibly act as an administrative agency for a Tekapo airport authority.

Air Safaris have indicated it is willing to develop the airfield itself, but feels it would serve all commercial and private pilots wishing to use it.

Cr D. W. Moyes, Tekapo riding, said there is little the

council can do at this stage since the company is involved in private land negotiations with Mr H. Hunter-Weston, owner of the airfield property.

If Air Safaris were operating commercially off the airfield, it would be required to pay the council 3 per cent of gross operating revenue from flights originating at the airfield.

Air Safaris representatives indicated some urgency in arriving at a decision so they could construct a hanger and fuel installation at the airfield.

Never by cash & credit.

NATIONAL ARCHIVES OF NEW ZEALAND

Archives Reference CH 134 CO 2

NOT TO BE USED IN
PUBLICATIONS WITHOUT PRIOR PERMISSION
THE DIRECTOR OF NATIONAL ARCHIVES.

"A"

TELEPHONE 2
P.O. BOX - 52

Mackenzie County Council

Fairlie, South Canterbury, N.Z.
4 August 1975

Ref.

Messrs Petrie, Mayman, Timpany and More,
P.O. Box 240,
TIMARU.

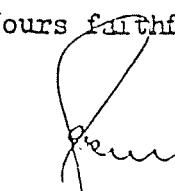
Dear Sir,

Re: Application Under Sec. 35 of the Town and Country
Planning Act 1953 by Air Safaris and Services(N.Z.)Ltd.

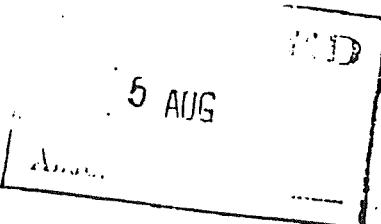
By resolution dated the 1st of August 1975 the Mackenzie County Council resolved that the above application be approved subject to the following conditions:

- (a) That the access be relocated and designed to the satisfaction of Council so as to cause no conflict with traffic using the State Highway.
- (b) That both the ground and air operations of the airfield are to be controlled by the operators so as to cause a minimum of distraction to traffic using the State Highway, and no noise level above 75 dbA measurement at any point within the urban zonings of Tekapo Village.
- (c) That no aspect of either ground or air operations detrimental to the operation of the Mt John facilities be allowed and specifically that no artificial lighting shall be installed unless the type of such lighting is first approved by the Superintendent of the Mt John University Observatory nor shall any such lighting be used unless the same is screened or shaded in a manner approved by the Superintendent of the said Observatory. In particular lighting systems such as sodium or mercury vapour lighting shall not be installed or used.
- (d) That any signs proposed be in accordance with the provisions of Council's operative Scheme and By-laws, and shall be approved by Council prior to erection.
- (e) That as the Council considers that use of the airstrip for the applicants purposes only would be contrary to the public interest, the strip and facilities must be available to other air users generally, but that the applicant be entitled to charge an appropriate fee for such use.

Yours faithfully,


B.J. DWYER,
COUNTY CLERK.

CERTIFIED :



(35)

THE TOWN AND COUNTRY PLANNING APPEAL BOARD

In the Matter of the Town and Country Planning Act, 1953
and

In the Matter of a appeal under Section 35 (5) of the Act by Ai Safaris and Services (N Ltd against the decision of the Mackenzie County Council.

Respondents Reply

The Mackenzie County Council by its Town and Country Planning Consultants, Davie, Lovell-Smith & Partners says

1. This appeal arises from the decision of the Council allowing the appellant's application under Section 35 of the Act.
2. The appellant sought permission to construct an airfield together with ancillary and accessory buildings.
3. The land in question is controlled as to land useage by the operative Tekapo Section of the Mackenzie County District Scheme, and is zoned Rural in that scheme. Copies of the relative ordinance are attached to this reply.
4. Copies of the Council's approval and conditions are attached as annexure 'A' to the Appeal documents.
5. The Council denies grounds a, b, c, e and f, of the appeal saying that
 - (i) ground (a) is incorrect as the imposition of conditions on an approval is *intra vires*, Council's powers being given by the Town and Country Planning Act, 1953.
 - (ii) grounds b, c, and e may be true from the appellants point of view but are in Council's view not true when considered in the light of the wider public interest.
 - (iii) ground f is meaningless.
6. The Council further says that without the conditions as imposed it would have considered itself to have no jurisdiction to deal with the application in terms of Section 35 (2) a of the Town and Country Planning Act, 1953.
7. The Respondent therefore respectfully prays that the appeal be disallowed.

Dated at Christchurch this

day of October 1975.

DAVIE, LOVELL-SMITH & PARTNERS

Town Planning Consultants to the
Mackenzie County Council

per W. H. Barker

F 17

Hi Angela,

Thank-you.

However, that is not what I was advised when I made inquiries. I was invited to make a submission.

I have copied my submission and your response to all the elected members. They have a right to know.

It is a matter of record that Council condoned an illegal operation (Tekapo Airport) for just short of 24 years. And I was put through two resource consent applications and appeals when Tekapo Airport had no bona-fides. All those submissions had no weight whatsoever, yet the Council allowed them knowing full well that they were null and void.

My submission refrained from my experience into my attempts to obtain a copy of the original planning consent for Tekapo Airport.

But this is what happened;

I met with John McKenzie (Manager of planning) and asked for a copy of the planning consent for Tekapo Airport. He advised that they didn't keep records back then like they do today. I disagreed with him and said as such. My response was that New Zealand was, and has been very well documented. We now know why he said what he did. Council was hiding the fact that Tekapo Airport had no planning consent and was putting me through public hearings and Environment Court appeals when it should never been the case.

In the meantime, I was back and forth to the Council seeking the planning consent for Tekapo Airport. I met with Paddy Bevan (CEO) and he resorted to shouting at me for all to hear as his office door was open. It was most embarrassing.

But not to be deterred, I went back again and told reception that I would find the file myself. They didn't resist. I headed off to the Council library records to the right of the corridor leading down towards Justin Riley's office (Finance manager). I spotted the Tekapo Airport file and was intent on securing it when Justin Riley physically intervened, preventing me from obtaining it. He then advised that he would call the Police and trespass me. He asked me to leave the Council, which I did.

I telephoned Brian Dwyer, former County Clerk and asked him if he knew anything about the Tekapo Airport planning consent. At that stage he had been retired for many years. His first response "was why can't you get it? I said "you tell me"? He then quoted the file reference number off the top of his head. He then advised that he was going to the Council that afternoon and would get back to me.

Just before 5.00 p.m., he phoned me and told me that it would be on the desk at the Council if I got down there before 5.00 p.m.. I then went down and collected it.

The only document was the planning consent document. There was no documentation relating to the Planning Tribunal appeal. I obtained the other documents from Archives New Zealand in Christchurch.

How do you think I feel?

Regards,

Robin McCarthy.

robin.mccarthy@xtra.co.nz

From: letstalk@mackenzie.govt.nz <notifications@engagementhq.com>
Sent: Monday, May 27, 2024 10:13 AM
To: robin.mccarthy@xtra.co.nz
Subject: Your response on Long Term Plan 2024 - 34

Let's Talk | Kōrero Mai - Mackenzie

Hi ,

Thank you for completing the survey 2024-34 Long Term Plan Consultation. Your responses are listed below for your reference:

First Name

Robin

Surname

McCarthy

Organisation (if you are submitting on behalf of an organisation or group)

N.A..

Phone number (landline or cellphone)

027 560 9618

Email address

robin.mccarthy@xtra.co.nz

Postal address

23A Fraser Crescent, Twizel 7901.

Do you want to speak about your submission at a Council Hearing?

Hearings will be held in Fairlie on 1 July 2024.

Yes

Is there anything else you'd like to add on this topic?

Add a tap credit/debit card facility to unlock door to get out of toilet. Zero rate it for Mackenzie District residents.

I prefer:

Option One: Yes, introduce user-pays for all our public toilets

I prefer:

Option 1: The interim solution - increase our capacity with temporary improvements. This is Council's preferred option.

I prefer:

Option 2: Continue to operate the existing bridge and ford at a cost of at least \$70,000 a for maintenance.

Is there anything else you would like to add on this topic?

Draw a time deadline for removal of wilding pines the no further ratepayer funding. Although I recognize that this is also an Ecan issue, once the future deadline is reached, all land owners are to be made responsible for the pests and noxious weeds on their land. Land owners who allow their noxious weeds or pests to infest neighbour's properties to be held liable.

Do you have any other feedback that you would like to leave around the proposed LTP?

Council to purchase Tekapo Airport for \$1.00 and bring to an end the monopoly which Air Safaris have abused for decades. This has to be done with immediate effect. It cannot be allowed to go on for another 10 years under the LTP. Air Safaris operated illegally for two weeks short of 24 years. During that time they abused the planning laws and made fraudulent objections against others who sought to legitimately seek resource consents. Myself included. Air Safaris lost their licence as good citizens long ago, and a compulsory purchase of Tekapo Airport will go some way to offsetting the economic damage they have caused to others. The purchase of the Airport can be made under the Public Works Act as the council is a requiring authority under the Local Government Act. The Council's original planning consent for Tekapo Airport contained a condition that the Airport be made available to all other air users, subject to Air Safaris being able to charge a reasonable fee. That is what Air Safaris publicly stated it wanted. When the condition was added to the planning consent, Air Safaris appealed it. The appeal sat on the record unheard for 24 years. No consent was ever granted until I sought to have the Airport closed. The court accepted that I had made out the case for such an order. The court adjourned the proceeding for the council to make a submission. The council then gave Air Safaris an absolute monopoly despite their illegal operating history and abuse of their unlawful position. This was also contrary to the Council's "Aviation Strategy" of the District Plan. Richard Rayward of Air Safaris was appointed by the council to develop the Aviation Strategy, a larger conflict than one could ever have imagined. Chairman of the Mackenzie District Council, Michael Murray at the time (1975), stated that as the council was likely to be contributing financially to the airport, he wondered whether the council should form an Airport Authority to manage it. Those prophetic words should not be lost on the council today. If need be, I will appeal the matter all the way to the Supreme Court.

Thank you,
Mackenzie District Council

Other projects that might interest you

Draft Waste Management and Minimisation Plan 2024

Draft Waste Management and Minimisation Plan 2024-2030The draft Waste Management and Minimisation...

[View Project](#)

Responding to Climate Change

Climate Change in the Mackenzie District[NOTE: Although the online component of this work has...

[View Project](#)

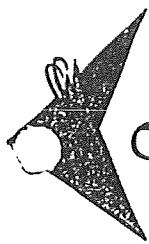
Swimming Pool Satisfaction Survey 2023

Did you use one of our pools? Please take the survey and tell us how it went.

[View Project](#)

[View all projects](#)

You are receiving this email because you participated on **Let's Talk | Kōrero Mai - Mackenzie**.
Powered by [EngagementHQ](#)



AIR SAFARIS

AND SERVICES (NEW ZEALAND) LTD

P.O. BOX 21

18

LAKE TEKAPO

NEW ZEALAND

Telephone 880

Telegrams, Cables: AIRSAFARI

5.4.83

LANDS & SURVEY

TIMARU

- 8 APR 1983

RECEIVED

Department of Lands and Survey,
P.O. Box 22,
TIMARU.

CHRISTCHURCH

Attention Mr Peter Washbourne.

Dear Peter,

** The main concern is
whether Timaru
is a suitable
place & specific
to bly supr*

We raised the subject of a second hanger building some time ago; the proposal being for a combined helicopter / fixed wing hangar to be built alongside our existing hangar at the Tekapo Airfield.

We feel that it is more logical to keep the aerial associated buildings in one place rather than scattered around the area hence the proposal that the hangar to accommodate the Whirlwide helicopter based in the area be built out at the airfield. As we ourselves have two aircraft outside at the present time because of inadequate hangarage we would propose building a combined hangar large enough to accommodate both helicopter and fixed wing needs.

We would like then to formally apply for permission to build a second hangar alongside our existing hangar on the eastern side as depicted in the enclosed drawing. The shape is similar to the existing hangar, proposed colours would be the same blending combination, and the proposed size is 21.25 metres by 15.5 metres.

As it would be quite important to have this building up before the coming winter we would appreciate your early consideration of our application.

There is of course the question of legal title as the idea is that the cost of the hangar be shared by the two companies involved. However, I feel that this is a question which is best sorted out by discussion with our solicitor, who is also closely associated with Whirlwide, and the Department to allow us to come to a satisfactory arrangement without contravening the conditions of our permit. This should not be allowed to delay the erection of the hangar as the main concern of both parties is to provide cover for some very expensive machinery - the cost of the hangar being relatively small in comparison.

Yours faithfully,
Richard Rayward

SCENIC FLYING

AIR CHARTER

SKI TOURING

PHOTOGRAPHY

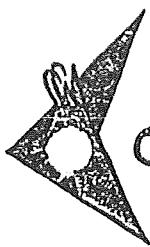
SUPPLY DROPPING

Managing Director - Operations.

MINI BUS SERVICES

SPECIAL INTEREST TOURS

22



AIR SAFARIS

AND SERVICES (NEW ZEALAND) LTD

P.O. BOX 21

LAKE TEKAPO

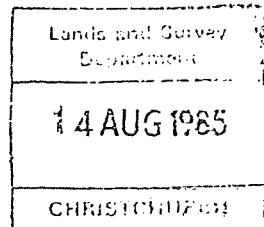
NEW ZEALAND

Telephone 880

Telegrams, Cables: AIRSAFARI

8.8.85

The Commissioner of Crown Lands,
Department of Lands and Survey,
Private Bag,
CHRISTCHURCH.



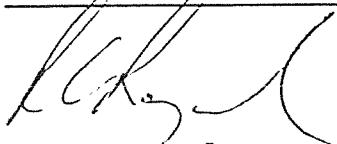
Dear Sir,

Firstly, thank you for your interim reply in your letter of 30th July. (Your Ref. RP 3)

Secondly, we would like to request permission for B.P. to install an underground JetAl Fuel tank and a dispensing pump adjacent to the N.E. corner of the last hangar built on our Tekapo Airfield. This installation will be for Whirlwide Helicopters who, as you know, share that hangar with us, and I enclose a letter from B.P. Oil New Zealand Ltd which also shows a rough sketch of the proposed installation on its reverse side. You will note that the installation is underground except for a pump and hose reel which will be positioned against the hangar.

I hope this meets with your approval.

Yours faithfully,
AIR SAFARIS AND SERVICES (NZ) LTD.


R.C. Rayward.
Managing Director - Operations.

PLAN 1
Scale 1 : 75 000

Scale 1 : 75 000

PLAN 1

Scale 1 : 75 000

REQUIREMENT OF MINISTER OF DEFENCE
UNDER SECTION 181
TEKAPO MILITARY TRAINING AREA

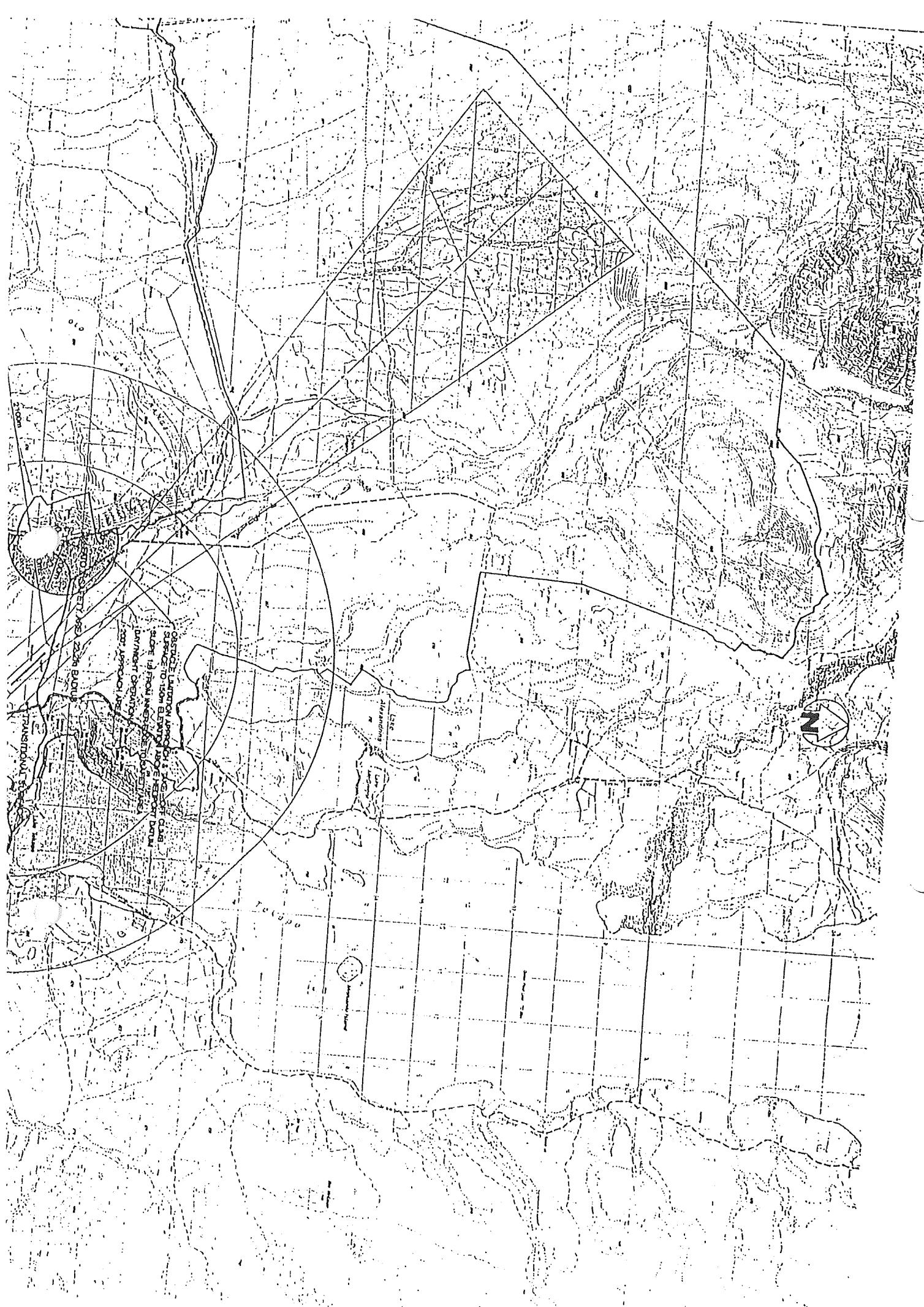
PRODUCED BY LAND DATA SERVICES, DEPARTMENT OF SURVEY & LAND INFORMATION,
CHRISTCHURCH
AHEA 1/400 ha. APPROX

LEGEND

Areas designated for Defence Purposes

Areas subject to alteration to a Defence Purpose

Areas designated for Defence Purposes



PLAN 3

LEGEND

- Defence Purposes
- Tekapo Military Training Area
- Airspace Controls
- Airfield approach slope and protection surfaces
- Military helipad protection surface

RESOURCE MANAGEMENT ACT 1991
MACKENZIE DISTRICT COUNCIL
REQUIREMENT OF MINISTER OF DEFENCE
UNDER SECTION 181
TEKAPO MILITARY TRAINING AREA
Area 17,800 ha
Protected under section 181
Survey and Land Information
Commissioner

SCALE
0 1 2 3 4 5 6 7 8 9 10 Kilometres

26

Conected copy

1

MACKENZIE DISTRICT COUNCIL

RECORD OF A WORKSHOP HELD ON MONDAY 29 JANUARY 1996 AT 1.30 PM TO CONSIDER THE DISTRICT PLAN REVIEW - AVIATION STRATEGY

PRESENT:

Crs R D Ramsay (Chairman - Planning Committee)
E A Braun-Elwert
I R Macpherson
A L Munro
N C Anderson (Mayor)
Mr A Wooster (Department of Conservation)
Mr A Evans (Federated Mountain Clubs)
Mr P McGahan (Contours & Glacier Helicopters)
Mr P McLaughlan (Glacier Helicopters)
Mr J Jones (Mount Cook Group)
Mr D Kershaw (Southern Lakes Helicopters)
Ms E Carter (NZ Defence Force)
Mr K Mitchell (The Helicopter Line)
Mr M Hunter (Aoraki Trust Lands Ltd)
Mr Bob McIntyre (Aoraki Trust Lands Ltd.)
Mr M Walls (South Canterbury Aero Club and Private Aircraft Owners and Operators)
Mr D Taylor (Mount Cook Ski Plane Division)
Mr R Rayward (Air Safaris)
Mr I Ivey (Glentanner)
Mr J Jones (Mount Cook Group)
Mr R McCarthy (Skyview Helicopters)

IN ATTENDANCE:

M Foster (Aviation Consultant)
J McKenzie (Manager - Planning and Regulations)
R Moran (Committee Clerk)
Cr J J Rayne
Cr K B O'Neill
B Brown (Twizel Promotions Association)

I APOLOGIES:

Resolved that apologies be received from G Braun-Elwert and S Cameron.

BRAUN-ELWERT /MACPHERSON

The Chairman tendered a public apology to Dave Kershaw of Southern Lakes Helicopters for the embarrassment caused him at the previous meeting by the display of a photograph of helicopters which had landed at Tekapo B. The Chairman said the subsequent explanation given by Mr Kershaw had been that he was engaged on official business for ECNZ at the time the photograph was taken.

The Chairman welcomed Barry Brown of Twizel Promotions who was observing the meeting and Robin McCarthy an operator from Fairlie.

M Foster:

Such problems could be dealt with by a cross wind runway on that site. It would be normal subject to prevailing weather conditions to provide a cross wind runway.

J Jones:

It would need a huge protection area.

R D Ramsay:

At this stage I am asking people to state if there is a change to what was said at the last meeting.

Key Component 2:

A L Munro:

There will be a need for a facility at Lake Tekapo from which to operate helicopters.

R Rayward:

Our stance has always been we will allow any private operator in, subject to a briefing. Commercial operators would look hard at the arrangements for them to use our facilities.

M Foster:

Landing charge agreements you would make with commercial operators would be compensation for part of the investment made in the airfield.

R Rayward:

It is hypothetical from our point of view because we are subject to our agreement with the Defence Forces.

E Carter:

Air Safaris have a licence to occupy land for a specified purpose. The licence means they do not have exclusive use. That is important. Secondly the licence means we can give more than one licence for the same piece of land. On Defence land the Department calls the tune.

R Rayward

We already have fixed wing and rotary using Tekapo.

E Carter:

The observatory is not our tenant rather Crown Lands and DOSLI.

M Foster:

There are controls on activities in the surrounding area because of the observatory.

R D Ramsay:

Lighting is controlled so as to prevent light spread.

It was agreed that the bracketed words (*at Glentanner and Tekapo only*) be removed from bullet point three.

MACKENZIE BASIN AVIATION STRATEGY

FINAL DRAFT

(30)

The key components of the strategy are:

1. Pukaki airport as the designated site for an open airport where the full range of fixed and rotary wing aircraft facilities would be provided for.

Provision for and protection of this facility will involve:

- Precision surface protection
- Compliance with ICAO standards
- Night and day operations
- Main runway length of 2,000 m
- Main runway strip width of 400 m
- Prohibition of noise sensitive activities within 500 m of the airport without commensurate acoustic treatment
- Landside space for passenger facilities, hangers etc
- Airport zoning and policies and rules in the District Plan

If necessary the Mackenzie District Council will undertake a facilitation role in ensuring that this facility is developed as a public open airport.

2. Glentanner, Tekapo and Mt Cook airports will be recognised as lower level feeder airports handling operations much as they are now servicing both fixed and rotary wing aircraft.

Provision for and protection of these facilities will involve:

- Precision surface protection
- Compliance with ICAO standards
- Night and day operations
- Main runway length of 1,200 m to 1,400 m (Mt Cook 1,512 m)
- Main runway strip width of 400 m
- Landside space for passenger facilities, hangers etc
- Airport zoning and policies and rules in the District Plan
- Prohibition of noise sensitive activities within 500 m of each airport without commensurate acoustic treatment

3. Fairlie Airport shall be recognised as a third level operating facility serving aircraft types, fixed and rotary wing, below 5,700 kg.

29

6. Landing sites within the National Parks and conservation areas shall be subject to Department of Conservation approval.
7. Landing sites on non-conservation areas shall be discretionary activities within the requisite zones where Council shall give consideration to:
 - Proximity of other landing sites
 - Frequency of use
 - Aircraft type using the site
 - Proximity of quiet wilderness areas.
8. Aviation noise abatement areas within the Mackenzie Basin and conservation lands shall be established by agreement between the aviation and national park user groups.
9. Air Safety Standards and Codes of airside behaviour shall be established by the licensees, Civil Aviation Authority (CAA) and the Aviation User Groups established under the auspices of the relevant aviation regulations.
10. Aviation activities associated with farming operations are permitted activities within the rural zone otherwise except as provided for in this strategy *all commercial fixed wing and rotary wing aviation activities are prohibited activities in every zone.*

Note: Other commercial activities eg Paragliding, and other micro light aircraft shall be discretionary activities. Where matters to be considered include:

- Noise
- Access
- Proximity to commercial aviation activities

11. Helipads at destination resorts are to be listed as *discretionary activities* where the use of such helipads shall be restricted to the pick up and drop off customers to and from Type 1 and Type 2 helicopter staging areas.

M J Foster
January 1996

• Mt Cook

1,572m x 14m wide sealed runway capable of handling Mt Cook ATR aircraft types and other aircraft of up to 5,700kg. Permission to operate helicopters from this field is currently being sought by the Mt Cook Group which holds a lease for this airfield and has the final say over who is allowed to use it. Mt Cook's competitors are not usually granted permission to use this facility in a manner that would allow scheduled snow landing and flightseeing.

• Glentanner

965m x 30m wide sealed runway capable of handling Dash 7 aircraft and equivalents, together with dedicated helicopter landing pads operated by the Helicopter Line. Again, this field is privately owned and existing agreement between the owner, Helicopter Line and Air Safaris Ltd prohibit the use of this field by other scheduled tourist service operators like the applicants.

• Pukaki

1,082m x 15.5m wide sealed runway with a similar fixed wing aircraft operating capacity to Mt Cook. This field, leased to the Mt Cook Group (MCG) until 2002 (the land occupied by the runway is now owned by the District Council) is used by MCG as its heavy aircraft alternate when Mt Cook is inoperable because of adverse weather conditions. MCG also use this field as a base for a flight seeing service using Piper Chieftains.

Because of the lease agreement, scheduled tourist service operators are not granted regular permission to use the field although one such operator, Glacier Helicopters Ltd, has lodged a resource consent application to operate on the perimeter of the field.

• Tekapo

840m x 11m wide sealed runway capable of handling Norman Islanders and equivalents. This field, owned by the Ministry of Defence, is subject to a lease agreement held by Air Safaris Ltd which currently grants exclusive use. However, while no rotary wing tourist operators are based at this field, it is understood that Defence would not prohibit such a use, subject to the agreement of its present lessee. The relevance of this possibility is commented upon further in Section 4 of this report.

• Other Sites and Activities

In addition to activities at these airfields, a number of operators in the Basin have been observed in recent months to illegally use State Highway roadside verges and adjacent paddocks to pick up and set down passengers embarking or disembarking from tour coaches.

BLK IX TEKAPO S.D.

CANTERBURY LAND DEPARTMENT

BLK IX TEKAPO S.D.

MACKENZIE COUNCIL

ROGUE CROWN ROAD

ALOHA CROWN ROAD

SCALE 1:10,000

1:10,000

327

Telephone: 64-3-363-0291
Facsimile: 64-3-363-0296



In Reply Please Quote:
SPM 7816/1/1

New Zealand Army
Southern Property Management Section
Burnham Military Camp
Burnham
NEW ZEALAND

27 May 1996

The Director Aviation Activities Ltd
P O Box 13
FAIRLIE

Attention : Mr R.M.McCarthy

APPLICATION TO USE DEFENCE LAND AT TEKAPO

References:

A. Letter Aviation Activities Ltd dated 21 May 1996

Your letter making application seeking to use Defence land at Tekapo for aviation purposes has been passed to the Chief of Defence in Wellington for consideration. A reply will be given once all the implications have been assessed.

A handwritten signature in black ink, appearing to read 'R.M. Angelo'.

R.M.ANGELO
Southern Property Manager

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.

(11)

17th June, 1996.

The Board of Directors,
Air Safaris and Services (N.Z.) Ltd,
P.O. Box 71,
Lake Tekapo.

Dear Sirs,

Tekapo Airport

I enclose a copy of the Mackenzie District Councils resolution dated August 1st, 1975 in respect of your company's application under (S) 35 of the Town and Country Planning Act, 1953.

In light of condition (e) we wonder if your company would wish to comment.

Yours faithfully,

Robin M. McCarthy.
Director.

34

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.

Tel; 025 478 185

19th June, 1996.

Mr Rob Angelo,
Southern Property Manager,
New Zealand Defence Force,
Burnham Military Camp,
Burnham.

Dear Sir,

I enclose a copy of the former Mackenzie County Council's decision in respect to an application by Air Safaris and Services (N.Z.) Ltd for permission under a specified departure to develop part of Mt John Station for an Airport.

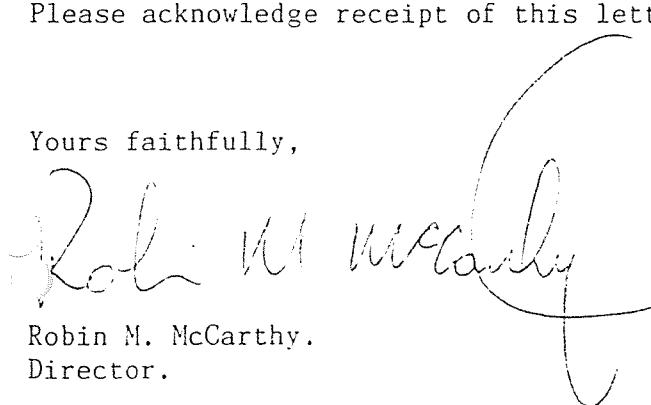
This decision was made on August 1st, 1975 and was effective in relation to the land on which the present day Airport is situated.

We bring to your attention condition (e). We will shortly be commencing operations under this condition. We have informed the applicant company (Air Safaris) that we will now commence operations. This implies that we will use existing facilities as is permitted under condition (e).

However we still wish to secure a "temporary arrangement" and then a "licence to occupy" for the development of our own infrastructure separate to that of Air Safaris. I presume we will require either or both for development.

Please acknowledge receipt of this letter. Thankyou in anticipation.

Yours faithfully,


Robin M. McCarthy

Robin M. McCarthy.
Director.

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.

(12)

Tel: 025 478 185

20th June, 1996.

The Board of Directors,
Air Safaris and Services (N.Z.) Ltd,
P.O. Box 71,
Lake Tekapo.

Dear Sirs,

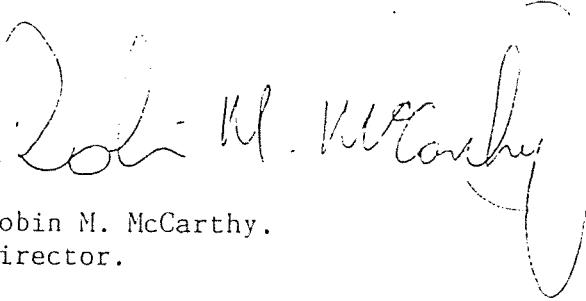
Tekapo Airport

Be advised that we will be commencing operations, both fixed wing and rotary wing, from Tekapo Airport in accordance condition (e) of the MacKenzie County Council's decision dated August 1st, 1975.

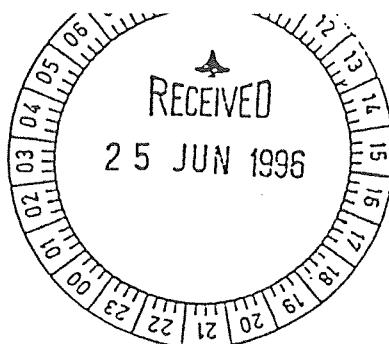
We would be grateful if you could inform us without delay (within 3 days) what an appropriate fee under normal circumstances would be. We would anticipate that this would be in accordance with a comparable Airport with facilities as they stood elsewhere in New Zealand back in 1975.

We shall look forward to an expedient receipt of your fee structure.

Yours faithfully,



Robin M. McCarthy.
Director.



25th June, 1996.

Mr Paddy Beban,
Chief Executive Officer,
Mackenzie District Council,
P.O. Box 52,
Fairlie.

Dear Sir,

COUNCILS RESOLUTION DATED 1:8:75 ON APPLICATION FOR ESTABLISHMENT OF TEKAPO AIRPORT

On August 1st, 1975 Council resolved that on the application by Air Safaris and Services (N.Z.) Ltd for the establishment of the existing Tekapo Airport;

That as Council considers that the use of the airstrip for the applicants purposes only would be contrary to the public interest, the strip and facilities must be available to other air users generally, but that the applicant be entitled to charge an appropriate fee for such use.

This company has been denied access to operate both commercially and have the use of Tekapo Airports facilities by Air Safaris and Services (N.Z.) Ltd contrary to the above resolution.

Both myself and Mr Tom Trevor visited Tekapo Airport on or around January 6th, 1996 and requested permission to land and takeoff for the purposes of uplifting fuel from the B.P. fuel installation. Mr Rayward of Air Safaris granted us this permission on the strict understanding that we would undertake not to carry out any commercial operations. Mr Rayward was later to contradict this arrangement. (I enclose a statement of Mr Trevors recollection of events).

Mr Rayward made it absolutely clear to us what Air Safaris position was. However previous and subsequent events clearly indicate the problems they have in keeping the above resolution. On some occasions they honour it, on others they do not. It is well known that Air Safaris and the Helicopter Line have a commercial arrangement and this explains why they have complied with the resolution in this respect. We have no arrangement and remain completely independent. Consequently we have been denied the same right under the resolution.

I take this opportunity to reproduce a number of submissions from various sources in order to clarify the above. All this quotes are attributed to Air Safaris.

1. Minutes of "Aviation Strategy" meeting held on 29:1:96:-

"Our stance has always been we will allow any private operator in subject to a briefing. Commercial Operators - we would look hard at the arrangements for them to use our facilities."

"We already have fixed wing and rotary using Tekapo."

"We are here for the good of the future of aviation in the basin..."

Our comments; Sure they have no problem with private operators other than having shown concern for their operational practices (also stated), simply because they are not a commercial threat. The rotary wing reference is in

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.

Tel: 025 478 185

FILE No.	
ACTION:	COPY:
1. 22
2. 23
3. 24
4. 25
5. 26
6. 27
7. 28
8. 29
9. 30
10. 31

25th June, 1996.

6/6

1/2

respect to The Helicopter Line. Their comment in respect to being "here" for the good of aviation in the basin is meaningless.

2. Submission dated 18:4:96 in response to our Resource Consent Application for Cowans Hill.

"We would like to make it clear that we have no arrangement to supply the applicant with fuel from Lake Tekapo Airfield I can categorically state that we would not assist the applicant by providing fuel or allowing him to refuel at our airfield."

Our comment; This is a clear statement that Air Safaris is denying us access to Tekapo Airport.

3. Minutes of Hearing Committee sitting on 13:5:96 to consider our Resource Consent Application. Mr Ensor representing Mr Rayward presented a statement from Mr Rayward regarding the fuel situation. He was then asked by Cllr Ramsay:-

"The applicant never asked to uplift Shell?, reply from Mr Ensor:
"No"

4. In a private letter dated 30:3:96, addressed to ourselves, Mr Rayward refers to our meeting in respect of B.P.'s installation.

5. Air Safaris submission to the Director of the Civil Aviation Authority in response to our application for a Part 157 safety determination for Cowans Hill:-

"The appropriate place for all aviation activities, particularly helicopters "... and" preferably located in the one common area." meaning Tekapo airport

"The Helicopter Line, which has operated helicopters at Lake Tekapo for many years...."

Our comment; Heres Air Safaris saying that all helicopters should be at Tekapo airport - but not ours, only the Helicopter Lines.

6. Air Safaris submission to CAA dated 30:3:96:-

"I can clearly state that we will not allow them to draw fuel from our facilities."

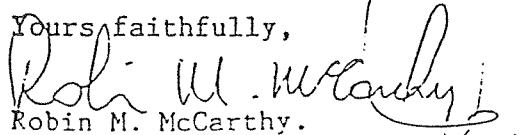
"The established airfield is the obvious place."

Our comment; Heres Air Safaris stating to the CAA that they will not allow us access to Tekapo Airport. Then they go on to say that we should be operating from Tekapo airport. Air Safaris are not aware that we have copies of their correspondence to the CAA.

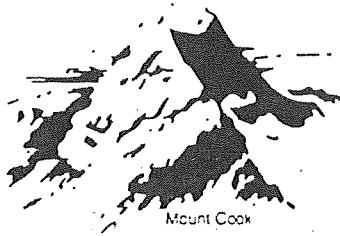
Most recently we wrote to Air Safaris and asked them to forward a copy of their schedule of what constituted an "appropriate fee" for operations from Tekapo Airport in accordance with Councils 1975 resolution. We have not received any reply.

CONSEQUENTLY WE ASK OF COUNCIL TO SERVE A NOTICE OF COMPLIANCE ON AIRSAFARIS WITHOUT DELAY AND TO BE EFFECTIVE IMMEDIATELY.

Yours faithfully,


Robin M. McCarthy.

38



(27)

Mackenzie District Council

REF: 25300 15902

12 July 1996

Aviation Activities Ltd
PO Box 13
FAIRLIE

Dear Sir

COMPLAINT BY AVIATION ACTIVITIES LTD REGARD CONDITION "E" OF THE TEKAPO AIR FIELD SPECIFIED DEPARTURE

With reference to the complaint from Aviation Activities Ltd dated 25 June 1996 and the response from Air Safaris and Services Ltd dated 29 June 1996, both relating to condition "e" of the specified departure issued by Council in 1975.

I would record that Council's Planning and Regulatory Committee met on 10 July 1996 to hear evidence from Mr R McCarthy assisted by Mr T Trevor and a response from Mr E O Sullivan on behalf of Air Safaris and Services Ltd.

The Committee was also assisted by a legal opinion from Mr Adrian More, dated 9 July 1996, relating to the complaint.

After hearing all of the evidence and having given regard to all evidence presented, the Committee accepted the legal opinion from Mr Adrian More and deemed that Air Safaris and Services Ltd had not been proven of have breached condition "e" of the specified departure.

The basis of the legal opinion related to the wording of condition "e" that stated in part "... other air users generally,....". The Committee accepted that the word "generally" was important and that it meant use by other air users in a *general* way rather than use by one specific operator in the same way as Air Safaris Ltd.

Yours faithfully

J J MCKENZIE
MANAGER - PLANNING AND REGULATIONS

JJM:MLG

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

(52)

Tel: 03 685 8900
025 478 185
Fax: 03 685 8901

1st May, 1996.

Mr Rob Angelo,
Southern Property Manager,
Southern Property Management Section,
Burnham Military Camp,
Burnham.

Dear Sir,

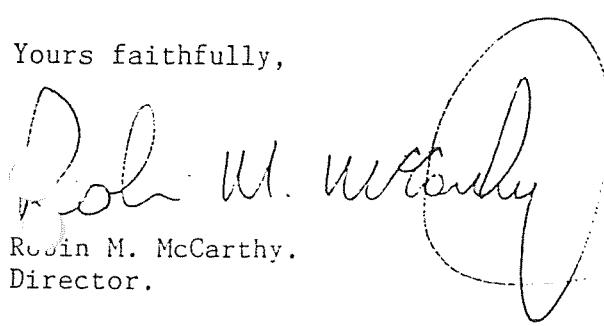
I am aware that Air Safaris and Services Ltd have a "licence to occupy" the Tekapo Military Area for the purposes of operating aircraft from Tekapo Airport.

I understand it the licence is personal to Air Safaris only and does not extend to any other operator. I would be grateful if this could be confirmed by way of ourselves securing a copy of the lease agreement or alternatively written confirmation.

The matter has assumed some importance to us as we are aware that another operator (The Helicopter Line) has a resident helicopter on the same airfield alongside Air Safaris and we are not aware that they have a separate "licence to occupy".

I shall look forward to receiving your reply.

Yours faithfully,


Robin M. McCarthy.
Director.

2

6 Dowling Rd.,
Paroa,
Greymouth 7870,
14-8-96,

To Whom It May Concern,

On or about the 6-1-96 Mr. Robbin McCarthy & myself called on Mr. Richard Raywood at Tekapo Airport.

We asked Mr. Raywood if we could be granted permission to land the helicopter at Tekapo Airport to fuel up from the B P facility.

Mr. Raywood granted us permission to do so.

It was also stated permission was granted on the understanding that we were not to undertake any commercial work from Tekapo Airfield.

I make oath that the above statement is true & correct.

Yours faithfully

John F. Bresnan

Tom. F. Trevor

Witness

Witness, S. J. Hibbs

DEPUTY REGISTRAR
DISTRICT COURT
GREYMOUTH

Print name,

R. M. McCaughy
41

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

21st August, 1996.

Col S. Heaton,
Headquarters New Zealand Defence Force,
Private Bag,
Wellington.

Dear Sir,

Application for Licence to Occupy - Tekapo Military Training Area

I take this opportunity to enquire as to progress on the above application. I must express my concerns (although I trust that you will allay them), in that my recent weekly telephone enquiries have without exception indicated that we would be informed of the outcome within a few days. However this has never happened and today we were given indication that it would not happen until at least the end of the month.

We have been aware that the Mackenzie District Council has taken a greater interest in Tekapo Airport and we wonder if this is the reason for any hold-up. We would hope not.

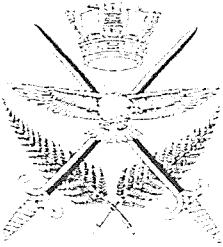
We are desperate to have a decision. We are unable to get on and plan for the future. Furthermore we do not have any income and to go elsewhere will involve more capital expenditure and delays.

I trust that you are able to respond with something definitive without further delay.

Yours faithfully,

Robin M. McCarthy.
Director.

427



NEW ZEALAND DEFENCE FORCE
TE OPE KAATUA O AOTEAROA

In reply please quote:
7808/63/C53

6

2 September 1996

Aviation Activities Ltd
PO Box 13
Fairlie
SOUTH CANTERBURY

Attention: Mr Robin M McCarthy (Director)

Dear Sir

**Tekapo Military Training Area
Non-Defence Use Of Airfield For Helipad Purposes**

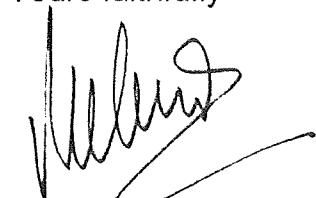
Aviation Activities Ltd request for a licence to occupy the Tekapo Military Training Area for the purpose of a rotary wing helipad located either within the Air Safaris Airfield or in an area bounded by SH 8 and the Tekapo Canal Road with access off the Tekapo Canal Road is declined. The proposed use was to accommodate two AS 350B squirrel helicopters or their equivalent, for the purposes of charter heli-skiing, sightseeing, and snow landings primarily in the Two Thumb Range.

The proposed use is considered incompatible with the safe and efficient operation of the Defence Area.

The existing use of the airfield by Air Safaris and Services Ltd was established prior to NZDF acquisition of the airfield and is now integral to the operation of the Defence Area.

Thank you for your enquiry.

Yours faithfully



M Rhys
for Chief of Defence Force

437

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

6th September, 1996.

Rt Hon Paul East,
Minister for Defence,
Parliament Buildings,
Wellington.

Dear Minister,

Tekapo Military Training Area

We have made a very concerted effort to provide consumer choice in aviation services at Tekapo.

We were prevented from operating commercially at Tekapo Airport contrary to the Mackenzie County Councils resolution of August 1st, 1975. Consequently we applied for a Resource Consent to operate from a site to the East of Tekapo. Following a public hearing this application was declined. We applied for Resource Consent on yet another site but the Council inform us that the potential for flightpath conflicts with Tekapo Airport continue to exist. We disagree as do the CAA.

The Mackenzie District Council has formulated an "Aviation Strategy" in consultation with all operators which is about to be incorporated into the new District Plan. This has identified Tekapo Airport as the place where all future aviation development in the Tekapo Area will take place. The Council has resolved that they will not grant Resource Consents for any other site.

Tekapo Airport is encompassed within the Tekapo Military Training Area. We applied for a "licence to occupy" over two sites. One was adjacent to the Airport and the other was some 400 metres distant. The New Zealand Defence Force after approximately 8 months of deliberations have declined our application.

Operating an aviation venture is not a prohibited activity in the Mackenzie District at Tekapo. We have spent a fortune, have acted in good faith and achieved nothing. We are up against powerful vested interests who have done all they can to prevent us becoming operational at Tekapo. The situation leaves one operator with a continuing monopoly. Furthermore another helicopter operator operates from Tekapo Airport without a licence to occupy.

We have been denied the right and freedom to earn a living. Having been in aviation all over the world for 20 years I now find myself having to sign on the unemployment benefit. The situation is bizarre and never would I have thought that New Zealand would evolve along these lines.

Out of all the many thousands of Hectares at Tekapo all we require is sufficient space in order to operate 2/3 helicopters. We would ask that you urgently investigate this matter on our behalf.

Yours faithfully,

Robin M. McCarthy.
Director.

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

19th September, 1996.

C.J.A. Hoey,
Lieutenant Commander RNZN,
Private Secretary to the Rt Hon Paul East,
Office of the Minister of Defence,
Parliament Buildings,
Wellington.

Dear Sir,

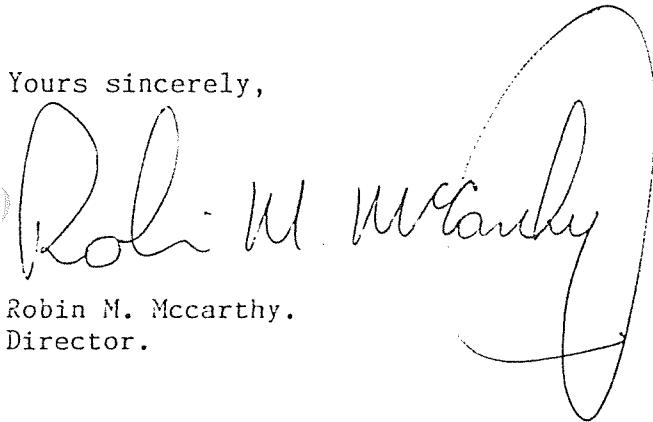
Thankyou for your letter of acknowledgement on behalf of the RT Hon Paul East.

I would be grateful if you could convey to the Minister how urgent this matter is. We are caught between the Mackenzie District Councils wishes and the opposite wishes of the Ministry of Defence.

We made a substantial financial commitment to securing a consent. Our company is facing insolvency and myself and others connected to the company are facing bankruptcy. As matters stand we have no way of recovering our capital expenditure unless we can become operational within a matter of days. In order to do so all we require is a "licence to occupy" without the requirement to secure a Resource Consent.

In order to assist the Minister I enclose a map of the two sites which would allow us to operate without impediment.

Yours sincerely,


Robin M. McCarthy.
Director.

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Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

23th September, 1996.

C.J.A. Hoey,
Lieutenant Commander RNZN,
Private Secretary,
To the Rt Hon Paul East,
Minister of Defence,
Parliament Buildings,
Wellington.

Fax: 04 471 1442.

Dear Sir,

Tekapo Military Training Area - Non Defence use for operation of Helicopters

Further to my fax of yesterday (Friday 27th September, 1996), i take this opportunity to elaborate further on my proposals.

I proposed that the Minister could impose righthand circuits for runway 11 and lefthand circuits for runway 29 at Tekapo Airport. By doing so would remove your tenants' (Air Safaris and services N.Z. Ltd) as being an affected party to our site situated East of Tekapo which itself is not on Defence Force land.

Both ourselves and the CAA have concluded that our previous site on Cowans Hill qualified for a Part 157 Safety Determination which was subsequently granted. Our other site is some 800 metres further away from Tekapo Airport. We believe that your tenants real reason for objecting to any attempt we have made to establish at Tekapo is for commercial reasons. Any safety aspect is easily resolvable but this will mean that your tenants have to come to accept that they will share the airspace with another operator and will no longer have the freedom to operate where they wish without consideration for others at Tekapo.

Alternatively the Minister could instruct your tenant to declare in writing to us that they are not an affected party in respect to our latest site. This would not require any imposition on traffic patterns at Tekapo Airport.

However we still have the problem of convincing the Council that they should grant us a Resource Consent contrary to their "aviation strategy". We would not wish to see ourselves left out in the cold if they then decline our application. If the Council do grant a Resource Consent then this would obviate the need for us to secure a permanent "licence to occupy" on Defence Force land.

In the meantime we still seek to secure a temporary "licence to occupy" as well as some form of compensation to make good our lost opportunity costs. I feel that we could limit this to two lost salaries i.e. my own as a Director and that of our chief pilot. We find ourselves in this situation through no fault of our own. We would wish to see any compensation backdated to when we initially made application to the NZDF back in March.

We have, and continue to work hard and do all we can to resolve this problem. Its resolution lies outside our control. We again ask that the Minister considers this whole matter on Monday 30th September, 1996.

Yours faithfully,

Robin M. McCarthy
Robin M. McCarthy.

467

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Fax: 03 685 8340

4th October, 1996.

C.J.A. Hoey,
Lieutenant Commander RNZN,
Private Secretary to the Rt Hon Paul East,
Office of the Minister of Defence,
Parliament Buildings,
Wellington.

Fax: 04 471 1442,

Dear Sir,

Tekapo Military Training Area - Non Defence Use for operation of Helicopters

Thankyou for your letter dated October 2nd, 1996.

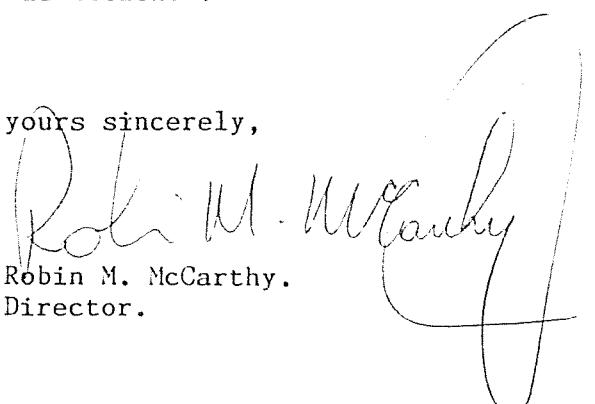
The following summarises our proposal of preference:-

1. That we are granted a TEMPORARY/INTERIM "licence to occupy" without need to secure a resource consent,
2. That the Minister imposes righthand traffic circuits for runway 11 and lefthand traffic circuits for runway 29 at Tekapo Airport,
3. That the Minister instructs the Crowns tenant (Air Safaris) that they are unaffected parties to our No 2 Cowans Hill site,
4. That on security of a resource consent for our Cowans Hill (Lake Tekapo) site we will relinquish our "licence to occupy",
5. That we will only uplift fuel from tekapo Airport until such time as we have installed a fuel tank on our Cowans Hill site.

We bring to your attention that Air Safaris have not as of today responded in any way to our request for their non objection in respect to our Cowans Hill (No 2) site. All other potentially affected parties have done so with their non objections.

I trust that the Minister now has all the information required. we will await his decision.

yours sincerely,


Robin M. McCarthy.
Director.

Office of
MINISTER OF DEFENCE
Parliament Buildings
Wellington, New Zealand



14 October 1996

Mr Robin M McCarthy
Director
Aviation Activities Ltd
PO Box 13
FAIRLIE

Dear Mr McCarthy

Thank you for your letter of 6 September 1996 about the difficulties which your company is experiencing in attempting to establish a commercial helipad facility in the Tekapo area. I have also noted your further letters dated 19, 27 and 28 September 1996, addressed to my Private Secretary.

Many of the issues that you have raised fall outside the ambit of the defence portfolio. I can, however, confirm that the Defence Force's decision to decline your request to operate from a helipad on Defence Force land is predicated on the incompatibility of your proposed operation with the operational integrity of the Tekapo Military Training Area.

Yours sincerely

5
Paul East
Minister of Defence



P.O. Box 71
Lake Tekapo
New Zealand
Telephone 0-3-6806880
Facsimile 0-3-6806740

Mr Robin McCarthy
P.O. Box 13
FAIRLIE

21.12.96

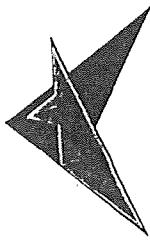
Dear Sir,

You leave me with no option but to advise you that from this date we will not accept, acknowledge, or respond to any written, or spoken correspondence from yourself addressed to our Company, its Directors, or myself personally.

If you wish to correspond with our Company or myself in any way, this should be done only through your own practising solicitor to our solicitors, Raymond Sullivan McGlashan, P.O. Box 557, Timaru.

Yours faithfully,

R.C. Rayward
Managing Director - Operations



AIR SAFARIS

AND SERVICES (NEW ZEALAND) LTD

P.O. Box 71
Lake Tekapo
New Zealand
Telephone 0-3-6806880
Facsimile 0-3-6806740

Mr Robin McCarthy
P.O. Box 13
FAIRLIE

14.2.97

Dear Sir,

It is noted that you used our airfield at Lake Tekapo yesterday, 13th Feb.

It would appear that this was a private flight and, as our policy has always been to allow private use of the facility free of charge (unless people are a particular nuisance!), I am returning your cheque left as a landing charge.

Please note, however, that for very sound safety reasons, it is a requirement that any pilot wishing to use the airfield contact us first. After several serious incidents involving visiting aircraft, we are very firm on this requirement, which ensures that we have the opportunity to brief pilots according to their experience, familiarity with the area, and their aircraft type. It ensures that our operation is aware of visitors' likely arrival time in the circuit, and also that we can warn of temporary problems such as snow, ice, runway work etc.

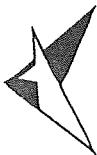
Yours faithfully,
AIR SAFARIS AND SERVICES (NZ) LTD

Richard Rayward
Managing Director - Operations

INVOICE/STATEMENT

A 7928

Dr. to



AIR SAFARIS & SERVICES (N.Z.) LTD.

Music and Animation Activities (4th)

P.O. Box 71
Lake Tekapo
New Zealand
Phone 0-3-680-6880
Fax 0-3-680-6740

Date: 13/2/97

1/- Landing fee at Tekapo Airfield.

16 - 80

paid with thanks

10-00

TAX INVOICE: GST No. 13-573-719



P.O. Box 71
Lake Tekapo
New Zealand
Telephone 0-3-6806880
Facsimile 0-3-6806740

TO: ROBIN McCARTHY

AIR SAFARIS AND SERVICES (NZ) LTD being the Occupier of part of the property situated in the Balmoral Military Training Area, Tekapo, being more particularly described as the runway, terminal and hangar buildings and other land within the Tekapo airport boundary do HEREBY GIVE NOTICE warning you to stay off the aforesaid land.

Should you fail to comply with the warning contained in this Notice and enter on to the above property, your actions will constitute an offence pursuant to Section 4 of the Trespass Act 1980.

.....
Managing Director Operations - Air Safaris

.....

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

19th March, 1997.

C.J.A. Hoey,
Lieutenant Commander RNZN,
Private Secretary to Minister of Defence,
Parliament Buildings,
Wellington.

Dear Sir,

TEKAPO AIRPORT - TEKAPO MILITARY TRAINING AREA

I write this letter in response to your request of Friday March 14th, 1997. I would be grateful if you would place this letter before the Minister, the Rt Hon Paul East, Minister of Defence.

Tekapo Airport was established by the Mackenzie County Councils resolution of August 1st, 1975. This resolution contained a condition: (e) "That as Council considers that use of the airstrip for the applicants purposes only would be contray to the public interest, the strip and facilities must be available to other air users generally, but that the applicant be entitled to charge an appropriate fee for such use". The applicant company was 'Air Safaris and Services (N.Z.) Ltd. This resolution has not been rescinded.

Our company paid a visit to Tekapo Airport on or about January 6th, 1996 and enquired in the first instance as to whether we would be allowed to uplift fuel. Permission was granted on the strict understanding that we would not conduct any commercial operations from Tekapo Airport. Councils resolution was not brought to our attention. We accepted what Mr Rayward, M.D. Operations of Air Safaris said in the absence of knowing otherwise. This event led us to make an application for a Resource Consent to operate helicopters from Cowans Hill West on the Eastern side of Lake Tekapo. Co-incident with this application was an application to the New Zealand Defence Force to operate from two sites both of which were situated between Tekapo Airport and Tekapo town.

Our Resource Consent application for Cowans Hill West was declined by the Mackenzie District Council. Our primary objectors were Air Safaris and Services (N.Z.) Ltd. This decision was appealed to the Environment Court but Court proceedings were brought to a halt by the Judge on his decision that he would not further consider the appeal whilst our company had yet another Resource Consent application under consideration by the Mackenzie District Council.

At no time during the hearing of our Resource Consent application for Cowans Hill West was the Councils resolution of 1975 in respect to Tekapo Airport brought to our attention by either the Council or Air Safaris. On eventual receipt of this resolution we have made a number of allegations concerning the political relationship between the Council and Air Safaris. It must not be forgotten that Air Safaris are the monopoly providers of Air Services at Lake Tekapo where the presence of other operators on Air Safaris approval have not been direct competitors.

Our application to operate from Defence Force land was declined. The reason given was beyond our understanding given that others have and continue to use Tekapo Airport at Air Safaris' discretion. We have always suspected that Air

19th March, 1997.

Safaris had a hand to play in this decision to decline our application. Following an incident at Tekapo Airport on March 2nd, 1997 a letter was produced which was privately addressed to myself originating from the New Zealand Defence Force. How a copy of this letter came to be in the hands of both the Police and Air Safaris is unknown but we can only assume that it originated from the New Zealand Defence Force thus confirming our suspicions of a more than business relationship between the New Zealand Defence Force and Air Safaris.

Burnham's Southern Property Management Section granted a "Deed of Licence" to Air Safaris on May 23rd, 1996 permitting them to occupy Tekapo Airport. This begs the question as to what existed before May 23rd, 1996 from the period in 1987 when Defence assumed some control over the land. This "Deed of Licence" contains a clause that the licensee shall: "comply with all statutes, regulations, rules and ordinances regarding the conduct of the licensee's business and the use of the land for that purpose". Neither Air Safaris or the New Zealand Defence Force have complied by having upheld the original Council resolution attaching to the land.

Many aircraft have used Tekapo Airport over the years. Another operator has been resident on Tekapo Airport since 1983. This other operator is "The Helicopter Line" whose manager is very friendly with Rayward of Air Safaris. Air Safaris claim that The Helicopter Line do not conduct commercial operations from Tekapo Airport. This is incorrect. Air Safaris have a mutual commercial relationship which works both 'quid pro quo' for Glentanner Airport and Tekapo Airport. The Helicopter Line works commercially from Tekapo Airport so long as it does not take a flight from Air Safaris. The two operators have engineered a trading block to keep the likes of our company out.

I wrote to Burnham and enquired as to why The Helicopter Line did not have a separate licence to occupy. The reply I received on May 10th, 1996 was that "Defence was aware of the temporary arrangement noted in your letter but however, that operator has since permanently relocated to another airfield in the region". However this is totally incorrect. The Helicopter Line was absent for a few weeks but became resident again up to the end of January 1997 and were conducting commercial flights as of last week. I spoke to Burnham last week and the response was that "we don't want to talk about it." More recently an Agricultural operator as based an Ag-plane at Tekapo Airport again without a separate "Deed of Licence."

Richard Rayward has assumed an authority that he is the sole arbitrator as to who should or should not operate from Tekapo Airport. There does not exist any document granting such delegated authority to him. However what he is doing is picking and choosing amongst operators that are or are not commercial threats to Air Safaris.

Late 1995 extending into early 1996 the Council in consultation with local operators formulated an aviation strategy to be incorporated in the New District plan. We were put at some disadvantage as Air Safaris were tasked with extending the invitations and we were excluded up to the point where we invited ourselves and made one appearance at the final meeting.

The original Draft included provision for the establishment of a Heliport to the East of Lake Tekapo. The final Draft excluded this provision for reasons unknown to us. However it did include provision for Tekapo Airport to be recognised as a "Feeder" Airport serving both fixed wing and rotary wing aircraft. It also makes reference to Defence's Balmoral Heliport to the West of Tekapo Airport. At a workshop meeting held on January 29th, 1996, Defence's Edith Carter stated that: "Air Safaris have a licence to occupy land for a specified purpose. The licence means they do not have exclusive use. That is important. Secondly the licence means we can give more than one licence for the same piece of land".

19th March, 1997.

One of the reasons given for declining our Resource Consent application for Cowans Hill West was that it was not in accordance with the Aviation Strategy, i.e. we were not at Tekapo Airport.

We have another Resource Consent application being considered by the Council to operate from Cowans Hill East. Again Air Safaris are objectors. Their objections are always based on 'safety grounds' despite the Civil Aviation Authority disagreeing with them. The Council has to some extent uphold their objection due to the Ferintosh decision where the Environment Court overturned Councils decision on appeal from Air Safaris and others. The Courts decision was that under the Resource Management Act, Council had a duty to consider the potential for inflight collisions which could adversely affect the environment. The CAA have made an application for judicial review.

The District Plan has recently been notified and by law now carries some weight. We have tried hard to secure Air Safaris approval for our current application but they will not oblige simply because it keeps us out of the market at Tekapo. The Council are in effect saying that we must be at Tekapo Airport in order to comply with the proposed District Plan. If we were able to secure Air Safaris approval for our current site then would probably be no need for us to be at Tekapo Airport as our current application might be granted in the absence of other objectors.

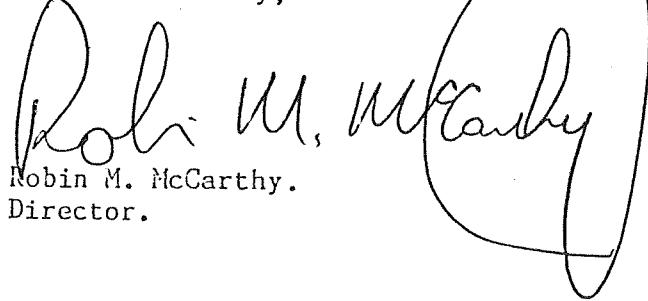
We find that we are unable to go forward or backwards and are stuck firmly in the middle having spent hundreds of thousands of dollars and never dreaming that such a situation would arise.

To break the impasse we decided to exercise our rights under Councils 1975 resolution. To this effect I piloted an aircraft into Tekapo Airport on February 13th, 1997. I paid the landing fee of \$10 and left later in the afternoon. The next day I received a return of our cheque on the grounds that Air Safaris did not charge for what they deemed to be a private flight. On March 2nd, 1997 we drove onto the Airports carpark and displayed a few signs from which it could be construed that we were about to commence commercial operations with helicopters. We were asked by Air Safaris to leave. I refused. After considerable debate I was served a trespass notice by Air Safaris but again refused to leave on legal technical grounds. Eventually a Corporal from the New Zealand Defence Force is called. On refusal to leave I was arrested by the police. I have been charged with trespass and have pleaded not guilty.

We note that Air Safaris allow anyone onto the Airport so long as they are not a commercial threat. They have assumed authority in the absence of any delegation. Defence's position is bizarre and does not make sense. Neither Defence or Air Safaris are upholding Councils resolution of 1975.

There is only one solution in our opinion and that is that the Minister respectfully instructs Defence to grant us permission to operate from Tekapo Airport in accordance with Councils resolution of 1975.

Yours faithfully,


Robin M. McCarthy.
Director.

Office of
MINISTER OF DEFENCE
Parliament Buildings
Wellington, New Zealand



21 March 1997

Mr Robin M McCarthy
Director
Aviation Activities Ltd
PO Box 13
Fairlie
SOUTH CANTERBURY

Dear Mr McCarthy

On behalf of the Hon Paul East I acknowledge your letter dated 19 March 1997 concerning the Tekapo military training area.

Your letter has been placed before the Minister, who will reply to you as soon as possible.

Yours sincerely

C J A Hoey
C J A Hoey
Lieutenant Commander RNZN
Private Secretary

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

3rd April, 1997.

Lieutenant General Tony Burkes,
Chief of Defence Force,
Headquarters New Zealand Defence Force,
Private Bag,
Wellington.

Dear Sir,

I wrote to Captain Rathbone on February 25th, 1997 and have not received a reply. I sent a fax to the New Zealand Defence Force on March 11th, 1997. Again I have received no reply although Captain Rathbone implied that he was aware of this fax at a public meeting held in Tekapo last Sunday.

As a Director of my company I am tasked with exercising leadership and resolving problems that arise. We find ourselves in a position not of our own making. We turn to you as Chief of the New Zealand Defence Force to also reciprocate in turn and work with us to resolve the very real problems we have in seeking to make a living in our area of expertise at Tekapo.

We may not have pursued our Tekapo project if we knew that we would find ourselves where we are today. However hindsight is a precise science. Now that we are 15 months down the road and having spent a fortune we will see it to the end. I have that duty to the people I am responsible to. We have been at a disadvantage in not having to hand all the information we needed. It is to this effect that we request further information under the "Freedom of Information Act".

Has the New Zealand Defence Force or any other tax-payer funded organisation made any financial contribution towards, or investment in any infrastructure at, or on Tekapo Airport encompassing that area as designated for Airport purposes in the proposed Mackenzie District Council "District Plan"? This request also includes details of the documents to be furnished to us in such event.

Is Air Safaris' "Deed of Licence" was only granted on May 23rd, 1996 (long after we expressed our interest in Tekapo). What was the relationship between Defence and Air Safaris for that long period from 1987 to May 23rd, 1996?

I must state that I believe Defence has a right to be at Tekapo. I am a local who has returned and I well remember the annual six weekly camps. I am sympathetic to Defence's problems. However Defence does not have a right to interfere in my right to make a living as a civilian. The two are not incompatible. I am also prepared to meet with you personally.

I shall look forward to your reply along with the information requested.

Yours faithfully,
Robin M. McCarthy
Director.

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

7th April, 1997.

C.J.A. Hoey,
Lieutenant Commander RNZN,
Private Secretary to Minister of Defence,
Parliament Buildings,
Wellington.

Dear Sir,

Tekapo Airport - Tekapo Military Training Area

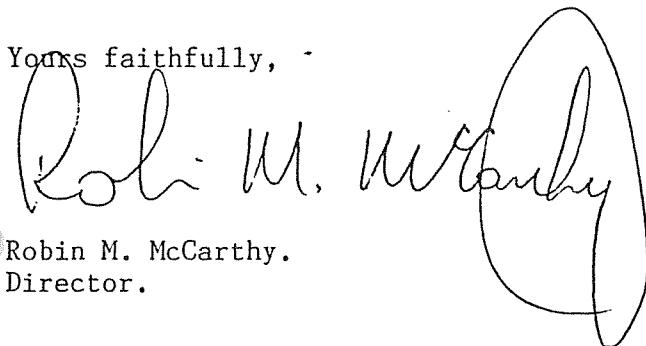
I enclose a copy of a report which has been prepared on what has been happening at Tekapo and the reasons why it is happening. We trust that you will place it before the Minister. We have done this to ensure that he has before him information that might not necessarily be forthcoming.

Please also stress to the Minister on our behalf that all we ever sought at Tekapo was to offer consumer choice in aviation services and hopefully make a living whilst at the same time securing a return on our capital investment.

There are solutions to the mess we find ourselves in through no fault of our own. We have a couple of proposals which we would wish to put to the Minister and to that effect we would wish to meet with him on a personal basis.

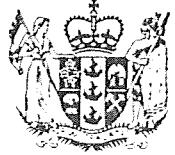
I trust that such a meeting can be arranged urgently.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Robin M. McCarthy". The signature is fluid and cursive, with a large, open loop on the right side.

Robin M. McCarthy.
Director.

Office of
MINISTER OF DEFENCE
Parliament Buildings
Wellington, New Zealand



2 May 1997

Mr R M McCarthy
Director
Aviation Activities Ltd
PO Box 13
Fairlie
SOUTH CANTERBURY

Dear Mr McCarthy

On behalf of the Hon Paul East I acknowledge your letter dated 30 April 1997 concerning response times for your letters.

Your letter has been placed before the Minister, who will reply to you as soon as possible.

Yours sincerely

C J A Hoey
C J A Hoey
Lieutenant Commander RNZN
Private Secretary

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

7th May, 1997.

The Chief Ombudsman,
The Office of the Ombudsman,
P.O. Box 13482,
Christchurch.

Dear Sir,

Request for Information - Tekapo Airport

Our company made an application for information concerning Tekapo Airport to the Chief of Defence Force, Lt Gen Tony Burkes on April 3rd, 1997, of which I attach a copy. Having received no reply I followed up with a reminder letter dated April 23rd, 1997. On April 30th, 1997 I had a telephone call from a Captain Rathbone of the New Zealand Defence Force stating that they would be unable to provide any information until the end of July, 1997.

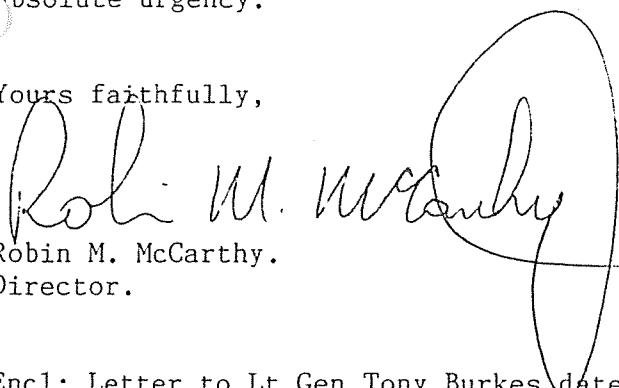
Defence is aware that our company has a public hearing on a Resource Consent application due to be heard by May 23rd, 1997 and that at this hearing there exists an obligation for our company to publicly state as to why we are unable to operate from Tekapo Airport when that Airport was made a public Airport on its establishment back in August of 1975.

It is absolutely vital that we have in our receipt by May 23rd, 1997 the information that we have requested from Defence.

Defence has not stated under Section 15 of the Official Information Act, 1982 as whether they will even grant our request. Neither has a formal notification been made for an extension of time under section 15 (A).

Consequently we rely on Section 28, Para 5 in making this complaint for investigation. We would be grateful if this matter could be dealt with in absolute urgency.

Yours faithfully,



Robin M. McCarthy

Robin M. McCarthy.
Director.

Encl: Letter to Lt Gen Tony Burkes dated April 3rd, 1997,
Letter to Lt Gen Tony Burkes dated April 23rd, 1997.

P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

19th May, 1997.

Mr M. F. Rhys,
for Chief of Defence Force,
New Zealand Defence Force,
Private Bag,
Wellington.

Dear Sir,

I take exception to the comments you levelled at me during our telephone conversation on Friday 16th May, 1997.

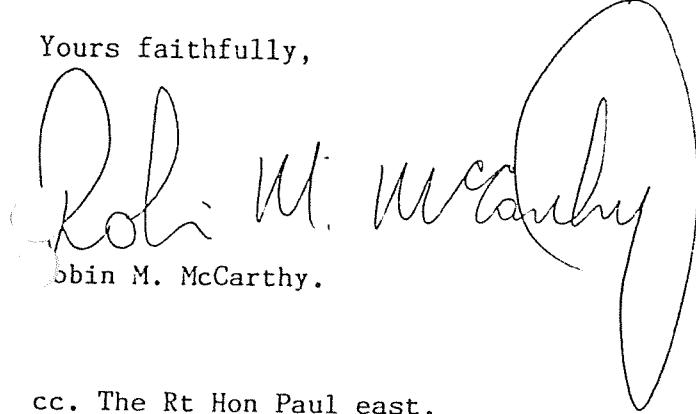
Your allegations are without foundation and amount to nothing other than hearsay. No policeman has made any statement that my behaviour was such as to require comment.

You may wish to consider the source of any comment made about myself and the motives behind any such comment.

I would ask that in future you take a more objective view of matters and have the good sense and decency to get to know myself and my colleagues better.

An apology would not go amiss in the circumstances.

Yours faithfully,



Robin M. McCarthy

cc. The Rt Hon Paul East.
Minister of Defence.

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

13th June, 1997.

Anand Satyanand,
Office of the Ombudsman,
P.O. Box 10152,
Wellington.

Dear Sir/Madam,

Official Information Act Complaint - Minister of Defences Office

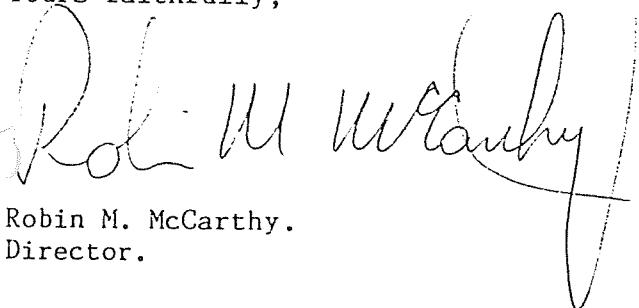
It is with regret that again we are making a complaint under Section 28, paragraph 5 of the Official Information Act, 1982.

We wrote to the Minister of Defence's office on May 21st, 1997 and requested as to why the Resource Consent for the establishment of Tekapo Airport was omitted from the list of Resource Consents granted for Mt John Run which formed part of the documentation for the Ministers "Requirement for a Designation" under the Mackenzie District Councils Proposed Plan.

Neither Sections 15 or 15(A) of the Official Information Act, 1982 been quoted to us in this matter.

We would be grateful to receive your assistance in this matter.

Yours faithfully,



Robin M. McCarthy.
Director.

encl: Copy of letter dated May 21st, 1997 with request.

P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

3rd September, 1997.

Captain W. Rathbun,
for Chief of Defence Force,
Headquarters New Zealand Defence Force,
Private Bag,
Wellington.

Dear Sir,

Thankyou for your letter of September 1st, 1997.

We wrote to the Hon Jenny Shipley, Minister of Transport outlining our problems with respect to securing Resource Consents elsewhere in the Tekapo area. Those problems derive from a legal precedent set in relation to CAA Safety Determinations and our competitors objecting. She in turn stated that we might be better advised to pursue our original plan to operate from Tekapo Airport. Our renewed request for a licence to occupy took account of the proposed larger designation for Tekapo Airport as well as it's proximity.

Mrs Shipley has also had the Mackenzie District Council's resolution of 1975 brought to her attention. We have expressed concerns elsewhere that Defence in granting a "licence to occupy" to Air Safaris was not replacing like with like in respect to the Recreation Permit. A Recreation Permit does not permit Air Safaris to serve a trespass notice against anyone whereas the licence to occupy does. We have now sought an enforcement order in the Environment Court against the Mackenzie District Council.

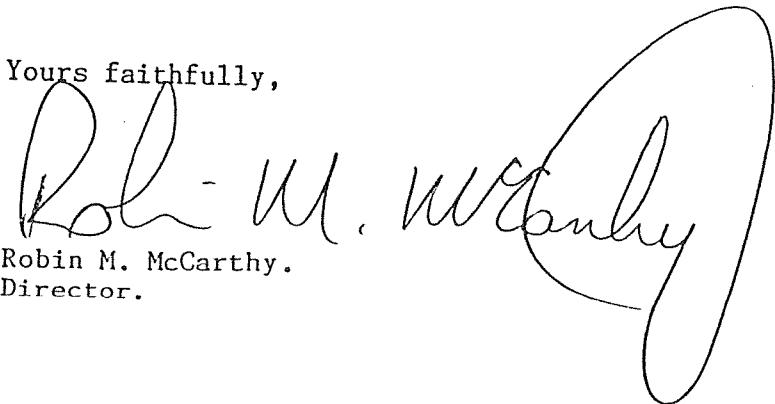
Defence have publicly stated that use of the TMTA has declined. Air Safaris continue to add aircraft to their fleet thus increasing activities within the TMTA. Defence's reasons for declining our applications do not make sense.

Yet again we make application for a "licence to occupy" the TMTA in accordance with the Mackenzie District Council's resolution of 1975.

We would ask you to note this: If your licensee (Air Safaris) and their aviation acquaintances stopped objecting to our Resource Consent applications then there would be no need to seek a "licence to occupy" the TMTA. They are only objecting to prevent the advent of our competition.

We note the spelling of Lt. Gen. Tony Birks.

Yours faithfully,



Robin M. McCarthy.
Director.

63 1

Adrian More

L.I.B: FAMINZ
B A R R I S T E R

Octagon Chambers

Level 5, Moran Building
8 The Octagon PO Box 5143
Dunedin New Zealand

Telephone (03) 477-2133
Facsimile (03) 477-2135

10 September, 1997

Aviation Activities Ltd
P.O. Box 13
FAIRLIE

Attention: Mr McCarthy

Re: Application for Enforcement Order

I refer to my telephone discussion with you of the 10th of September. I confirm that I have been instructed to act for the Council in respect of your application for an Enforcement order.

I repeat in this letter the suggestion I made to you in our telephone discussion. As I understand your application, it only seeks orders against the Mackenzie District Council to enforce the provisions of Condition (e), assuming the Court agrees with your interpretation of that condition. That will entail the Council issuing an abatement notice and any necessary enforcement proceedings itself.

In that you are serving copies of the application on the New Zealand Defence Force and Air Safaris, I wonder whether it would not simplify matters if you were to name them also as second and third respondents and seek enforcement orders against them directly.

As I read section 314(1)(b) an applicant can obtain an enforcement order against a person requiring them to comply with the terms of a resource consent.

If your argument is correct, then it seems to me you might be better served with obtaining an enforcement order directly against the Air Safaris and the New Zealand Defence Force, in addition to any orders that might be made against the Council.

Please consider this suggestion and let me have your comments in due course.

Yours faithfully,



Adrian More
MDC09 McCarthy 10.91et

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

12th September, 1997.

The Registrar,
Environment Court,
Tribunals Division,
P.O. Box 5027,
Wellington.

Dear Sir,

Aviation Activities Ltd -V- Mackenzie District Council, ENF, 165/97

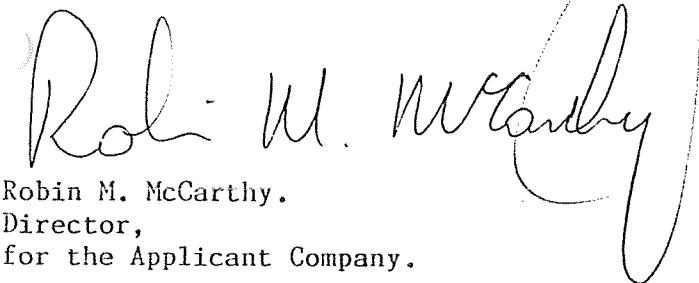
Notice of Intention to be Heard filed by Air Safaris and Services (N.Z.) Ltd

Air Safaris and Services (N.Z.) Ltd has requested that it be heard in relation to the notice of application for an **enforcement order**. No provision exists within the Resource Management Act (RMA) to grant such a request and it is noted that no reliance is made on any section of the said Act supporting such a request. Their request is therefore ultra-vires the RMA and an abuse of the Court process.

An "affected party" has a right to make an application for either a change or cancellation of any enforcement order under S (321), RMA, 1991.

Aviation Activities Ltd respectfully requests that Air Safaris and Services (N.Z.) Ltd are required to abide by the due process as provisioned by the Resource Management Act, 1991.

Yours faithfully,



Robin M. McCarthy.
Director,
for the Applicant Company.

cc: Air Safaris and Services (N.Z.) Ltd,
C/- Gallaway Haggitt Sinclair & Partners,
P.O. Box 945,
Dunedin.

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 685 8304

12th September, 1997.

Mr Adrian More,
Barrister,
Octagon Chambers,
P.O. Box 5143,
Dunedin.

Dear Sir,

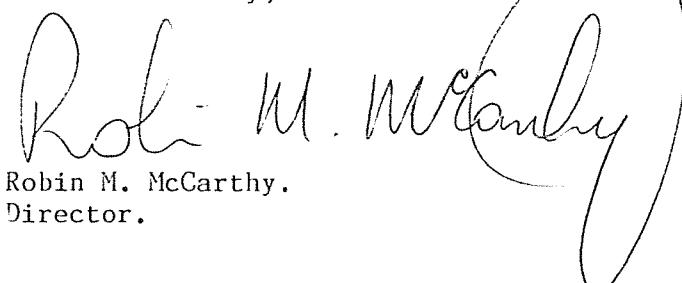
Aviation Activities Ltd -v- Mackenzie District Council

Application for enforcement order

I note the contents of your letter.

We are satisfied that the correct procedures have been followed and that the Council is the correct Respondent in these proceedings.

Yours faithfully,


Robin M. McCarthy.
Director.

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Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 635 8304

16th October, 1997.

The Registrar,
Environment Court,
P.O. Box 5027,
Wellington.

Dear Sir/Madam,

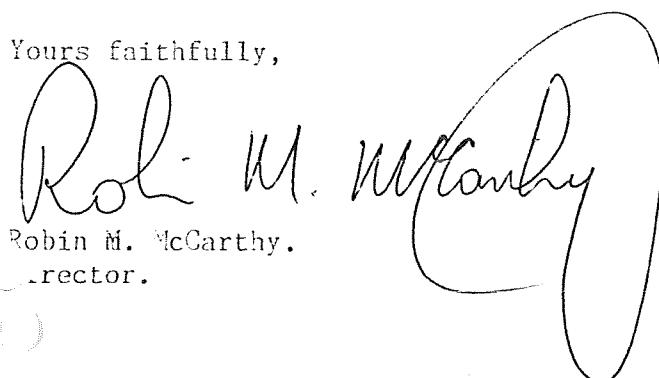
Aviation Activities Ltd -v- Mackenzie District Council, ENF 165/97

The above application for an enforcement order was served on the Mackenzie District Council on September 4th, 1997. The Court acknowledged receipt on September 8th, 1997.

I wish to record that we have not received by way of service a reply from the Respondent in accordance with Section 239 of the RMA and it's amendment requiring service within 30 days. Neither are we aware that any application has been made for a further period of time.

We will consider whether the respondent does not wish to oppose this application.

Yours faithfully,



Robin M. McCarthy
Director.

cc: Adrian More,
Barrister,
Octagon Chambers,
P.O. Box 5143,
Dunedin.

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 025 463 413

10th December, 1997.

Hon Max Bradford,
Minister of Defence,
Parliament Buildings,
Wellington.

Dear Sir,

Defence Use Land - Tekapo

We have made numerous applications to both the New Defence Force and your predecessor Paul East so as we are able to occupy Tekapo Airport in order to operate a commercial helicopter operation. All our applications have been declined.

We have been subjected to a scurilous campaign of lies designed to discredit us by the incumbent operator at Tekapo Airport. Furthermore the New Zealand Defence Force is angry at us for revealing that Tekapo Airport was made a public use Airport on it's establishment in 1975. The New Zealand Defence Force, being a publicly funded organisation deliberately entered into an arrangement with the incumbent operators after we made our approach, effectively granting them a monopoly use of the facility. The whole saga spread over two years is a disgrace.

We have made other Resource Consent applications to establish a heliport in the Tekapo area but again Air Safaris (the incumbents at Tekapo Airport) have objected. They are simply unable to handle competition at Tekapo.

The matter of Tekapo Airport is now before the Courts. It has been there on previous occassions where the Court upheld the resolution for its establishment which granted a right of entry.

However there is another avenue which we are obligated to pursue under the Resource Management Act. Under the now publicly notified Mackenzie District Plan, part of the Defence Force Use land (not being part of the Tekapo Military Training Area) has been designated as "Tourist" zone. I enclose a copy of the area so designated.

The Environment Court was asked by the Council to rule on the meaning of a "Tourist" zone at Twizel where another helicopter company has been operating. The Court ruled that it was a permitted activity. Consequently such an activity is also permissible on the Tekapo "Tourist" zone.

If we can operate from somewhere other than Tekapo Airport then we might not need to pursue either expensive resource consent applications or our application for an enforcement order against the Council in respect of Tekapo Airport. That somewhere else would be the designated Tekapo "Tourist" zone on Defence Force Use land.

Yours faithfully,

Robin M. McCarthy.
Director.

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P.O. Box 8,
Twizel.
South Canterbury.

16th January, 1998.

W. Rathbun,
Captain, RNZN,
for chief of Defence Force,
Private Bag,
Wellington.

Dear Sir,

Recently I telephoned Mr Richard Rayward of Air Safaris at Tekapo Airport and asked if I could have permission to land to uplift passengers who were due to stay at Lillybank Lodge at the head of Lake Tekapo.

I have conducted a commercial flight from Tekapo Airport on a previous occasion. However on this occasion Mr Rayward said he would have to deny me permission because of other circumstances. I asked him to forward a written confirmation of his decision. He subsequently sent a fax. When I spoke to him he stated that he had received a Directive from the New Zealand Defence Force and was now obligated to abide by it. Two days later I travelled to Tekapo Airport and asked Mr Rayward for a copy of the Directive. There is a difference from what I was lead to believe to that which actually came from Defence. It is clear that the letter from Defence was initiated by Mr Rayward's request. I am somewhat concerned by this and would now formally request a copy of Mr Rayward's letter dated August 19th, 1997 under the Official Information Act, 1992.

Yours faithfully,



Colin Tuck.

Office of
MINISTER OF DEFENCE
Parliament Buildings
Wellington, New Zealand



26 JAN 1998

Mr Robin McCarthy
Aviation Activities Ltd
PO Box 13
Fairlie
SOUTH CANTERBURY

Dear Mr McCarthy

Thank you for your letter of 10 December 1997 about your applications to the Defence Force and to my predecessor to start a commercial helicopter operation, in part of the Homestead Block which has been zoned as a tourist zone, at Tekapo.

I note your reference to the Environment Court's ruling that helicopter operations are a permitted activity in the tourist zone at Twizel. Whether helicopter operations are a permitted activity in the tourist zone at Twizel is not the key question with regard to your application to run a helicopter operation at Tekapo, and ignores the question of the ownership of the land at Tekapo. In order for you to carry out commercial activities on any particular piece of land, you require the permission of the owner; in this case, the New Zealand Defence Force. As you have been informed on a number of occasions, the Defence Force wishes to ensure that non-military aviation activities in the Tekapo area do not impinge on military operations within the Tekapo military training area. Although the proposed tourist zone, unlike the Tekapo airstrip, is outside the Tekapo military training area, it is close enough to the military training area for any commercial air operations in the tourist zone to be likely to prejudice military activities.

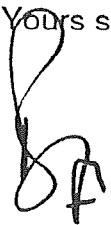
The Defence Force has made a submission for the area surrounding the tourist zone to be zoned Residential 1. If this submission is successful, it is very doubtful, on account of the noise factor alone, that helicopter activities would be permitted within the tourist zone. Similarly, it is unlikely that aircraft operations would be permitted so close to the existing residential area.

Although the Homestead Block is not a training area, the Defence Force also intends using the Homestead Block for other purposes, which do not include commercial air activities.

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For the reasons outlined above, the Defence Force will continue to decline your requests for access to Defence Force land to carry out commercial air activities at Tekapo. Should you apply for a licence to occupy part of the Tekapo airstrip or part of the proposed tourist zone, your application would be declined.

Yours sincerely



Hon Max Bradford
MINISTER OF DEFENCE

IN THE ENVIRONMENT COURT
TIMARU DISTRICT COURT
AT TIMARU

NO RMA 005/98

BETWEEN

AVIATION ACTIVITIES LTD a duly incorporated
company having its registered office at
Fairlie

APPELLANT

AND

MACKENZIE DISTRICT COUNCIL a duly constituted
Local Authority under the Local Government
Act, 1974 whose head office is at Fairlie

RESPONDENT

Notice of an appeal pursuant to section 120 of
the Resource Management Act, 1991 to a decision
on an application to establish a heliport on
Cowans Hill East, Lake Tekapo.

Filed with the Registrar of the Environment
Court in Wellington by post by:

AVIATION ACTIVITIES LTD,
P.O. BOX 13,
FAIRLIE.
SOUTH CANTERBURY.

TEL: 025 463 413
03 685 8304

STATEMENT OF APPEAL

Dated this5th..... day of January, 1998.

The Appellant says:

Parties

1. The Appellant, Aviation Activities Ltd (AA) is a duly incorporated company whose primary activities involve the establishment and development of commercial aviation operations.
2. The Respondent, Mackenzie District Council (Council), is the territorial Consent Authority to whom the Appellant made application for a Resource Consent.

Application for a Resource Consent

3. On May 31st, 1996, AA made application to the Council pursuant to S (88) of the Resource Management Act (RMA), for a Resource Consent to establish a helicopter operating base on Cowans hill East, Lake Tekapo for the purposes of conducting sightseeing, snow landings, heli-skiing and charter flights.
4. On December 22nd, 1997 the Council notified AA through its Commissioner appointed to hear the application that it had declined the application for consent pursuant to S (104) and S (105), RMA.

Relevant matters considered by Respondent in forming its decision

5. The Council found that matters of both "noise" and "safety" would be minor in their effects,
6. The Council however declined the application on the grounds that it was not in accordance with the "Aviation Strategy" forming part of the publicly notified proposed District Plan.

Reasons for this appeal

7. That the decision has relied on the Aviation Strategy as having full weighting when that process of having it formally adopted has yet to proceed to the public hearings stage,
8. That this application was lodged with the Council long before the proposed District Plan was publicly notified,

9. That the draft Aviation strategy made provision for a heliport to the East of Lake Tekapo and that the application was in accordance with that objective at that time,
10. That the provision for a heliport to the East of Lake Tekapo disappeared from the final draft of the Aviation strategy without any further input by the Strategy Workshop attendees,
11. That AA has made numerous other attempts to comply with the provisions of the Aviation Strategy especially in respect to Tekapo Airport,
12. The Council made Tekapo Airport an Airport which must be available to "other air users generally" by way of resolution on its establishment in August 1975,
13. However, despite both the application (the subject of this appeal) and a previous Resource Consent application, the Tekapo Airport resolution was never made available to AA,
14. The Council now opposes all AA's attempts to operate from Tekapo Airport despite a District Court ruling upholding the resolution as granting a right of entry,
15. No other site identified as forming part of the Aviation Strategy is available to AA from which to operate,
16. That AA has objected to the Aviation Strategy through its submissions to the Council's proposed District Plan on the grounds that the Aviation Strategy has effectively granted a monopoly right to those incumbent and existing operators,
17. That the Council is inconsistent in its adherence to the Aviation Strategy as neither the Mackenzie Country Inn heliport at Twizel or the Bendrose Station heliport form part of those sites identified as making up the Aviation Strategy,
18. That the precedent of **Lee -V- Auckland City Council** is of minor significance in its reliance on arriving at a decision to decline the application for the reason that the Council is not adhering to its own Aviation Strategy,
19. That as no "noise" or "safety" effects other than of a minor nature would occur then there was no reason to decline the application,
20. That as AA is clearly debarred from complying with the Aviation Strategy, then the application site is an alternative site from which to establish a heliport,
21. AA further appeals the comment " to a large extent the conduct of the hearing has been determined by the manner in which the applicant chose to present its case ." and that this was the reason why the decision was not released within 15 working days but rather 60 days,

Accordingly the Appellant seeks the following relief

22. An order that the decision of the Council be revoked,
23. An order that this appeal is upheld and that a Resource Consent is granted for the establishment of a heliport on Cowans Hill East, Lake Tekapo,
24. An order that the comments concerning the conduct of the hearing by AA be deleted,
25. An order for any other relief that this honourable Court deems just,
26. An order for costs of, and incidental to this application.

This statement is filed by:

**Robin Max McCarthy,
Director,
Aviation Activities Ltd.**

whose address for service is:

**P.O. Box 13,
Fairlie.
South Canterbury.**

**Tel: 025 463 413
03 685 8304**

NOTE FOR FILE - AVIATION ACTIVITIES LTD

Draft Synopsis of argument.

1. The principles relating to interpretation are set out in Judge Jackson's previous decision and the primary principle is the plain meaning of the words.
2. The plain meaning of the words in this case are that the condition (e) is to apply to all aircraft. The word generally has a plain meaning - refer to the dictionary meaning and it is difficult to see that it can mean anything other than all aircraft. It is also taken in its context of:
 - (a) public interest; and,
 - (b) the obvious need to prevent a monopoly - refer to the Commerce Act and the general principles of competition; and,
 - (c) there is a reference to the airport company power to make charges. The clear implication in this is that the airport company is to allow all aircraft to use the aerodrome ie. all those who wish to and where appropriate to charge proper fees either by imposition or probably by negotiation but it is clear that the reference to fees implies all aircraft.
3. There is absolutely no reason to qualify the word generally or indeed any of the words on a restrictive basis making a distinction between private and commercial aircraft. If this was the intention, then it would have been a simple matter to have used the word private aircraft to thus qualify.
4. The non-monopoly effect could be seen as the purposive approach if it becomes necessary to look at this element although it is clear that the words mean exactly as contended for. It could also be said that the word generally is superfluous but nonetheless the addition of the word generally helps clearly to indicate that all aircraft are to be considered and not just one category.

5. The phrase has already been construed by the Court in the previous trespass prosecution and it was accepted that condition (e) would entitle the aviation company to be there. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6. The aerodrome operator originally filed an appeal we understand related to this particular condition but has sat on its hands and has not pursued the appeal. It is submitted that the appeal should be struck out because of Laches and refer to the principles relating to want of prosecution.

7. More importantly, what the operator seems to have done, is to have filed the appeal and then not proceeded with it and has then ignored the condition or construed it from time to time to suit its own ends and to prevent other aircraft operators and particularly competition without pursuing the matter to appeal to have a definitive decision as to the meaning of the words. This, it is submitted, is clearly an abuse of process. It is wrong for the operator to try and rehabilitate the appeal at this stage. The simple matter is that that condition exists and in my submission its meaning is abundantly clear that the operator must allow our client access to the aerodrome.

8. It may be argued that the defence force is not bound by the condition but in my submission the defence force took over the land long after the condition had been applied and is bound by it both by law and in equity. Here we should look at the principles of taking over the land subject to equities and it is submitted that the defence force is estopped from arguing that the condition allows the aerodrome to be operated by others. Indeed the aerodrome has been operated from time to time by others without any intervention by the defence force. That it is now taking the point when it appears as though a commercial operator who will be in competition with the aerodrome operator indicates some degree of collusion between the defence force and the operator to provide a monopolistic situation.

9. It is interesting in this context to note that the licence to the operator does not give an exclusive use of the aerodrome and there would appear to be absolutely no reason why the defence force should at this late stage attempt to argue that it is not bound by the condition with its proper meaning.
10. No doubt the words mean that the aerodrome is under the direct control of the operator and that it can allow other aircraft including commercial aircraft with proper payment to operate the aerodrome having regard to at all times its responsibility to the defence force and to the conditions of safety. It is conceded that at all times the operator as the licensee whilst it must allow other persons to use the aerodrome, such operations must be carried out with safety in mind as is the case with all aerodromes. None of the suggested operations by our client could in any way have any safety ramifications but that is a matter for the future and would no doubt be the term of any permission which was granted.


KCM

fn4054

23/04/98

MACKENZIE DISTRICT COUNCIL PLANNING
COMMITTEE MEETINGS 3:4:98.

9

Resolved that the report be received.

MACPHERSON MURRAY

12. AVIATION ACTIVITIES LTD RESOURCE CONSENT APPLICATION
960026:

This report from the Manager - Planning and Regulations referred to the decision by the Commissioner, Mr John Hardie, which had been released in the above matter.

Resolved that the report be received.

REYNOLDS /MURRAY

The Manager - Planning and Regulations noted that a copy of the decision had been tabled.

The Chairman said he found it difficult to understand the reasons for the decision and what the full implications were in terms of the Aviation Strategy and the Proposed District Plan.

The Consulting Planner said the Commissioner had applied the full force of the Aviation Strategy in his decision.

Cr Braun-Elwert pointed out that a similar situation existed in Twizel because the Pukaki Air Field was not available for use.

Cr Macpherson said Council had no control of the private arrangement for the lease at Tekapo Airport. He suggested there was little Council could do in Tekapo apart from amending references in the Aviation Strategy as to where the activity could occur.

Cr Braun-Elwert said the Commissioner had also indicated his decision was influenced by the fact that Air Safaris could not envisage the necessary level of cooperation in operating from Tekapo Air Field, being available from the applicant. ~~and~~

The Chairman noted that the area designated for a Tekapo Air Field was in excess of that occupied by Air Safaris, but that land was also under the control of the New Zealand Defence Force.

Cr Macpherson reiterated that if the Aviation Strategy included provision for commercial aviation activity at Tekapo which was not achievable, then the Strategy would have to be amended.

The Manager - Planning and Regulations said he understood that NZDF had prohibited all commercial operators apart from Air Safaris from using the Tekapo Air Field. He noted that there was an application for an interim enforcement order for Condition E of the Tekapo Air Field Specified Departure currently before the court, and that this hearing would deal with some of the issues in question here.

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.

5th May, 1998.

Mr Neil Anderson,
The Mayor,
Mackenzie District Council,
P.O. box 52,
Fairlie.

Dear Sir,

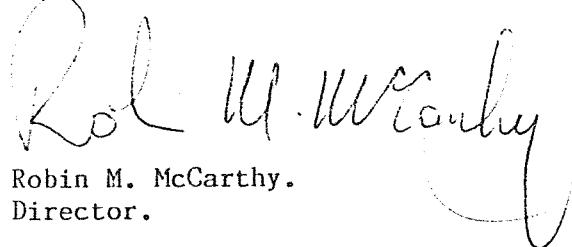
Tekapo Airport

Under the Resource Management Act and transitional provisions from the Town and Country Planning Act, a consent does not commence until such time as an appeal has been disposed of.

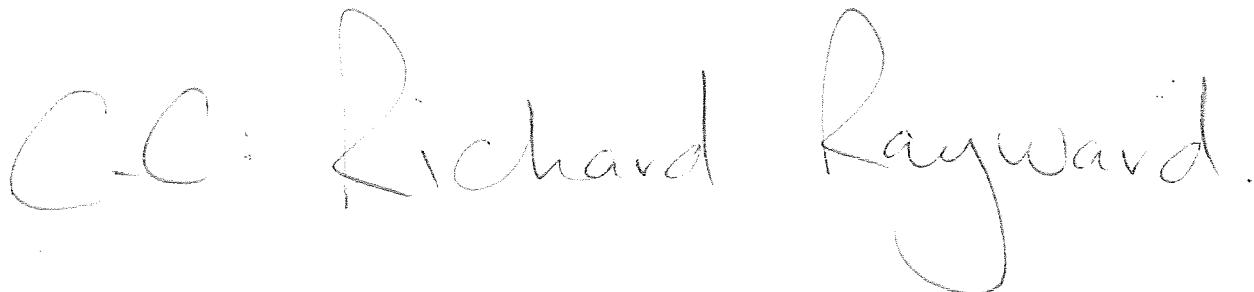
As the appeal relating to Tekapo Airport still lies extant today, it has been established illegally.

We would ask that the Council take appropriate enforcement action.

Yours faithfully,


Robin M. McCarthy.
Director.

cc: Chairman, Planning Committee.


cc: Richard Rayward.

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.

6th May, 1998.

Mr John McKenzie,
Enforcement Officer,
Mackenzie District Council,
P.O. Box 52,
Fairlie.

Dear sir,

Tekapo Airport

The Mackenzie District Council passed a resolution in 1975 permitting Air Safaris to establish a basic airport to the West of Tekapo town.

Air Safaris appealed this consent. The appeal has never taken place and lies extant as of today. However Air Safaris went ahead and constructed the airport as well as operating aircraft from it.

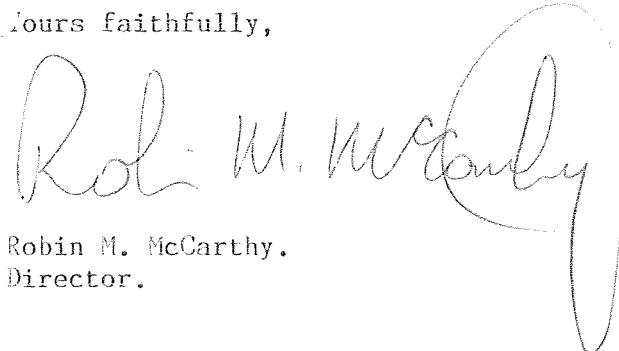
Under Section 383 of the Resource Management Act, 1991 all permissions under the Town and Country Planning Act become Resource Consents.

Under Section 116 of the Resource Management Act a Consent does not commence until such time as any appeal has been disposed of.

Tekapo airport has been established illegally as are it's continuing operations.

We request that the Council takes immediate action to prevent this activity taking place until such time as the outcome of the appeal is known in accordance with the RMA.

Yours faithfully,


Robin M. McCarthy.
Director.

cc: Adrian More.

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**TO THE REGISTRAR,
ENVIRONMENT COURT,
AT WELLINGTON.**

AVIATION ACTIVITIES LTD a duly incorporated company having its registered office at Fairlie, hereby applies for an **Interim Enforcement Order** under section 320 of the Resource Management Act, 1991.

1. The type of Enforcement Order sought is to require the Respondent to cease an activity that has not been legally established.
2. Reliance is made on Section 314 (a) (1), (b) of the Resource Management Act and Section 50A of the Town and Country Planning Act, 1953.
3. The location in respect of which the Enforcement Order is sought is:

**Tekapo Airport,
State Highway 8,
Lake Tekapo.
South Canterbury.**

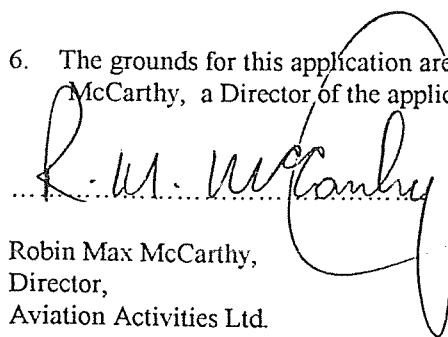
4. The name and address of the person against whom the Order is sought is:

**Air Safaris and Services (N.Z.) Ltd,
P.O. Box 71,
Lake Tekapo.
South Canterbury.**

5. The following terms and conditions are sought in respect of the Order:

- a.) That Tekapo airport is closed with immediate effect,
- b.) That all operations at Tekapo airport cease with immediate effect,
- c.) That Tekapo Airport remains closed until such time as the Airport is legally established,
- d.) Any other term and condition that this honourable Court deems just,
- e.) that the Respondent pays the costs of, and incidental to this application.

6. The grounds for this application are set out in the attached affidavit of Robin Max McCarthy, a Director of the applicant company.


**Robin Max McCarthy,
Director,
Aviation Activities Ltd.**

IN THE ENVIRONMENT COURT
AT WELLINGTON

NO RMA

BETWEEN

AVIATION ACTIVITIES LTD a duly incorporated company
having its registered office at Fairlie

APPLICANT

AND

AIR SAFARIS AND SERVICES (N.Z.) LTD a duly incorporated
company having its registered office at Lake Tekapo

RESPONDENT

Affidavit of Applicant

I, Robin Max McCarthy, a company director of Fairlie make oath and say:

1. That I am a director of the applicant company and am duly authorised to make this statement,
2. That by Resolution under the Town and Country Planning Act, 1953, the Mackenzie County Council granted consent on August 1st, 1975 to the Respondent (Air Safaris and Services N.Z. Ltd) to establish and construct an Airport to the West of Tekapo town (exhibit 1),
3. That the Respondent filed a notice of appeal to the consent as outlined in paragraph 2 above (exhibit 2),
4. That the hearing of the appeal was subsequently adjourned sine die (exhibit 3),
5. That the hearing has never taken place and neither has the appeal been withdrawn,
6. That despite the appeal still lying on the record, the airport has been constructed and established contrary to both the Town and Country Planning Act, 1953 and the Resource Management Act, 1991.

.....
R. M. McCarthy
.....

Robin Max McCarthy,
Company Director of Fairlie

TEKapo J.M. M.M.

Sworn at Fairlie on Tuesday 8.4.98..... The 10..... day of May, 1998 before

.....
J. M. McCarthy J. P.
.....
S. Bryant, Clerk
.....
Lake Tekapo.....
.....

Dated this 10th day of May, 1998.

Filed by:

Aviation Activities Ltd whose address for service is:

P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 680 6858.

Annexures:

1. Affidavit of Applicant,
2. Names and addresses of persons served with a copy of this application.

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IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an application for an interim enforcement order pursuant to section 320 of the Act

BETWEEN

AVIATION ACTIVITIES LIMITED

ENF: 074/98

Applicant

AND

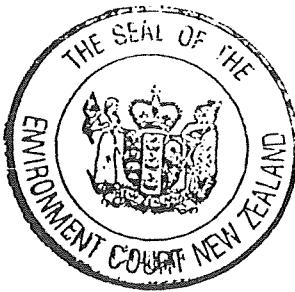
AIR SAFARIS & SERVICES (NZ) LIMITED

Respondent

MEMORANDUM TO THE PARTIES

Background

1. Aviation Activities Ltd (“the applicant”) has applied for an *ex parte* interim enforcement order against Air Safaris & Services (NZ) Ltd (“the respondent”). The proceeding relates back to an appeal (TCP 458/75) that was lodged in 1975 with the then Planning Tribunal by the respondent against a decision of the MacKenzie County Council (“the Council”).
2. In 1975 the respondent applied to the Council for consent to establish and construct an airport to the west of Tekapo township. On 4 August 1975 the Council granted consent to a specified departure from the operative district scheme subject to conditions including a condition (e).



3. The Court received a notice of appeal from the respondent on 19 August 1975. The appeal sought that condition (e) be deleted so as not to form part of the consent to the specified departure.
4. A letter dated 21 January 1976 from counsel for the respondent to the Planning Tribunal requested that the appeal be adjourned sine die while further investigations were carried out. This was granted by the Court.
5. The appeal has never been heard or withdrawn.
6. The respondent has had the airport constructed and an airport named "Tekapo Airport" is currently operating.

The Interim Enforcement Order Application

7. The applicant has now applied for an *ex parte* interim enforcement order under section 320 of the Resource Management Act 1991 ("the Act") requesting:
 - (a) The Tekapo airport be closed with immediate effect;
 - (b) That all operations at Tekapo airport cease with immediate effect;
 - (c) That Tekapo airport remains closed until such time as the Airport is legally established;
 - (d) That the respondent pays the costs of, and incidental to this application.
8. Under section 320(3)(c) of the Act the Court is of the view that it should hear from the respondent before issuing an interim enforcement order.



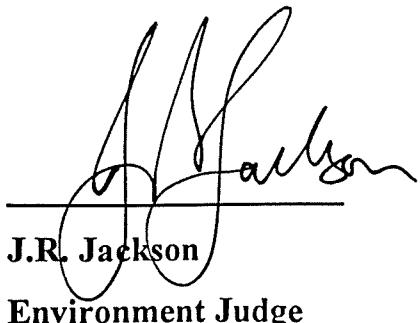
Directions

9. On Tuesday 19 May 1998 at 2.00pm I am holding a pre-hearing telephone conference with the applicant in respect to proceeding RMA 5/98 which also relates to air traffic around Lake Tekapo, and involving the same parties (*inter alia*). It would be convenient if the respondent was available at this time to take part in the conference call to determine whether the application for an interim enforcement order should be granted.
10. Accordingly I direct that the Registrar forward this Memorandum and, in the case of parties (2) and (3), the application for an interim enforcement order to:
 - (1) Aviation Activities Limited
C/- Mr R McCarthy
P.O. Box 13
Fairlie
South Canterbury;
 - (2) Air Safaris and Services (NZ) Limited
C/- Mr RJM Sim
Gallaway Haggitt and Sinclair
P.O. Box 945
Dunedin;
 - (3) MacKenzie District Council
C/- Mr A More
Barrister
P.O. Box 5143
Dunedin.



11. The applicant should also promptly serve the respondent with the application and supporting affidavit in the normal way, i.e. by letter to its registered office.

DATED at CHRISTCHURCH this 13th day of May 1998.



J.R. Jackson
Environment Judge



BEFORE THE ENVIRONMENT COURT

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

a Notice of Appeal pursuant to section 120 of
the Act

BETWEEN

AVIATION ACTIVITIES LIMITED

Appellant

AND

MACKENZIE DISTRICT COUNCIL

Respondent

NOTICE OF INTENTION TO BE HEARD

TAKE NOTICE that Air Safaris and Services (NZ) Limited wishes to be a party to this proceeding and to be heard in relation to the Notice of Appeal herein which was served on it on or about 20 January 1998.

The matters Air Safaris and Services (NZ) Limited wishes to advance are:

- (a) That the proposal is contrary to the objectives and policies of the relevant planning instruments, and in particular the McKenzie District Council Proposed District Plan. If proposal is granted consent on appeal it will undermine the Aviation strategy which has been included in the Proposed Plan after extensive consultation in order to appropriately manage aviation activity in the region.
- (b) That the proposal will result in adverse effects on the environment which are more than minor. The proposal involves serious issues of safety in relation to the nearby and long established Tekapo Airfield.

As requested by His Honour Judge Jackson, annexed hereto are copies of the written material lodged by Air Safaris and Services (NZ) Limited in connection with the

resource consent application and the hearing by the Council's Hearing Commissioner, as follows:

- (a) Section 96 submission on the application;
- (b) Synopsis of submissions presented at the Council's hearing of the resource consent application;
- (c) Further written submissions made in response to the Commissioner's invitation to submitters to respond to the appellant's proposed operating procedures, which the Appellant sought to amend in response to concerns raised at the hearing.

This Notice is made under section 271A of the Act and pursuant to directions made by His Honour at the callover conference at Timaru on Wednesday 22 April 1998.



Air Safaris and Services (NZ) Limited by its
duly authorised solicitor, R J M Sim

15 May 1998
Date

This document is filed by **RICHARD JONATHON MORLAND SIM**, solicitor for Air Safaris and Services (NZ) Limited of the firm of Gallaway Haggitt Sinclair whose postal address is P O Box 945, Dunedin.

Telephone (03) 477 0045, Facsimile (03) 477 5564.

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under section 120 of the Act

BETWEEN

AVIATION ACTIVITIES LIMITED

RMA: 5/98

Appellant

AND

MACKENZIE DISTRICT COUNCIL

Respondent

MINUTE TO PARTIES

Background

1. This proceeding is an appeal by Aviation Activities Limited (“Aviation”) against the refusal by the MacKenzie District Council (“the Council”) to issue a resource consent for the appellant to operate two helipads at a site at Cowan’s Hill East at Tekapo. Air Safaris & Services Limited (“Air Safaris”) has filed a notice under section 271A of the Resource Management Act 1991 (“the Act”) and opposes a resource consent being granted.
2. I held a telephone conference about this matter on Tuesday 19 May 1998 to prepare for a hearing. The following parties took part:

Mr Sleigh for Aviation

Mr More for the Council

Mr Sim for Air Safaris



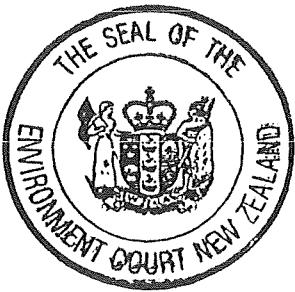
3. At the commencement of the conference Mr Sleigh applied for an adjournment on the grounds that his client had found another site which might be more acceptable to Air Safaris at least in that it did not interfere with any circuits used by Air Safaris at its existing Tekapo Airport operations. Mr Sim confirmed that was so but recorded that his client might still oppose other sites on other issues such as that the proposed alternative site might not meet the objectives and policies of the proposed plan, for example in that:
 - it might be seen as ribbon development;
 - it might not comply with the Council's proposed plans "*aviation strategy*".
4. In any event, neither of the other parties opposed the adjournment and so I will make such an order shortly. I make the following remarks in an attempt to guide the parties to a non-litigious solution.

Alternative Solutions

5. Aviation has been trying for some considerable time now to establish a helicopter operation on a commercial basis in the vicinity of Lake Tekapo. It is understandably frustrated at its lack of progress, although it seems fair to say it has sometimes conducted its business activities with less than complete tact. On the other hand, its frustration has been strengthened by the fact that when Air Safaris obtained its original resource consent to operate Tekapo Airport approximately 20 years ago from the Council the latter imposed a condition (still subject to appeal in TCP 458/75) suggesting that the Tekapo Airport should be opened to other users. Whether that applied to other *commercial* users is another issue.



6. Mr More also noted that the Council's proposed plan contains a provision seeking a widening of the use of Tekapo Airport to other users than Air Safaris. So potentially at least there is another practical solution for Aviation which is to establish on the Tekapo Airport. However, the land is not subject to a designation and whether the land can be used by other users is of course primarily a matter for the fee simple owner - I understand that to be the Minister of Defence. I respectfully suggest that Air Safaris makes a well argued approach, bearing the economic imperatives of rent in mind, to the Minister of Defence. But that is of course for Aviation to propose and Mr Slee to advise.
7. As far as Air Safaris are concerned while the Court cannot criticise its attempting to establish a monopoly on Tekapo Airfield if it can rely on its rights as a licensee/lessee of the land - although that appears to run counter to the Council policy for Tekapo Airfield - I also express some qualms about its role in relation to Aviation seeking another site. If safety issues are not relevant then Air Safaris' role tends to become that of a trade competitor seeking to use the Act to protect a monopoly. I do not decide that issue of course, merely observe what it looks like from the outside at first sight.
8. Air Safaris may also care to reflect that Aviation is being conciliatory in not pressing for an interim enforcement order (in the separate proceeding RMA 74/98) seeking closure of Tekapo Airport, even though the primary facts needed to ground such an order, discretionary factors aside, appear to be made out.

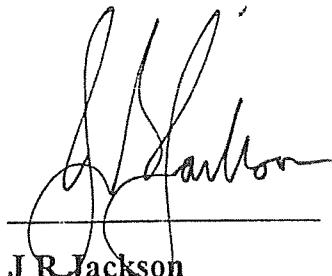


Outcome

9. In the meantime I give the following directions:

- (1) The appeal is adjourned sine die to be brought on by any party by giving notice to the Registrar that it wishes the case to be set down for hearing.
- (2) At the same time as it does so the party requesting the hearing should advise the Registrar of the number of witnesses it intends to call and how long it considers the case may take to hear.

DATED at CHRISTCHURCH this 20th day of May 1998.



J R Jackson
Environment Judge



IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an application for an interim enforcement order pursuant to section 320 of the Act

BETWEEN

AVIATION ACTIVITIES LIMITED

ENF: 074/98

Applicant

AND

AIR SAFARIS & SERVICES (NZ) LIMITED

Respondent

DIRECTIONS

1. This proceeding is an application for an interim enforcement order. At a telephone conference on Tuesday 19 May 1998 the following parties appeared:

Mr M J Sleigh for the applicant

Mr RJM Sim for the respondent

Mr A More for the MacKenzie District Council

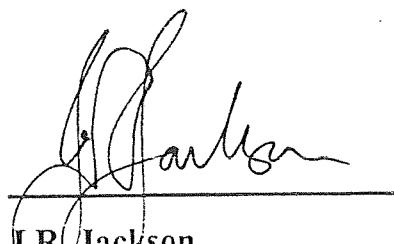
2. Mr More advised me that it is likely that the respondent and the MacKenzie District Council will resolve the long outstanding appeal (TCP 458/75) by Air Safaris against a condition imposed by the MacKenzie District Council approximately 20 years ago. I have given them two weeks to file a consent memorandum to that effect. In the meantime the application for an interim enforcement order is adjourned for two weeks. If a consent memorandum between the



Council and Air Safaris is filed in TCP 458/75 then (unless submissions to the contrary are filed) I propose to make an order in this proceeding:

- (a) Striking out the application for an interim enforcement order;
- (b) Letting costs lie where they fall.

DATED at CHRISTCHURCH this 20th day of May 1998



J.R. Jackson

Environment Judge



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Chapman Tripp

Barristers & Solicitors NEW ZEALAND

PARTNERS, PRINCIPALS AND CONSULTANTS

D S Alderslade	A J Brewer*	M A Gilbert	J E Hodder	A J Keenan	F Miller	S F Sut*	F G R Williams
J E S Allin	K J Brookman*	D J Goddard	J C Holden*	C H Levin	S J Mills	B A Scott	R J Wilson
M G Anderson	B J Brown	K S Gordon*	J I Holland	S B Lowe	M A O'Regan	J F Sheffield	M E Yarnell*
S L Anderson	R A Bycroft	J C Gould	F C Holley*	B L M Arthur	P W O'Regan	J G M Shattock*	A W Young
J M Appleyard	R S Clarke	A M Grace	L M Howes	R K Macleod	D J Parker	W A Smith	
P A Barnett*	D J Cochrane	N E Gray	B H W Hutchinson	J A McKay*	R J Parker	J G Sprox	
R J Beech	D H Cornwell	I P Greenwood	P R Jago*	P A McLeod	J J Patridge*	R W Sut	
P W Bennett	R M Croft	A L Haines	S M Jansen	H C McQueen	P M Rees	D J Stock	
I W Blennethasset*	G W David	J J Lawson	M D Jones	A R McRae	R J Roche	C J Street*	
H M Bowie	S L Franks	J H Hinton	L Jones	D E Marriott	A S Ross	W J Strowger	

Partners and Consultants do not share Partners' liabilities for the firm.

*Partners

*Consultants

*Notary Public

Chapman Tripp Shefield Young, NZI House, 96 Hereford St., PO Box 2510, Christchurch, New Zealand.

Telephone 64-3-353 4130. Facsimile 64-3-365 4587. DX WP21526. www.chapmantripp.co.nz

Our ref: Jo Appleyard / Michael Sleigh

Direct dial: 353 0028

E-mail: michael.sleigh@chapmantripp.co.nz

By facsimile 03 685 8738

Ring first 03 680 6858 or 025 463 413

21 May 1998

Aviation Activities Limited
PO Box 13
FAIRLIE

FAXED

For: Mr Robin McCarthy

Dear Sir

APPEAL TO ENVIRONMENT COURT AIR SAFARIS & SERVICES (NZ) LIMITED

- 1 We **enclose** a copy of directions we have received from the Environment Court in respect of the interim enforcement order and also a minute to the parties for your information.
- 2 In respect of the directions these simply confirm the Judge's position that the Mackenzie District Council and Air Safaris are to resolve the appeal in respect of Air Safaris' original consent. You will note that on receipt of the appropriate consent order the Judge indicated that he would strike out the interim enforcement order and leave costs where they fall. He has noted that he will do this unless he receives submissions to the contrary.

Also with offices in Wellington and Auckland

AMP Centre, Grey St, PO Box 993, Wellington. Coopers & Lybrand Tower, 23-29 Albert St, PO Box 2206, Auckland.
Telephone 64-4-499 5999. Facsimile 64-4-472 7111. DX SP20204. Telephone 64-9-357 9000. Facsimile 64-9-357 9099. DX CP24029.

- 3 Of more significance, is the minute to the parties Judge Jackson also issued. In particular his comments on alternative solutions are particularly useful from your perspective. The Judge is clearly of the view that we should pursue the opportunity of using Tekapo Airport itself. The second alternative is to seek another site. In that regard, he has sent a subtle warning to Air Safaris as to their ability to object to an alternative site, particularly if there are no aviation safety issues arising. We consider this minute is useful in giving you further leverage in your negotiations with Air Safaris.
- 4 We look forward to receipt of a draft report from your aviation consultants so that we can progress this matter with the relevant parties. If you have any questions in the meantime please do not hesitate to contact us.

Yours faithfully



Jo Appleyard/Michael Sleigh
Partner/Senior Solicitor

encl

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

Tel: 03 680 6858

4th June, 1998.

Katherine Trott,
Secretary to the Hon Jenny Shipley,
Prime Minister,
Ashburton.

8568
Fax: 03 308 7510.

Dear Madam,

I attach a copy of the "Memorandum of Consent" between the Mackenzie District Council and Air Safaris and Services (N.Z.) Ltd. This has now been filed with the Court.

This MOC effectively prevents our use of Tekapo Airport. However it does not interfere with the prospect of ourselves being on the land adjacent to the Airport which has also been designated under the publicly notified District Plan. The area of the designation is about 160 hectares.

As you are aware we have made numerous attempts to be on the designation but Defence have declined our applications. Up until the MOC being filed we had no choice but to attempt to operate under condition (e) of the Council's 1975 resolution as that was the law as it stood. It also complied with the Council's Aviation Strategy".

Defence never objected to the enlarged designation. Indeed they were supportive as is evidenced by the comments of their Edith Carter at the time of the Aviation Strategy workshop meetings.

We have been declined Resource Consents elsewhere in the Tekapo area as they do not comply with the Aviation Strategy, i.e. Tekapo Airport.

Defence have put no restriction on Air Safaris in terms of the maximum number of movements from Tekapo Airport. Their claim that our operations would interfere with the operational integrity of the Tekapo Military Training Area are without foundation. We are after all professionals with vast experience.

The simple solution to resolving this whole saga is that we are treated the same as our competitors Air Safaris and that Defence simply grant us a separate "licence to occupy" adjacent to Air Safaris on the enlarged designation.

We very sincerely trust that this matter can be resolved quickly in order to save everyone's resources.

Yours sincerely,


Robin M. McCarthy.
Director.

Decision No: C 65/98

IN THE MATTER of the Town and Country
Planning Act 1953

AND

IN THE MATTER of an appeal under section 35(5)
of the Act

BETWEEN

AIR SAFARIS AND
SERVICES (NZ) LIMITED

TCP : 458/75

Appellant

AND

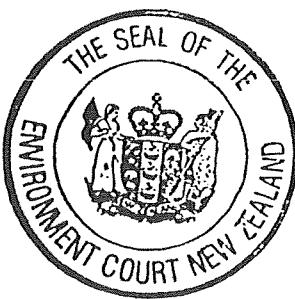
MACKENZIE DISTRICT
COUNCIL (formerly the
MACKENZIE COUNTY
COUNCIL)

Respondent

DETERMINATION OF APPEAL

Background

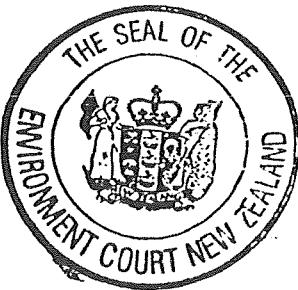
1. This appeal is nearly 24 years old. It was lodged under the Town and Country Planning Act 1953 ("the 1953 Act").
2. By resolution of 1 August 1975 the respondent ("the Council") gave specified departure approval to the appellant's application to establish an airfield at Lake Tekapo. The Council's decision was subject to five conditions, including a condition (e) which required the appellant to make the strip and facilities available to other air users generally. The Council's decision was communicated to the appellant's solicitors by letter dated 4 August 1975.



3. By notice dated 19 August 1975 the appellant appealed against the respondent's decision seeking deletion of condition (e) to the specified departure upon the grounds, *inter alia*, that the condition was *ultra vires* the powers of the respondent.
4. By consent the appeal was adjourned sine die on or about 21 January 1976. The appeal has remained adjourned since that time with the Court's file having been archived until recently.
5. The parties now wish the matter resolved. While the Council, in its proposed district plan, seeks to provide for the more open use of the Tekapo Airfield, it acknowledges that condition (e) cannot achieve that objective, because it is *ultra vires* and therefore unenforceable.
6. The parties now seek an order by consent that condition (e) be deleted from the resource consent and that in all other respects the Council's decision be confirmed. They have filed a memorandum to that effect.

Issues

7. An issue arises as to whether the Court has any jurisdiction to deal with an outstanding appeal under the 1953 Act. It appears that, because there was an appeal under the 1953 Act, the appellant has never had planning consent to operate on the Tekapo Airstrip.
8. The position under the 1953 Act was that until the appeal was resolved there was no planning consent: *Ross v The No. 2 Planning Appeal Board* [1975] 2 NZLR 321. Thus there is no deemed resource consent under the Resource Management Act as was found for example in *Christchurch City Council v Aranui Estates* (Decision C23/93).



9. Section 383 of the Resource Management Act 1991 as applied in that case does not seem to apply here. It states:

"383. Existing permission to become land use consent - Every permission -

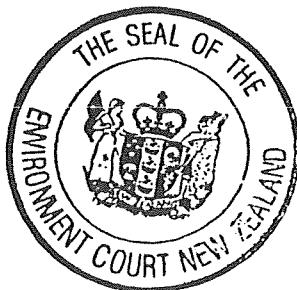
- (a) Granted under of Parts II, IV and V of the Town and Country Planning Act 1977 (or the corresponding provisions of any former enactment) in respect of any area in a district; and*
- (b) In force immediately before the date of commencement of this Act-*

shall be deemed to be a land use consent granted under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act, except to the extent that they are inconsistent with the provisions of this Act) by the appropriate territorial authority; and the provisions of this Act shall apply accordingly."

While a planning consent under the 1953 Act is clearly given under the "corresponding provisions of any former enactment" within the terms of section 383, the point in this case is that no permission ever came into force. Thus section 383 did not apply because there is no existing permission.

10. However, the proceeding is not left in limbo. Section 20(g) of the Acts Interpretation Act 1924 appears to apply. That states:

"(g) Any enactment, notwithstanding the repeal thereof, shall continue and be in force for the purpose of continuing and perfecting under section repealed enactment any act, matter, or



thing, or any proceedings commenced or in progress thereunder, if there be no substituted enactment adapted to the completion thereof:”

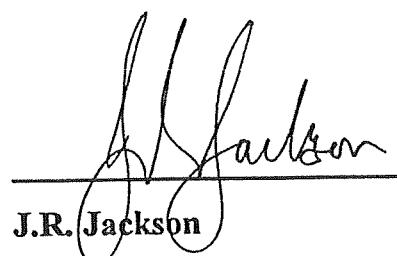
Since in this case there are no substituted enactments adapted to the completion of appeals under the 1953 Act, we hold that we have power under section 20(g) to resolve this appeal under the 1953 Act.

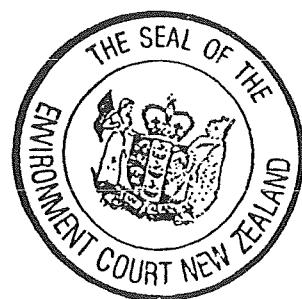
Decision

11. Under the 1953 Act, and by consent:

- (1) condition (e) is deleted from the planning approval;
- (2) In all other respects the Council’s decision is confirmed; and
- (3) For the avoidance of doubt, the planning consent will be deemed to come into effect on the date of this determination.

DATED at CHRISTCHURCH this 1/7/98 day of JUNE 1998.


 J.R. Jackson
 Environment Judge



DRAFT : 17 June 1998

Our ref: Jo Appleyard / Michael Sleigh

Direct dial: 353 0028

E-mail: michael.sleigh@chapmantripp.co.nz

17 June 1998

Gallaway Haggitt Sinclair
Solicitors
PO Box 945
DUNEDIN

For: Mr Diccon Sim

Dear Partners

**PROPOSED USE OF TEKAPO AIRPORT BY AVIATION
ACTIVITIES LIMITED**

- 1 We refer to our telephone conference with Judge Jackson in respect of the appeal by Aviation Activities Limited in relation to its proposal to establish two helipads at Cowans Hill east at Tekapo. As you are aware, Judge Jackson commented on alternative solutions for our client which included the use of Tekapo airport itself in his minute to the parties dated 20 May 1998.
- 2 As a result of that conference, our client has received independent advice from Mr Ayers who is an aviation consultant with considerable experience in relation to appropriate locations for the operation of their helicopter operation. We enclose a copy of that report. We note a copy of the report has also been forwarded to Mr Moore, counsel for the Mackenzie District Council.
- 3 Mr Ayers' conclusion was that while there may be other locations where the operation can be safely carried out he considered the best possible outcome for

Also with offices in Wellington and Auckland
AMP Centre, Grey St, PO Box 993, Wellington. Cuniper & Lybrand Tower, 23-29 Albert St, PO Box 2203, Auckland.
Telephone 64-4-499 5909. Facsimile 64-4-472 7111. DX 5P26204. Telephone 64-9-357 9500. Facsimile 64-9-357 8999. DX CP24029

aviation safety in the area is for all aircraft to operate from the same location, namely the Tekapo airport. His report states that rotary winged aircraft can safely operate from Tekapo airport as well as the existing fixed wing aircraft operations. This is also consistent with the approach taken in the proposed district plan.

- 4 In light of Judge Jackson's minute and also this report our client wishes to establish its helicopter operation at Tekapo airport. In particular our client proposes to establish two to three helipads to the south east of the existing hanger between the runway and State Highway 8. The specific area is shown on the attached plan. The helicopters parked on the helipads will not interfere with any other airport operations. They will be clear of the runway strip and the transitional surface and it is proposed that access to the helipads will be via the existing airport access road. The helipads will also be positioned to meet the requirements of AC139.08. We understand this can be readily achieved at the Tekapo airport.
- 5 We note that the proposed area is outside the four hectares occupied by your client in accordance with its deed of licence from the Crown.
- 6 Both our client and Mr Ayers do not consider there will be any safety issues arising from Aviation Activities Limited operating from this location. We understand this is also the view of the Civil Aviation Authority. However, our clients would welcome discussion with your client in this regard. It may be appropriate for the two parties to meet and discuss this matter further if necessary.
- 7 We appreciate that the Crown through the Minister of Defence exercises actual authority as to who can operate from this site and we intend to discuss that matter further with the Crown once our client has had the opportunity to discuss this matter with your client.
- 8 We await your reply.

Chapman Tripp

3

PROPOSED USE OF TEKAPO AIRPORT BY AVIATION ACTIVITIES LIMITED

Yours faithfully

Michael Sleigh

Senior Solicitor

Attn: Adrian Mow

Aviation Activities Ltd,
P.O. Box 13,
Fairlie.
South Canterbury.

24th June, 1998.

Mr John McKenzie,
Manager Regulation & Planning,
Mackenzie District Council,
P.O. Box 52,
Fairlie.

Dear Sir,

Your letter dated 16:6:98 - The market and free competition.

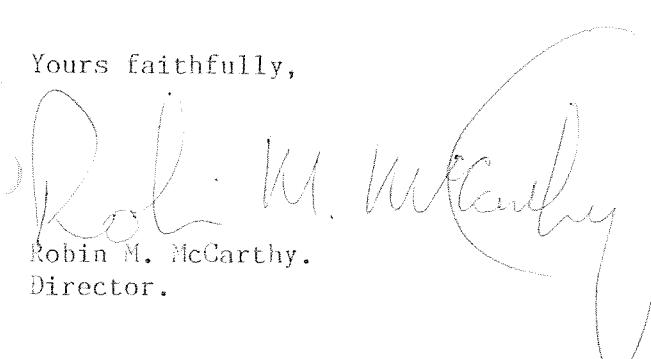
There does not exist any concept whatsoever of free competition in aviation in the Mackenzie District. The Council's aviation strategy limits the market to those existing operators.

If the market was left to the operators to resolve, our company would simply commence operations from where it saw fit. Securing a suitable patch of land is not a problem. The Council's policies in respect to Resource Consent requirements prevent us from taking such action. The Council's policies have distorted the market as well as prevented the advent of free competition.

The market is unable to resolve the problem because of Council's interference in the marketplace. Simply put, take away the Council and its policy and our company would commence operations immediately from Tekapo offering consumer choice in aviation services both fixed and rotary wing products. We would compete head on with our competitors on both product and price on a level playing field.

Your comments are meaningless in the context of reality as it stands.

Yours faithfully,


Robin M. McCarthy.
Director.

cc: R. Ramsay,
Chairman,
Planning Committee.

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DEED OF VARIATION OF LICENCE

Deed made the 24th day of December 1998

Between Her Majesty the Queen in right of Her Government in New Zealand acting by and through the Chief of Defence Force ("the Crown")

And Air Safaris and Services (New Zealand) Limited a duly incorporated company having its registered office at Ashburton (the Licensee).

Background

- A. The Crown and the Licensee are parties to a Deed of Licence dated 23 May 1996 ("the licence") under which the Crown has granted to the Licensee a licence to use land held by Crown for defence purposes as an airfield.
- B. The parties wish to amend the licence to clarify the area included in the licence, to permit the Licensee to allow third parties to use the airfield and to provide for an increase the licence fee.

The Parties Agree

1. The area of 4 hectares specified in the schedule to the Deed of Licence dated 23 May 1996 is incorrect and while no survey has been undertaken, the area is approximately 40 hectares, more or less, as covered by the area marked red in the plan attached to the Deed of Licence encompassing the existing run way and borders, taxi ways, hardstand, hangars, terminal, carpark and access road and associated facilities.
2. Clause 2.1 of the licence is amended by deleting \$5,000.00 (plus GST) and replacing with \$7,500.00 (plus GST) with payment at this rate prorated from the date of this Deed of Variation. Subject to this amendment the Crown waives its right to review the licence fee for 1998.
3. Clause 4.4d of the licence is deleted.
4. The licence is amended by inserting after clause 4.5 the following:

"4.6 The licensee shall be entitled to permit the use of or to sublincence such area or areas of the Land to third parties on such terms and conditions (not inconsistent with the terms and conditions of this licence) as the Licensee shall think fit for the purposes within the permitted uses under this licence."
5. This Variation forms part of the licence. Except as expressly provided by this variation the terms and conditions of the licence are unaffected.

Executed for the Crown)
by Michael Francis Rhys)
General Manager Defence)
Force Services pursuant to a)
written delegation in the)
presence of:

Michael Francis Rhys

Name:

Wellington

Address:

Solicitor

Occupation

Executed by Air Safaris and)
Services (N.Z.) Limited)

Michael Francis Rhys
(Director)
Michael Francis Rhys
(Director/Secretary)

\sdefags\legcells\commerce\16-4\deed of variation of licence tekapo.doc



6 April 1999

Aviation Activities Ltd
PO Box 13
FAIRLIE

Dear Sir/Madam

As a submitter to either Change 23 to the Transitional District Plan, Variations 1 or 3 to the Proposed District Plan or to Aviation matters within the Proposed District Plan, this letter is to notify you of the Council's adoption as its decisions the recommendations made by the Commissioner, Mr David Collins, concerning:

- Change 23 to the Transitional District Plan (Twizel rezonings)
- Variation 3 to the Proposed District Plan (Twizel rezonings)
- Hearing Group 17 - Aviation Matters and Variation 1 to the Proposed District Plan
- Pukaki Airfield Designation

Council has also adopted the recommendation of the Planning Committee made on 3 March 1999 concerning the Rural Zone Set Back Rule 3.1.1(c) as its decision on this matter.

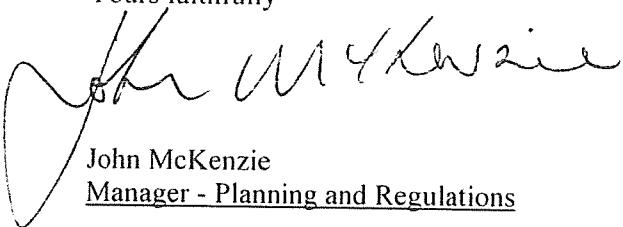
A copy of the decision relating to your submission(s) concerning the above is attached. Also attached is a copy of the public notice that will appear in the newspaper. If you are not satisfied in any way with the decision on your submission(s) you may lodge a reference (appeal) with the Environment Court within 15 working days of receipt of the Council's decision. The Environment Court address is PO Box 5027, Wellington.

The procedure for lodging a reference is set out in clause 14 of the First Schedule to the Resource Management Act 1991. The form on which the reference should be made is identified as Form 4 in the Resource Management Regulations 1991/170. Clause 6 and 7 of those Regulations also set out important information.

Clause 14(5) of the First Schedule to the Resource Management Act 1991 sets out the persons upon whom the reference must be served and the time when service must take place. It is essential that these provisions are adhered to. Failure to do so may result in the appeal being struck out.

If you have any queries please do not hesitate to contact the writer.

Yours faithfully



John McKenzie
Manager - Planning and Regulations

P.O. Box 18,
Methven.

Tel: 03 318 6574

26th April, 1999.

Hon Jenny Shipley, M.P.,
Prime Minister,
Parliament Buildings,
Wellington.

Dear Mrs Shipley,

Tekapo Airport

I am sure you are thoroughly sick and tired of this ingoing saga. I am, but I am not about to weaken in my resolve to provide consumer choice in aviation services at Lake Tekapo.

The Minister of Defence, the Hon Max Bradford granted our company (Aviation Activities Ltd) an approval last August to operate from Tekapo Airport. We had to meet 3 conditions. One of these conditions was that we enter into a protocol on matters of flight safety with Air Safaris. Air Safaris have stated that they are not prepared to co-operate any further. They have also been adding conditions of their own.

The New Zealand Defence Force have also added an additional condition whereby we now have to be a sub-licensee to Air Safaris. This has given Air Safaris a further chance to add conditions. All this suits Air Safaris fine as it keeps us from competing with them. However it certainly does us no good whatsoever. It is on record that I predicted this outcome.

I have been back to Mr Bradford on a number of occasions expressing my concerns and advising as to a likely remedy. Mr Bradford is no longer accepting my letters and has given instructions for them to be forwarded direct to Defence. I have stated that his instructions are premature as Defence have been unwilling to resolve matters. Defence have failed to reply to my company's Solicitors letters recently despite follow ups.

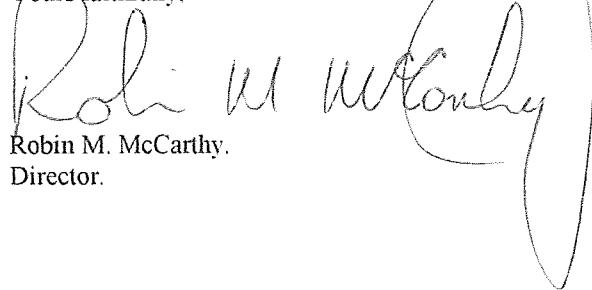
The solution is simple and always has been. (It could have been resolved 3 years ago when we first made application to Defence for a separate licence to occupy in accordance with Defences own publicly stated policy of being able to grant other licences to other operators at Tekapo Airport). We require a separate licence on equal terms to Air Safaris. Being a sub-licensee to a competitor is bizarre and I have never been subjected to such commercial naivety anywhere else in the world. I could well imagine the uproar if Quantas had to be a sub-licensee to Air New Zealand or Burger King a sub-licensee to McDonalds.

I appeal to you again to look into this matter. I am able to meet with you at short notice in your constituency office as I am currently residing less than 30 minutes away.

Yours sincerely,

Robin M. McCarthy.

Yours faithfully,


Robin M. McCarthy

Robin M. McCarthy.
Director.

Aviation Activities Ltd,
P.O. Box 18,
Methven.

3rd May, 1999.

Col. Roger Howard,
Director of Legal Services,
New Zealand Defence Force,
Wellington.

Fax: 04 496 0734

Dear Sir,

Licence to Occupy – Tekapo Airport

After over 3 years our company is still not operating from Tekapo Airport despite numerous applications in accordance with Defences publicly stated position that they could grant other licences to other operators. Furthermore Defence were parties to the Mackenzie District Council's "Aviation Strategy". This is now incorporated into the proposed District Plan.

Defence have added additional conditions to the Ministers approval for our company to operate from Tekapo Airport. The condition of ourselves being a sub-licencee to Air Safaris and Services (N.Z.) Ltd is anti-competitive simply because we would not have a licence on the same terms and conditions. In the final event Air Safaris have refused to co-operate. I had previously recorded that this would happen simply because Air Safaris do not want competition at Lake Tekapo and take every opportunity to discredit me personally. At all times we have acted in good faith and sought co-operation with Air Safaris. I have even put up to 15 people/day directly onto their aircraft but have never received any acknowledgment or gratitude. Furthermore it is an uncomfortable position for our company to be a sub-licencee to a long time illegal operator who had no valid Planning or Resource Consent (see Environment Court decision).

Our Lawyers wrote to Nigel Lucy-Smith on April 1st, 1999 seeking a separate licence of our own. Despite follow ups no response has been forthcoming. I have since spoken to Mike Reece who has endeavoured to look into it. However time slips by. There is no reason why we were not granted a licence over 3 years ago, other than that we know Air Safaris do not want us there. I have stated many times that Defence needs to stand up to Air Safaris and say no to them. All we ask is that we are treated equally. At the moment Defence is deliberately protecting Air Safaris when they know they were illegal operators. Surely Defences position is also untenable under the circumstances.

Our proposal to Defence was that we secured a separate licence adjacent to Air Safaris. Defence then said that Air Safaris had a licence over 40 hectares. They did not. It was only over 4.0 – 4.5 hectares. All documentation I have from the Commissioner of Crown Lands to Valuation New Zealand shows they had a Recreation Permit over only 4.0-4.5. Defence construed the position in order to protect Air Safaris.

My family, colleagues and the people of the District are all asking "who's listening to Air Safaris now after the Environment Court hearing". The answer is only the New Zealand Defence Force.

This matter will not go away and neither will I. I would ask that the New Zealand Defence Force get their act together and consider the facts. I would also ask that they act in an equitable manner.

The way forward is for Defence to tell Air Safaris that we will be on Tekapo Airport on the same terms and conditions and that they will have to get use to it and learn to compete in the marketplace, not on the politics. We would ask that we are granted a separate but equal licence. We also seek compensation for the 3 years of not being able to operate from Tekapo Airport.

I look forward to your reply.

P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

16th July, 1990.

Catherine Trott,
Constituency Secretary for Rakaia.
Ashburton

Dear Catherine,

Access to Tekapo Airport

During our telephone conversation of yesterday, an issue arose where it was claimed that my company had not complied with the one of the Minister of Defence's conditions relating to access to Tekapo airport.

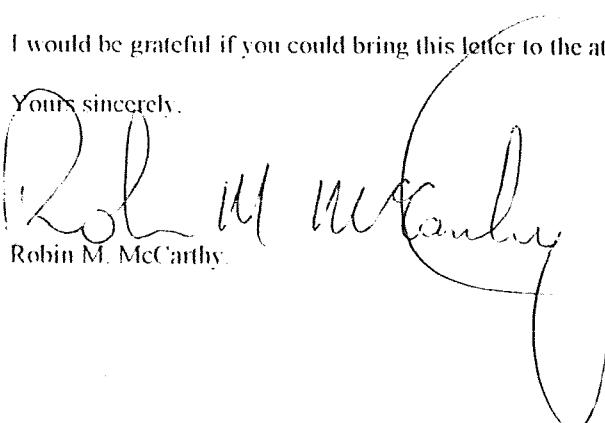
I am not aware that this is the case at all. The Minister required that we enter into a protocol on flight safety with Air Safaris. Air Safaris were not co-operative and added another irrelevant condition. Furthermore the New Zealand Defence Force also added a further condition. Neither of these formed any part of the Ministers directive.

The Minister stated that in the event of no arrangement being arrived at with Air Safaris, then Defence would find another suitable site from where my company could operate from. This has not happened.

The New Zealand Defence Force have failed to abide by the Ministers directive. What is now required is for the Minister to go back to Defence with another directive for them to uphold his earlier directive in full. By doing so will amount to an action in equability and conclude this ongoing saga to the satisfaction of all parties. Incidentally I have previously forwarded a site plan to Defence for a suitable alternative which falls within the District Plan zoning on Defence Force controlled land.

I would be grateful if you could bring this letter to the attention of the Hon Jenny Shipley, Prime Minister.

Yours sincerely,


Robin M. McCarthy

P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

26th July, 1999.

Tony Sewell,
Manager,
Ngai Tahu Property Group,
158 Hereford Street,
Christchurch.

Dear Sir,

Tekapo Airport

I have previously registered my interest with Defence/LINZ on acquiring the above land on which the airport is located.

I am aware that surplus Crown land is offered to Ngai Tahu as a first consideration. I take this opportunity to register my interest with Ngai Tahu in acquiring the land in the event of it coming into your organisation's ownership.

Please acknowledge receipt of this letter.

Yours faithfully,

Robin M. McCarthy.

P.O. Box 1329,
Christchurch,
New Zealand.

Tel: 03 381 4671

6th August, 1999.

Hon Max Bradford,
Minister of Enterprise and Commerce,
Parliament Buildings,
Wellington.

Dear Sir.

Competition at Tekapo Airport

Thankyou for your letter dated August 4th, 1999.

There are no other suitable sites in the Mackenzie District from which I or my company can operate from for the simple reason that the Mackenzie District Council's "Aviation Strategy" limits the number of sites available by naming them specifically. Those named sites are either leased or occupied by other operators who deny access to newcomers. Furthermore the best market is at Tekapo which is where I have chosen to operate from just like Air Safaris.

The Council has zoned 160 hectares for airport purposes at Tekapo. The New Zealand Defence Force did not object to this zoning. Air Safaris now occupy 40 hectares. Considerable remaining area exists for other operators to occupy under separate licence's. To expect Air Safaris to sub-license to a competitor was commercial naievity at best. All the evidence supports my observation and experience to date.

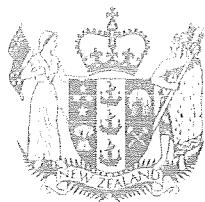
There are no safety issues at Tekapo Airport any different to other airports in New Zealand. When I fly from the likes of Timaru Airport I do not have to go around entering into protocols on flight safety with all the operators prior to flying. I. (and all other pilots) simply abide by the Civil Aviation Rules of the Civil Aviation Act. That is the protocol. The same rules apply to Tekapo Airport.

I have now prepared an application for Judicial Review naming you as second Defendant. I have taken this step after Defence offered arbitration this week (which I welcomed) and then withdrew it.

I hope to get the notice of proceeding to you during the forthcoming week.

Yours faithfully,

Robin M. McCarthy.



OFFICE OF THE HON MAX BRADFORD

Minister for Enterprise and Commerce

Responsible for the Ministry of Commerce (including Energy and Industry)
and the Department of Labour

99/393

18 AUG 1999

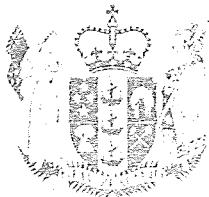
Robin McCarthy
PO Box 1329
CHRISTCHURCH

TEKAPO AIRPORT

I have read your letter dated 6th August 1999 in response to my previous letter on the subject of competition at Tekapo Airport and noted your views.

Yours sincerely

Hon Max Bradford
Minister for Enterprise and Commerce



Hon Maurice Williamson MP for Pakuranga

Minister of Transport
Minister of Research, Science & Technology
Associate Minister for Tertiary Education
Minister of Local Government
Minister of Statistics
Minister of Communications
Minister for Information Technology
Associate Minister of State Services

18 AUG 1999

Robin McCarthy
PO Box 1329
CHRISTCHURCH

Dear Robin McCarthy

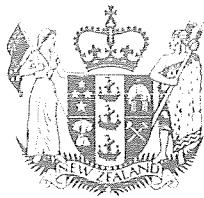
Thank you for your letters of 28 July and 6 August 1999 concerning your experience in seeking to establish an aviation service based at Lake Tekapo Airport and your efforts to offer services within the wider Mackenzie basin.

The issues you have raised essentially lie outside the scope of my transport portfolio. These are matters for the Minister of Defence, as land owner at Lake Tekapo Airport, the Mackenzie District Council, as the relevant resource management authority, and the Commerce Commission, who deals with matters relating to any restraint of trade issues.

I understand you have raised your concerns with each of these agencies. In the circumstance there seems to be little I could add to resolve your concerns.

Yours sincerely

Maurice Williamson
MINISTER OF TRANSPORT



OFFICE OF HON MAX BRADFORD

Minister of Defence

25 AUG 1999

Mr Robin McCarthy
PO Box 1329
CHRISTCHURCH

Dear Sir

Thank you for your letter of 17 August 1999 requesting, under the provisions of the Official Information Act, a copy of my report to the Ombudsman concerning your complaint about my decision not to release certain information that you had requested.

Correspondence with the Office of the Ombudsmen about investigations being conducted by the Ombudsmen is not accessible by means of requests made under the provisions of the Official Information Act, by virtue of the definition of "official information" in section 2(1) of the Act, which specifically excludes such correspondence from the scope of the Act. I cannot therefore provide you with a copy of the report in question.

Yours sincerely

MBZ

Hon Max Bradford
MINISTER OF DEFENCE

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P.O. Box 1329,
Christchurch.

28th August, 1999.

Hon Max Bradford,
Minister of Defence,
Parliament Buildings,
Wellington.

Dear Sir.

The New Zealand Defence Force raised no objections to the Mackenzie District Council zoning 160 hectares at Tekapo Airport for airport purposes. This enlarged area has now been adopted into the District Plan.

Air Safaris now hold a licence to occupy 40 hectares. This leaves 120 hectares which could be occupied by other licensed holders.

A Company of which I am a Director sought a licence to occupy 4 hectares of this 120 hectares. A site plan was forwarded to the New Zealand Defence Force. Under the Official Information Act I request the reason/s why "Aviation Activities Ltd" was declined a licence.

Yours faithfully,

Robin M. McCarthy.

Aviation Activities Ltd,
P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

30th August, 1999.

Kelvin Marks,
O'Driscoll Marks,
Barristers & Solicitors,
333 Princes Street,
Dunedin.

Dear Kelvin,

We, the undersigned Directors of Aviation Activities Ltd would be grateful if you would accept our instructions to seek a Judicial Review of the New Zealand Defence Force's decision to initially decline our application's for a licence to occupy Tekapo Airport, then act contrary to the Minister of Defences directive and again decline a licence.

On acceptance of our instructions, the writer (Robin McCarthy) will forward the relevant documents.

Yours sincerely,

Robin M. McCarthy

Colin Tuck

James Scott

P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

30th August, 1999.

Paddy Beban,
Chief Executive Officer,
Mackenzie District Council,
P.O. Box 52,
Fairlie.

Dear Sir,

I requested of Mr John Mckenzie a copy of the minutes relating to the meeting held on August 24th, 1998 between Council, Air Safaris and Defence. I was advised that no meeting took place. Documents received from the Minister of Defence confirm that such a meeting did indeed take place.

Under the Official Information Act I request the following:-

1. Minutes apertaining to the above meeting.
2. The reason why Council allowed Air Safaris to illegally construct and operate Tekapo Airport whilst it's 1975 planning appeal was still under an adjournment waiting to be heard.
3. The reason why Council took no action of a prosecution nature against Air Safaris.
4. The reason why Council took no action of an enforcement nature against Air Safaris.
5. The reason why Council relied on the force of the 1975 resolution on two occasions (when it in fact had no legal effect) when considering whether Air Safaris were abiding by the resolution's condition (e) or not.

Yours faithfully,

Robin M. McCarthy.

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you had a mutual commercial relationship. You have also objected to the issue of separate licences, again because I suspect that you know that by having one licence you can keep the competition out. Personally it wouldn't bother me if Defence granted another 5 licenses so long as everybody abides by the Civil Aviation Rules which is what they would do anyway, like they do everywhere else. Winning in the marketplace is what it is all about, not frustrating others on the ground.

I take this opportunity to advise you that I will not be dictated to by you. I will negotiate with you and seek common ground in order to foster harmonious relations. But I believe in upholding free speech and liberty. I quote John Galt: **I swear by my life and my love of it, that I will never live for the sake of another man, nor ask another man to live for mine.**

You have lied to the Council, Defence and the Police about me. This has led to them being unkindly disposed towards me in the past. However as time goes by these people have ascertained what has been happening. Your behaviour from day one has been unacceptable in any civilised society. You keep saying to others that I have defamed you. If that is the case then why don't you sue me. The reason why you haven't is that I am telling the truth and have the courage to do so. However I will accept service and gladly defend any proceedings.

Finally, I will not weaken in my resolve to operate commercially at Tekapo. I am going to be around. That I promise you. And I will never be silenced.

Yours faithfully,

Robin M. McCarthy.

cc: Minister of Defence
Chief of Defence Force
General Manager Defence Force Services

P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

1st September, 1999.

Richard Rayward,
Air Safaris and Services (N.Z.) Ltd.
P.O. Box 71,
Lake Tekapo.

Dear Richard.

I have in my possession a copy of your letter dated October 7th, 1998 to the Hon Max Bradford, Minister of Defence. You have made a number of misrepresentations and engaged in a deliberate untruth.

What you haven't told the Minister is that we made our first approach to you on January 6th, 1996. You made it very clear that we could use the Airport so long as we did not use it for commercial purposes. This is what led to my company seeking Resource Consents elsewhere in the Tekapo area. Your company objected to all our applications citing reasons of safety, which is not consistent with your position at Franz Josef where you bought the airport next to a helicopter operating site.

Many of your posturings are mere rhetoric. You have never had any intention of co-operating with either myself or my company, or for that matter other commercial operators who either pose a threat or with whom you do not have a mutual commercial relationship. You once begged me to go to Omarama. In the past when I have asked you where it would be acceptable to you from where we could operate at Tekapo, you have always refused to pinpoint the position on a map. For the past two years you have consistently refused to even discuss Tekapo aviation matters with either myself or my colleagues. You won't even come to the phone which is a further development on from continually terminating telephone calls.

You have no right to exclude me from my company or even attempt to do so. I am not that rude to you, that I would seek your exclusion from Air Safaris. You continually make a case against me but there is no evidence to support your allegations other than what you create.

You haven't told the Minister about how good my family has been to your family and Air Safaris for many years. My sister carries your brochures in her Motel and regularly refers customers onto Air Safaris flights. Neither have you told him that during the 7 months I manned our Tekapo office, I and my staff continually put "fixed wing" customers straight onto Air Safaris aircraft. One day I personally put 15 people on your aircraft. We never received one acknowledgement or an once of gratitude from you. Furthermore my father used to grant permission to your brother to hunt the Station on which I was brought up on, and never once charged him. I also believe that you hunted with your brother on one occasion.

Your reason for behaving as you have done so is to prevent our impending competition. Maybe you have forgotten your own humble beginnings and the fact that no one ever stopped, or hindered you in your endeavours to set up Air Safaris. To the contrary many have helped you considerably. You were even bankrolled in part at least, by a benevolent private investor. I have known of you for 30 years. I clearly recall the days when I would speak to you when you used to work on the aircraft in the hanger at Timaru and fly at Mesopatania Station during the summer.

Your credibility will continue to wear thin. Air Safaris operated illegally for 23 years. No amount of twisting and turning the facts will change that, although again you have sought to do so, as you are want to do with matters aviation at Tekapo. If you genuinely believed in welcoming the use of Tekapo airport by others, you would invite us in tomorrow, set a reasonable fee and respect other professionals as equally licensed like yourself. The truth is that you have only allowed other commercial operators to use the airport who were not in competition to you such as topdressing companies and The Helicopter Line with whom

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P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

1st September, 1999.

Richard Rayward,
Air Safaris and Services (N.Z.) Ltd.
P.O. Box 71,
Lake Tekapo.

Dear Richard,

I have in my possession a copy of your letter dated October 7th, 1998 to the Hon Max Bradford, Minister of Defence. You have made a number of misrepresentations and engaged in a deliberate untruth.

What you haven't told the Minister is that we made our first approach to you on January 6th, 1996. You made it very clear that we could use the Airport so long as we did not use it for commercial purposes. This is what led to my company seeking Resource Consents elsewhere in the Tekapo area. Your company objected to all our applications citing reasons of safety, which is not consistent with your position at Franz Josef where you bought the airport next to a helicopter operating site.

Many of your posturings are mere rhetoric. You have never had any intention of co-operating with either myself or my company, or for that matter other commercial operators who either pose a threat or with whom you do not have a mutual commercial relationship. You once begged me to go to Omarama. In the past when I have asked you where it would be acceptable to you from where we could operate at Tekapo, you have always refused to pinpoint the position on a map. For the past two years you have consistently refused to even discuss Tekapo aviation matters with either myself or my colleagues. You won't even come to the phone which is a further development on from continually terminating telephone calls.

You have no right to exclude me from my company or even attempt to do so. I am not that rude to you, that I would seek your exclusion from Air Safaris. You continually make a case against me but there is no evidence to support your allegations other than what you create.

You haven't told the Minister about how good my family has been to your family and Air Safaris for many years. My sister carries your brochures in her Motel and regularly refers customers onto Air Safaris flights. Neither have you told him that during the 7 months I manned our Tekapo office, I and my staff continually put "fixed wing" customers straight onto Air Safaris aircraft. One day I personally put 15 people on your aircraft. We never received one acknowledgement or an once of gratitude from you. Furthermore my father used to grant permission to your brother to hunt the Station on which I was brought up on, and never once charged him. I also believe that you hunted with your brother on one occasion.

Your reason for behaving as you have done so is to prevent our impending competition. Maybe you have forgotten your own humble beginnings and the fact that no one ever stopped, or hindered you in your endeavours to set up Air Safaris. To the contrary many have helped you considerably. You were even bankrolled in part at least, by a benevolent private investor. I have known of you for 30 years. I clearly recall the days when I would speak to you when you used to work on the aircraft in the hanger at Timaru and fly at Mesopatania Station during the summer.

Your credibility will continue to wear thin. Air Safaris operated illegally for 23 years. No amount of twisting and turning the facts will change that, although again you have sought to do so, as you are want to do with matters aviation at Tekapo. If you genuinely believed in welcoming the use of Tekapo airport by others, you would invite us in tomorrow, set a reasonable fee and respect other professionals as equally licensed like yourself. The truth is that you have only allowed other commercial operators to use the airport who were not in competition to you such as topdressing companies and The Helicopter Line with whom

P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

8th September, 1999.

Hon Jenny Shipley,
Prime Minister,
Parliament Buildings,
Wellington.

Dear Mrs Shipley.

Tekapo Airport

I enclose a copy of a letter received from the New Zealand Defence Force. I also enclose a copy of my reply, which I trust is self-explanatory.

Max Bradford withdrew his directive following on from what I can only describe was an appalling Memo received from Defence. It contained incorrect information.

This whole saga is yet another example where the Public sector appears to be unaccountable. It has a cosy relationship with our competitor and is hell bent on protecting them. This has come at our cost.

Again I ask you to raise the matter with the Hon Max Bradford. He needs to re-issue his directive for ourselves to specifically occupy a site on which Air Safaris has no interest or infrastructure. We have previously forwarded a copy of our site plan to Defence. However they simply ignored our application and shortly after the General Manager of Defence Force Services sent the now infamous Memo to Mr Bradford.

We feel that this is our last attempt to seek an equitable solution. Our application for Judicial Review to the High Court has been prepared in part and is being worked on.

I would welcome a meeting with you and Mr Bradford to settle this matter for once and for all.

Yours sincerely,

Robin M. McCarthy.

P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

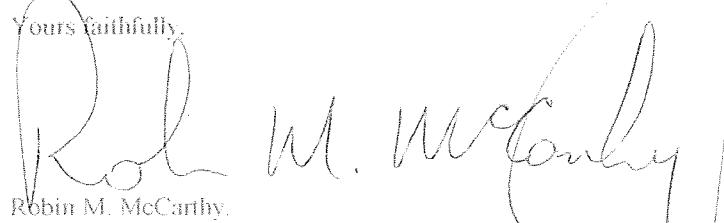
9th September, 1999.

M. F. Rhys,
General Manager Defence Force Services,
H. Q. New Zealand Defence Force,
Private Bag,
Wellington.

Thankyou for your letter dated 6th September 1999. Your answers lead to more questions.

However during our telephone conversation of today, we agreed that I would submit a renewed application for a licence to occupy the corner of S.H. 8 and the Tekapo Canal road at Tekapo. This site is encompassed within the 160 hectares of Tekapo airports zoning on the TMTA but outside any present licensed area (see enclosed site map).

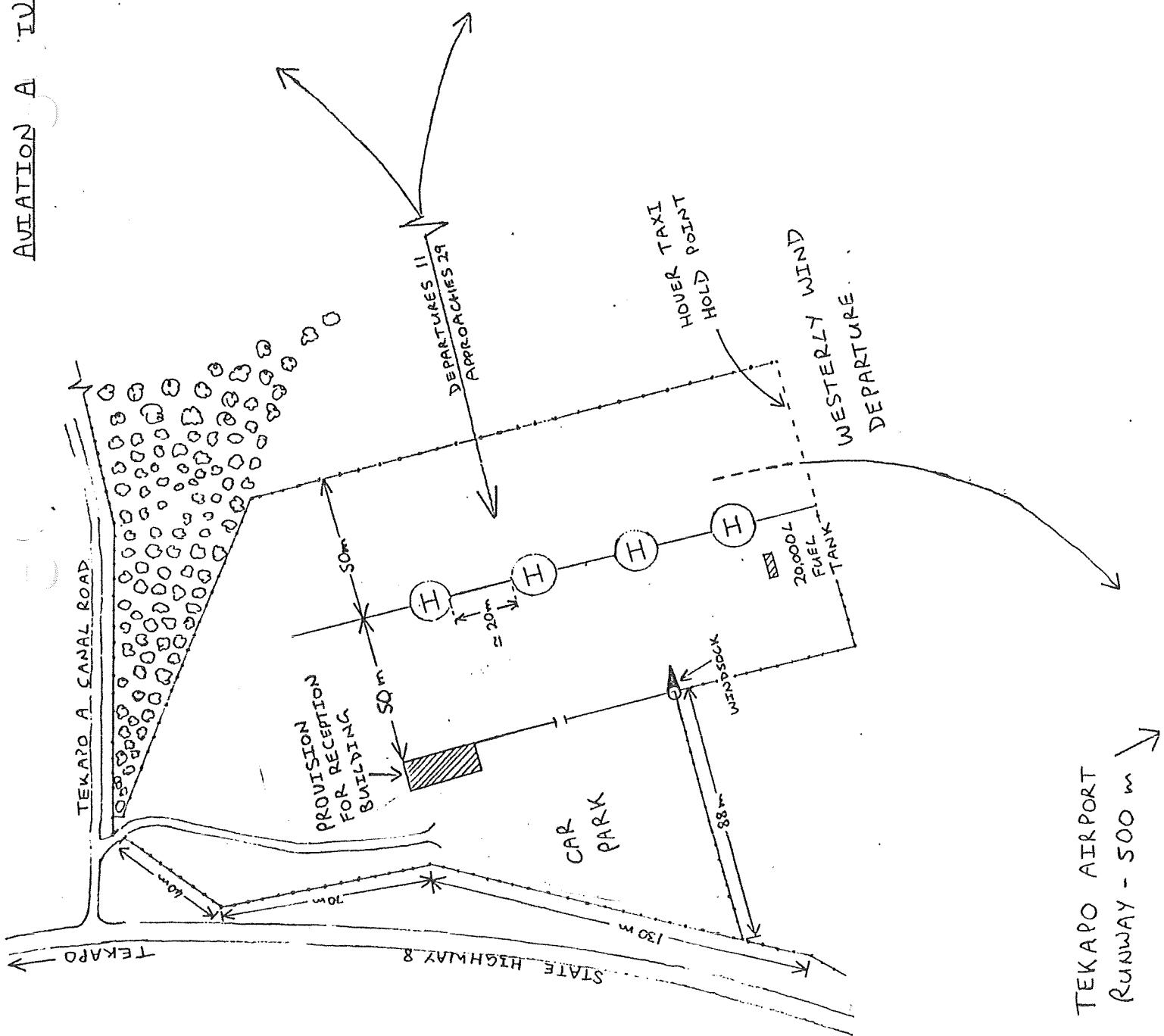
We also discussed safety matters. The Civil Aviation Authority has jurisdiction in respect to these matters. In any event a legal obligation requires that I obtain a "Safety Determination" under Civil Aviation Rules, Part 157. The consultation process carried out by the CAA extends to the existing operator on Tekapo airport. The CAA establishes the safety protocol.

Yours faithfully,

Robin M. McCarthy.

Encl: Site Map

127

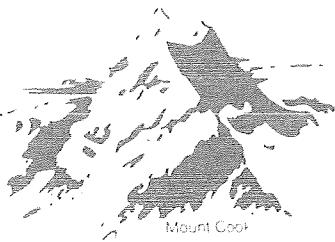
AUTATION A WITIES LTD - PROPOSED



DRAWN: R.M. McCARTHY

DATE: 11/11/98

R.M.



Mackenzie District Council

REF: 25300 15902

9 September 1999

Mr Robin McCarthy
PO Box 1329
CHRISTCHURCH

Dear Sir

REQUEST FOR OFFICIAL INFORMATION, MEETING 24 AUGUST 1998

I acknowledge your letter of 30 August 1999, in which you make a request under the Local Government Official Information & Meetings Act, in relation to a meeting with NZDF personnel and Council representatives, which took place on 24 August 1998.

Item 1 of your request refers to the Minutes of such a meeting. It is incorrect that you were advised that no meeting took place. You made a verbal request to the Council's Committee Clerk for a copy of the minutes of that meeting, at some point the Manager - Planning and Regulations was involved in her search for the minutes and it was the Manager - Planning and Regulations who indicated that there were no such minutes. The Manager - Planning and Regulations did not inform you that no such meeting occurred on 24th August 1998. I can confirm that the Council Officers present, did not take minutes of the meeting and that the Council has not received any minutes from other persons attending that meeting.

As I recall, in addition to the writer, the Council was represented at that meeting with NZDF, by the Mayor and Manager Planning and Regulations.

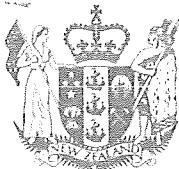
You may care to direct an inquiry to NZDF, in regard to your search for a record of the meeting, however I do not recall anyone taking minutes at the time. As I recall the purpose of the meeting was to discuss the land access issues surrounding the Tekapo Water Supply and that the Tekapo Air Field was a secondary topic. The NZDF personnel sought comment on District Plan implications of a second operator at the Air Field and made mention of a ministerial directive concerning access to the Airfield.

In the matter of items 2 to 5 inclusive of your letter of 30 August 1999, you seek reasons why the Council did, or did not take certain action in relation to the Tekapo Air Field. I can confirm that the Council does not hold any Official Information relative to this component of your request. I am also aware that you have previously perused the relevant minutes relating to the issue. However should you wish the minute book researched, I can provide an estimate of \$39.50 GST incl per hour for this work. Please let me know if you require further information.

Yours faithfully

A handwritten signature in cursive ink that appears to read "Paddy Beban".

Paddy Beban
Chief Executive Officer



OFFICE OF HON MAX BRADFORD

Minister of Defence

21 September 1999

Mr Robin McCarthy
P.O. Box 1329
CHRISTCHURCH

Dear Mr McCarthy,

Thank you for your letter of 14 September 1999 to myself concerning internal correspondence I supplied on 19 August 1998, released to you under the Official Information Act, that drew upon the then Minister of Defence's letter of 4 June 1997.

I accept your assurances that my statement that you conducted commercial paragliding off Mt John was in error, and for this error I offer my personal apology.

I would ask you to note that any error of this nature by myself has no direct bearing to the material issue of commercial access to NZDF land.

Yours sincerely

J.P. Brounts
Squadron Leader
Private Secretary: Defence



Office of the Mayor

REF:

29 October 1999

Mr R McCarthy
P O Box 1329
CHRISTCHURCH

Dear Sir

COMPLAINT AGAINST CHIEF EXECUTIVE OFFICER

Your complaint against the Chief Executive Officer was considered by the Council on the 22nd of October 1999.

The Council resolved as follows:

- a) That the complaint by Mr McCarthy dated the 27th of September 1999 be totally rejected.*
- b) His Worship the Mayor be directed to write to Mr McCarthy informing him that his complaint against the Chief Executive Officer was rejected and informing Mr McCarthy of the reasons for the rejection.*
- c) That the Council advise it has full confidence in the Chief Executive Officer and his staff and gives them its total support on this issue.*

The above resolutions were unanimous.

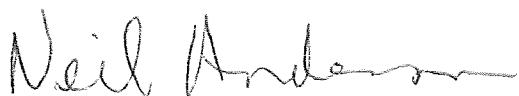
The Council's reason for rejecting the complaint were that;

- ◆ The issue over Lake Tekapo Airport and the resource consent has been raised at a number of Council meetings in the past. Your complaint did not raise any new matters that would cause the Council to alter its long standing position that Council officers are not at fault in respect of the Lake Tekapo resource consent issue. In any event, as you will be aware, Mr Beban was not involved with that issue when it arose.

- ◆ The Council treats any complaints against its officers seriously. It has investigated your complaint and has determined that not only can no criticism be levied against Mr Beban, but he has at all times behaved professionally and appropriately in his dealings with you.

As far as the Council is concerned, the issues raised in your complaint have been resolved and the matter is now closed.

Yours faithfully



Neil Anderson
MAYOR

P.O. Box 1329,
Christchurch.

16th November, 1999.

Rob Allan,
Sawdon Station,
Fairlie.

Dear Rob,

Our appeal hearing concluded in the Environment Court at Timaru last week.

I argued that following on from when we forced Council and Air Safaris to conclude the outstanding 1975 appeal on Tekapo Airport, that they had failed to obtain a CAA "Safety Determination" The Court has ordered Air Safaris to file a Memorandum on the matter by November 26th with a reply to be filed by myself by December 3rd, 1999. Consequently the Courts decision is reserved.

However the appeal went well. I particularly enjoyed having Richard Rayward under my cross-examination for just over 2 hours. I felt that I had succeeded in exposing the nonsense for what it is.

I will be in touch.

Yours sincerely,

Robin M. McCarthy.

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P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

17th November, 1999.

Pat Helm,
Adviser to Cabinet and Prime Minister,
Parliament Buildings,
Wellington.

Dear Sir,

Tekapo Airport

Further to our recent conversations, I enclose copies of documents relating to Tekapo Airport. This is just one aspect (amongst others) where the New Zealand Defence Force sought to defy the Ministers directive for us to be on Tekapo Airport.

In accordance with the Ministers directive we sought a licence to be adjacent to Air Safaris on a similarly sized area of 4 hectares. Defence and Air Safaris then claimed that Air Safaris had an area of 40 hectares. That way Air Safaris prevented us being next door, and competing head to head. However Air Safaris have never had 40 hectares. It was simply a jack-up between Defence and Air Safaris.

I wrote to a Rob Angelo at Burnham (30:6:98) and he referred my letter to H.Q. Defence who in turn advised that they had no record of who drew up the depicted area or where the information came from (letter 23:7:99). However Rob Angelo, shortly after the Minister issued his directive, sent a letter with an attached plan to Defence Force H.Q. (17:9:98). This letter only came into my receipt recently following an OIA request. Angelo knew all the time and it was him who did it, yet he had denied it. Angelo then had the gall to accuse us of trying to seek a licence on already occupied land. It had no occupier at that time.

If Air Safaris had always had 40 hectares then why have they only paid rates on 4 hectares. The reason being is because they never had 40 hectares. This is the sort of nonsense that has been going on throughout this whole saga.

When I last spoke you, you stated that there existed only two criteria that had to be established as to whether we could be on Tekapo Airport on equal terms to Air Safaris. One being was there any legal issue, and the other, was there any security issue. In our view there has never been either. If there was then it would beg the question as to why Air Safaris were not evicted.

We should never have been denied access on equal terms when we applied way back in 1996 when Defence's Edith Carter stated very clearly that Air Safaris did not have exclusive use and that they could grant other licences to other companies.

We have been dealt a gross injustice. I have had to personally endure what no person should have to in a free democratic society. I will not back down in the face of appalling behaviour.

Consequently I continue to seek access to Tekapo Airport on equal terms. I ask that this is done in my own name which will go some way to rectifying the injustice. My company will also enjoy the privilege of use of any licenced area in my own name.

I trust you now have some good news for me following on from your investigations.

Yours sincerely,

Robin M. McCarthy.

135

P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

22nd November, 1999.

Mr Neil Anderson,
The Mayor,
Mackenzie District Council,
P.O. Box 52,
Fairlie.

Dear Sir,

Complaint Against Chief Executive Officer - Tekapo Airport

I acknowledge receipt of your letter dated October 29th, 1999.

The Chief Executive Officer has been involved in the matter of Tekapo Airport and its outstanding Planning appeal since 1996. The Council has not taken my complaint seriously. It has not answered the following questions:-

1. Why did the Council not conclude the outstanding appeal in 1996,
2. Why has the Council not prosecuted Air Safaris for establishing and operating an illegal airport,
3. Why did the Council not take enforcement action against Air Safaris,
4. Why did the Council further resolve that Tekapo Airports 1975 resolution held the force of law on two occasions when it had no force whatsoever,
5. Why has the Council failed to reimburse my company for the costs incurred in taking legal action to resolve the outstanding appeal.

Consequently I have filed a formal complaint with the Ombudsman and the Minister of Local Government. I am also preparing a full report to present to the Controller and Auditor General.

Yours faithfully,

Robin M. McCarthy.

cc: Mackenzie District Councilors.

Aviation Activities Ltd,
P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

14th December, 1999.

Mr Kevin Ward,
Director,
Civil Aviation Authority,
Lower Hutt.

Dear Sir,

Tekapo Airport

I enclose a copy of the Environment Courts decision to our company's Resource Consent application to establish a heliport at Lake Tekapo. I also enclose a copy of our application to the Court for directions.

Paragraph 19 of the Courts decision states that we could usefully draw to your attention issues raised in sub-paragraph's (a) and (b). Accordingly I also enclose the evidence relied upon in support of our contention that Tekapo Airport was never lawfully licensed. It only became lawfully established by way of Planning Consent for the first time last year following on from the Environment Courts decision (Decision No C65/98). It now requires a Rule Part 157 Safety Determination.

It is apparent that the Court needs to resolve outstanding issues. We have effectively sought an order from the Court to have you appear to answer a number of issues. In the normal course of events it would have been courteous to ask you to appear voluntarily, but we have been mindful of the time limits imposed by the Court. Now that we have set the ball rolling (so to speak) we would be grateful if you could advise as soon as possible as to whether you would appear as a witness at any re-convened hearing.

Yours sincerely,

Robin M. McCarthy.
Director.

P.O. Box 1329,
Christchurch.

Tel: 03 381 4671

30th December, 1999.

Richard Rayward,
M.D. Operations,
Air Safaris and Services (N.Z.) Ltd,
C/- P.O. Box 71,
Lake Tekapo.

Dear Richard,

Air Safaris have formally recorded in writing (yet again) their gratitude to my family for their unqualified support to Air Safaris in forwarding customers onto their services. You will also recall my own company's consistent support in directly forwarding customers onto Air Safaris flights out of our Tekapo office.

However on the other hand you seek to continue to destroy both me and my family by opposing every attempt we have made to offer consumer choice in aviation services at Tekapo. We cannot understand what you have been doing over the past four years.

My family are South Cantabrians of four generations standing. My family are involved in Agriculture, Contracting, Tourism, and Aviation. They have always had the best interests of the wider community at heart. That will continue irrespective of the great disgrace you have sought to bring upon me and my family. Furthermore, my father was most gracious in his generosity to the Rayward family during the 1960's.

Today, the people who assisted you in setting up in business (Air Safaris) cannot understand your behaviour of recent years and your attitude towards me and my family, other than that you have lost the plot in having become successful and forgotten your own humble beginnings.

Both I and my family wish to make it clear to you that I will continue to be involved in aviation at Tekapo and seek to offer consumer choice in aviation services. We note that no one ever prevented you or your company from setting up at Tekapo. However we record your continual opposition to my company setting up at Tekapo. You have done so when at all times you have blatantly and consciously disregarded both the Planning/Resource Consent legislation and the Civil Aviation rules in never having had a Planning/Resource Consent or Civil Aviation Licensed aerodrome.

I record that you have previously alleged that I have defamed your company. It is on record that I have invited you to issue defamation proceedings against me. You have never done so because what I have said is true.

I would suggest that you withdraw all the unfounded allegations that you have made against me over the past four years, and offer a formal apology to both myself and my family. I would further suggest that you write to the Chief of Defence Force and support my company's access and operation from Tekapo Airports zoning.

I have forwarded a copy of this letter to the Hon Jenny Shipley, Hon Helen Clark, Hon Max Bradford, Hon Mark Burton, Hon Tim Barnett, Hon Jim Sutton, Chief of Defence Force and Mayor of the Mackenzie District Council.

Yours faithfully,

Robin M. McCarthy.

Aviation Activities Ltd,
P.O. Box 1329,
Christchurch.

5th January, 2000.

Mr Neil Anderson,
Mayor,
Mackenzie District Council,
P.O. Box 52,
Fairlie.

Dear Sir,

Official Information Act request - Tekapo airport

My colleague Colin Tuck met with you concerning our company's access to Tekapo airport.

You told Mr Tuck that you could get any company onto Tekapo airport, but would not assist Aviation Activities Ltd in any way because I am one of its shareholders and Directors.

Under the Official Information Act I request reasons for the following:

1. Why is my involvement disqualifying,
2. Why would you not assist our company,
3. Why have you discriminated against our company,
4. Why have you not acted impartially,
5. What have I done to you personally for you to adopt your position,
6. What have I done to the Council for you to adopt your position and attitude,
7. Have you ever discredited me and my company to the New Zealand Defence Force,
8. Why would you not act in the best interests of the wider community by assisting our company,
9. Why would you allow so many others to suffer by Aviation Activities Ltd (Directors, shareholders and related entity employees) not being able to be on Tekapo Airport,
10. Do you speak on behalf of all the Council in having adopted your position or are you expressing your personal views on Councils policy,
11. Why do you not want competition in aviation at Tekapo (if you did you would have helped us),

Yours faithfully,

Robin M. McCarthy.
Director.

P.O. Box 1329,
Christchurch.

6th January, 2000.

Mr Neil Anderson,
Mayor,
Mackenzie District Council,
P.O. Box 52,
Fairlie.

Dear Sir,

Official Information Request - Tekapo Airport

Under the above Act I request reasons for the following:-

1. Why did the Council not conclude Air Safaris appeal to Councils resolution on Tekapo Airport in 1975/76,
2. Why did the Council turn a blind eye and allow Air Safaris to build and operate an illegal airport for 23 years (pre 1975 and post 1996),
3. Why was the 1975 Tekapo Airport resolution initially withheld from me by the Council in 1996,
4. Why did the Council not conclude the outstanding appeal at any time after 1996 when I and my company brought it to Councils attention again,
5. Why has the Council not offered to re-imburse my company "Aviation Activities Ltd" for taking action to conclude the outstanding appeal,
6. Why did the Council not prosecute Air Safaris for constructing and operating an illegal airport when asked to by my company following on from the Environment Courts conclusion of the outstanding appeal,
7. Over what area is the Council now rating Air Safaris.

I realise that the answers to questions 1 and the first part of 2 may take time to establish. However people who dealt with it at the time (former Councillors, Council Executives and Lawyers) are still alive today. I am prepared to accept an extension of time in this respect (without reference to the Ombudsman) so long as Council formally notifies me of this action under the OIA. You will be aware that the Council is obligated to give reasons to questions 2 (part), 3, 4, 5, 6 & 7 within a statutory time period.

Finally I make this request in the absence of any reasons being given previously. The Council has merely stated that the matters I refer to have been dealt with. That statement does not constitute a reason.

Yours faithfully,

Robin M. McCarthy.

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Angela Oosthuizen,
Chief Executive Officer,
Mackenzie District Council,
52 Main Street,
Fairlie.

Dear Ms Oosthuizen,

Issues surrounding Tekapo Aviation

This is a follow up to my earlier emails and the assurance that both you and Mayor Anne Munro gave at Tekapo that you would get back to me.

A written acknowledgement and update would be much appreciated.

Thankyou.

Regards,

Robin McCarthy.

Tel: 027 560 9618.

robin.mccarthy@xtra.co.nz

From: Angela Oosthuizen <angela.oosthuizen@mackenzie.govt.nz>
Sent: Tuesday, August 27, 2024 6:53 PM
To: robin.mccarthy@xtra.co.nz
Cc: Anne Munro - Mackenzie District Mayor
Subject: RE: Tekapo Aviation

Dear Robin

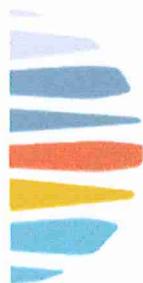
I need to source all the relevant records before I am able to fully respond to you.

This will unfortunately take some time as the matter goes back 24 years.

If you have any relevant records or correspondence that would be extremely helpful.

Regards
Angela

Ngā mihi / Kind regards,



Angela Oosthuizen
CEO

T:(03) 685 9010
M:(027) 565 9867
53 Main Street, Fairlie 7925
mackenzie.govt.nz



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From: robin.mccarthy@xtra.co.nz <robin.mccarthy@xtra.co.nz>
Sent: Tuesday, August 27, 2024 9:54 AM
To: Angela Oosthuizen <angela.oosthuizen@mackenzie.govt.nz>
Cc: Anne Munro <anne.munro@mackenzie.govt.nz>
Subject: Tekapo Aviation

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Angela Oosthuizen,
Chief Executive Officer,
Mackenzie District Council,
52 Main Street,
Fairlie.

robin.mccarthy@xtra.co.nz

From: Robin McCarthy <robin.mccarthy@xtra.co.nz>
Sent: Sunday, September 29, 2024 10:30 AM
To: Angela Oosthuizen
Subject: RE: RE: Tekapo Aviation

Hi Angela,

Thankyou.

I spoke to Rick Ramsay a few months ago when I mentioned that I had written a book. He said "I know what that will be about". I said what. He said Tekapo. I confirmed he was correct. He then said that he had kept all the records. I was somewhat taken aback. He shouldn't have these documents. You might wish to ask him. I would hope he might be truthful, but nothing will surprise me from that era. However, if required, I swear an affidavit.

Rick Ramsay was the former deputy mayor and seconded a motion of confidence in the CEO at the time after I made a formal complaint against him. My complaint was entirely justified.

Regards,

Robin McCarthy.

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On 9 Sept 2024, at 9:41 am, Angela Oosthuizen <angela.oosthuizen@mackenzie.govt.nz> wrote:

Thanks Robin

I have found some documents but certainly not all - I have even looked in the archives and have used my Records person to try to locate.

Regards
Angela

Ngā mihi / Kind regards,

[cid:mdc_logoround-transparent_80e71991-f9bc-4894-92ba-7b63b84e0401.png]

Angela Oosthuizen
CEO

[cid:mdc_landscape logo_transparent_5c3ae9b6-40dc-4994-ae19-b9a8932cacea.png]

T: (03) 685 9010

M: (027) 565 9867

53 Main Street, Fairlie 7925

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<<https://letstalk.mackenzie.govt.nz/te-manahuna-ki-uta>>

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robin.mccarthy@xtra.co.nz

From: robin.mccarthy@xtra.co.nz
Sent: Tuesday, November 5, 2024 10:01 AM
To: 'angela.oosthuizen@mackenzie.govt.nz'
Subject: Tekapo Aviation Documents

Hi Angela,

Tekapo Aviation Documents

Has council retrieved the Tekapo Aviation Documents from Rick Ramsay, former Deputy Mayor?

Regards,

Robin McCarthy.

...

...

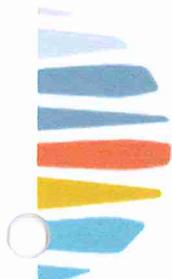
robin.mccarthy@xtra.co.nz

From: Angela Oosthuizen <angela.oosthuizen@mackenzie.govt.nz>
Sent: Tuesday, November 5, 2024 11:00 AM
To: robin.mccarthy@xtra.co.nz
Subject: Re: Tekapo Aviation Documents

No unfortunately not.

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Ngā mihi / Kind regards,



Angela Oosthuizen
CEO

T:(03) 685 9010
M:(027) 565 9867
53 Main Street, Fairlie 7925
mackenzie.govt.nz



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From: robin.mccarthy@xtra.co.nz <robin.mccarthy@xtra.co.nz>
Sent: Tuesday, November 5, 2024 10:01:17 AM
To: Angela Oosthuizen <angela.oosthuizen@mackenzie.govt.nz>
Subject: Tekapo Aviation Documents

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Hi Angela,

Tekapo Aviation Documents

Has council retrieved the Tekapo Aviation Documents from Rick Ramsay, former Deputy Mayor?

Regards,

Robin McCarthy.

robin.mccarthy@xtra.co.nz

From: Robin McCarthy <robin.mccarthy@xtra.co.nz>
Sent: Tuesday, November 5, 2024 6:41 PM
To: Angela Oosthuizen
Subject: Re: Tekapo Aviation Documents

Hi Angela,

Why not?

Did you contact him, and if so, what was his response?

Regards,

Robin McCarthy.

Get BlueMail for Android

On 5 Nov 2024, at 11:00 am, Angela Oosthuizen <angela.oosthuizen@mackenzie.govt.nz> wrote:

No unfortunately not.

Get Outlook for Android<<https://aka.ms/AAb9ysg>>

Ng? mihi / Kind regards,

[cid:mdc_logoround-transparent_80e71991-f9bc-4894-92ba-7b63b84e0401.png]

Angela Oosthuizen
CEO

[cid:mdc_landscape logo_transparent_5c3ae9b6-40dc-4994-ae19-b9a8932cacea.png]

T: (03) 685 9010

M: (027) 565 9867

53 Main Street, Fairlie 7925

[mackenzie.govt.nz](https://www.mackenzie.govt.nz)<<https://www.mackenzie.govt.nz>>

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From: robin.mccarthy@xtra.co.nz <robin.mccarthy@xtra.co.nz>
Sent: Tuesday, November 5, 2024 10:01:17 AM
To: Angela Oosthuizen <angela.oosthuizen@mackenzie.govt.nz>
Subject: Tekapo Aviation Documents

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An appeal to Rick Ramsay.

Can you please send the Tekapo Airport and related documents (or copies) back to the Council.

Thankyou.

 Like

 Comment

 Send



Debbie Hoey

18 Dec 2024 · 

...

**Does anybody have a
secure garage/shed or lock
up area that a covered in
trailer could be safely
stored for 3 weeks from
this weekend please???**

 2

1 comment
1147