



STATEMENT OF PROPOSAL

PROPOSED FREEDOM CAMPING BYLAW 2021

INTRODUCTION

- 1 The Queenstown Lakes District Council is seeking public feedback on its proposal to make a new bylaw to regulate freedom camping in the Queenstown Lakes District. The proposed bylaw will replace the QLDC Freedom Camping Control Bylaw 2019 (**current bylaw**). The current bylaw sets out the rules regarding where freedom camping is permitted, restricted or prohibited within the District.
- 2 When the Council adopted the 2019 Freedom Camping Bylaw (2019 Bylaw) a resolution was passed *'that a full and comprehensive review of the Freedom Camping Control Bylaw will be undertaken in the next 18-24 months.'*
- 3 Since 2019, Council staff have collected information about freedom camping in the District, and as part of reviewing the bylaw they have undertaken a comprehensive site assessment process.
- 4 There is an identified need for Council to continue to regulate freedom camping in the District. The Council therefore proposes to adopt a new Freedom Camping Bylaw 2021 (**proposed bylaw**) to replace the current bylaw. The proposed bylaw adopts the same approach as the current bylaw, incorporates the findings of the comprehensive site assessment process completed in June 2021, and includes additional specific controls on numbers of vehicles at certain sites to enable better Protection of those areas and access to those areas.
- 5 Council officers have consulted with internal and external stakeholders to identify matters within the current bylaw that require updating, and to address specific concerns they have with the current bylaw.

LEGISLATIVE FRAMEWORK

- 6 The Freedom Camping Act 2011 (**FCA**) allows freedom camping anywhere in a local authority area, except at those sites where the local authority makes a bylaw defining local authority areas in which freedom camping is prohibited or restricted. Local authority areas are, in general terms, accessible public places, such as reserves, roads, and laybys, other than camping grounds.
- 7 The current bylaw is due to expire in December 2024, but at the December 2019 Full Council meeting, the Council passed a resolution directing staff to undertake a full and comprehensive review within 18-24 months. The Council must consider whether to retain the existing bylaw, or amend it or make a new bylaw, and if so, in what form, or whether to no longer regulate freedom camping in this way.

PROPOSAL

- 8 The Council proposes that:
 - a. the current bylaw should be revoked;
 - b. a new bylaw should be made;
 - c. the areas in which freedom camping is prohibited should be changed as set out in the bylaw.
- 9 The proposal to make a new bylaw to control freedom camping must follow the special consultative procedure in the Local Government Act 2002 (**LGA**).

- 10 This Statement of Proposal has been prepared in accordance with the requirements of section 11 of the FCA, and sections 83 and 86 of the LGA, and includes:
- a. Consideration of whether the bylaw is necessary to protect the areas in which it is proposed to prohibit or restrict freedom camping, the health and safety of people who may visit those areas, or access to those areas;
 - b. Consideration of whether a bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to the areas in which it is proposed to prohibit or restrict freedom camping;
 - c. consideration of the bylaw's consistency with the New Zealand Bill of Rights Act 1990;
 - d. a draft of the proposed Freedom Camping Bylaw 2021.

CONSIDERATION UNDER SECTION 11 OF THE FREEDOM CAMPING ACT 2011

- 11 There District is home to approximately 37,000 residents and is one of the fastest growing districts in the country. It is a significant tourist destination and there has been significant growth in the number of visitors to the District over the last decade, which has included an increase in the number of freedom campers.
- 12 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 will gradually increase once the international borders reopen.
- 13 Since the Freedom Camping Act 2011 was passed, the Council has recognised that controlling freedom camping was necessary to protect the District's environment, including visual amenity and landscapes, and waterways.
- 14 Since the current bylaw was passed:
- Council officers and contractors enforcing the bylaw have reported the current 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.
 - Since 2018 there has been a decline in complaints from the public, and in the numbers of infringements issued, indicating there is a high level of compliance with the current Bylaw.
 - The continued prevalence of camping at "hot spots" indicates a strong demand for freedom camping in or adjacent to the town centres of Queenstown and Wānaka or at nearby lakeside and scenic spots.
 - Despite the high level of compliance relative to the number of freedom campers, Council officers continue to observe poor behaviour from campers leaving an environmental impact. Freedom campers can pose health and safety risks from fire, human waste, litter and reduce the accessibility of waterways and reserves to others. Poor behaviour from some campers is leaving an environmental impact.
 - Camping (both self-contained and non-self-contained) can limit locals' access to recreational facilities and sites and detract from their local experience.
 - Frequent and persistent camping (both self-contained and non-self-contained) can impact on residents' privacy and quiet enjoyment of their property.

- 15 Since the current bylaw was adopted the number of complaints has been decreasing each year. This is attributed to the Council's efforts on education and enforcement of the Freedom Camping Bylaw. COVID-19 has also likely resulted in less complaints as there are fewer international freedom campers.
- 16 In 2018 the Council adopted the Responsible Camping Strategy, which is undergoing review later this year. The Council's Responsible Camping Strategy identifies a number of non-regulatory actions to reduce problems associated with freedom camping. Implementation of these commenced in the 2018/2019 peak season and have reduced the numbers of complaints and infringements. These include:
 - Providing additional dump stations (long term);
 - Utilising the Tourism Infrastructure Funding to provide temporary hubs for limited overnight camping, washing and waste disposal;
 - Employing Responsible Camping Ambassadors to educate campers
 - Increasing the numbers of public toilets.
- 17 Despite this, Council staff continue to receive anecdotal and photographic evidence of freedom campers defecating on the land (ie rather than using toilets). Public concerns around freedom camper behaviour also remain, such as washing in lakes and rivers, causing damage to the environment and overcrowding. The Council issues up to 60 infringements per month for freedom camping.
- 18 Frequently complaints from the public are about freedom camping generally, rather than about any illegal or unlawful activity from campers. And Council officers and contractors enforcing the bylaw have reported that there are only a small number of infringement notices issued compared to the large number of lawful campers in the region.
- 19 In February 2021, the Council engaged Xyst Limited to complete a comprehensive Site Assessment to identify and assess Council owned or administered land throughout the Queenstown Lakes District which has the potential to be used for freedom camping as provided for under section 11 of the FCA. 105 sites across the district were assessed, using methodology that has been agreed by Local Government New Zealand as best practice. The report found that the current controls under the current bylaw are generally appropriate with a few minor alterations.
- 20 It is necessary to continue to control freedom camping in order to protect residential and built-up areas where it is proposed to prohibit freedom camping, the health and safety of people who may visit those areas, or access to those areas, and to restrict freedom camping elsewhere throughout the district. Limiting freedom camping to self-contained vehicles will reduce the overall level of demand for freedom camping to those with access to self-contained vehicles. It will also reduce the likelihood of environmental harm from freedom campers by limiting access to the District to those freedom campers with access to toileting facilities.
- 21 Council could use the Reserves Act 1977 (Reserves Act) to regulate (prohibit or restrict) freedom camping rather than a bylaw or the FCA. Section 44(1) of the Reserves Act provides that no person can use a reserve, or any vehicle, caravan, tent, or other structure situated on the reserve, for the purposes of permanent or temporary accommodation. Therefore, freedom camping on reserves is prohibited unless provided for in a Reserve Management Plan or Council exercises its delegated ministerial consent. While this mechanism could be used to part-regulate freedom camping, it would not remove the need for a bylaw altogether because it would not address roadside camping or land managed by the Council under another enactment.

- 22 A bylaw is the most effective mechanism to provide for prohibited local authority areas and restricted local authority areas
- 23 Internal and external stakeholders were unified in identifying a continuing need for a bylaw.

IS THE PROPOSED BYLAW THE MOST APPROPRIATE AND PROPORTIONATE WAY OF ADDRESSING THE PROBLEM?

Proposed new prohibited areas

- 24 Under the current bylaw, freedom camping is prohibited in all residential and built up areas. Problems associated with freedom camping in residential areas include limiting access to residential properties, limiting access for emergency and service vehicles (given the narrow and steep nature of many residential streets), noise from camping activity and affecting views from and residential amenity of residential properties. This is common across all residential areas, and as such freedom camping within residentially zoned areas is recommended to remain prohibited.
- 25 The updated bylaw maps are similar to the 2019 Bylaw maps. There are several additional roads that have been added to the prohibited area maps. The site assessment has determined these roads have significant issues. These roads are described below

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

- 26 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 appropriate.

Precipice Creek Carpark on Glenorchy Paradise Road and Moke Lake Road

- 27 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 Moke Lake Road adjoins an area of very high fire risk (red zone). There is a history of fires caused by campers in this wider area. The road is a highly used tourist and farm road 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. The Precipice Creek Carpark provides access to the recreation reserve and has a history of flooding.

Rafters Road and Motutapu Road Track End

28. 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.

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

29. 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.

Whitechapel Reserve

30. The Xyst Site Assessment scored Whitechapel Reserve as having a significant issue for health and safety due to the intersection at SH6. Waka Kotahi has also expressed concern in recent years about the increase of campervan vehicles at the intersection of Whitechapel Road and SH6. In addition to this Whitechapel Reserve does not have a formed carpark. The Arrowtown – 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.

31. In considering whether a bylaw is the most appropriate and proportionate way of addressing the problem, the Council has considered the following options:

- a. Option 1 – Revoke the current bylaw
- b. Option 2 – Do nothing – make no changes to the Freedom Camping Control Bylaw 2019
- c. Option 3 – Amend the current bylaw or make a new bylaw

32. Option 3, particularly making a new bylaw, is the proposed option.

Option 1 – Revoke the current bylaw

33. 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. It has been determined that there is a problem caused by freedom camping, due to the effects on the environment and amenity of the District. Requiring self-contained vehicles can only be controlled through a bylaw. For that reason a bylaw is recommended and is 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. Revoking the bylaw is not recommended.

Option 2: Do nothing – make no changes to the Freedom Camping Bylaw 2019

34. There is no statutory reason why the 2019 bylaw should be amended or updated, but a further review will have to be undertaken in future. Having found that changes to the areas in which freedom camping is prohibited are warranted, and that specific and identified controls should be placed on sites to better control freedom camping, this is not recommended.

Option 3: Make a new bylaw

35. Making a new bylaw is preferable because it will ensure that the position remains under review given the five year review period, as 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. Given the public and political interest in freedom camping reviewing the bylaw within five years ensures it remains relevant. A new bylaw will have all the advantages of the current bylaw, but incorporate the findings of the comprehensive site assessment. It is also intended to have additional controls

on number of vehicles at specific sites and maximum number of stays which will enable better control and enforcement.

36. Disadvantages include that 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 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 amenity and health and safety of residents of newly expanded or developed residential areas, it will have the effect of conversely reducing the area in which freedom camping is allowed in self-contained vehicles.

ARE THERE ANY IMPLICATIONS UNDER THE NEW ZEALAND BILL OF RIGHTS ACT 1990?

37. 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.

38. 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.

TIMETABLE FOR CONSULTATION

39. The following dates represent the key times in the consultation programme:
- a. Council resolves to undertake public consultation regarding the Proposal at its meeting of 29 July 2021.
 - b. Submissions open on 02 August 2021.
 - c. Advertisement in Otago Daily Times, Southland Times, Mirror and Wānaka Sun – between 30 July 2021 and 06 August 2021.
 - d. Submissions close on 02 September 2021.
 - e. Submissions heard by a subcommittee of Councillors in Queenstown in mid-September 2021 and in Wānaka in mid-September 2021.
 - f. Council considers outcome of consultation process and whether to make decisions on the Proposal in October or November 2021.

INSPECTION OF DOCUMENTS AND OBTAINING COPIES

40. Copies of this Statement of Proposal and the proposed bylaw may be inspected, and a copy obtained, at no cost, from:
- a. either of the Council offices at 10 Gorge Road, Queenstown or the Wānaka Service Centre, 47 Ardmore Street, Wānaka ;

- b. any Council library within the Queenstown Lakes District; or
- c. the Council website – www.qldc.govt.nz.

50. A copy of the Xyst Limited Site Assessment report is available on the Council's website at www.qldc.govt.nz. It is not expected that submitters consider or comment on this lengthy document but it is there for those who wish to consider it.

RIGHT TO MAKE A SUBMISSION AND BE HEARD

51. Any person or organisation has a right to be heard in regard to this Proposal and the Council encourages everyone with an interest to do so. Submissions should be directed toward matters that are within the scope of the Proposal.

52. The Council would prefer that all parties intending to make a submission:

- a. go to the Queenstown Lakes District Council Website: www.qldc.govt.nz or
- b. post their submission to: Regulatory Department, Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348.

53. Submissions must be received by **31 August 2021**. The Council will then convene two hearings, which it intends to hold in Queenstown and Wānaka in mid-September at which any party who wishes to do so can present their submission in person. The Council will give equal consideration to written and oral submissions.

54. The Council will permit parties to make oral submissions (without prior written material) or to make a late submission, only where it considers that special circumstances apply.

55. Every submission made to the Council will be acknowledged in accordance with the LGA, will be copied and made available to the public, and every submission will be heard in a meeting that is open to the public.

56. Section 82 of the LGA sets out the obligations of the Council in regard to consultation and the Council will take all steps necessary to meet the spirit and intent of the law.

MAKING AN EFFECTIVE SUBMISSION

57. Written submissions can take any form (e.g. email or letter). An effective submission references the clause(s) of the proposed bylaw you wish to submit on, states why the clause is supported or not supported, and states what change to the clause is sought.

58. Submissions on matters outside the scope of the Proposal cannot be considered by the Hearings Panel.

Mike Theelen
CHIEF EXECUTIVE

APPENDIX 1 – Proposed Queenstown Lakes District Council Freedom Camping Control Bylaw 2021.

APPENDIX 2 – Current Queenstown Lakes District Council Freedom Camping Control Bylaw 2019.