

ENVIRONMENT COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY

I MUA I TE KOOTI TAIAO O AOTEAROA  
ŌTAUTAHI

ENV-

Under the

**RESOURCE MANAGEMENT ACT 1991**

In the matter of

the direct referral of applications for resource consents under sections 87D and 87G of the Act for the Shotover Wastewater Treatment Plant

By

**QUEENSTOWN LAKES DISTRICT COUNCIL**

---

**AFFIDAVIT OF SIMON ██████████ MASON IN SUPPORT OF DIRECT  
REFERRAL APPLICATION**

Dated: 18 December 2025

---

**BUDDLE FINDLAY**

Barristers and Solicitors  
Wellington

Solicitor Acting: **David Allen | Matthew Dicken**  
Email: [david.allen@buddlefindlay.com](mailto:david.allen@buddlefindlay.com) | [matthew.dicken@buddlefindlay.com](mailto:matthew.dicken@buddlefindlay.com)  
Tel 64 4 462 0423 Fax 64 4 499 4141 PO Box 2694 DX SP20201 Wellington 6011

I, SIMON ██████████ MASON, of Queenstown, solemnly and sincerely affirm:

1. I am the Infrastructure Operations Manager in the Property and Infrastructure Department at Queenstown Lakes District Council (QLDC).
2. I am authorised to give this affidavit on behalf of QLDC, and I make this affidavit in support of the notice of motion that its applications for resource consents (**Applications**) for the Shotover Wastewater Treatment Plant (**SWWTP**) be referred directly to the Environment Court under sections 87D and 87G of the Resource Management Act 1991 (**RMA**).
3. I have a Bachelor of Engineering in Mechanical Engineering from the University of Auckland and a Post Graduate Diploma in Business Administration and Management from the University of Otago.
4. I have over 18 years' experience in engineering, mainly in infrastructure construction, management and maintenance. I have worked as a contractor, a consultant and a client within the infrastructure environment.

#### **Scope of affidavit**

5. My affidavit addresses the following:
  - (a) my involvement in the SWWTP;
  - (b) background history of the SWWTP;
  - (c) the project;
  - (d) request for direct referral; and
  - (e) reasons for seeking direct referral.

#### **Involvement in SWWTP**

6. I initially became involved in the SWWTP as the contractor's design manager, responsible of the 'Stage 1' upgrade, completed in 2017.
7. Since joining the Council I have had involvement with the SWWTP as the Three Waters Contract Manager, responsible for managing the contract responsible for the treatment plant's operation. More recently, as the Infrastructure Operations Manager my involvement with the SWWTP has become more removed, but I continue to hold responsibility for performance of the treatment facility.

## Background – SWWTP

8. One of QLDC's functions as a territorial authority is to convey, treat, and dispose of wastewater generated by the district in a manner that protects the health of its communities, the environment and is in accordance with the requirements of all relevant resource consents.
9. The SWWTP was established in the 1970s. Before 2017, wastewater treatment at the SWWTP was basic, consisting of an oxidation pond with treated wastewater discharged directly to the lower Shotover River.
10. In 2017, the Stage 1 plant upgrade works were completed which included the addition of a Modified Ludzak-Ettinger (**MLE**) treatment train. This cost approximately \$20m. The MLE process provides superior wastewater treatment to the oxidation ponds. Up until November 2025, approximately 80% of the wastewater was treated through the MLE process, with the balance of flows being treated within the oxidation ponds. As discussed further below, following the completion of a further MLE treatment train in September 2025, since November 2025 all wastewater is treated through the more advanced MLE process.
11. The two treated wastewater streams were then blended before receiving UV sterilisation and disposal through the dose and drain (**DAD**) disposal field. The DAD disposal field was consented and installed in 2019 at a cost of approximately \$7.5m. The intent of this upgrade was to remove the direct discharge of treated wastewater to the Shotover River via a channel to the south of the treatment ponds.
12. In November 2023 and May 2024, the treatment plant suffered mechanical failures which impacted on the standard of treatment and resulted in two periods where the treated water did not meet the quality standards required by the resource consent authorising the discharge of treated wastewater to land. With the exception of these events the SWWTP has generally operated at a high level of service.
13. However, the DAD disposal field has suffered ongoing performance challenges and has ultimately proven to be unfit for purpose, and its performance is continuing to degrade. Steady deterioration of the DAD disposal field since 2020 has resulted in abatement notices being served on the Council in May 2021 and March 2024. Since August 2024, deterioration

of the DAD soakage sectors, and the surrounding gravels, has accelerated and discharges from the consented DAD disposal field to land increased.

14. As the DAD disposal field has deteriorated, QLDC undertook a series of investigative works to determine the cause of the problem and to identify potential options to resolve it. The problem was primarily two-fold. The discharge from the treatment plant (especially the pond stream) contains suspended solids that have, over time, blocked the pores in the gravel soils reducing their permeability. This now results in consistent ponding of water in the DAD disposal field. In addition, biological growth has occurred inside the DAD cells, reducing the ability of treated wastewater to discharge from the cells into the surrounding gravels.
15. Whilst not directly relevant to the request for direct referral, ORC filed an application for enforcement orders with the Environment Court on 22 January 2025. The orders sought to manage the key effects of the ongoing performance challenges of the DAD disposal field such as the quality of the treatment at the SWWTP and amenity and recreational effects from discharge of treated wastewater offsite. Following mediation and further discussions, ORC, QLDC and Queenstown Airport Corporation (QAC) (as an interested party), reached an agreement to jointly pursue amended enforcement orders by consent. On 9 June 2025, the Environment Court granted the enforcement orders.<sup>1</sup>
16. I note that I provided an affidavit on behalf of QLDC in support of the amended enforcement orders.
17. Based on expert advice, the DAD disposal field cannot be remediated to a point where it will provide a meaningful level of discharge for the treated wastewater from the SWWTP. Conscious that the general unsuitability and unsustainability of the existing situation was insufficient and of the increasing risk on the safe operation of the Airport, QLDC undertook emergency works that are now the subject of the retrospective Applications (themselves the subject of this direct referral process).

---

<sup>1</sup> *Otago Regional Council v Queenstown Lakes District Council* [2025] NZEnvC 178.

## **The project**

18. The project requires:
  - (a) an application for resource consent (RM25.206) by QLDC, dated 1 May 2025, to undertake the following activities:
    - (i) discharge treated effluent to the Shotover River;
    - (ii) construct rip-rap outfall structure in the bed of the Shotover River;
    - (iii) variation to the discharge to air consent RM13.215.01; and
  - (b) an application for resource consent (RM25.177) by QLDC, dated 10 April 2025, to undertake the following activities:
    - (i) divert and discharge of contaminants to the Shotover River for the purpose of creating a flowing braid.
19. The Applications relate to the discharge of treated effluent (wastewater) to the Kimi-ākau/Shotover River via an existing discharge channel and necessary mitigation works. Effluent is first treated via inlet screens and grit removal. Secondary treatment is undertaken by an MLE reactor and clarifier (which had been operating in parallel with the oxidation ponds until November 2025), before the combined effluent passes through the UV channel for disinfection.
20. Since September 2025, an additional MLE reactor and clarifier has been brought into operation and is now treating wastewater. This means the remaining oxidation pond on site is no longer receiving wastewater flows, with all wastewater now treated through the more advanced MLE and clarifier treatment systems. These changes have brought about observed improvements in the quality of the treated wastewater.
21. Each consent is sought for a duration until 31 December 2030. Resource consent application RM25.177 relates to works in the riverbed to protect the channel outfall. ORC made the decision to process this consent application together with the RM25.206 application for consent(s).
22. The discharge of treated effluent to the Shotover River via an existing discharge channel commenced on 31 March 2025 through QLDC's use of emergency powers under section 330 of the RMA. The Applications to which this request relate are sought pursuant to section 330A of the RMA which

imposes an obligation to seek resource consent retrospectively for any activity with continuing adverse effects on the environment.

23. On 1 May 2025, QLDC requested that the RM25.206 application for consent(s) be publicly notified under section 95A of the RMA.

#### **Process background and request for direct referral**

24. On 10 April 2025, QLDC lodged resource consent application RM25.177.
25. On 1 May 2025, QLDC lodged resource consent application RM25.206. ORC determined that the application RM25.206 was complete and accepted the application informally on 15 May 2025, and formally on 19 May 2025.
26. On 21 May 2025, ORC determined that RM25.177 and RM25.206 were intrinsically linked and considered that they should proceed and be decided as a bundle together in accordance with section 91 of the RMA.
27. On 19 June 2025, ORC requested further information to be provided in relation to the Applications in accordance with section 92 of the RMA.
28. On 27 June 2025, QLDC submitted a letter to ORC requesting that the Applications be referred directly to the Environment Court under section 87D of the RMA.
29. On 11 July 2025, ORC granted QLDC's request that the Applications be referred to the Environment Court under section 87E of the RMA. The letter confirming that request is attached as **Exhibit "SAM 1"**.
30. On 13 August 2025, QLDC provided further information in response to the section 92 further information requests sought by ORC.
31. The Applications were publicly notified on 19 September 2025, and the period for making submissions on the Applications ended on 3 November 2025. A total of 10 submissions were received.
32. ORC prepared a report on the Applications under section 87F(3) of the RMA, which was issued on 2 December 2025.
33. QLDC has considered the ORC section 87F report and, in accordance with section 87G of the RMA, continues to want the applications to be determined by the Environment Court.

## **Reasons for seeking direct referral**

34. The reasons for the request for direct referral are as follows:

- (a) There is significant public interest in this matter given the consents being sought arise from activities associated with the use of emergency works which have been widely publicised in the media (including at a national level) and are subject to considerable regional and local political and community discussion.
- (b) The Kimi-ākau/Shotover River is a significant natural resource with considerable cultural and community values in addition to its natural values.
- (c) The discharge of treated wastewater direct to water raises potentially significant cultural issues to be appropriately managed.
- (d) The discharge relates to the use of regionally significant infrastructure, and a lifeline utility, which enables the safe treatment and disposal of wastewater from a considerable part of the district's community.
- (e) There has already been a separate legal proceeding (for interim enforcement orders) in relation to the discharge by Aotearoa Water Action Incorporated.
- (f) While not related to the emergency works, ORC earlier this year commenced enforcement order proceedings against QLDC in relation to resource consent breaches at/from the SWWTP. Previously, abatement notices had also been issued.
- (g) QLDC very rarely uses the emergency work provisions and, while the use of the provisions is not relevant to this matter, the consents address and authorise the ongoing adverse effects of those works.
- (h) QLDC is presently progressing the development and consenting of the long-term sustainable option for the discharges from the SWWTP (from 31 December 2030). This is a significant and complex process which will involve consent applications to ORC in 2026 (by the end of May 2026). There is the potential for the processes to be conflated and there is considerable benefit to QLDC, ORC and the community in having timely clarity on the interim discharge position.

(i) For the reasons above:

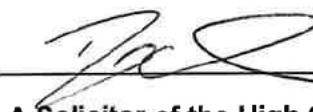
- (i) The matter is very likely to be appealed irrespective of the outcome. Use of the direct referral process will save all parties involved considerable time and money. Therefore, direct referral enables a more efficient and effective determination of this matter, especially given the significant resources and issues in play.
- (ii) The matter is highly contentious, with complex and significant issues in play, and emergency works provisions having been relied on, such that special circumstances clearly apply favouring the decisions on the consents for the ongoing adverse effects of the activities proceeding straight to the Environment Court.
- (iii) The Environment Court is already aware of the context and background to the matter across various proceedings enabling clarity (and clear separation) of the various legal and consenting processes in play and enabling efficient decision making.
- (iv) The direct referral process enables simple, clear and effective participation by submitters and no parties will be unduly prejudiced by the direct referral process.

### Conclusion

35. Given the significant public interest, resources and issues in play the streamlined decision-making by direct referral of the Applications will ensure a more efficient process and a faster mechanism to achieve sustainable management than potentially an extra year being added to the process.

Affirmed by SIMON ██████████  
MASON at Queenstown this  
day of *18 December* 2025  
before me:

)  
)  
)  
)  
SIMON ██████████ MASON

  
A Solicitor of the High Court of New Zealand



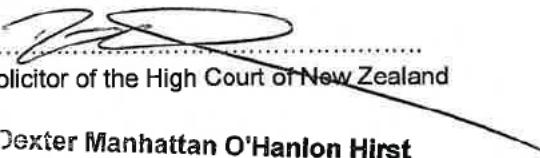
## "SAM 1"

File: RM25.206 and RM25.177

11 July 2025

This is the exhibit marked "SAM 1" referred to in the affidavit of **SIMON ██████████ MASON** affirmed at Queenstown on this 11th day of December 2025 before me:

  
A Solicitor of the High Court of New Zealand

  
**Dexter Manhattan O'Hanlon Hirst**  
Solicitor  
Queenstown

**Via Email:** David.Allen@buddlefindlay.com; Matthew.Dicken@buddlefindlay.com and mike.theelen@qldc.govt.nz

Dear David and Mathew,

### **Request for Direct Referral to the Environment Court**

Thank you for your letter dated 27 June 2025 requesting that the applications for resource consent RM25.206 and RM25.177 be directly referred to the Environment Court under section 87D of the Resource Management Act (RMA).

We confirm that the Otago Regional Council (ORC) **grants** the request for direct referral of those applications.

We note that Queenstown Lakes District Council (QLDC) has agreed to provide further information requested under section 92A(1)(b) of the RMA, and that an updated date of 11 August has been set for its provision under section 92A(2)(a).

Public notification of the applications will proceed once the outstanding information has been received and assessed. This approach ensures that the notification process is based on complete and accurate information, consistent with the requirements of the RMA.

We also confirm that:

1. ORC will continue to process the applications in accordance with section 87F(2).
2. The section 92 process continues to apply, and time has stopped under sections 88B and 88C.
3. ORC will publicly notify the applications as requested by QLDC, following receipt of the requested information.
4. ORC will prepare its report under 87F(3) within 20 working days after the close of submissions.



This letter and your request for the referral will be uploaded to our Shotover webpage.

Please feel free to contact us if you have any questions or require further clarification.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Joanna Gilroy".

Joanna Gilroy  
**General Manager Environmental Delivery**