

QLDC Council
30 January 2020

Report for Agenda Item | Rīpoata moto e Rāraki take: 1

Department: Finance, Legal & Regulatory

Title | Taitara Review of QLDC Dog Control Bylaw and Policy

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to recommend that the Council agree to undertake public consultation using the special consultative procedure on proposed changes to the Dog Control Bylaw 2014 and Dog Control Policy 2014, and outline the proposed changes to the Dog Control Bylaw and the Dog Control Policy.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Adopt** the statement of proposal, draft Dog Control Bylaw 2020 and draft Dog Control Policy 2020 for the purposes of that public consultation;
3. **Approve** the commencement of public consultation using the special consultative procedure in accordance with section 83(1) of the Local Government Act 2002 in relation to the proposal to review the Dog Control Bylaw under section 160 of the Local Government Act 2002 and the Dog Control Policy under section 10 of the Dog Control Act 1996.
4. **Appoint** three Councillors [to be named] to hear and consider the submissions on the proposal and make recommendations to the Council on adoption of the reviewed Dog Control Bylaw and Dog Control Policy.

Prepared by:



Carrie Edgerton
Regulatory Support, Animal
Control and Parking Team Leader

21/01/2020

Reviewed and Authorised by:



Anthony Hall
Regulatory Manager

21/01/2020

CONTEXT | HOROPAKI

- 1 Under the Dog Control Act 1996 (**DCA**) the Council is responsible for dog control across the district. Under section 10 of the DCA, Council must adopt a policy in respect to dogs within its district and that policy must be given effect to by a bylaw. The Dog Control Policy 2014 was made on 28 November 2014. A council may adopt an amended policy at any time.
- 2 The Local Government Act 2002 (**LGA**) provides that councils shall review any bylaws made under the LGA no later than five years after the date on which the bylaw was made and then any further review every 10 years.¹ A bylaw which is not reviewed within the specified timeframe is revoked two years after the review should have been completed. The Dog Control Bylaw 2014 was made on 28 November 2014 and in accordance with the LGA, is now due for review.
- 3 Council has Animal Control officers whose powers are to manage the control of dogs within the district pursuant to the Dog Control Bylaw and the Dog Control Act 1996. Feedback from those officers in relation to the Bylaw and Policy is that whilst talking to dog owners, they have received a large number of comments from owners wishing to have more places to walk their dog on leash. The Animal Control Officers have also had to deal with complaints relating to dogs worrying stock on private land on Queenstown Hill. The Animal Control Officers have also received complaints from dog owners and the community relating to the Bremner Bay area and what restrictions are in place. No complaints have been received relating to any issues on Buckingham Street. In light of this feedback, it was decided to implement a focus group to better understand these issues and any others raised.
- 4 Council invited key stakeholders, such as veterinarians, professional dog walkers and community association representatives, in addition to internal staff experts, to form a Dog Control Bylaw Review Focus Group. This Focus Group met on 14 May 2019 in Queenstown and on 15 May 2019 in Wānaka. During these meetings, Focus Group participants discussed both positive and negative aspects of the current bylaw. These discussions identified clear themes that would shape topics included in the pre-consultation survey.
- 5 Pre-consultation took place with the community in June 2019 with an online survey regarding dog control matters. A media release invited wider community members to undertake the survey and promotional messages posted to social media networks.
- 6 There were 184 completed surveys received, which provided information to assist in the development of the proposed amendments to the current Bylaw and Policy.
- 7 Clear themes were identified from the surveys and these have shaped amendments made to the Bylaw and Policy. These topics included additional walking tracks where dogs are required to be on-leash, and allowing on-leash dogs to access Buckingham Street, Arrowtown, where dogs are currently prohibited.

¹ Sections 158 and 159.

- 8 From the feedback received, it is considered the current bylaw is generally working well but Council is willing to explore changes as indicated by the community.
- 9 It should be noted that the reviewed Dog Control Policy has been included in this report as this Policy has been updated to ensure consistency and alignment with the proposed changes made to the Bylaw. No significant changes have been made to the Policy, however the strategic context of the Policy has been modernised.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

Delegating additional walking tracks as on-leash – Matakauri Park

- 10 The most significant theme identified by the Dog Control Bylaw Review Focus Group and feedback from dog control officers is the need for more walking tracks where dogs may walk on-leash.
- 11 From the feedback received on this topic it is understood that owners who prefer walking their dog/s on-leash need more walking tracks where they know other dogs will be leashed. However, when asked about dog control rules on tracks and open spaces, there was almost an equal split between respondents who answered that dogs should be off-leash (status quo) and dogs that should be on-leash.
- 12 Currently there is only one walking track designated as being on-leash - the Queenstown Gardens. Matakauri Park is considered the most suitable location to designate as dogs on-leash due to its short loop design and natural geography already limiting the off-leash experience for dogs. It should be noted that all residential areas are designated as on-leash areas.

Prohibited Area - Queenstown Hill and Queenstown Hill Walkway

- 13 Queenstown Hill has a history of dogs worrying stock as farming takes place higher up the mountain where the walking track crosses onto private property. The Dog Control Bylaw 2014 review process resulted in the public part of the walking track designated as an on-leash restricted area.
- 14 Animal Control have noted that offences against the on-leash restriction are common and have resulted in dog attacks on stock. Because of these attacks, the private landowner has rescinded permission for dogs to cross onto their land.
- 15 This means that dogs currently can be walked on-leash on the Council-owned section of the trail but must not pass onto the private land – the turn-around point is approximately halfway to the Basket of Dreams. This does not allow for efficient enforcement of the restriction by the Animal Control Team.
- 16 It is proposed to prohibit dogs from the beginning of the walkway. This allows for efficient enforcement by the Animal Control Team as dog owners can be stopped at the beginning of the walkway rather than relying on them to comply with the restrictions once they are halfway up the trail.

Buckingham Street, Arrowtown – dogs to be permitted on-leash

- 17 The current prohibition of dogs on Buckingham Street, Arrowtown, was included in the Dog Control Bylaw 2014 due to it being a high tourism area with narrow streets. However, from feedback received there is a desire from the community to access Buckingham Street with their dog/s on-leash. A total of 75 participants in the survey said that dogs should be permitted on Buckingham Street as opposed to 10 participants who said that dogs should be prohibited (status quo).
- 18 Animal Control is aware of some non-compliance occurring under the current prohibition. However, there have been no complaints received of any nuisance being caused by dogs on Buckingham Street since the Dog Control Bylaw 2014 came into effect.
- 19 During the Arrowtown Autumn Festival, dogs are permitted to be on Buckingham Street on-leash by Council exemption. Despite this likely being Buckingham Street's busiest day of the year, Council has received no complaints about dogs at the festival.

Bremner Bay, Wānaka – clarification of on-leash restriction

- 20 Currently dogs must be kept on-leash in the Bremner Bay reserve, from the Eely Point Reserve entrance road along to the northern side of 42 Aubrey Road, Wānaka, as indicated by signage. The restriction is due to the land being legally described as an unformed road. Despite being managed as a Council reserve, it is not designated as a Dog Exercise Area. Although this is not a new change to the bylaw, it has been included to clarify the existing on-leash restriction.

Dog Control Policy

- 21 The Policy is being updated to align with the proposal to review the Dog Control Bylaw. There is no substantive change to the Policy other than a few minor adjustments to modernise the format. Once the consultation process is completed, both the bylaw and policy will be brought back to full Council to be considered for adoption.
- 22 **Option 1 Proceed to formal consultation on the proposed changes to the Dog Control Bylaw and note the changes to the Dog Control Policy**

Advantages:

- 23 Formally consulting on the proposed changes to the Dog Control Bylaw and Dog Control Policy will give Council a greater understanding of the needs of the community. The general feedback is that the current Dog Control Bylaw and Dog Control Policy are working well, however the initial survey indicated that some aspects of the Dog Control Bylaw could work better. Formal consultation allows Council to explore these changes further.

Disadvantages:

- 24 There will be some additional cost involved with the formal consultation process but current budgets allow for this.

25 **Option 2 Make no changes to Dog Control Bylaw and Dog Control Policy (status quo/do nothing)**

Advantages:

- 26 One advantage of this option is it does not require the Council to undertake a special consultative procedure this year.
- 27 If the Council makes no changes to the Dog Control Bylaw and Dog Control Policy, its enforcement will continue as it currently does. Council would not be required to undertake the consultative process and no finances would be expended as part of this process.

Disadvantages:

- 28 Disadvantages include that stakeholder feedback has identified that there is a need to make minor adjustments to the Dog Control Bylaw and Dog Control Policy to better suit the community. If no changes are made these issues would not be addressed.
- 29 Once the Dog Control Bylaw expires, Animal Control enforcement powers will be limited to those as specified by the Dog Control Act 1996. While the Dog Control Act 1996 covers general dog control matters, it is too broad to target specific issues within the Queenstown Lakes District, such as where dogs must be on-leash, off-leash or prohibited. A bylaw is required to give effect to the Dog Control Policy.
- 30 If the Council does nothing the Dog Control Bylaw will be automatically revoked in November 2021 and the Council will be in breach of its obligations under the DCA which requires councils to give effect to their dog control policy by way of a bylaw .

Recommendation

- 31 This report recommends **Option 1** for addressing the matter. The evidence and information gathered in the pre-consultation survey and anecdotal experience of Animal Control staff suggest that the Dog Control Bylaw and Dog Control Policy are working well and reinforce that there is a continuing need for a bylaw to regulate dog control in the district. However, the changes proposed should be explored to allow Council to form a bylaw and policy that better suit the needs of the community.
- 32 If Council agrees to adopt Option 1, it will need to commence a special consultative procedure. Copies of the draft Statement of Proposal for the special consultative procedure, and the draft proposed bylaw and policy, are included as Attachments A, B and C.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 33 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because the decision to formally consult on the proposed review

of the Dog Control Bylaw and Dog Control Policy will have no effect on the day-to-day operations and enforcement of the current bylaw.

34 The persons who are affected by or interested in this matter are:

- a. Registered dog owners
- b. Residents/ratepayers
- c. Visitors to the district

35 The Council has already informally engaged with the community via the pre-consultation survey outlined in the context of this document. The special consultation procedure under section 83(1) of the LGA will take place once the Council approves commencement. The following dates represent key times in the consultation programme:

30 th January 2020	Public consultation on the proposed bylaw and policy begins
28 th February 2020	Submissions close 5pm
In the week between 6 th April 2020 and 9 th April 2020	Submissions heard by a subcommittee of Councillors (to be confirmed)
4 th June 2020	Council considers outcome of public hearing process. Adoption of Dog Control Bylaw 2020
4 th June 2020	The Bylaw comes into effect
4 th June 2020	Public notice of final decision (if Council resolve to adopt the bylaw)

> MĀORI CONSULTATION | IWI RŪNANGA

36 The Council notified Aukaha of the review and invited feedback via the pre-consultation survey. Aukaha has indicated that any engagement will occur during the formal consultation process. Council will again invite Aukaha to make a submission once formal consultation commences.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

37 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00006 Ineffective management of social nuisance issues within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.

38 The approval of the recommended option will support the Council by allowing implementation of additional controls for this risk. This shall be achieved by adjusting the current Dog Control Bylaw and Policy to better suit the needs of the community and support efficient enforcement against nuisance issues.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

39 Current budgets will supply expenditure associated with the formal consultation process and public engagement.

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

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

- Vision Beyond 2050: <https://www.qldc.govt.nz/vision-beyond-2050/>
- Significance and Engagement Policy
<https://www.qldc.govt.nz/assets/Uploads/QLDC-Significance-and-Engagement-Policy-Aug18.pdf>
- [QLDC Prosecution and Enforcement Strategy 2014](#)
- <https://www.qldc.govt.nz/assets/Uploads/Council-Documents/Policies/Regulatory/Enforcement-Strategy-and-Prosecution-Policy.pdf>

41 The recommended option is consistent with the principles set out in the named policy/policies.

42 This matter is included in the Ten Year Plan/Annual Plan.

- Volume 1 – Regulatory Functions and Services

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

43 The proposed changes to the Bylaw and Policy must comply with the following legislation:

- The Dog Control Act 1996
- The Local Government Act 2002

44 The DCA requires Councils to control dogs within their districts. Councils must adopt a dog control policy under section 10 and that policy must be given effect to by a bylaw. Policies must be adopted in accordance with the special consultative procedure in section 83 of the LGA. In adopting a policy a council must have regard to:

- (a) the need to minimise danger, distress, and nuisance to the community generally;
- (b) the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults;
- (c) the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- (d) the exercise and recreational needs of dogs and their owners.

- 45 Under the DCA councils cannot adopt a bylaw which is inconsistent with a dog control policy.
- 46 A dog control policy can be amended under the DCA using the same procedure as the adoption of a policy. Section 10 of the DCA requires the use of the special consultative procedure under section 83(1) of the LGA.
- 47 The LGA provides for councils to review bylaws. Section 155 of the LGA contains a number of decision-making requirements when reviewing a bylaw. Firstly, the Council must be satisfied that the bylaw is the most appropriate way of addressing the perceived problem.² The Council must then be satisfied that:
- a. The bylaw is the most appropriate form of bylaw; and
 - b. The bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.³
- 48 Under section 160 of the LGA, If, after the review, the local authority considers that the bylaw should be amended, revoked, or revoked and replaced, or should continue without amendment, it must:
- a. use the special consultative procedure if the bylaw concerns a matter identified in the council's policy as being of significant interest to the public; or
 - b. consult under section 82 of the LGA if the bylaw does not concern a matter of significant interest to the public;
- 49 If, following the special consultative procedure, the Council decides to amend the existing bylaw the Council will be asked to make resolutions confirming its satisfaction with the above legal requirements.
- 50 A bylaw that is not reviewed within the correct timeframes under the LGA, is revoked on the date that is 2 years after the last date on which the bylaw should have been reviewed.
- 51 Legal advice has been sought in relation to both Acts and the recommended option is consistent with that advice.

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

52 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 continuing regulation and enforcement of dog control matters in the District.;
- Can be implemented through current funding under the Ten Year Plan and Annual Plan;

² s155(1).

³ s155(2).

- 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 Draft Dog Control Bylaw 2020
- B Draft Dog Control Policy 2020
- C Statement of Proposal
- D Matakauri Park – Map of Proposed Changes
- E Buckingham Street, Arrowtown – Map of Proposed Changes
- F Queenstown Hill – Map of Proposed Changes
- G Pre-consultation Survey Results