

QLDC Council
25 June 2020

Report for Agenda Item | Rīpoata moto e Rāraki take : 3

Department: Finance, Legal & Regulatory

Title | Taitara QLDC Dog Control Bylaw 2020 and Dog Control Policy 2020

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to consider the Queenstown Lakes District Council Dog Control Bylaw 2020 (**proposed Bylaw**) and Dog Control Policy 2020 (**proposed Policy**) for adoption.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 The Queenstown Lakes District Council Dog Control Bylaw 2014 (**current Bylaw**) and Dog Control Policy 2014 (**current Policy**) are due for review. Generally, the current Bylaw and Policy are servicing the Queenstown Lakes District well, however it has been identified that slight adjustments to the current Bylaw could be made to better suit the needs of the community. The key changes made in the proposed Bylaw include: (a) prohibiting dogs from Queenstown Hill, (b) permitting dogs on Buckingham Street, Arrowtown, providing they are on-leash, and (c) requiring dogs to now be leashed in Matakauri Park, Gorge Road. The proposed Policy has been updated to ensure consistency and alignment with the proposed Bylaw and its format modernised.
- 3 Under sections 158 and 160 of the Local Government Act 2002, the Council had five years to review the current Bylaw by making its determinations under section 155. A further two year period is provided for under sections 160A and 160B and the Council's review falls within this two year period (a review by Council staff of the current Bylaw took place on 14 May 2019 which recommended minor changes and on 30 January 2020, the Council resolved to undertake the special consultative procedure). If approved, the proposed Bylaw will need to be reviewed again within ten years under section 159 (that is, by 30 January 2030)

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Approve** the Hearings Panel recommendation to adopt the Queenstown Lakes District Council Dog Control Bylaw 2020 and Dog Control Policy 2020, incorporating no changes following consideration of public feedback from the submissions;

3. **Adopt** the Queenstown Lakes District Council Dog Control Bylaw 2020 and Dog Control Policy 2020 [Attachment A and B of this report] with the Bylaw coming into effect on 26 June 2020.

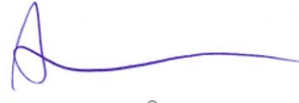
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4/06/2020

Reviewed and Authorised by:



Anthony Hall
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4/06/2020

CONTEXT | HOROPAKI

- 1 Under the Dog Control Act 1996 the Council is responsible for dog control across the district. Under section 10, Council must adopt a policy in respect to dogs within its district and that policy must be given effect to by a bylaw. The current Dog Control Policy 2014 was adopted on 28 November 2014. A council may adopt an amended policy at any time.
- 2 The Local Government Act 2002 (LGA) requires councils to 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 (Sections 158 and 159). A bylaw which is not reviewed within the specified timeframe is revoked two years after the review should have been completed (Sections 160A and 160B). Essentially, there is an additional two year period in which to complete a review that is not completed within the initial five year period. The current Dog Control Bylaw 2014 was adopted on 28 November 2014 and in accordance with the LGA, the Dog Control Bylaw 2014 and Dog Control Policy 2014 are 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. 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 also via 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 the proposed 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.
- 8 From the feedback received, it is considered the current bylaw has generally worked well but Council was willing to explore changes as indicated by the community.

- 9 At the 30 January 2020 meeting, the Queenstown Lakes District Council resolved to approve the commencement of formal public consultation in relation to the proposal to review the current Bylaw and Policy to regulate the control of dogs in the Queenstown Lakes District (the District), the proposed Queenstown Lakes District Dog Control Bylaw 2020 (proposed Bylaw and Policy).
- 10 Following Council approval, Council staff commenced a special consultative procedure on the proposed Bylaw and Policy. The proposed Bylaw outlines changes to where dogs can and cannot be off-leash and establishes a new location where dogs are prohibited. The strategic context of the proposed Policy has been modernised but no significant changes have been made. The key changes in the proposed Bylaw that were consulted on were:
 - a. Prohibited area proposed for Queenstown Hill and Queenstown Hill Walkway
 - b. Permitting dogs controlled on-leash for Buckingham Street, Arrowtown
 - c. On-leash requirement proposed for Matakauri Park, Gorge Road
- 11 A detailed assessment of the proposed changes to the Bylaw can be found in the report to full Council dated 30 January 2020, Agenda Item 1.
- 12 Submissions opened on 30 January 2020 and closed on 28 February 2020.
- 13 A total of 98 submissions were received within the advertised submission period. A copy of all submissions is attached to this report as Attachment G.
- 14 Of these, 20 submissions supported the proposed Bylaw in full, 40 were neutral and 38 submissions opposed the proposed Bylaw.
- 15 For the proposed Policy, 23 submissions were received in support, with 45 submissions neutral to the proposed changes and 23 submissions opposed to the proposed Policy.
- 16 Eleven submitters indicated they wished to be heard in support of their submission. After contacting each submitter prior to the hearing three confirmed they still wished to speak.
- 17 A hearing was held on 22 May 2020 via Zoom teleconference, where the Hearings Panel heard three submitters.
- 18 The Hearings Panel, comprising Councillors MacLeod (Chair), Ferguson and Copland gave full consideration to the submissions received and determined the extent to which the submissions were accepted or disallowed. Of the submitters heard, the main points of discussion were the proposed changes to Queenstown Hill and Matakauri Park, of which only one submitter was overall in favour of the proposal. The remaining two submitters were not in favour.
- 19 The key submission points made either in support or opposition to the proposed changes are outlined in the paragraphs following.

Queenstown Hill and Queenstown Hill Walkway

- 20 The majority of submitters who supported the change commented on Queenstown Hill's status as a working farm and past issues due to uncontrolled dogs worrying stock. Submitters also noted that if the access to the top of the track is already restricted to the private landowner, there is little point having the bottom available to dogs. Others mentioned that the track is too crowded for dogs and that many dogs are not under control of their owners.
- 21 Submitters in opposition commented that Queenstown Hill is easily accessible for dog owners who live in central Queenstown, and in particular, that it is a hill climb. Some submitters noted that rather than prohibiting dogs, they should be permitted on-leash, which is the current situation. Others noted that further restrictions could result in inadequate opportunities to exercise their dog.
- 22 The Hearings Panel agreed that permitting any possible interaction between dogs and stock was not appropriate and accordingly supported unanimously the proposal to prohibit dogs from the Queenstown Hill Walkway.

Buckingham Street, Arrowtown

- 23 The majority of submissions were in favour of this proposed change (68 in support, 9 against).
- 24 Most submitters felt that the current restriction limited the ability of dog owners to access services on Buckingham Street. One submitter commented that having to tie a dog up at the entrance to Buckingham Street to access services could be seen as negligent. Others who were in favour noted that requiring dogs to be controlled on-leash is appropriate given the busy nature of the street.
- 25 The 9 submitters who objected to the proposed changes did so due to the busy pedestrian traffic already on the street.
- 26 The Hearings Panel supported unanimously the proposal to permit dogs on a leash to be in Buckingham Street, Arrowtown.

Matakauri Park, Gorge Road

- 27 Regarding the proposed change requiring dogs to be on-leash in Matakauri Park, Gorge Road, 14 submitters favoured the proposal and 20 submitters were neutral.
- 28 These submissions focused on the protection of the environment and that many dogs walked on this track were not under voice control of their owners.
- 29 Sixty-four submitters opposed the proposed change. The majority of these mention that Matakauri Park is one of the few walking tracks within the Queenstown CBD where dogs can be off-leash. Submitters commented that it is a destination track for dog owners, that is not as crowded as other locations, and that there is a reduced risk of their dog being hit

by cyclists. Further submissions noted that Matakauri Park is a convenient track for those who work nearby to take their dog for a quick walk.

- 30 The Council should note that during the deliberations phase of the Hearing, the Parks Service Delivery Manager presented information, indicating that Matakauri Park has been identified as a **Regionally Significant Wetland**¹ by Otago Regional Council (ORC). A Management and Enhancement Plan is in effect for this location, and is included as Attachment F of this report.
- 31 Notably Matakauri Park wetland supports species that are threatened and at risk, particularly the Australasian Bittern or matuku hūrepo (*Botaurus poiciloptilus*), which is classified as a nationally critical species. Less than 1,000 Australasian Bitterns remain in New Zealand, with their main threats including habitat loss, predation and disturbance.²
- 32 Work is being undertaken by the Parks and Reserves team to improve this area with plans to install interpretive signage before year end (30 June 2020) This signage will tell the story of Matakauri, and will offer education and information for visitors to the Park.
- 33 Requiring dogs to be on-leash in Matakauri Park, as is prescribed in the proposed Bylaw, would support the efforts being made by Council to preserve and protect this unique environment.
- 34 A majority of the panel members supported the proposal to make Matakauri Park leash only, but it was not a unanimous decision.
- 35 It is important to note that there are many locations where dogs can be exercised off-leash near the town centre. All tracks and reserves within the Queenstown Lakes District are considered off leash exercise areas, with the exception of areas outlined in the proposed Bylaw as non-exercise areas. Frankton Track, Queenstown Recreation Ground, Warren Park, 1 Mile Track, Tiki Trail, Sunshine Bay Reserve, Frankton Beach Reserve, Twin Rivers Trail and Kelvin Heights Walking Trail among others are all considered appropriate for off-leash dog exercising areas. A map is available to outline restrictions on each track and reserve in the below link, which will need updated if the proposed Bylaw and Policy are adopted.
- <https://www.qldc.govt.nz/services/animal-control/dog-control-bylaw-policy>
- 36 The Hearings Panel moved that the final form of the Queenstown Lakes District Council Dog Control Bylaw 2020 and Dog Control Policy 2020 be recommended to Council, incorporating no changes following consideration of public feedback from the submissions. The hearing panel's agreement to recommend the final form of the Queenstown Lakes District Council Dog Control Bylaw 2020 and Dog Control Policy 2020 was on the proviso that clear signage outlining the significance of the Matakauri Park wetland was installed.

¹ <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries>

² <https://www.doc.govt.nz/nature/native-animals/birds/birds-a-z/australasian-bittern-matuku/>

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

Matakauri Park as a Regionally Significant Wetland

- 37 Wetlands are permanently or intermittently wet areas that support natural ecosystems of plants and animals. They are important environmental filters, often described as the kidneys of the landscape and are also important for biodiversity by supporting a variety of native birds, fish, invertebrates, and plants, additionally, they offer both recreational and educational value.
- 38 Some of the key values that establish Matakauri Park as a **Regionally Significant Wetland** include:
- Habitat for nationally or internationally rare or threatened species or communities, notably the Australasian Bittern, New Zealand Falcon, Marsh Crake, Kōaro and longfin eel. It has also been identified as a potential habitat for jewelled gecko, korero gecko and cryptic skink.³
 - Critical habitat for the life cycles of indigenous fauna which are dependent on wetlands. These species include but are not limited to tomtit, silvereye, grey warbler, fantails, paradise ducks, northern grass skink and McCann's skink.
 - A wetland which is highly valued by Kai Tahu for cultural and spiritual beliefs, values and uses, including waahi taoka and mahika kai. There is vested interest from our iwi partners in the restoration and protection of this place.
 - Significant hydrological values including maintaining water quality or low flows, or reducing flood flows. Matakauri Park plays a key role in flood protection of Queenstown, as it provides storage and capacity in a flood event.
- 39 In addition to the interpretive signage that the Parks and Reserves team plans to install in the Park, work is being undertaken to meet ORC's Rules for Regionally Significant Wetlands⁴. Planned work includes:
- a. Installation of fences to protect the wetland from feral goats. A feral goat control programme is also underway
 - b. Reforestation projects will follow the permitted species list prescribed in the Matakauri Wetland Management and Enhancement Plan. These will be eco-sourced as locally as possible.
 - c. Spraying is conducted at industry best-practice level and abides by the ORC Airplan requirements.
- 40 Current local stakeholders that are invested in the protection and restoration of the Matakauri Wetland include the Council Parks team, iwi partners represented by Ngai Tahu kaumatua Darren Rewi, Wakatipu Reforestation Trust, Wakatipu Wildlife Trust,

³ *Matakauri Wetland Management and Enhancement Plan* 3.1.7 Wildlife

⁴ https://www.orc.govt.nz/media/3268/13-rules_land-use-on-lake-or-river-beds-1-may-2014-12.pdf

Enviroschools, Community Harvest Gardens and the national organisation Sustainable Coastlines.

41 The proposed Bylaw, requiring dogs to be on-leash in the wetland, is in line with the efforts of these local stakeholders to protect this unique landscape. Continuing to allow dogs to be off-leash in the wetland, potentially disturbing endangered native fauna, could hamper what is trying to be achieved in this area.

42 Option 1 Adopt the Proposed Bylaw 2020 and Proposed Policy 2020

Advantages:

43 The Council will be able to take enforcement action as necessary in prohibited and restricted areas in the District, including the new changes implemented by the proposed Bylaw.

44 Continued enforcement will minimise nuisance, danger and distress caused by uncontrolled dogs. This will support environmental conservation efforts being made in Matakauri Park and contribute to dog compliance and safety by prohibiting them from Queenstown Hill.

45 Council will be complying with the requirements of the Dog Control Act 1996 Section 10 in that a dog control policy must be adopted, and that a dog control policy is given effect to by a bylaw.

Disadvantages:

46 Some submitters may perceive that issues raised through consultation are not addressed, both those in support and those opposed.

47 There is perception from submitters that options to exercise their dog/s off-leash are limited in central Queenstown if the proposed changes are adopted.

48 There will likely be some cost and resourcing associated with enforcing the Proposed Bylaw, such as replacing existing signage and purchasing additional educational signage. However, current budgets allow for this.

49 Option 2 Adopt the current Dog Control Bylaw 2014 and Dog Control Policy 2014 in its current form with no changes.

Advantages:

50 The public may perceive that we have not taken into consideration their feedback.

51 If the Council makes no changes to the current Dog Control Bylaw and Dog Control Policy, There will be no additional financial or resource costs to enforcing a new Bylaw or Policy. The bylaw will continue to be enforced in its current state.

Disadvantages:

52 Council will need to re commence the special consultative procedure and re consult the public.

53 Option 3 Do nothing

Advantages:

54 The current Dog Control Bylaw 2014 and Dog Control Policy 2014 will expire and we will only rely on the Dog Control Act 1996 for enforcement.

Disadvantages:

55 Once the Dog Control Bylaw 2014 and Dog Control Policy 2014 expire, 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 District, such as where dogs may be off-leash and where they must be on-leash or prohibited. A Bylaw is required to give effect to the Dog Control Policy.

56 If the Council does nothing the Current Bylaw will automatically be revoked in November 2021 and the Council will be in breach of its obligations under the Dog Control Act 1996, which requires councils to give effect to their Dog Control Policy by way of a Bylaw.

57 This report recommends **Option 1** for addressing the matter because there is a continuing need for a bylaw to regulate dog control in the District. The Proposed Changes reflect the information gathered from the community in the pre-consultation survey and support the reduction of dog-related nuisance within the community.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

58 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy due to a considerable level of community interest.

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

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

60 The Council has informally and formally engaged with the community via the special consultation procedure under Section 83(1) of the LGA.

> MĀORI CONSULTATION | IWI RŪNANGA

61 The Council has engaged with Aukaha at both pre-consultation and formal consultation stages of community engagement. Although no direct comment has been made during

either engagement period, it is understood by the Parks Service Delivery Manager that there is vested interest from local iwi partners in the restoration and protection of Matakauri Park.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

62 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.

63 The approval of the recommended option will support the Council to implement additional controls for this risk. This shall be achieved by establishing a Dog Control Bylaw and Policy that better suits the needs of the community and supports efficient enforcement against nuisance issues.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

64 Current budgets will supply expenditure associated with educational materials produced to support the implementation of the Proposed Bylaw following its adoption.

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

65 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/media/5dkns4jx/qldc-significance-and-engagement-policy-aug18.pdf>
- QLDC Enforcement Strategy and Prosecution Policy <https://www.qldc.govt.nz/media/vxrm3wws/qldc-enforcement-strategy-and-prosecution-policy.pdf>

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

67 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 TAKOHAKA WAETURE

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

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

69 The Dog Control Act 1996 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.

70 Under the Dog Control Act 1996 councils cannot adopt a bylaw which is inconsistent with a dog control policy.

71 A dog control policy can be amended under the Dog Control Act 1996 using the same procedure as the adoption of a policy. Section 10 of the Dog Control Act 1996 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. 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.

72 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.

73 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.

74 Legal advice has been sought in relation to both Acts and at each stage of the special consultative procedure. The recommended option is consistent with that advice.

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

75 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;
- 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	Proposed Dog Control Bylaw 2020
B	Proposed Dog Control Policy 2020