

**Mayor and Councillors**  
COUNCIL

18 AUGUST 2016

Meeting Status: **Public**

Purpose of Report: For Decision

**TASMAN ROAD RESERVE – CONSIDERATION OF LEASE TO  
BYRON'S RESORT AND OPTION TO SELL**

**PURPOSE OF REPORT**

- 1 This report seeks review of the previous recommendation in report CS-16-1859 regarding a proposed new lease with Byron's Resort Motels & Campground (Byron's) on Council administered land at Tasman Road Reserve, Ōtaki (Appendix 1), following submissions received from the required public notification.

**DELEGATION**

- 2 The Council has the authority to consider this matter.

**BACKGROUND**

- 3 Report CS-16-1859 was presented to the Environment and Community Development Committee at its meeting of 16 June 2016 and it was recommended:

*That the Environment and Community Development Committee authorises the Chief Executive to undertake the required public consultation process for the exclusive lease proposal as outlined in this report (CS-16-1859) for the land at Tasman Road Reserve, Ōtaki, shown in Appendix 2, to Byron's Resort Motels and Campground. A final decision regarding the proposed lease will be made at the Council meeting of 18 August 2016, following a report back from Council officers on submissions received.*

*That the Environment and Community Development Committee request a report back to the 18 August Council meeting, to include the option of the selling of the land at Tasman Road Reserve.*

- 4 Following that meeting, officers arranged for public consultation to be carried out in accordance with the Reserves Act 1977 (the Act). Advertisements were placed in the *Kapiti News*, the *Kapiti Observer* and the *Otaki Mail*. In addition, key stakeholders were contacted directly and information was shared on Facebook and the Council website. The final day for submissions to be received was Saturday 23 July 2016.
- 5 Under the Act, Council is obliged to "give full consideration to every objection or submission received before deciding to proceed with the proposal" and give any submitter who wishes to do so the opportunity to appear before the administering body in support of their submission.

## ISSUES AND OPTIONS

### Issues

- 6 Byron's Resort is currently on the market at a price of \$2.9m. If a lease was to be granted, the lease document would contain an assignment provision which would require Council approval.
- 7 A total of 65 submissions were received. Of those, 57 submissions were received in opposition of the proposed lease and 8 were in support. Six of the submissions in support were from campground users.
- 8 Of the 57 submissions opposing the lease, 22 submissions had no comment. A summary of the 35 opposing submissions with comments and the 8 in support is included in Appendix 3.
- 9 If Council is required to maintain the land, a new path for mowing and maintenance access is required over the sand hill at an approximate cost of \$1,500. This will provide a 10m x 2m path with some shaping in order to cope with the topography.
- 10 Depending on the preferred use of the land, the fence across the reserve between adjoining properties may need to be removed.

### Exclusive lease to Byron's Resort

- 11 Due to the number of submissions received in opposition of the lease, and the clear community wish to have the land made available to the public, officers believe that an exclusive lease to Byron's Resort is not in Council's best interest.

### Sale of the Land

- 12 Council officers' initial discussion with DOC indicates the department would be open to going through the process of disposal of this area of Tasman Road Reserve. Based on information provided by DOC, the Crown and Council would share the cost of the process. It is likely that Council would pay for the revoking of the reserve and DOC would pay for the disposal. The remaining amount of disposal proceeds after the associated costs of disposal have been taken in to account, would be shared between Council and DOC. If there is a loss, that would also be shared between both organisations.
- 13 Before the land can be sold, reserve revocation needs to take place. Under s.24(1)(b), Council as the administering body can initiate the process to revoke the reservation.
- 14 Revocation can take place for any reason considered advisable in terms of the purposes of the Reserves Act (s.24) where the outcome will be a disposal of the land (s.25) either by the Crown or the Council. A common reason for revocation and disposal is that the land is surplus to requirements and the moneys derived will provide a net benefit in terms of the purposes of the Act.
- 15 The process required for revocation is detailed in Appendix 4.
- 16 Once the reservation is revoked, the usual Council process for sale of land is followed.

- 17 The reserve is currently zoned as Open Space and the current RV of the full parcel of land is \$180,000.
- 18 It is anticipated the saleable value of the land would be limited as it is land locked and there would likely be few interested parties.
- 19 No further investigation has been undertaken with regard to having the land valued or in to the cost and timeframe associated with the revocation and sale process. Based on the number of submissions received in opposition to the proposed lease it was considered appropriate for discussion to be undertaken by Council before further work was carried out.

## **CONSIDERATIONS**

### Policy considerations

- 20 There are no known policy considerations.

### Legal considerations

- 21 Council must comply with the Reserves Act 1977 in respect of this issue.
- 22 The Act places limitations on the types of activities permitted on recreation reserves. Section 54(1)(a) of the Act allows the administering body to:

*“lease to any person, body, voluntary organisation, or society (whether incorporated or not) any area set apart under section 53(1)(h) for baths, a camping ground, a parking or mooring place, or other facilities for public recreation or enjoyment.”*

and section 54(1)(d) allows the administering body to:

*“Grant leases or licences for the carrying on of any trade, business, or occupation on any specified site within the reserve... provided that the trade, business, or occupation must be necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve.”*

### Financial considerations

- 23 If the lease is not granted, there is an approximate cost of \$1,500 to provide access for mowing and maintenance plus an approximate cost of \$2,000 - \$3,000 per year for on-going maintenance.
- 24 The on-going maintenance cost would require additional budget in future years.

### Tāngata whenua considerations

- 25 There are no known issues for consideration relating to iwi or the Treaty of Waitangi.

## **SIGNIFICANCE AND ENGAGEMENT**

### Degree of significance

- 26 This matter has a low level of significance under Council policy.

Consultation already undertaken

27 A one month public notification period was undertaken as required by The Act.

Engagement planning

28 An engagement plan is not needed to implement this decision.

Publicity

29 A media advisory will be developed in respect of this issue and key stakeholders will be informed.

**RECOMMENDATIONS**

30 That the Council does not authorise an exclusive lease agreement with Bryon’s Resort, for the land at Tasman Road Reserve shown in Appendix 2 to report CS-16-1959.

31 That the Council notes the information presented in paragraphs 12–19 of Report CS-16-1959 in regards to possible sale of part of the reserve land.

<b>Report prepared by</b>	<b>Approved for submission</b>	<b>Approved for submission</b>
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**ATTACHMENTS**

Appendix 1: Byron’s Resort and Tasman Road Reserve

Appendix 2: Plan of land area proposed for lease at Tasman Road Reserve

Appendix 3: Summary of submissions

Appendix 4: Reserve Revocation and Disposal Process

APPENDIX 1 - BYRON'S RESORT AND TASMAN ROAD RESERVE

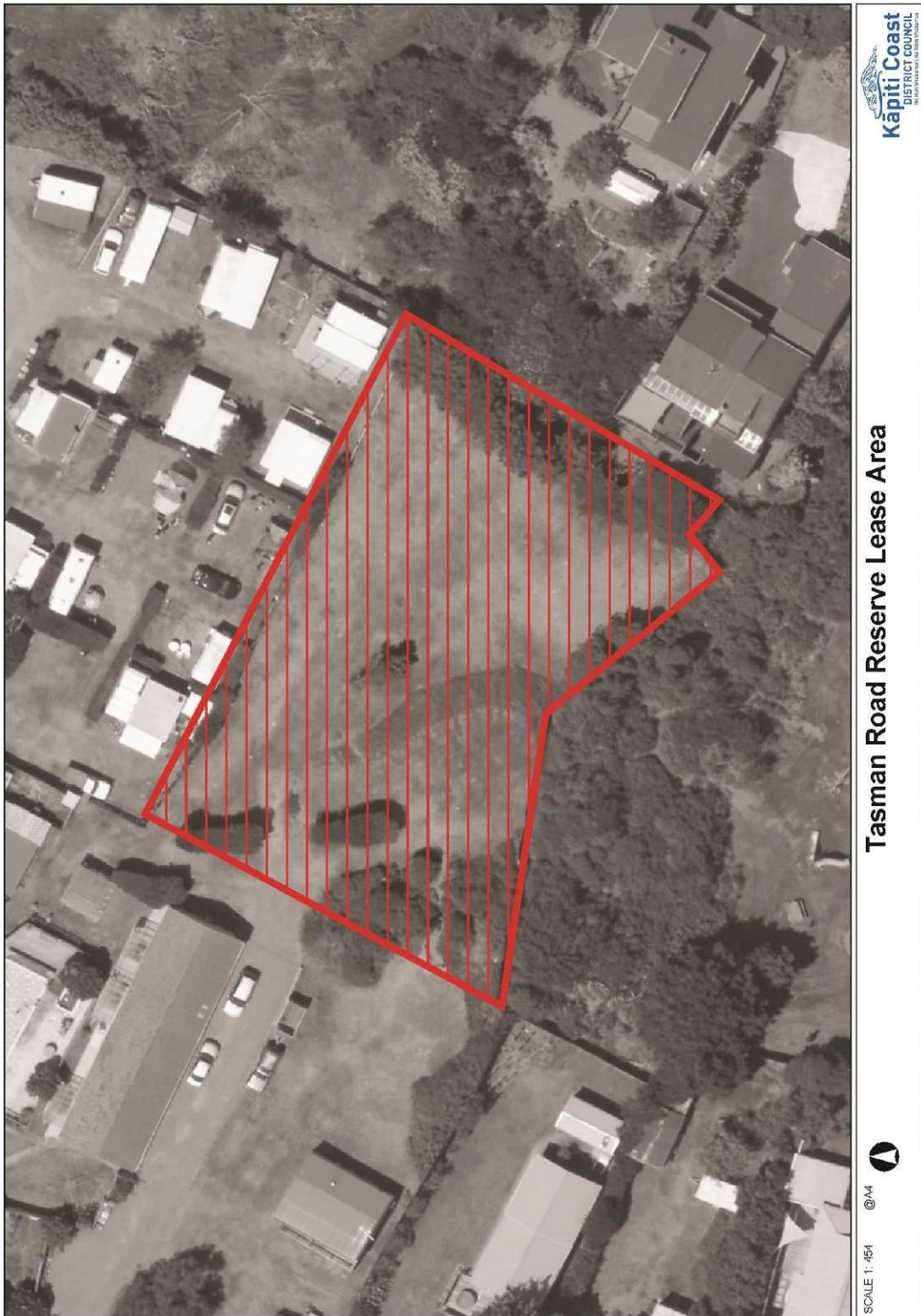


**Byron's Resort and Tasman Road Reserve**



SCALE 1:2,000 @A4

Appendix 2 - Proposed Lease Area (hatched area)



## Appendix 3 – Summary of submissions

## Submissions in opposition (with comments)

<b>General theme</b>	<b>Submissions received</b>	<b>Specific examples (abbreviated in some instances)</b>
Public land	14	<ul style="list-style-type: none"> <li>• Wrong use of public land</li> <li>• Would like it to remain as public land</li> <li>• It should go back to public use, as was its original purpose</li> <li>• We should retain public land for future generations</li> </ul>
A gift from Byron Brown	7	<ul style="list-style-type: none"> <li>• It should be used as intended by the donors</li> <li>• As it was Byron's gift, this land is public space</li> <li>• The land was gifted to the people of Otaki, therefore for the enjoyment of the people of Otaki</li> </ul>
Developed for community use	8	<ul style="list-style-type: none"> <li>• Should be added to local playground</li> <li>• You could increase the play area and make it more like Levin play area</li> <li>• Slightly wild public land is a real asset for children in particular</li> <li>• Would like to see a sports ground or something for the young people to use</li> <li>• It should be developed for community use</li> </ul>
Varied	6	<ul style="list-style-type: none"> <li>• The lane issue should be left to the people of Otaki to decide how best to serve the community</li> <li>• The land was deeded to the people of Otaki – Byrons has not paid a cent in rent for decades</li> </ul>

## Submissions in support

<b>General theme</b>	<b>Submissions received</b>	<b>Specific examples (abbreviated in some instances)</b>
Camping ground user	6	<ul style="list-style-type: none"> <li>• We would like the status quo to remain</li> <li>• We strongly support the existing agreement with Byron's Resort be made official</li> <li>• I would like to agree to the current arrangement between KCDC and Byrons Resort</li> </ul>
Varied	2	<ul style="list-style-type: none"> <li>• Fence to be closed</li> <li>• I would like to see the fence returned to separate the playground and camp ground</li> </ul>

## Appendix 4

## Reserve Revocation and Disposal Process

