

QLDC Council
12 December 2019

Report for Agenda Item | Rīpoata moto e Rāraki take: 4

Department: Finance, Legal & Regulatory

Title | Taitara Luggate Red Bridge Recreation Reserve

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to consider the uplifting of the prohibition of freedom camping at Luggate Red Bridge Reserve by exercising the delegated Minister of Conservation consent.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Agree** to exercise Ministerial consent under section 44(1) of the Reserves Act 1977 delegated to Council by the Minister of Conservation, to uplift the prohibition of freedom camping at Luggate Red Bridge Reserve.

Prepared by:



Jeannie Galavazi
Senior Parks and Reserves
Planner
29/11/2019

Reviewed and Authorised by:



Thunes Cloete
General Manager
Community Services
29/11/2019

CONTEXT | HOROPAKI

- 1 The District is a significant tourist destination and home to approximately 37,000 residents. There has been significant growth in our community and in the number of visitors to the District over the last decade, which includes an increase in the number of freedom campers.
- 2 In order to control freedom camping within the district Council can have a freedom camping bylaw or it can use the Reserves Act 1977 (Reserves Act) to regulate (prohibit or restrict) freedom camping.
- 3 The QLDC Freedom Camping Bylaw 2012 will be automatically revoked through operation of the law in December 2019.
- 4 The Council resolved to undertake public consultation regarding freedom camping bylaw at its meeting of 10 October 2019. This was done as a special consultative procedure under the Local Government Act 2002 (LGA). Public consultation opened on 11 October 2019 and closed on 11 November 2019.
- 5 Under the Reserves Act freedom camping at Luggate Red Bridge Reserve is prohibited unless provided for in a Reserve Management Plan or Council exercises its delegated ministerial consent.
- 6 Through the consultation process on the Proposed Freedom Camping Control Bylaw 2019 a number of submitters to the freedom camping bylaw review submitted on freedom camping at the Luggate Red Bridge Reserve.
- 7 Two submitters at the Wānaka hearing spoke to the benefits of allowing freedom camping at Luggate Red Bridge as it reduces the instances of illegal freedom camping in the nearby areas, and campers at this site are in a safe, defined area.
- 8 Several submissions did not support camping at the Luggate Red Bridge Reserve but these submissions were also seeking a virtual or full prohibition of camping in the area. One submitter at the hearing stated that the area was an eyesore at one of the gateways into the Wānaka area.
- 9 There is sufficient evidence to support that freedom camping at Luggate Red Bridge Reserve is appropriate. In order to allow a restricted amount of freedom camping at Luggate Red Bridge the Council will need to uplift the prohibition of freedom camping at Luggate Red Bridge by exercising its delegated Minister of Conservation consent under section 44(1) of the Reserves Act.
- 10 The general purpose of the Reserves Act 1977 is set out in s.3 of the Act. Among other things, the Act deals with the powers and responsibilities of a local authority as the administering body of a reserve. The purposes of the Act are to:
 - a. provide for the preservation and management of areas for the benefit and enjoyment of the public;

- b. ensure, as far as possible, the survival of all indigenous species of flora and fauna;
 - c. ensure, as far as possible, the preservation of access for the public;
 - d. provide for the preservation of representative samples of all classes of natural ecosystems and landscape; and
 - e. promote the protection of the natural character of the coastal environment and the margins of lakes and rivers.
- 11 Areas are provided and managed as reserves under the Act to protect a range of special features or values, including recreational, historical and community ones.
 - 12 Part 3 of the Reserve Act specifies the various classifications of reserves and the management powers of the Minister and the administrative bodies. The Council is one such administrative body.
 - 13 Section 44(1) of the Reserves Act provides that no person can use a reserve, or any vehicle, caravan, tent, or other structure situated on the reserve, for the purposes of permanent or temporary accommodation. Therefore, freedom camping on reserves is prohibited unless provided for in a Reserve Management Plan or Council exercises its delegated ministerial consent.
 - 14 On 12 June 2013 the Minister delegated its powers under section 44(1) to the Council.
 - 15 The Luggate Red Bridge Reserve was vested in Council in 2018. It was previously a Local Purpose (Gravel Extraction) Reserve administered by Contact Energy. It is now gazetted as Recreation Reserve and Historic Reserve. A landscape development plan has been prepared by Council and the Luggate Community Association for future development of the reserve which indicates an area in the upper part of the reserve for camping.
 - 16 In 2018 a temporary camping hub was trialled at the top part of the reserve for the first time, in accordance with the development plan. This proved to be successful and supported by the Luggate Community Association. The primary benefit of camping at this site was that there was less illegal camping dispersed throughout the adjacent area. Subsequently the Luggate Red Bridge Reserve has been included as a restricted camping area in the Proposed Freedom Camping Control Bylaw 2019.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

17 Option 1 Prohibit freedom camping at Luggate Red Bridge Reserve

Advantages:

- 18 Public access to the reserve and public enjoyment of the entire reserve will be protected.

Disadvantages:

- 19 Freedom Camping will no longer be available at a greater number of places in the District and displacement of campers may occur.

- 20 The landscape development plan prepared by Council and Luggate community which indicates an area for camping is not being implemented.

Option 2: Permit freedom camping at Luggate Red Bridge reserve

Advantages:

- 21 Less displacement of campers and occurrences of illegal camping in the area will occur.
- 22 Provides additional space for freedom campers in a clearly safe defined area, in an area of a reserve that is not negatively impacted by camping vehicles.
- 23 The landscape development plan prepared by Council and Luggate community which indicates an area for camping would be complied with.
- 24 The Luggate Community volunteers will continue to monitor the site, removing rubbish and educating campers.

Disadvantages:

- 25 Public access to the reserve and public enjoyment of the entire reserve may be impacted.
- 26 This report recommends **Option 2** for addressing the matter because permitting freedom camping (in a self-contained vehicle) provides a safe and defined area that is monitored for campers and will reduce the impacts of freedom camping in nearby areas.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 27 This matter is of medium significance, as determined by reference to the [Council's Significance and Engagement Policy](#) because the issue of freedom camping is a matter of:
- high importance to the District, with freedom camping being an ongoing issue and likely to increase with the District's forecast of tourist numbers;
 - of high community interest for residents and locals who are affected by freedom camping.
- 28 The persons who are affected by or interested in this matter are:
- Department of Conservation;
 - local campground or holiday park owners;
 - freedom campers; and
 - QLDC residents/ratepayers
- 29 The Luggate Community Association has been consulted through the Luggate Red Bridge reserve Development Plan and during and following the 2017/2018 trial of camping at

the site. The Luggate Community Association is supportive of camping at the reserve in the defined area.

> MĀORI CONSULTATION | IWI RŪNANGA

- 30 Council officers have engaged with Ngāi Tahu through the Responsible Camping Strategy. Regular communications are had with Aukaha, through the Project Control Group minutes, agendas and a monthly newsletter are circulated.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 31 This matter relates to the following risk categories and risks:
- a. Environmental risk category. It is associated with:
 - i. RISK00017 relating to damage to the environment – discharge of contaminants within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.
 - b. Community & Wellbeing risk category. It is associated with:
 - i. RISK00006 relating to ineffective management of social nuisance issues within the QLDC Risk Register. This risk has been assessed as having a low inherent risk rating.
 - ii. RISK00056 relating to ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a low inherent risk rating.
- 32 The approval of the recommended option will support the Council by allowing us to retain the risk at its current level.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 33 There are no operational and capital expenditure requirements additional to existing approved budgets or Annual/Ten Year Plans, associated with the adoption of the recommended option. These costs will be met through current operational and Capex budgets.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 34 The following Council policies, strategies and bylaws were considered:
- Vision Beyond 2050: <https://www.qldc.govt.nz/vision-beyond-2050/>
 - Responsible Camping Strategy: <https://www.qldc.govt.nz/events-and-recreation/responsible-camping/responsible-camping-strategy/>
- 35 The recommended option is consistent with the principles set out in the named policy/policies.

36 This matter is not required to be included in the Ten Year Plan/Annual Plan. The Ten Year Plan provides for year-on-year operational expenditure relating to enforcement of a freedom camping.

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

37 The general purpose of the Reserves Act is set out in s.3 of the Act. Among other things, the Act deals with the powers and responsibilities of a local authority as the administering body of a reserve. The purposes of the Reserves Act are to:

- a. provide for the preservation and management of areas for the benefit and enjoyment of the public;
- b. ensure, as far as possible, the survival of all indigenous species of flora and fauna;
- c. ensure, as far as possible, the preservation of access for the public;
- d. provide for the preservation of representative samples of all classes of natural ecosystems and landscape; and
- e. promote the protection of the natural character of the coastal environment and the margins of lakes and rivers.

38 Areas are provided and managed as reserves under the Act to protect a range of special features or values, including recreational, historical and community ones.

39 Part 3 of the Reserve Act specifies the various classifications of reserves and the management powers of the Minister and the administrative bodies. The Council is one such administrative body.

40 Section 44(1) of the Reserves Act provides that no person can use a reserve, or any vehicle, caravan, tent, or other structure situated on the reserve, for the purposes of permanent or temporary accommodation. Therefore, freedom camping on reserves is prohibited unless provided for in a Reserve Management Plan or Council exercises its delegated ministerial consent. The Council has been delegated a ministerial consent in respect of the Luggate Red Bridge Recreation Reserve.

41 The purpose of a historic reserve is to protect and preserve in such places, objects, and natural features, and things that are of historic, archaeological, cultural, educational, and other special interest.

42 The purpose of a recreation reserve is to:

- a. provide areas for the recreation, sporting activities, the physical welfare and enjoyment of the public; and
- b. to protect the natural environment and beauty of the countryside, with emphasis on the retention of open spaces and on outdoor recreational activities, including recreational tracks in the countryside.

- 43 The Reserves Act further provides that recreation reserves must be administered so that:
- a. The public have freedom of entry and access to the reserve, subject to any specific powers of the administering body under the Act, and to any conditions and restrictions as the administering body considers to be necessary for the protection and general well-being of the reserve and for the protection and control of the public using it.
 - b. Where scenic, historic, archaeological, biological, geological, or other scientific features or indigenous flora or fauna or wildlife are present on the reserve, those features or that flora or fauna or wildlife must be managed and protected to the extent compatible with the principal or primary purpose of the reserve provided nothing impacts on the fauna that would contravene any provision of the Wildlife Act 1953 or any archaeological features that would contravene the Heritage New Zealand Pouhere Taonga Act 2014
 - c. The qualities of the reserve which contribute to the pleasantness, harmony, and cohesion of the natural environment and to the better use and enjoyment of the reserve are conserved
 - d. To the extent compatible with the principal or primary purpose of the reserve, its value as a soil, water, and forest conservation area must be maintained.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

- 44 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by providing for free camping in an area where potential adverse effects of that activity are minimal;
- Can be implemented through current funding under the Ten Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

ATTACHMENTS | NGĀ TĀPIRIHANGA

- A Instrument of Delegation for Territorial Authorities