

**QLDC Council
30 April 2015**

Report for Agenda Item: 8

Department: Operations

**Licence Request by Mountain Beech NZ Ltd for Guided Walks at Pigeon Island,
Lake Wakatipu**

Purpose

- 1 The purpose of this report is to consider granting a licence to occupy for commercial guided walks at Pigeon Island, pursuant to section 56(1)(b) of the Reserves Act 1977.

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Grant** a licence under section 56(1)(b) of the Reserves Act 1977 to Mountain Beech NZ Ltd to operate commercial guided walks at Pigeon Island Scenic Reserve, Section 2, Block X Glenorchy Survey District being part of the land comprised and described in computer freehold register OT53/137. Subject to the following terms and conditions:

Term:	Five years
Renewal:	One renewal of five years, with the prior agreement of both parties
Rent:	\$500 + GST per annum base rent, or 7.5% of gross revenue, whichever is the greater
Reviews:	Reviewed annually in accordance with CPI General, subject to ratchet clause
Use:	Commercially guided walking tours
Insurance:	\$2million public liability insurance cover, including provision for Rural Fire cover of no less than \$500,000
Assignments:	With the approval of the Chief Executive

Special conditions:

- a) Licensee to ensure all rubbish associated with their operation is removed from the island immediately.

- b) Group numbers to be limited to less than 6 persons, maximum of 24 trips per year.
 - c) No smoking, fires, barbeques etc permitted on the Island.
 - d) Licensee to ensure that no pests are introduced to the Island, ensuring that vessels and baggage are checked prior setting off for the island.
 - e) Health and Safety plan to be provided along with any necessary waterways approvals relating to the vessel.
 - f) Permission for planting on the island only with the separate approval of the Department of Conservation.
3. **Delegate** approval of final terms and conditions of the licence and execution authority to GM Infrastructure¹.
4. **Agree** to exercise the Minister's prior consent under section 56(1) of the Reserves Act 1977 (under delegation from the Minister of Conservation) to the granting of a licence to Mountain Beech NZ Ltd over Section 2, Block X Glenorchy Survey District being part of the land comprised and described in computer freehold register OT53/137.

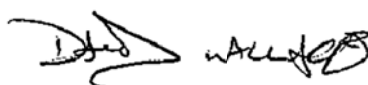
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2/04/2015

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13/04/2015

¹ The responsibility is delegated to the GM Infrastructure in this instance (rather than the GM Operations) because there is currently no GM Operations in place and the licence will be finalised before the individual appointed to this position has commenced.

Background

- 2 Pigeon Island is a Scenic Reserve administered by the Council, subject to the Reserves Act 1977. It is located in the North arm of Lake Wakatipu. It is legally known as Section 2, Block X Glenorchy Survey District being part of the land comprised and described in computer freehold register OT53/137.
- 3 Following extensive effort by the Department of Conservation and the Wakatipu Reforestation Trust, the island is now pest free and being replanted annually with native trees and bushes that were decimated by fires over the past decade.
- 4 Council investigated creating a reserve management plan for Pig and Pigeon Islands; however this is only progressed to the draft stage. Therefore at present no reserve management plan is in existence for the islands.
- 5 Council currently has approved one other commercially guided walking & kayaking licence to Rippled Earth at Pigeon Island. They operate on the following terms and conditions approved by Council in August 2013:

That the application for a new Licence to Occupy by Rippled Earth Limited be approved subject to the granting of the lodged resource consent application, number RM130276.

That Council publicly notify its intention to approve the licence over Sections 2 & 3 of BLK X Glenorchy SD subject to the following conditions:

- i. Commencement: 1 December 2013;***
- ii. Term: 5 years, plus a 5 year mutually agreed right of renewal;***
- iii. Limitations: Limit of no more than 18 people on an island at any one time, providing for a maximum of two morning trips, two afternoon trips and one full day trip (ie, 5 trips total per day);***
- iv. Safety: Rippled Earth Ltd to supply an audited Health and Safety plan, submitted by a member accredited under MBIE, approved by the Harbourmaster;***
- v. Signage: Traffic warning signage entering/exiting lakeside launch areas to be approved by the General Manager Infrastructure and Assets;***
- vi. Other: Licence to be assignable only upon Council Consent;***
- vii. Fee: that the fee for this licence be the greater of \$750 plus GST per annum or 7.5% of gross revenue;***
- viii. Insurance: Must have Public Liability Insurance of \$2,000,000 (Two Million Dollars).***

That Council appoint two Councillors to hear any submissions, and delegate to them the final decision as to terms and issuing of a licence, to meet the requirements of The Reserve Act 1977, schedule 1, and incorporating the terms below; and

That the General Manager, Operations, be delegated authority to sign a licence to Rippled Earth Limited under the terms resolved.

- 6 The Property Sub-Committee of Council approved that the Mountain Beech Ltd application go to public notification on the 15th February 2015. The notification period closed on the 20th March with no submissions received, therefore a hearing was not required.

Comment

- 7 Mountain Beech NZ Ltd has applied to operate a small boutique tourism guiding business at Pigeon Island. The trips are proposed to transport clients to the island by boat from the commercially operated jetty at Blanket Bay.
- 8 The trips are intended to be low occupant (less than 6 persons) and no more than twice per month up to 24 trips in total per year.
- 9 Once on the island the guide will take clients on walking trips for 2 to 3 hours, with a focus on the natural biodiversity and reforestation efforts taking place.
- 10 Each trip will also plant native trees & shrubs in locations and of plant types liaised with the Wakatipu Reforestation Trust. The trust has provided a letter of support to the applicant for running trips on the island which is included as an attachment to this agenda.
- 11 Mountain Beech NZ Ltd is part-owned and operated by Dean Fitzpatrick, a Glenorchy resident and long-time international wildlife photographer and experienced nature guide.
- 12 The applicant supports the Glenorchy School Nursery which is a non-profit educational project. It is proposed that a portion of each trip fee will be donated towards the Nursery initiative.
- 13 It is proposed that Council charge an annual base licence fee of \$500+GST in advance, or 7.5% of gross revenue, whichever is the greater. The base rent is less than that charged to the existing operator Rippled Earth at \$750+GST, however the scale of the commercial operation is less.
- 14 An initial licence term of 5 years is proposed, along with one renewal of 5 years by mutual agreement.
- 15 Other terms and conditions are mirrored to that of the Rippled Earth licence, including restrictions around ensuring no pests are introduced to the island through the activity.
- 16 Before Council may issue a licence for a commercial operation on a Scenic Reserve, under Section 56(1)(b) of the Reserves Act 1977, there is

requirement to publically notify the intention to grant such licence. Notification took place in February closing on the 20th March with no submissions received.

- 17 Under Section 56(1)(b) of the Reserves Act 1977, Council may grant a licence for the carrying out of a trade, business or occupation on a Scenic Reserve, so long as it is deemed 'necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve'. Granting a licence to the applicant will enable more persons to visit the island, increasing the number of those able to enjoy the benefit of the reserve.
- 18 Under Section 51(1)(a) of the Reserves Act 1977, Council as administering body must seek approval from the Minister of Conservation to the restoration of ecological communities in any scenic reserve. This approval has not been delegated to Council and will need to be requested from DOC prior to Council entering a licence that provides for planting as requested by the applicant. Terms to this effect will be reflected in any licence entered into between Mountain Beech and the Council.

Options

- 19 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:

- 20 **Option 1** To approve the granting of a licence as requested by the applicant

Advantages:

- 21 The granting of a licence will allow a second commercial operation to proceed on Pigeon Island that further encourages eco tourism orientated activities in the District, and enabling more members of the public to obtain the benefit and enjoyment of the reserve, while maintaining and protecting its scenic features.
- 22 The commercial activity proposed is in keeping with protecting and preserving the intrinsic worth and scenic beauty of the islands and also plays an important role in generating public interest in the area.
- 23 Council and the districts ratepayers will benefit by gaining an additional commercial rental income for the use of the reserve.
- 24 The licence will create additional oversight of the island which is in a remote location and only periodically visited by Council staff.
- 25 Reforestation efforts on the island will be enhanced through the 'plant a tree' initiative of every trip by the applicant, provided that the Minister grants consent under section 51(109a) of the Reserves Act.

Disadvantages:

- 26 There are some administration and monitoring costs associated with granting this licence. However this is estimated to be less than the base rent charged.
- 27 Should the licence be granted, it would increase the density of commercially used public space in the District.
- 28 Option 2 Council may consider declining to grant the licence, instead tendering the availability of a commercial guiding licence at Pigeon Island

Advantages:

- 29 This option would further encourage eco tourism orientated activities in the District.
- 30 The commercial activity proposed is in keeping with protecting and preserving the intrinsic worth and scenic beauty of the islands and also plays an important role in generating public interest in the area.
- 31 Council and the Districts ratepayers will benefit by gaining an additional commercial rental income for the use of the reserve that may be at a higher rate than that proposed due to competition for the licence.
- 32 It will create additional oversight of the island which is in a remote location and only periodically visited by Council staff.

Disadvantages:

- 33 Pursuing a tender might not result in a licence, should the applicant consider that the process to gain a licence then becomes prohibitively long.
- 34 If the Council wishes to pursue this option, it would need to call for tenders and re-advertise the grant of a licence to any proposed operator.
- 35 Given the fact that only one other operator has requested a licence over the Island, Council may not receive any further applications by other operators in a tender process.
- 36 Option 3 Council may decline the request (do nothing option)

Advantages:

- 37 There is some administration and monitoring costs associated with granting this licence that could be saved. However, as already stated, this is estimated to be less than the base rent charged.
- 38 This option would not increase the density of commercially used public space in the district.

Disadvantages:

- 39 This option would not encourage eco tourism orientated activities in the district.
- 40 Council and the Districts ratepayers would not benefit by gaining an additional commercial rental income for the use of the reserve.
- 41 This option would not create additional oversight of the island, which is in a remote location and only periodically visited by Council staff.
- 42 This report recommends Option 1 for addressing the matter.

Significance and Engagement

- 43 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because there is likely to be only little to no impact to residents and ratepayers.

Risk

- 44 This matter does not have significant risk.

Financial Implications

- 45 There are no financial implications to Council should a licence be approved, as it proposed that Council would receive base rent of \$500+GST per annum, or 7.5% of gross revenue, whichever is the greater.
- 46 All costs associated with advertising and entering into a licence to occupy will be paid for by the applicant.

Council Policies, Strategies and Bylaws

- 47 The following Council policies, strategies and bylaws were considered:
- Community Facility Funding Policy 2011. Rent charged at 7.5% of gross revenue is consistent with this policy.
- 48 This matter is not 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

- 49 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 increasing income received by Council and furthering job opportunities in

the District, and by providing further scope for the community to visit Pigeon Island and contribute to reforestation efforts;

- 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

50 The persons who are affected by or interested in this matter are local residents/ratepayers of the Queenstown Lakes district with an interest in the scenic reserve/Island.

51 The Council has issued public notice of the intention to grant a licence pursuant to section 56(1)(b) & 119 of the Reserves Act 1977, with no submissions received.

Legal Considerations and Statutory Responsibilities

52 In accordance with the requirements of section 56(2) of the Reserves Act, the Council has publicly notified the proposed licence and received no submissions.

53 Under section 56(1)(a) the administering body of the reserve (the Council) can grant licences for carrying on any trade, business or occupation on scenic reserve, provided the trade, business or occupation is necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve. Pigeon Island is in a remote location and not readily accessible to the general public. The grant of a further licence to Mountain Beech NZ Limited will enable additional members of the public to obtain access to the reserve, in a manner that protects and highlights the ecological features of the reserve and encourages reforestation.

54 To comply with the requirements of section 56(1) of the Reserves Act, the licence will require that any planting at the reserve may only be undertaken strictly in accordance with any authorisation granted by the Minister. If the Minister declines approval, then planting will be prohibited.

Attachments

- A Mountain Beech – Company Introduction
- B Mountain Beech – Description of proposed Island walk
- C Mountain Beech – Maps of operating area
- D Mountain Beech – Letter of support from the Wakatipu Reforestation Trust