

**QLDC Council
30 April 2015**

Report for Agenda Item: 7

Department: Infrastructure

Commercial Activity Permit for Brent Shears, Lake Wanaka

Purpose

- 1 The purpose of this report is to consider an application permitting a commercial activity on the Council owned Jetty 147 in Lake Wanaka.

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Approve** a commercial activity permit to Brent Shears of Just Cruise Wanaka over Council owned Jetty 147, subject to the following conditions:
 - Approval to use Jetty 147 in the approved location only
 - Duration of berthing to be no longer than 20mins at a time and number of berths to be in accordance with resource consent RM140617
 - 1/3 proportional share of maintenance of the structure to be paid by the permit holder
 - Council to retain the ability to suspend permit at peak periods with one weeks' notice to permit holder
 - Must have approval of Maritime Transport Operator Plan by Harbourmaster
 - Must comply with any and all necessary conditions imposed by Maritime New Zealand
 - Applicant to install plaques on the jetty indicating the approved permitted berth with text approved by Council
3. **Delegate** approval of final terms and conditions of the permit, and execution authority to GM Infrastructure.

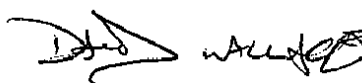
Prepared by:



Dan Cruickshank
Senior Property Manager
APL Property

2/04/2015

Reviewed and Authorised by:



David Wallace
Senior Parks and Reserves
Planner

13/04/2015

Background

- 2 Council has recently reviewed and commenced implementation of a new Waterways and Ramp Fees Bylaw 2014, commencing 1st October 2014.
- 3 Council owns a number of jetties around the district, used by a mixture of commercial and private users. These jetties are maintained by Council using repair and maintenance funds budgeted in the Waterways Facilities activity code.
- 4 A number of operators also have reserve access licences to trade on or through Council administered land.
- 5 Full Council approved notification of this application on the 18th December 2014. One submission was subsequently received, necessitating a hearing and recommendation by the hearing panel back to full Council.

Comment

- 6 Brent Shears has applied to operate a charter boat service around Lake Wanaka. He intends to operate the boat through a recently incorporated business Just Cruise Wanaka Ltd. Prior to moving to Wanaka, Mr Shears part owned and operated a Glacier Explorers business on Tasman Glacier Terminal Lake for 15 years.
- 7 The applicant has requested permission to allow up to eight dockings at the Council's Jetty 147 year round between the hours of 8:00am and 10:30pm.
- 8 Resource consent has been granted for this activity under Resource Consent number RM140617.
- 9 Having investigated options for berthing the applicant's vessel 'Mata Au' in Roy's Bay, Mr Shears approached Council to seek a permit to pick up and drop off from the Council's Jetty 147, which is adjacent to the Wanaka Marina. The vessel would be moored at a private mooring near Mackay Street when not in service.
- 10 Discussions between the applicant, the Harbourmaster and Council's property managers have confirmed Jetty 147 is the preferable location for this activity instead of the main town pier, due to the pier being used already by the Dual Image boat on one side, and predominately swimming on the other.

- 11 Jetty 147 was assessed by engineers in the harbourmaster's inspection programme in 2013 as being in good condition. However the harbourmaster has noted that the jetty requires relatively frequent monitoring to ensure that its flotation tanks remain level.
- 12 Under clause 18(1) of the Waterways and Ramp Fees Bylaw 2014, all commercial activity permits require public notification. This was conducted in January with one opposing submission received before closing on the 14th February 2015. The submission opposed the grant of the permit on the basis that it would obstruct the public from utilising the jetty, particularly during peak summer period.
- 13 Due to the submission a hearing was held to consider the matter and make a recommendation to full Council. This was held on the 25th of February 2015 where Councillors Gazzard and MacLeod made the following recommendation:
- 14 **APPROVE** the issuing of a commercial activity permit over Council owned Jetty 147, in Roys Bay, Lake Wanaka, subject to the following special conditions:
- Approval to use Jetty 147 but with Council to retain the ability to relocate the permit to another future commercial jetty in Roys Bay
 - Duration of berthing to be no longer than 20mins at a time, and number of berths to be in conjunction with resource consent RM140617
 - Proportional maintenance of the structure to be paid by the permit holder, set in advance by Council on an annual basis
 - Council, or the Harbourmaster to retain the ability to suspend permit at peak periods with one weeks' notice to permit holder
 - Must have approval of Maritime Transport Operator Plan by Harbourmaster
 - Must comply with any and all necessary conditions imposed by Maritime New Zealand
 - Fees payable in conjunction with those set in the annual plan. Initially no charge to permit holder until Council has completed the Waterways and Ramp Fees Bylaw 2014 implementation.
- 15 In accordance with the Waterways and Ramp Fees Bylaw 2014, annual fees for a commercial activity permit are yet to be set through the annual plan process, with charges likely to come into effect on the 1st July 2015, subject to full implementation of the Waterways and Ramp Fees bylaw. Any fees charged for this permit (if granted) will be set in accordance with those established through the Annual Plan process.

Options

16 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:

17 **Option 1** Approve the proposed commercial activity permit over Jetty 147, subject to the proposed terms and conditions made by the hearing panel.

Advantages:

18 The site is preferable as it assists to spread out existing and new commercial operators rather than concentrating them all on one particular area. Issuing a permit will enable the Council to obtain income and transfer a 1/3 proportional share of maintenance costs to the operator. The permit will enhance competition in the Wanaka tourism market. The jetty is of sufficient size to accommodate the boat, whilst still providing space for others to launch and load their boats.

Disadvantages:

19 The permit will provide preferential use over a portion of a Council asset, used frequently by the public. However, the use is timed and restricted and should not result in an unreasonable level of obstruction or inconvenience.

20 **Option 2** Approve the proposed commercial activity permit over Jetty 147, subject to different terms and conditions.

Advantages:

21 There may be additional benefit to Option 1 by altering some of the proposed terms of the permit.

Disadvantages:

22 The permit will provide preferential use over a portion of a Council asset, used frequently by the public.

23 As there has been a hearing, any changes contemplated may need to be re-notified.

24 **Option 3** Decline the proposed commercial activity permit (do nothing option)

Advantages:

25 Keeps Jetty 147 free from commercial use and available to the public at all times.

Disadvantages:

26 Does not facilitate commercial enterprise or enhanced tourism in Wanaka. Makes the applicants ability to operate more difficult as they would have to

either seek approval from LINZ to berth on the lake edge or gain an agreement to operate from a privately owned structure. In addition, the applicant may also have to vary their resource consent approval.

27 This report recommends Option 1 for addressing the matter.

Significance and Engagement

28 This matter is of [medium] significance, as determined by reference to the Council's Significance and Engagement Policy because there is expected to be greater than minor impact to residents and ratepayers.

29 The level of community engagement envisaged is appropriate given the jetty is not a strategic asset, but that the issue is still of community interest. The matter has already been subject to consultation with the public through the public notification and submission process completed in February-March.

Risk

30 This matter does not have significant risk.

Financial Implications

31 There are no direct transactional costs to Council in approving this proposed permit.

32 Permit holders will have to pay fees to Council on an annual basis, as set in the annual plan, increasing Council revenue.

33 The permit holder will also be required to bear proportional maintenance costs of the jetty and will be responsible for it being in a safe and acceptable condition.

Council Policies, Strategies and Bylaws

34 The following Council policies, strategies and bylaws were considered:

35 Waterways and Ramp Fees Bylaw 2014

- The recommendations of this paper comply with the Bylaw section 15 which requires a commercial activity permit to be obtained prior to use. Section 17, conditions of such maritime structures and section 18, public notice of intention to grant a commercial activity permit, have also been, or will be complied with when issuing the permit.

36 Wanaka Lakefront Reserves Management Plan 2014

- The management plan covers reserve land administered by Council whilst the lakebed is administered by Land Information New Zealand.
- Jetty 147 is adjacent to Zone 6 of the management plan, identified as 'Marina zoning'. The activity is considered to be consistent with the plans overarching objectives.

37 This matter is not included in the 10-Year Plan/Annual Plan.

- Approving this permit, will add to revenue received by Council during the period. No additional expenditure is envisaged over and above existing property provisions.
- Fees set in the Annual Plan will be the basis for fees charged for the permit.

Local Government Act 2002 Purpose Provisions

38 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 sharing maintenance costs for a Council jetty and providing additional revenue to the Council;
- 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

39 The persons who are affected by or interested in this matter are the residents/ratepayers of the Queenstown Lakes District community who use Jetty 147.

40 The Council has publicly notified the intention to grant a commercial permit as required by the Waterways and Ramp Fees Bylaw 2014. Subsequently one opposing submission was received with their comments considered by a hearing panel before a recommendation was made to full Council. The recommendation has been sent to the submitter, who has now indicated that they approve of the conditions recommended to manage the permit in peak summer.

Legal Considerations and Statutory Responsibilities

The requirements of the Queenstown Lakes District Waterways and Ramp Fees Bylaw 2014 relating to the grant of a commercial activity permit have been complied with. The conditions proposed are consistent with the requirements in the Bylaw and reasonable in the circumstances. The applicant has already obtained resource consent for the operation.

Attachments

A Commercial Activity Permit for Brent Shears, Lake Wanaka – Application