



**Queenstown Lakes District Council Freedom  
Camping Bylaw 2018 and Arrowtown - Lake  
Hayes Reserve Management Plan 2013  
Amendments**

**STATEMENT OF PROPOSAL**

## BACKGROUND

Queenstown Lakes District is a significant tourist destination and home to approximately 30,000 residents. There has been significant growth in our community and in the number of visitors to our district, which includes an increase in the number of freedom campers. Freedom camping numbers have increased dramatically in the past two years specifically at the Shotover Delta and Lake Hayes Reserves. This has resulted in excessive overcrowding, restricted public access and enjoyment of the reserves and public health issues resulting from human waste. Queenstown Lakes District Council (**Council**) has received many complaints from the public about freedom camping particularly in these two locations.

The Queenstown Lakes District Council Freedom Camping Control Bylaw 2013 (**current bylaw**) sets out the rules regarding where freedom camping is permitted, restricted or prohibited, and the number of consecutive nights' freedom camping is permitted in certified self-contained vehicles.

The current bylaw permits freedom camping at Lake Hayes and on the Shotover Delta. For Lakes Hayes, the current Arrowtown-Lake Hayes Reserve Management Plan 2013 (Lake Hayes RMP), permits a limited form of freedom camping. Freedom camping at Shotover Delta, which does not have a Reserve Management Plan (RMP) is permitted for two nights under the current bylaw (however it is subject to a prohibition under the Reserves Act 1977, which is not enforced).

In February 2018, Council resolved to install lockable gates to restrict vehicle access to the Lake Hayes and Shotover Delta reserves as a 'temporary' measure to address the issues associated with freedom camping.

This was a short term solution to address the urgent issues at these two locations, while the Council developed a long term Responsible Camping Strategy that will consider all forms of camping across the district e.g. freedom camping, paid camping.

The proposed amendment to the current bylaw and the Arrowtown-Lake Hayes RMP is Council's response to address the immediate issues caused by freedom camping at the two reserves. The intention is to have in place additional protection for the reserves before the coming busy summer season. The process is to ensure transparency and consistency in regulating freedom camping across local authority areas in the district while the Responsible Camping Strategy is prepared.

## LEGISLATIVE FRAMEWORK

### **Freedom Camping Act 2011 and the Freedom Camping Control Bylaw 2012**

The Freedom Camping Act 2011 (**FCA**) allows freedom camping anywhere within the district that Council has control over, except at those sites where it is specifically prohibited or restricted. This control is also used by the Department of Conservation (**DoC**) regarding land they control.

Council and DoC have enforcement capabilities regarding freedom camping, with the objective to ensure that:

- (a) the areas are protected;
- (b) the health and safety of people who may visit the areas is protected; and
- (c) access to the areas is protected.

The current bylaw, made in accordance with the Local Government Act 2002 (**LGA2002**), is one of the tools used by Council to define the local authority areas throughout the district where freedom camping is permitted, restricted or prohibited and the relevant restrictions in those areas.

### **Reserves Act 1977 and Reserve Management Plan**

The Reserves Act 1977 (**Reserves Act**) also regulates the use of reserves under the Council's control for temporary accommodation. 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:

- A Reserve Management Plan provides for camping to occur and may impose conditions or requirements for such camping;
- The Council exercises its delegated authority to allow camping, which could be subject to conditions or requirements.

Lake Hayes Reserves and the Shotover Delta are classified as Recreation Reserves under the Reserves Act and are administered by the Council. The Reserves Act must be administered for the purpose of:

- Providing for the preservation and management of and for the benefit of the public, areas that have special value, such as areas used for recreation, that possess wildlife or indigenous flora, or that have landscape amenity;
- Ensuring the preservation of representative natural ecosystems or landscapes; and
- Ensuring the preservation of access for the public to the coastline, islands, lakeshore and riverbanks and to encourage the protection and preservation of the natural character of these areas.

The main purpose of Recreation Reserves is the provision of areas for recreation, to provide for the physical welfare and enjoyment of the public and for protection of the natural environment.

### **The Arrowtown-Lake Hayes Reserves Management Plan**

The Lake Hayes reserves are subject to the Arrowtown-Lake Hayes Reserves Management Plan 2013 (Arrowtown **RMP**) that has been prepared under the Reserves Act.

The RMP provides that freedom camping is prohibited unless:

- i) provided for in the specific policies in each reserve; or
- ii) approved as part of a special event.

There are specific policies for Lake Hayes Reserves, including:

- 17.1 Permit freedom camping in certified self-contained vehicles for a maximum of two nights at:
  - i) The northern end of Lake Hayes within a designated area.
  - ii) The area adjacent to the State Highway, north of the rowing club access road within a designated area.
- 17.2 Determine the designated area for freedom camping, with regard to demand for camping and reducing impacts on day visitors.

### **Shotover Delta**

There is currently no RMP for the Shotover Delta, so the prohibition on camping in section 44(1) applies. Council has not regulated freedom camping in this area through its current bylaw.

<sup>3</sup> Section 18 New Zealand Bill of Rights Act 1990

## PROPOSAL

In response to the immediate issues at Lake Hayes Reserve and the Shotover Delta until the outcomes of the Responsible Camping Strategy are known, Council is proposing that:

- The current Freedom Camping Bylaw should be amended by updating the maps to include the Lake Hayes Reserve and the Shotover Delta reserve in the areas where freedom camping is prohibited; and
- The Lake Hayes RMP be amended by amending policy 17.1 as follows:

*17.1 Freedom Camping is permitted in the Reserve only to the extent allowed in Council's Freedom Camping Bylaw*

- Policy 17.2 of the Lake Hayes RMP should be deleted.

As there is currently no RMP for the Shotover Delta, the prohibition on camping in section 44(1) applies. This proposal leaves the prohibition under the Reserves Act at Shotover Delta intact and will in addition prohibit freedom camping under the proposed bylaw to enable more effective and consistent enforcement.

A combined approach of the above two actions will result in a consistent, transparent means by which freedom camping is regulated and enforced throughout the district (eg the bylaw). Council's preference is to regulate freedom camping through its freedom camping bylaw, as opposed to the Reserves Act, given the more streamlined enforcement mechanisms under the FCA (notably infringement notices).

## Consultation

### *Bylaw*

The proposal to amend the bylaw to control freedom camping must follow the special consultative procedure in the LGA 2002.

### *Lake Hayes RMP*

The proposal to amend the RMP either must follow the consultation process in the Reserves Act or special consultative procedure in the LGA 2002. The consultation procedure in section 41 of the Reserves Act is required for a review of a reserve management plan that Council considers is a "comprehensive review". This proposed amendment is a limited and targeted review that only considers two policies of the Arrowtown-Lake Hayes RMP specific to one area and there is no intention at this point in time to make other general changes to other aspects of the Lake Hayes RMP. For these reasons Council considers that this is not a comprehensive review and, as such is not required to follow the consultative procedure outlined in the Reserves Act. Council could exercise its discretion under section 41(9) of the Reserves Act to use the consultation process if it deems it to be appropriate, even though it is not compulsory. In this instance Council considers that the use of the consultation procedure is not appropriate.

However, given the nature of this decision, Council must give consideration to the views and preferences of persons affected by the proposal in accordance with section 78 of the LGA 2002. Freedom camping issues at Lake Hayes and Shotover Delta are a matter of high public interest to the community. They should be afforded an opportunity to put forward their views. Accordingly, Council considers that it is appropriate to use the special consultative procedure outlined in section 83 of the LGA 2002.

This statement of proposal has been prepared in accordance with the requirements of the LGA 2002, and the FCA, and includes:

- a) The reason for the proposal;
- b) Consideration of whether a bylaw is the most appropriate way to address the perceived problem;
- c) Consideration of whether the proposed bylaw is the most appropriate form of bylaw;
- d) Any implications under the New Zealand Bill of Rights Act 1990; and
- e) A draft of the proposed bylaw.

## **REASON FOR PROPOSAL**

Since the current bylaw and Lake Hayes RMP became operative in 2012 and 2013 respectively, the numbers of freedom campers visiting the district has exponentially increased and is now significantly beyond what the Council anticipated when the current bylaw was adopted. In key areas (specifically Lakes Hayes North and the Shotover Delta) the growing numbers of freedom campers pose health and safety risks from human waste and are causing accessibility issues. In addition, there are escalating public concerns regarding freedom camper behavior, such as washing in lakes, causing damage to the environment and overcrowding. Appendix 4 contains a number of photographs that have been received by Council attached to complaints either by members of the public or visits by Council staff.

In February 2018, Council invited comments regarding freedom camping and received over 1000 submissions to assist Council in its review of freedom camping across the District, which is being considered as part of Council's Responsible Camping Strategy. Freedom camping rules are required to ensure that users of our Council controlled areas can do so, without detriment to others.

Freedom Camping is best regulated through the adoption of freedom camping bylaws, under the Freedom Camping Act.

The proposal to amend the current Bylaw and the Arrowtown-Lake Hayes RMP to prohibit freedom camping at the Lake Hayes Reserve and Shotover Delta has been made to ensure the effectiveness of the Bylaw in assisting to control freedom camping in the district, in accordance with the objectives of the FCA and the and the effectiveness of the existing RMP to manage the reserves in accordance with the Reserves Act.

## **CONSIDERATION BY COUNCIL UNDER SECTION 155 OF THE LOCAL GOVERNMENT ACT 2002**

### **Problem definition**

Council officers have reported a significant increase in issues relating to freedom camping at Lake Hayes Reserves and Shotover Delta. These issues include for example:

- overcrowding due to excessively high numbers of freedom campers;
- evidence of human waste in reserves that is creating health and safety risks;
- large amounts of litter;
- people washing themselves and clothes in waterways and hanging clothes throughout the reserves; and
- significantly limited accessibility and enjoyment experienced by other members of the general public of reserves.

The problems outlined above are a major concern to Council and to the public. Council has received complaints from members of the public relating to freedom camping at Lake Hayes Reserves and Shotover Delta. The complaints detail similar issues to that of Council officers.

Council staff consider the policies 17.1 and 17.2 of the RMP that permit freedom camping at the Lake Hayes reserves, are no longer appropriate due to the issues described above.

<sup>3</sup> Section 18 New Zealand Bill of Rights Act 1990

The amended RMP updates these policies to provide that freedom camping is to be regulated through the bylaw at the Lake Hayes reserve and Shotover Delta and subsequently prohibited. This will ensure that the reserves can continue to be managed in accordance with the functions of the Reserves Act and that Council will have available to it effective enforcement mechanisms to address the effects on reserves.

Currently at Shotover Delta the Reserves Act prohibits freedom camping. This has proved ineffective and despite the prohibition has led to the issues described above due to the limited enforcement tools available under the Reserves Act. To enable better and consistent enforcement, Council staff consider that regulating freedom camping at Shotover Delta using the Freedom Camping bylaw is appropriate. This would involve prohibiting freedom camping under the bylaw, while leaving the prohibition under the Reserves Act in place.

Council staff consider that the text of the current bylaw is appropriate and effective in addressing freedom camping within the district for land that Council controls but the maps require updating. Consequently, the Council intends to retain the current bylaw with an amendment to the maps to prohibit freedom camping in two additional locations:

- a) Lakes Hayes Reserve; and
- b) Shotover Delta Reserve.

The current bylaw allows freedom camping in these two locations, for up to two consecutive nights in a certified self-contained vehicle (although the Reserves Act currently prohibits freedom camping at the Shotover Delta).

The new bylaw proposes to prohibit freedom camping in Lake Hayes Reserve and Shotover Delta to protect the reserves, to enable public access for all and to increase public health and safety in these locations

### **IS THE PROPOSED BYLAW and RMP THE MOST APPROPRIATE?**

The proposed bylaw defines the local authority areas in the District where freedom camping is permitted, restricted or prohibited. The proposed amended RMP provides that freedom camping is permitted but only in accordance with the regulations in the bylaw –the proposed bylaw no longer permits freedom camping at Lake Hayes. Shotover Delta does not have an RMP so the prohibition under the Reserves Act applies. The proposed bylaw will also prohibit freedom camping at Shotover Delta to enable effective and consistent enforcement. .

Council staff have considered the most appropriate way of addressing the issues described in the problem definition section above, the options available, and considers that the proposed bylaw and amended RMP is the most appropriate means for addressing the issues in the short term while the Responsible Camping Strategy is completed.

In considering whether an amended bylaw and amended RMP is the most appropriate, Council has considered the following options:

1. Option 1 – Maintain the status quo
2. Option 2 – Amend the Arrowtown-Lake Hayes Reserves Management Plan 2013 to prohibit freedom camping.
3. Option 3 – Approve the initiation of the public consultation process for the proposed Freedom Camping Bylaw 2018 and amended Arrowtown-Lake Hayes Reserves Management Plan 2013 to prohibit freedom camping through the bylaw at both areas.
4. Option 4 – Permit freedom camping in the Lake Hayes RMP subject to meeting certain restrictions

### **Option 1 – Status Quo**

If the Council does nothing, the current bylaw will continue to have effect until the next statutory review of the Freedom Camping Control Bylaw and freedom camping will continue to be permitted at Lake Hayes through the RMP.

As freedom camping is prohibited under the Reserves Act, Council could enforce the prohibition of freedom camping at Shotover Delta through the Reserves Act. However, this is cumbersome and does not provide for the same enforcement mechanisms as the FCA. This would result in inconsistencies in how freedom camping is enforced across the District.

The advantage of this option is that it does not require the Council to undertake a special consultative procedure this year. However, the bylaw would need to be considered within five years of its adoption i.e. 2019.

The disadvantage is that the Council will have a bylaw and RMP that that is not fit for purpose regarding the specified areas, and the bylaw would be inconsistent with the Reserves Act at Shotover Delta, as a result of the issues identified above.

### **Option 2 – Reserves Act - Only amend the Reserve Management Plan to prohibit Freedom Camping**

The Council could consider not amending the current bylaw, and to only amend the RMP for the Lake Hayes Reserves. The Council would also enforce the prohibition at Shotover Delta under the Reserves Act.

The advantage of this option is that the process to amend the RMP is more simplistic than a bylaw review.

The disadvantage is that there would be inconsistency between the freedom camping bylaw allowing camping at the Lake Hayes Reserves and Shotover Delta, and the RMP and Reserves Act prohibiting camping at these areas. This may also require further amendments to the RMP depending on the recommendations of the Responsible Camping Strategy.

### **Option 3 – Approve the initiation of the public consultation process for the Freedom Camping Bylaw 2018 and the Reserve Management Plans**

The Council considers that amending the current bylaw will provide clarity in relation to the rules regarding freedom camping in the two locations specified above.

In addition, Council also proposes to amend the current Lake Hayes Reserve Management Plan to provide that freedom camping can be regulated through the bylaw.

As there is no reserve management plan for the Shotover Delta, camping is currently prohibited. However, updating the bylaw to replicate this prohibition will ensure that there is full consistency between the bylaw and the RMP for these two areas. Council considers it desirable to regulate freedom camping through its freedom camping bylaw, given the availability of better enforcement mechanisms under the FCA (notably infringement notices). This approach would also enable greater consistency in regulating freedom camping across local authority areas in the district.

The disadvantage is that following the consultation process will take some time (around 2 months), and will require costs to complete the process.

<sup>3</sup> Section 18 New Zealand Bill of Rights Act 1990

#### **Option 4 – permit freedom camping in the Lake Hayes RMP subject to meeting certain restrictions**

Council could permit freedom camping at Lake Hayes if it met the current restrictions (i.e. the vehicle used must be self-contained and a maximum of 2 night per stay), and impose a further condition that only a certain amount of freedom campers would be permitted per night. This further condition could be imposed through a limited number of designated freedom camping car parks.

The addition of a limited number of designated freedom camping carparks could assist in addressing the issues relating to overcrowding.

However, it is not clear how these controls would effectively be enforced without putting a disproportionate burden on Council staff to monitor compliance with the controls.

The problems identified at Lake Hayes have occurred despite the existing conditions as the Council does not have available to it appropriate enforcement tools such as those available under a Freedom Camping Bylaw. A disadvantage with this option is that the conditions were not complied with previously, so it is likely that a further condition at Lake Hayes will not be complied with and the same problem will result.

This option will also require further consideration of what conditions should be imposed and whether it is necessary to provide for additional council infrastructure on the reserve such as toilets and washing facilities. These aspects have not yet been considered and will likely be addressed through the Camping Strategy work.

Council's preferred option, which will be consulted on is **Option 3**.

#### **ARE THERE ANY IMPLICATIONS UNDER THE NEW ZEALAND BILL OF RIGHTS?**

The proposed bylaw is consistent with the New Zealand Bill of Rights Act 1990 (**NZBORA**). The proposed controls are considered reasonable limits 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.*

The proposal will potentially engage the following right under the NZBORA:

- 1 Right to freedom of movement (section 18).

The proposal provides for the continuation of access to the reserves, and proposes a restriction in accordance with the FCA.

Therefore, the Council considers that the restrictions imposed are unlikely to infringe the right to freedom of movement. Alternatively, even if there is an infringement of this right, it is a reasonable limit on an individual's rights and freedoms and which is justifiable in a democratic society. Therefore, the proposed Bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.

#### **PROPOSED BYLAW**

A draft of the proposed bylaw and RMP is attached. The amended bylaw and RMP will revoke the current bylaw and RMP.

#### **TIMETABLE FOR CONSULTATION**

The following dates represent the key times in the consultation programme:



26 July 2018	Council resolves to undertake public consultation regarding the proposed bylaw and Arrowtown-Lake Hayes Reserves Management Plan 2013
28 July 2018	Advertisement in Otago Daily Times, Southland Times and Wanaka Sun.
31 August 2018	Submissions close
20 – 24 September 2018	Submissions heard by a subcommittee of Councillors (to be confirmed)
25 October 2018	Council considers outcome of consultation process and makes appropriate decision.
3 November 2018	Public notice of final decision (if Council resolve to adopt the bylaw and RMP)
	The Bylaw and RMP come into effect subject to the above.

## INSPECTION OF DOCUMENTS AND OBTAINING COPIES

Copies of this proposal, the draft Bylaw and RMP and the supporting reports may be inspected, and a copy obtained, at no cost, from:

- a) Either of the Council offices at 10 Gorge Road, Queenstown or the Wanaka Service Centre, 47 Ardmore Street, Wanaka
- b) Any Council library within the Queenstown Lakes District.
- c) The Council website – [www.qldc.govt.nz](http://www.qldc.govt.nz)

## RIGHT TO MAKE A SUBMISSION AND BE HEARD

- 1 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.
- 2 The Council would prefer that all parties intending to make a submission:
  1. go to the Queenstown Lakes District Council Website: [www.qldc.govt.nz](http://www.qldc.govt.nz)
- 3 Submissions must be received by **Friday 31 August 2018**. The Council will then convene a hearing, which it intends to hold between **Thursday 20 September and Monday 24 September 2018** 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.
- 4 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.
- 5 Every submission made to the Council will be acknowledged in accordance with the LGA 2002, will be copied and made available to the public, and every submission will be heard in a meeting that is open to the public.

<sup>3</sup> Section 18 New Zealand Bill of Rights Act 1990

- 6 Section 82 of the LGA 2002 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**

An effective submission references the clause(s) of the draft Bylaw and RMP you wish to submit on, states why the clause is supported or not supported and states what change to the clause is sought.

Submissions on matters outside the scope of the Bylaw and RMP cannot be considered by the Hearings Panel.

Mike Theelen  
CHIEF EXECUTIVE

**APPENDIX 1** - Proposed Queenstown Lakes District Council Freedom Camping Control Bylaw 2018

**APPENDIX 2** – Arrowtown – Lake Haves Reserve Management Plan 2013

**APPENDIX 3** - A Summary of the Statement of Proposal prepared in accordance with Section 83 Local Government Act 2002

**APPENDIX 4** - Photographs of freedom camping complaints.

[Only Appendix 4 is attached as all other appendices are presented elsewhere in the attachments to the agenda item.]

**APPENDIX 4: Photographs of Freedom Camping Complaints**







