

QLDC Council
29 July 2021**Report for Agenda Item | Rīpoata moto e Rāraki take 7****Department: Community Services****Title | Taitara Draft QLDC Freedom Camping Bylaw 2021****PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO**

- 1 The purpose of this report is for the Council to agree to undertake public consultation using the special consultative procedure on the issue of making a new bylaw to regulate freedom camping in the Queenstown Lakes District. The proposed new bylaw will replace the current QLDC Freedom Camping Bylaw 2019, which will be revoked.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 There is an identified need for Council to continue to regulate freedom camping in the District and that a bylaw is the appropriate way of doing so. This report recommends that Council make a new bylaw. It also recommends that the new bylaw adopt the same approach as the current bylaw, but that more specific and identified controls based on the values of the sites are included. It is proposed to amend the current areas in which freedom camping is prohibited or restricted.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Determine** under section 155(1) of the LGA that the problem presented by freedom camping in the district is most appropriately and proportionately addressed by way of a bylaw under the Freedom Camping Act 2011;
3. **Approve** commencement of public consultation using the special consultative procedure in relation to the proposal to make a new freedom camping bylaw under s 11 of the Freedom Camping Act 2011; and
4. **Appoint** four councillors (to be named) of which three are required to form a hearings panel to hear and consider the submissions on the proposal and make recommendations to the Council on adoption of the proposed bylaw.

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Reviewed and Authorised by:



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15/07/2021

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CONTEXT | HOROPAKI

- 3 The Freedom Camping Act 2011 (**FCA**) allows freedom camping anywhere in a local authority area (an area in the district that the Council has control over or manages), except at those sites where it is specifically prohibited or restricted by that local authority.
- 4 The Queenstown Lakes District is a significant tourist destination and is home to approximately 37,000 residents. There has been unprecedented growth in the number of visitors to the District over the last decade, which has included an increase in the number of freedom campers.
- 5 New Zealand's borders have been closed to international visitors since March 2020, due to the COVID-19 pandemic. This has resulted in the drastic reduction of international freedom campers, but domestic camping and freedom camping remains popular. It is expected that tourism numbers and freedom camping numbers will gradually increase once the international borders reopen.
- 6 The Council adopted the current bylaw under s 11 of the FCA in December 2019. A copy of the current bylaw is included as **Attachment A** with this report. The current bylaw defines the areas where freedom camping is restricted or prohibited within the District, and any relevant restrictions within the restricted areas. Restrictions under the current bylaw are that vehicles must be certified self-contained. Freedom camping without restrictions is not permitted on any council land in the District.
- 7 At the Council meeting on 12 December 2019 the following resolutions were passed:

On the motion of Councillor MacLeod and Councillor Copland it was resolved that the Council:

1. *Note the contents of this report;*
2. *Note that all submissions and feedback received through this consultation will be fed into the responsible camping strategy work that is currently underway;*
3. *Approve the Hearings Panel recommendation to amend the Queenstown Lakes District Council Freedom Camping Control Bylaw 2019;*
4. *Determine that the Queenstown Lakes District Council Freedom Camping Control Bylaw 2019 is:*
 - a. *Necessary to protect the areas for which freedom camping is prohibited or restricted, to protect the health and safety of people who may visit the areas, or to protect access to the areas.*
 - b. *The most appropriate and proportionate way of addressing the perceived problem in relation to the areas.*
 - c. *Not inconsistent with the New Zealand Bill of Rights Act 1990.*

5. *Approve the revocation of the Queenstown Lakes District Council Freedom Camping Control Bylaw 2012 effective from 13 December 2019;*
 6. *Adopt the Queenstown Lakes District Council Freedom Camping Control Bylaw 2019 with the Bylaw coming into effect on 13 December 2019; and*
 7. ***Agree that a full and comprehensive review of the Freedom Camping Control Bylaw will be undertaken in the next 18-24 months.***
- 8 The Responsible Camping Strategy, adopted by Council in 2018, has a work programme that details short, medium and long term actions. Short-Term-Action 10 is:
- Review the existing camping zones to ensure they are consistent across the agencies and appropriate given proposed changes to legislation and residential growth.***
- 9 The New Zealand Motor Caravan Association (NZMCA) has lodged Judicial Review proceedings with the Court relating to the current 2019 bylaw, stating that it does not comply with the FCA. Council's position is that the 2019 bylaw is consistent with the FCA. The court has set a hearing date in February 2022.
- 10 Council staff have now undertaken a full review of the 2019 bylaw as requested by Councillors in December 2019, including completing a comprehensive Site Assessment of 105 council administered sites where freedom camping can potentially occur.
- 11 As part of this review, the Council's options are to revoke the existing bylaw, make no changes to the existing bylaw, amend the existing bylaw, or pass a new bylaw.
- 12 Section 11(2) of the FCA provides that the Council may only make a bylaw under the FCA if it is satisfied that:
- a. the bylaw is necessary for one or more of the following purposes:
 - i. to protect the relevant areas:
 - ii. to protect the health and safety of people who may visit the relevant areas:
 - iii. to protect access to the relevant areas; and
 - iv. the bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to the relevant area; and the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 (**NZBORA**).
- 13 Section 11(5) of the FCA provides that if the Council does decide to make a new bylaw, it must conduct a special consultative procedure under s 83 of the Local Government Act (**LGA**).

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 14 The Council manages freedom camping in the District currently using regulatory (bylaw) and non-regulatory means.
- 15 The non-regulatory means include measures adopted under the Council’s Responsible Camping Strategy 2018 (**the Strategy**), including provision of infrastructure to support freedom campers, such as rubbish receptacles and toilets at various camp sites; government-funded “summer camping hubs”; Responsible Camping Ambassadors (**Ambassadors**) employed during the peak camping season; and education and guidance for freedom campers and locals.
- 16 The Council prepared the Strategy in partnership with the Department of Conservation (DOC), New Zealand Transport Agency (NZTA), Land Information New Zealand (LINZ), Ministry of Business Innovation and Employment (MBIE) and neighbouring councils. Two limbs of the Strategy include to control freedom camping, and to maintain responsible camping. The Council has provided information on its website for locals and campers, including an interactive map showing prohibited areas and suggestions for DOC or commercial campgrounds. A review of the Strategy is commencing later in 2021.
- 17 Since 2018 Council staff, contractors and Ambassadors have been collecting data and evidence about freedom camping behaviour and taking photos at sites where freedom campers have been observed. This data was limited to begin with however as processes improved more comprehensive information and evidence was collected in 2020/2021. This evidence helps to assess the extent of freedom camping in the District and evaluate its effects.
- 18 An understanding of how the current bylaw is working will assist the Council to decide whether to make a new bylaw.
- 19 Council officers and contractors enforcing the bylaw have reported the bylaw is generally working well, and that there are only a small number of infringement notices issued compared to the large number of lawful campers in the region.
- 20 Around 60 infringements are issued per month (this being between 5-10 tickets at each site per month) during the peak season, indicating there is a high level of compliance with the bylaw. This is considered to be the result of consecutive years of education and enforcement which has resulted in campers being well aware of the need to respect rules in place in the district. The non-regulatory measures are also considered to contribute to this result.
- 21 The continued prevalence of camping at “hot spots” (for example all Wanaka Lakefront reserves, Frankton Beach, Park Street and Lake Esplanade Queenstown) indicates a strong demand for freedom camping in or adjacent to the town centres of Queenstown and Wanaka or at nearby lakeside and scenic spots.
- 22 QLDC receives and records all complaints regarding freedom camping. The Complaints and Evidence summary report (**Attachment B**) of all complaints received has been

compiled, arranged by area with corresponding photographic evidence. Complaints generally come from residents and ratepayers of the district and commonly relate to:

- Camping in a prohibited area
- Human waste (potential and observed)
- Litter (potential and observed)
- Amenity (washing lines, noise, views, etc)
- Fire risks (potential and observed)
- Not being self-contained
- Camping in excess of 2-day limit

23 Table 1 below shows the number of complaints received by the QLDC customer services team over the last three years. The number of complaints has been decreasing each year and this is attributed to the Council’s efforts on education and enforcement of the Freedom Camping Bylaw and other initiatives following the adoption of the Responsible Camping Strategy. COVID-19 has also evidently impacted the numbers of complaints since 2019.

Table 1:

| Year | Complaints |
|------------------------|------------|
| 2018 | 546 |
| 2019 | 439 |
| 2020 | 296 |
| 2021 (January to July) | 56 |

24 The 2020-2021 summer season was expected to be busy with New Zealanders unable to travel overseas, however it was quieter than anticipated. The Ambassadors conducted site surveys (total site surveys 1915) and camper surveys (450+) in the field as part of their role. This was the source of data collection this year as the Responsible Camping Hubs were not set up for the 2020/2021 season. This has been a valuable source of information on camper behaviour.

25 Observations of the Ambassadors over this time was that in general compliance with the 2019 bylaw was good, however poor behaviours remain evident (regardless of the change in the profile of campers following COVID-19). Ambassadors compiled over 750 photos of instances of unacceptable camping behaviours at over 24 key sites. Comment from the Ambassadors was that New Zealanders tend to display a greater sense of entitlement regarding the ability to camp anywhere and for any duration. The 2020/2021 season highlighted that domestic campers do cause issues in our region. Litter is still an issue and evidence of illegal fires had increased. Despite this, increased communication, positive media stories about the Ambassadors, presence of the Ambassadors and

increased enforcement since 2018 have resulted in a reduction in complaints from the public about freedom camping.

Site Assessment

26 In February 2021, Council engaged Xyst Limited to complete an independent comprehensive Site Assessment (**Attachment C**) to identify and assess Council owned or administered land throughout the Queenstown Lakes District which has the potential to be used for freedom camping, and which is appropriate to restrict or prohibit freedom camping, as provided for under s11 of the FCA. 105 sites across the district were assessed, using methodology that has been agreed by Local Government New Zealand as best practice. This methodology is as follows:

- a. Assess the scope of land to be included and excluded by nature of ownership, administration, legislation or practical limitations of access;
- b. Define what is to be protected under the three purposes of the FCA;
- c. Develop an assessment/scoring system to assess the degree to which a site requires protection from the effects from freedom camping
- d. Assess sites using the assessment system; and
- e. Present the findings of the assessment.

27 The Site Assessment scoring method is based on the three assessment criteria set out in s11(2) of the FCA. Each of the criteria (protection of area, health and safety and access) has been allocated a score from 1 (being the lowest) to 5 (being the highest). The total score for each of the criteria provides the total *significance score*. If the significance score for any one of the criteria is **5** this means that the site is determined to have a 'significant issue' and freedom camping may be prohibited. Additionally, if the cumulative significance score (over all three criteria) is **9 or above** out of 15, this means that the site is determined to be a *significant site* and freedom camping may be prohibited. If the significance score is **8 or below**, freedom camping may appropriate at the site, with restrictions (eg self-contained vehicles only). The Xyst report presents the scoring as a percentage.

28 The Queenstown Lakes District is very large and therefore the assessment focussed on places where there has been known demand for freedom camping an accessible land managed by the council. It included all Council reserve land that had a formed carpark and is accessible by 2WD. A number of representative streets and roads were also included to enable wider conclusions to be drawn about streets and roads.

Residential and built up areas

29 The NZMCA submitted on the 2019 Bylaw that residential areas were appropriate for freedom camping. This district includes a number of established residential communities and new communities where there is low to high density residential living. A sample of representative streets were assessed across these communities. This was considered to

be a reasonable approach to get a representative assessment of all residential streets in the district. A street by street approach was not undertaken as this would have been a huge task. Using this approach, the Site Assessment found that there are common problems associated with freedom camping in all residential and built up areas across the district. These problems include preventing access to residential properties, preventing access for emergency and service vehicles (given the narrow and steep nature of many residential streets), and noise from camping activity in residential areas. As such, freedom camping within residential and built up areas is recommended to remain prohibited.

Residential areas comprise less than 10% of the District's land area.

Proposed new prohibited areas

30 The Site Assessment found that the current controls under the 2019 Bylaw are appropriate with a few minor alterations. The Site Assessment assessed the following roads and areas as having significant issues or as a significant site. These roads and areas are described below.

31 Coronet Peak Road/ Skippers Canyon Road and the Crown Range Road

Coronet Peak Road (including the beginning of Skippers Canyon Road to Skippers Saddle) and the Crown Range Road to Cardrona Village are alpine roads that are subject to winter conditions. The pull over bays are used as popular viewing points and chain bays in the event of snow. Coronet Peak Road provides access to the Coronet Peak ski field and the recent addition of popular new mountain bike tracks accessed off this road means it is very busy in both summer and winter. The start of the Skippers Canyon Road to the Skippers Saddle is narrow, steep and most rental companies do not allow their vehicles on this road. These roads receive a high significance score and freedom camping is not recommended.

32 Glenorchy Paradise Road and Moke Lake Road

These roads are very narrow and winding and not safe for vehicles to pull over. Moke Lake Road is also very steep in places. Much of Glenorchy Road adjoins an area of very high fire risk (red zone). There is a history of fires caused by campers in this area. The road is a highly used tourist drive requiring the ability to pull off the road safely for taking photographs, etc. Access is also required for maintenance vehicles, including for gravel/slip spoil storage, limiting opportunities for camping. Gravel storage areas are considered unsuitable for camping at any time as access is required 24/7 in the event of an emergency or slips/damage to the road.

33 Rafters Road and Motutapu Road Track End

Rafters Road is a gravel road leading down to a reserve area managed by the Department of Conservation. There are no formed car parking areas along the road and access is needed to be protected for viticulture operations. The Motutapu Road Track End is a small remote carpark that provides recreational access to the Motutapu Track. As it is a multi-day tramp, trampers need to park overnight.

34 Hawea Flat (streets between Loach, Newcastle and McLellan Roads) and Wicklow Terrace Albert Town

The Hawea Flat township area has been included as a prohibited area as it is a residential area. This is consistent with the approach to prohibiting freedom camping in all residential and built up areas in the District. Wicklow Terrace in Albert Town has also been included for this reason.

Pre-Consultation Survey

35 Council undertook a pre-consultation survey, seeking public feedback on freedom camping in the district and several potential freedom camping sites. This survey was not a scientifically designed survey but was designed to test the community's attitudes to freedom camping and the areas where it could potentially occur. There were 826 responses to the survey. Full survey responses are [here](#) and a summary of responses is [here](#)

36 A comparison summary between visitor and resident respondents is included as **Attachment D**. 30% of respondents were visitors to the district and 70% were residents. Council officers analysing the data found there was a strong correlation in the results, in that visitors – want more freedom camping areas, - and residents – want less. Residents may accept freedom camping but typically do not support it close to where they live. Residents who do support freedom camping would like to see more infrastructure and facilities, and some would like to see a charge for this. Visitors typically want freedom camping opportunities close to town centres so they can visit restaurants and shops, but don't want to pay to stay in campgrounds.

37 The themes that emerged from the survey (relevant to what can be addressed through the FCA) are:

- a. Protection of the Council's areas was the most prominent concern, particularly regarding non self-contained vehicles, as this resulted in individuals defecating, urinating, and leaving rubbish in areas that the public accessed. Mitigation measures suggested supporting only self-contained vehicles to freedom camp, otherwise allowing freedom camping only in designated areas where there was a toilet available and providing additional infrastructure such as toilets, rubbish bins and dump stations.
- b. To protect access to the area, some form of control, monitoring and enforcement was encouraged for areas where freedom camping could occur, as this was thought to prevent overcrowding, protecting the community's access to the areas and particularly popular reserves.
- c. Reducing the impact that freedom campers placed on the environment was important to protect the area and so that users of the reserves didn't feel displaced.

- 38 Many survey respondents submitted on issues that cannot be considered under the FCA or bylaw, such as charging for sites or facilities, allowing or prohibiting camping on private or non-council administered land and banning freedom camping outright.
- 39 Another common theme was that most freedom campers are well behaved and compliant with a few spoiling it for all, and there was a focus on those vans that have a portable toilet.

Potential Freedom Camping Areas

- 40 The Xyst Site Assessment report concluded that restricted freedom camping could occur at Camphill Road Carpark and Luggate Red Bridge and generally outside reserves, and built up residential areas. These are the only two sites that were assessed that had a significance score of 8 or less.
- 41 A two night maximum at all sites is considered by council staff to be an appropriate duration restriction as it is difficult to enforce a one night stay if sites are not visited on a daily basis .
- 42 Council officers explored if any sites that were assessed as having a significance score that justified prohibiting freedom camping under the FCA (8 or above out of 15) could be provided for freedom camping if the sites were managed with appropriate controls. The criteria was that the site must have only one '5' significance score, a formed carpark, and a public toilet nearby (as the evidence suggests that if there is no toilet then health and safety and environmental issues arise). This provided a further five sites to be considered.
- 43 Feedback was sought on those sites that were identified as possible restricted camping areas. Images of these sites is included as **Attachment E**. These sites are:
- Camp Hill Road Carpark
 - Luggate Red Bridge
 - Morven Ferry Reserve Carpark
 - Whitechapel Reserve
 - Glenorchy Domain Carpark
 - Glenorchy Lakefront Carpark
 - Gibbston Valley Reserve Carpark
- 44 In summary, the majority of visitors supported more freedom camping opportunities and less restrictions, with many suggesting that more sites should be available close to town centres or at lakefront reserves (Kingston, Lake Hayes etc). The majority of residents supported the prohibited areas and further restrictions on freedom camping. 30% of respondents did not support freedom camping anywhere. When asked whether any other sites should be freedom camping areas many respondents suggested non-council controlled or operated land, or popular reserves that have been assessed as having very high significance scores.

Controls on Freedom Camping

45 Survey respondents were asked their views on the following controls:

- Limiting areas to freedom camp to where there is a publicly accessible toilet
- Limiting the time and duration that freedom campers can camp in a particular area
- Marking out individual sites for freedom camping vehicles
- Limiting the number of freedom camping vehicles to less than five in any one area
- Other

46 Again, there was a strong correlation between visitors who wanted fewer controls and restrictions on freedom camping and residents who wanted more restrictions on freedom camping. A common theme across all types of respondents was that there is an issue with the self-containment standards that allow a portable toilet.

Proposed changes to the bylaw following the survey

47 Limiting the number of freedom camping vehicles as a mechanism to ensure the protection of certain areas, and access to certain areas (mainly carparks) by preventing overcrowding, was generally well supported through the survey. Council officers have determined the appropriate numbers of vehicles at the following sites. These numbers have been determined on the size of the existing carpark and allowing for some freedom camping that will not restrict access to the site, and so that the values of the sites (including health and safety and protection of the area) can still be protected. The suggested maximum occupancy numbers are:

- a. Gibbston Reserve carpark (3 vehicles);
- b. Glenorchy Domain Carpark (5 vehicles);
- c. Camphill Road QLDC Carpark (5 vehicles); and
- d. Morven Ferry Reserve can only accommodate 4-5 vehicles so there are no specified numbers.
- e. Luggate Red Bridge Reserve can accommodate large numbers of campers that doesn't impact on access to the river and recreation areas.

48 Officers have considered how these limitations can realistically be enforced when it will not be apparent the order in which vehicles have arrived at the site. The best way to make enforcement realistic is for the Council to display signage limiting the number of vehicles and marking out individual freedom camping vehicle bays or spots.

49 New provisions in the proposed bylaw have therefore been drafted which authorise the Council to, by resolution, specify the maximum number of freedom camping vehicles for a certain location. Where that occurs, the Council will put up signage recording this and directing freedom campers to park in the marked bays or spots. It is then a breach of the bylaw to freedom camp in that location without being in one of the marked bays or spots if the maximum limit has been reached.

- 50 Some of the survey respondents pointed out that the Glenorchy Lakefront site should be a new area close to the existing public toilets. This would require the formation of a new carpark and access. Council does not intend to form new infrastructure for freedom camping at this point in time, so this site has been removed from the proposed sites.
- 51 A number of survey respondents did not support freedom camping at Whitechapel Reserve, in particular over concerns about safe access to and from the reserve. Waka Kotahi have also expressed concern in recent years about the increase of campervan vehicles at the intersection of Whitechapel Road and SH6. The Xyst Site Assessment scored Whitechapel Reserve as having a significant issue for Health and Safety due to the intersection at SH6. In addition to this Whitechapel Reserve does not have a formed carpark or a toilet. The Arrowsmith – Lake Hayes Reserves Management Plan 2013 does provide for freedom camping in a defined area – this area has yet to be defined. Extensive revegetation plantings over much of the reserve have undertaken by community volunteers at the reserve in recent years. It is recommended that freedom camping is prohibited at Whitechapel Reserve.
- 52 All of the sites have many responses in favour of and objections to. It is very clear from the survey responses that the majority of the resident community don't support freedom camping in the District, and consider the self-contained standards are too low. However, the FCA requires that we have to provide for freedom camping and the only relevant considerations under which a bylaw can be made are those under s11 of the FCA. Public perception is not a relevant consideration. The recommended sites are areas where freedom camping can be managed through more specific and identified controls based on the values of the sites.
- 53 In summary, it is clear that freedom camping has significant effects on the environment and amenity of the District, and can prevent access to areas and cause Health and Safety issues at certain areas. Requiring self-contained vehicles can only be controlled through a bylaw. For that reason a bylaw is recommended as the most appropriate and proportionate way of dealing with the problem. Non regulatory measures and controlling freedom camping via the Reserves Act are not as effective.

General Comments

Option 1: Revoke the current bylaw

- 54 Council could revoke the current bylaw and have no bylaw in place defining any prohibited or restricted areas in the District. Council would have to be satisfied that there was not enough of an issue arising from freedom camping to have a bylaw. Under the LGA, Council would still need to undertake a special consultative procedure to revoke the bylaw.

Advantages

- 55 There will be no financial or resource costs incurred in enforcing any new bylaw as there will be no bylaw.

Disadvantages

- 56 Not having a bylaw makes it more difficult for council to address and prevent environmental effects from freedom camping such as litter, pollution and access to the area.
- 57 Enforcement officers will still be required to enforce the infringement offences of the FCA that do not relate to camping in prohibited or restricted areas (eg damage to flora and fauna, or dumping of waste).
- 58 Non-regulatory approaches to manage freedom camping will not be sufficient to reduce the problems experienced with freedom camping, and this will become more difficult if the numbers of non self-contained freedom campers increase.
- 59 Public expectation is that Council will regulate and enforce freedom camping through a bylaw.
- 60 Council could enforce through the Reserves Act, but this is difficult and will not address roadside camping on non-reserve land (roads, carparks, streets etc).
- 61 Freedom camping using tents and non-self-contained vehicles, which pose greater risk of litter and human waste disposal, is likely to increase.
- 62 Past experience, the survey, and this review shows there is a strong demand for freedom camping in the District and as such reserves and other sites are likely to become overwhelmed with freedom campers.

Option 2: Status quo (do nothing, make no changes to the 2019 Bylaw)

- 63 The Council resolution at the time of adoption was that staff were to undertake a full and comprehensive review of the 2019 Bylaw within 12 to 18 months. This review has been done. Following the findings of this review, Council could decide the 2019 Bylaw is fundamentally appropriate and no changes are required. Under the LGA if a bylaw is found to be appropriate after a review, the bylaw next needs to be reviewed in a further 10 years.

Advantages:

- 64 Council can continue to control freedom camping under the 2019 bylaw.
- 65 There will not be any financial or resource costs incurred in replacing the bylaw.

Disadvantages:

- 66 Enforcement costs will be incurred in continuing to enforce the bylaw.
- 67 Through this review council staff have identified additional sites to the 2019 bylaw where freedom camping could occur (Glenorchy Domain Carpark and Gibbston Reserve Carpark). If the bylaw remains unchanged these sites will remain prohibited.
- 68 The site assessment suggests some alterations should be made to prohibited areas. If the bylaw remains unchanged these alterations will not be incorporated.

- 69 The feedback from the survey demonstrates additional controls at sites that do allow camping are appropriate. If the bylaw remains unchanged these additional controls won't be incorporated.
- 70 The freedom camping bylaw may not be reviewed for another 10 years (under LGA). Freedom camping is a contentious issue both locally and nationally, and Central Government is currently considering changes to the legislative framework for freedom camping. Regular reviews of the bylaw are therefore important to ensure the bylaw remains relevant.

Option 3: Amend how the Council regulates freedom camping through a bylaw. There are two ways this can happen:

Option 3a Amend the current 2019 bylaw

- 71 The current 2019 bylaw council be amended by changing the maps to include the new prohibited and restricted sites, and amending the text to allow for the proposed additional controls on the numbers of vehicles allowed at sites.

Advantages:

- 72 Council can continue to control freedom camping through a bylaw. Continued enforcement will reduce the risk of environmental damage, and also provide for greater accessibility to these areas for all.
- 73 The proposed bylaw will have all the advantages of the current bylaw, but incorporate the findings of the comprehensive site assessment and additional sites.
- 74 The proposed bylaw is intended to have additional controls on number of vehicles at certain sites and maximum number of stays which will enable better control and enforcement

Disadvantages:

- 75 Because the proposed bylaw overall reduces the areas in which freedom camping is allowed, there is a risk that across the district there are inadequate areas for freedom camping to cater for the demand. Imposition of limits on the number of vehicles per carpark could further reduce the availability of freedom camping sites. This is hard to assess at the moment because of uncertainty around the number of tourists and this is something Council will want to keep under review. This is considered a disadvantage because, while it may be necessary to protect the area, access to the area, and health and safety of residents of newly expanded or developed residential areas, it will have the effect of reducing the area in which freedom camping is allowed in self-contained vehicles.
- 76 There will be enforcement costs to enforce the amended bylaw and some operational costs to establish specific control measures.

Option 3b: Make a new bylaw

Advantages:

As above and;

- 77 Making a new bylaw is preferable because it will ensure that the position remains under review given the five year review period, whereas if the Council determines to amend the bylaw, it would not need to be reviewed for ten years. Given the public and political interest in freedom camping reviewing the bylaw within five years ensures it remains relevant.

Disadvantages:

- 78 As above at 3a.

Recommendation

- 79 This report recommends **Option 3b** for addressing the matter. The evidence and information-gathering exercises undertaken by Council staff suggest that the current bylaw is working well and reinforces that there is a continuing need for a bylaw to regulate freedom camping in the District. Making a new bylaw will ensure that the position will be reviewed within five years, ensuring it is relevant.
- 80 Consistent with s 11(2) of the FCA, making a bylaw in this situation is necessary to protect the relevant areas, the health and safety of people who may visit the relevant areas, and access to the relevant areas. Furthermore, making a bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to the relevant area.
- 81 Assuming the Council agrees to adopt option 3b, staff have prepared a draft statement of proposal for the special consultative procedure. Copies of the draft Statement of Proposal for the special consultative procedure, and the draft proposed bylaw, are included as Attachments **F** and **G**.
- 82 The timetable for consultation is included in the draft Statement of Proposal.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 83 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because the issue of freedom camping is a matter of:
- a. High importance to the District, with freedom camping being an ongoing issue and likely to increase as tourist numbers increase.
 - b. High community interest for residents and locals who are affected by freedom camping.
- 84 The persons who are affected by or interested in this matter are
- a. The residents and ratepayers of the District

- b. Freedom campers, including those affiliated to the New Zealand Motor Caravan Association Inc;
- c. Department of Conservation;
- d. local campground or holiday park owners;
- e. Council's seasonal "Responsible Campground Ambassadors" (who regulate and monitor the district in the peak season); and
- f. Council Parks and Regulatory staff and enforcement officers.

85 The Council has undertaken a pre-consultation feedback exercise, which included a survey which was sent to the above identified stakeholders. 826 responses were received. This initial feedback has informed the recommendations in this report and the drafting of the proposed bylaw. The proposed bylaw and Statement of Proposal will be publicly notified and submissions received in accordance with the special consultative procedure under s83 of the LGA.

> MĀORI CONSULTATION | IWI RŪNANGA

86 Council officers have contacted Te Ao Marama and Aukaha informing them of the new bylaw and the process. The current bylaw provides that nothing in the current bylaw limited or affected the rights in relation to nohoanga entitlements under the Ngāi Tahu Claims Settlement Act 1998. This clause will be carried over to any new bylaw. However, it is important that the Council also takes active steps to gather and consider the views of Ngāi Tahu, as the proposed bylaw concerns matters of the District's natural resources and resource management, which is of interest to iwi as kaitiaki of the land.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

87 This matter relates to the following risk categories and risks:

- a. Environmental risk category.
 - i. It is associated with RISK00017 relating to damage to the environment – discharge of contaminants within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.
- b. Community & Wellbeing risk category It is associated with:
 - i. RISK00006 relating to ineffective management of social nuisance issues within the QLDC Risk Register. This risk has been assessed as having a low inherent risk rating.
 - ii. RISK00056 relating to ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a low inherent risk rating.

88 The approval of the recommended option will support the Council by allowing us to retain the risk at its current level. This shall be achieved by the continuation of a Council bylaw to regulate, monitor and enforce restrictions and prohibitions against freedom camping in the District, for example against people who are creating damage to the environment or a social nuisance by freedom camping in restricted or prohibited areas. The recommended option will also allow Council to effectively provide for the future planning and development needs of the district, for example by anticipating increased tourist and freedom camping numbers, and providing for the increase of residential development areas in the District for which freedom camping should be prohibited.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

89 There will be some operational financial requirements to install control measures at restricted camping sites as discussed above. This will comprise additional signage, fencing, marking out of sites etc.

90 Enforcement of any freedom camping bylaw has already been anticipated in Council's annual expenditure. Enforcement of the proposed bylaw is anticipated to be cost neutral.

91 These costs will be met through current operational and Capex budgets. If any additional controls (such as new toilets, sealing of carparks etc) are required this would require further budget.

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

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

- Vision Beyond 2050: <https://www.qldc.govt.nz/vision-beyond-2050/>
- Responsible Camping Strategy 2018: <https://www.qldc.govt.nz/events-and-recreation/responsible-camping/responsible-camping-strategy/>

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

94 This matter is not required to be included in the Ten Year Plan/Annual Plan. The Ten Year Plan provides for year-on-year operational expenditure relating to enforcement of a freedom camping bylaw.

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

95 As mentioned above, section 11(2) of the FCA contains a number of decision-making requirements when making a bylaw. The Council must be satisfied that:

- a. The bylaw is necessary to protect the areas for which freedom camping is prohibited or restricted, to protect the health and safety of people who may visit the areas, or to protect access to the areas.

b. The bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to the areas.

c. the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.

96 If, following the special consultative procedure, the Council decides to make the bylaw, the Council will be asked to make resolutions confirming its satisfaction with these legal requirements.

97 The proposed bylaw engages the right to freedom of movement in section 18 of the New Zealand Bill of Rights Act 1990 (NZBORA). However, the proposed controls are considered reasonable limits on that right as allowed for in section 5 of the NZBORA:

Subject to section 4, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

98 The right to freedom of movement does not obviously encompass a right to remain in a certain place for the purpose of camping overnight. Nonetheless, any limitation there may be on the right to freedom of movement is considered to be based on a rational link between the bylaw provisions and the objective of controlling the adverse effects of freedom camping. The expansion of proposed areas for prohibition remains a proportionate control.

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

99 The recommended option:

- Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. This 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 freedom camping in the District. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act;
- 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

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| A | QLDC Freedom Camping Control Bylaw 2019 |
| B | Complaints and Evidence Summary |
| C | XYST Limited Site Assessment |
| D | Draft Freedom Camping Bylaw 2021 Pre-Consultation Survey Summary |
| E | Potential Freedom Camping Sites for Survey |
| F | Statement of Proposal |
| G | Draft QLDC Freedom Camping Control Bylaw 2021 |

Note that all attachments are distributed/presented separately.