

**QLDC Council
3 June 2015**

Report for Agenda Item: 5

Department: Operations

Cycle Tours New Zealand – Application for Commercial Guided Tours on Queenstown Lakes District Tracks

Purpose

The purpose of this report is to consider an application to provide a licence under the Reserves Act 1977 for the purposes of commercial guided walking and biking tours on tracks around the Queenstown Lakes District

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Grant** a commercial licence to occupy to Cycle Tours New Zealand Ltd for commercially guided walking and cycling tours on the properties listed below and subject to the following special conditions:
3. **Approve** the issuing of a commercial licence to occupy to Cycle Tours New Zealand Ltd for commercially guided tours on Queenstown Lakes District Council land, subject to the following conditions:

Term:	Two years
Renewal:	Two x two year renewals, with the prior agreement of both parties
Use:	Commercially guided biking and walking tours
Assignments:	With the approval of Council only
Fee:	\$500 per annum plus GST or 7.5% of gross revenue, whichever is the greater
Advertising:	Advertising hoarding and other billboards not permitted
Merchandise:	Sale of merchandise on or about the tracks or trails not permitted
Insurance:	Public liability insurance of \$2 million
Operating hours:	Subject to resource consenting approvals, but not before daylight or after twilight hours
Commencement:	Upon signing

Special conditions:

- a) Maximum group size of 12 persons including 2 guides. Groups up to 6 require 1 guide. Group sizes 7 to 12 require 2 guides.
- b) Council to review the licence at each renewal taking into account any relevant track strategies endorsed by Council.

c) Council to retain the absolute right to restrict tracks as conditions and track use dictate. Initially the Outlet and Deans Bank tracks are to be excluded from the approved licence, until such point as Council decides that they are suitable for guiding. Should further tracks be removed from the licence, the Council will provide no less than one week's notice to the licensee.

Queenstown/Wakatipu Trails – Queenstown Lakes District Council recreation reserve land				
Trail Name & Map Ref.	Proposed Activity	Landowner/s	Legal Description	Title Reference
Jacks Point Track	Biking, walking	QLDC Recreation Reserve	Lot 70 DP 9249	95114
Lake Hayes Walkway	Biking, walking	QLDC Bendemeer Bay Recreation Reserve	Section 65 Blk IX Shotover SD	OT17C/1329
		QLDC Recreation Reserve	Lot 3 DP 15096	129117
		QLDC Recreation Reserve	Lot 4 & Pt Lot 5 DP 15096	464206
Wanaka/Hawea Trails – Queenstown Lakes District Council recreation reserve & freehold land				
Eely Point	Biking, walking	QLDC Eely Point Recreation Reserve	Sec 29 Blk XIV Lower Wanaka SD, Sec 1543R Blk XIV Lower Wanaka SD	OT7B/497
Beacon Point	Biking, walking	QLDC Beacon Point Recreation Reserve	Sec 71 Blk XIV Lower Wanaka SD	1701
		QLDC Recreation Reserve	Lot 9 DP 18825	OT10A/14
		QLDC Recreation Reserve	Pt Lot 3 DP 19057	OT13A/1038
		QLDC Recreation Reserve	Pt Lot 2 DP 17422	5997
Outlet Track	Biking, walking	QLDC Clutha Outlet Recreation Reserve	Sec 59 Blk XIV Lower Wanaka SD	OT15C/528
Deans Bank Track	Biking, walking	QLDC Recreation Reserve	Pt Sec 28 Blk V Lower Wanaka SD	4D/1290
		QLDC Recreation Reserve	Lot 1 DP 375247	302906
Waterfall Creek Track	Biking, walking	QLDC Roys Bay Recreation Reserve	Sec 46 Blk III Lower Wanaka SD	2290
Damper Bay Track	Biking, walking	QLDC Damper Bay Recreation Reserve	Secs 12, 18 Blk XIII Lower Wanaka SD, Pt Sec 4 Blk XV Lower Wanaka SD, Sec 14 SO 397287	474509
Upper Clutha River Track (true right bank)	Biking, walking	QLDC Recreation Reserve	Sec 1 SO 431144	568321
		QLDC Freehold	Sec 2 SO 24616	OT18C/526
Hawea River Track	Biking, walking	QLDC Freehold	Lot 1 DP 20555 and Lot 1 DP 24534	OT16C/1158

4. **Delegate** approval of final terms and conditions of the licence and execution authority to the Chief Executive.
5. **Agree** to exercise the Minister's prior consent under section 54(1)(d) of the Reserves Act 1977 (under delegation from the Minister of Conservation) to the granting of a licence to Cycle Tours New Zealand Ltd over the following tracks and trails:

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Prepared by:



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25/05/2015

Reviewed and Authorised by:



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General Manager, Infrastructure
25/05/2015

Background

- 1 With the development of tracks/trails by the Queenstown Trails Trust (QTT) and the Upper Clutha Tracks Trust (UCTT), the demand for commercially guided trips is increasing.
- 2 Council went through a process in 2012 to put in place a generic licence and to gain resource consent for bike guiding on the Queenstown Trail (QT Trail) network, administered by Council. This allows for up to 12 licences to be issued on the QT Trail under one Resource Consent, and is in accordance with the provisions of the Reserves Act 1977.
- 3 To date four operators have registered for a licence, and there are another seven considering a licence.
- 4 No similar pre-approved and consented licence framework has been undertaken in the Wanaka region by Council. This is partly due to a lack of previous interest by commercial operators, and partly due to the cost involved in seeking the necessary approvals.
- 5 In 2014 a steering group consisting of five organisations involved in the Upper Clutha Tracks Network was formed to initially develop a strategy for the Tracks Network in Wanaka. The steering group members are Bike Wanaka, Lake Wanaka Tourism, Upper Clutha Tracks Trust, QLDC, and DOC. The strategy is intended to cover a term of 10 years, and is expected to be completed by mid 2015. The Upper Clutha Tracks Network Co-ordinator has submitted on the said licence and is comfortable with the recommendations of the hearings panel.
- 6 The Wanaka Community Board considered the application at its meeting held on 15 April 2015 where the following recommendation was made to Council:

On the motion of Councillor Cocks and Mr Lloyd it was resolved that the Wanaka Community Board recommend to Council that:

- a. **A commercial licence to occupy be granted to Cycle Tours New Zealand for commercially guided tours on the properties listed below and subject to the following special conditions:**
Term: Two years

Renewal: 2x two year renewals, with the prior agreement of both parties

Use: Commercially guided biking and walking tours

Assignments: With the approval of Council

Special conditions:

- **Maximum group size of 12 persons including 2 guides. Groups up to 6 require 1 guide. Group sizes 7 to 12 require 2 guides.**
- **Council to review the licence at each renewal taking into account any relevant track strategies endorsed by Council.**
- **Council to retain the absolute right to restrict tracks as conditions and track use dictate. Initially the Outlet and Deans Bank tracks are to be excluded from the approved licence, until such point as Council decides that they are suitable for guiding. Should further tracks be removed from the licence, the Council will provide no less than one week's notice to the licensee.**

- 7 The Wanaka Community Board's recommendation was considered at the 30 April 2015 Council meeting as part of the Mayor's report. Although approval was given, it did not incorporate the full terms and conditions normally submitted with a final licence approval such as Ministerial consent, fees to be charged, insurance and other matters. This paper has been submitted to add the necessary terms and conditions to allow the licence to be completed.

Comment

- 8 Cycle Tours New Zealand Ltd has applied for a 10-year licence to undertake guided mountain biking and walking trips for groups of up to 12 people (inclusive of guides) along existing tracks, located on recreation reserve land administered by the Queenstown Lakes District Council and Council owned freehold land.
- 9 Beau Rapley is the Owner and Director of Cycle Tours New Zealand Limited. Mr Rapley is a long time Queenstown local and has many years of experience as a commercial rafting guide and commercial rafting business owner.
- 10 The applicant intends to operate small high-end guided biking and walking trips at a maximum rate of two trips per day on any one track. The applicant is currently seeking resource consent for this activity, and has been supplied with Council 'Affected Party Approval' in order to facilitate the application in a timely manner, prior to consideration of a licence. The applicant understands

that the licensing process is separate to that of the consenting and that there is no obligation by Council to then enter into a licence. The resource consent application includes tracks crossing numerous land parcels owned by a variety of private land owners, the Department of Conservation, LINZ and Council.

- 11 The applicant requests a licence from Council to operate on land parcels being traversed as part of the following:
 - Eely Point Track
 - Beacon Point Track
 - Outlet Track (partly on DOC land)
 - Deans Bank Track (partly on DOC land)
 - Waterfall Creek Track
 - Damper Bay Track
 - Upper Clutha River Track (true right bank) (partly on DOC land)
 - Hawea River Track
 - Jacks Point Trail (mostly on DOC land)
 - Lake Hayes Walkway (mostly on DOC land)
- 12 The applicant also intends to request a separate licence under the QT Trail licensing scheme in order to operate on the main trails around Queenstown.
- 13 There has been some recent interest by businesses wishing to operate guided tours on tracks around Wanaka. This has resulted in one temporary permit being issued for a maximum of forty days per year and no more than six days consecutively to Wanaka Bike Tours.
- 14 Council officers have considered the option of implementing similar approvals to that of the QT Trail, to enable a Wanaka Trails Licensing template. This is not currently envisaged due to the potential cost involved and the limited number of commercial users likely to make use of it.
- 15 Cycle Tours New Zealand has provided confirmation that their operational health and safety practices have been audited under the Outdoors Mark adventure tourism scheme. This level of accredited auditing is not required under legislation for bike guiding on grades 4 or less however it is recognised as best practice.
- 16 Full Council considered the licence request on 18 December 2014 where the following resolution was made:

That the Council:

Agree to notification of the intention to grant a licence as per the properties listed below to Cycle Tours New Zealand; and

Appoint Councillors Forbes, Lawton and MacLeod as a hearings panel, of which two are required to hear submissions (if required) and make a recommendation to full Council.

- 17 Through the public notification process, twelve submissions by community groups and members of the public were received. The majority of these submissions opposed the licence request either partly or wholly, necessitating a hearing.
- 18 Councillors Forbes and MacLeod reviewed submissions and heard submitters at a meeting held in Wanaka on the 25th February 2015. Key to the submissions were issues relating to tracks not currently fit for guiding, such as the Deans and Outlet Tracks. Additionally there was comment that the licence should be for a shorter term, until completion of a 10 year Tracks Strategy can be incorporated.
- 19 Following this meeting the hearings panel recommended to full Council the following:

APPROVE the issuing of a commercial licence to occupy to Cycle Tours New Zealand for commercially guided tours on Queestown Lakes District Council land, subject to the following special conditions:

Term: Two years

Renewal: 2x two year renewals, with the prior agreement of both parties

Use: Commercially guided biking and walking tours

Assignments: With the approval of Council

Special conditions:

a) Maximum group size of 12 persons including 2 guides. Groups up to 6 require 1 guide. Group sizes 7 to 12 require 2 guides.

b) Council to review the licence at each renewal taking into account any relevant track strategies endorsed by Council.

c) Council to retain the absolute right to restrict tracks as conditions and track use dictate. Initially the Outlet and Deans Bank tracks are to be excluded from the approved licence, until such point as Council decided that they are suitable for guiding. Should further tracks be removed from the licence, the Council will provide no less than one week's notice to the licensee.

- 20 This recommendation was considered and endorsed by the Wanaka Community Board on 15 April 2015.

- 21 Please note that whilst all tracks requested by the applicant are intended to be provided for in the licence, Council may suspend individual tracks as required, and this is intended for the Outlet and Deans Bank tracks initially following the recommendation by the hearing panel. If track conditions and grade improve over time, the operator will be able to make use of these tracks but only if Council removes the suspension.
- 22 The terms and conditions recommended are the same as those approved under the QT Trail licences with variations only to the term, special conditions (a, b & c) and the public liability amount which has been increased in line with recommended minimum cover.

Options

- 23 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:
- 24 The first step is to identify all "reasonably practicable" options. If an option is not reasonably practicable, then it will not require consultation. One option that should always be considered is the option of doing nothing – the status quo.

Option 1 Grant a reserve licence to Cycle Tours New Zealand over Queenstown Lakes District Tracks

- 25 Advantages:
- 26 Supporting commercial recreational tourism in the district, enhancing opportunities for businesses and workers in the region.
- 27 Council contributes significant time and money to maintaining trails across the district. By approving this commercial operator Council will receive a modest income from the use of trails that could be contributed towards track upkeep.
- 28 Disadvantages:
- 29 Some tracks may not be suitable for use by commercial operators given the condition or standard of the track.
- 30 Groups will increase the number of users on the tracks, creating potential friction/conflict with existing users.

Option 2 Decline granting a reserve licence to Cycle Tours New Zealand over Queenstown Lakes District Tracks

- 31 Advantages:
- 32 Assurance that unsuitable tracks will not be used for commercial operations.
- 33 Groups will increase the number of users on the tracks, creating potential friction with existing users and refusing the licence will avoid these conflicts.

34 Disadvantages:

35 There would be less opportunity for commercial recreational tourism in the district, affecting both businesses and workers

36 Council contributes significant time and money to maintaining trails across the district. Income from commercial operators that could be used for track maintenance will not be forthcoming if the licence is refused.

Option 3 Grant licence over a smaller group of tracks

37 Advantages:

38 Council would ensure a portion of tracks were free from commercial activities and are solely for public recreation use

39 It would support commercial activities in some areas ensuring growth in local business and potential income for track maintenance

40 Disadvantages:

41 It would limit the applicant's flexibility to provide for customers needs and this may be overly restrictive as there is no evidence to support limiting use of certain tracks

42 Council would possibly receive less income from the commercial activity licence and therefore have less income to support track/trail maintenance

43 This report recommends Option 1 for addressing the matter.

Significance and Engagement

44 This matter is of medium significance as determined by Council policy, as the activity will take place on a number of Wanaka Lakefront Reserves listed in Council's schedule of assets.

Risk

45 This matter relates to the strategic risk SR6b Assets critical to service delivery, as the risk of licensing tracks and trails is that they are damaged, or their asset life is reduced by more intensive use than what is was designed and constructed for. The risk is classed as high. In this case, it is a risk that can be managed by imposing conditions on the licence. In this case it is proposed to suspend the use of tracks and trails from the licence as required. The licence fee may also be used to contribute to the costs of asset repair and maintenance.

Financial Implications

46 There are no costs to Council in approving this licence, as the applicant must pay for all costs including advertising and licence drafting costs etc.

47 Track wear and tear and Council maintenance requirements, is not expected to be increase materially through the level of users that would be permitted by this licence.

48 Council has budgeted to receive revenue from Wanaka and Wakatipu reserve land, so the receipt of this licence fee will have no impact on the financial planning for the Council. The applicant will pay an annual licence fee to Council, set in accordance with the Community Facility Funding Policy and a base fee approved by Council.

Council Policies, Strategies and Bylaws

Significance and Engagement Policy 2014.

49 The recommendations of this paper are considered of low significance as outlined in the policy, whereby there is low impact to residents or ratepayers.

50 The level of community engagement envisaged is appropriate given the reserves are already used by the community for biking and walking.

Wanaka Lakefront Reserves Management Plan, 2014

51 The recommendations of this paper are considered consistent with the vision and objectives of the reserve management plan in particular section 5.2.2.1 to 'support and enhance the local economy by appropriate, sustainable commercial use of the reserves; and section 5.2.3.1 to 'consider a limited number of new leases and licences where such uses would support the objectives of this plan'.

Kelvin Heights Reserve Management Plan, 1990

52 The recommendations of this paper conform to the plan in relation to section 6.1.6 which seeks 'to make commercial activities orientated to recreation activity subject to approval by Council'.

Arrowtown – Lake Hayes Reserve Management Plan, 2013

53 The recommendations of this paper conform to the plan in relation to section 11.1, whereby Council may 'permit the granting of concessions for commercial activities on the reserves for approved events, temporary filming, sporting tournaments, guiding, tuition or sports coaching'.

54 This matter is included in the 10-Year Plan/Annual Plan

- Approving this licence, will add to revenue received by Council during the period. No additional expenditure is envisaged over and above existing property provisions.

Local Government Act 2002 Purpose Provisions

55 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 additional jobs and tourism opportunities in the district;
- Can be implemented through current funding under the 10-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.

Consultation: Community Views and Preferences

56 The persons who are affected by or interested in this matter are the residents, ratepayers and community groups using the proposed tracks and trails in the Queenstown Lakes District.

57 The Council has conducted consultation in accordance with section 54 (1)(d) and 119 of the Reserves Act 1977, requiring public notification of the intention to grant a commercial licence over recreational reserve. This requirement necessitated a reserve hearing, where a recommendation has been subsequently made to full Council.

58 Council has also received a recommendation from the Wanaka Community Board to approve the granting of a commercial licence subject to conditions.

59 The Upper Clutha Tracks Network Co-ordinator has been involved in the hearing process, and is comfortable with the panel's recommendation.

Attachments

- A Cycle Tours New Zealand Licence – Map of tracks requested
- B Cycle Tours New Zealand Licence – Supporting application