



Rangitikei
UNUSPILT...

REPORT

SUBJECT: **DUDDING LAKE - ALTERNATIVE MANAGEMENT PROPOSAL**

TO: Mayor And Councillors

DATE: 23 March 2010

FILE: 6-RF-1-6

1 Executive Summary

1.1 Purpose of the report

To present officer comment on the proposal by Duddings Lake Ltd for management of Dudding Lake.

1.2 Key issues

The key issue is the increased level of service proposed by Duddings Lake Ltd, which brings with it an increased cost to that option chosen by the Council following public consultation on the management plan for Dudding Lake.

1.3 Major recommendations

That Council **either** decline the proposal from Dudding Lake Ltd on the basis of increased cost to that option chosen following public consultation on the Dudding Lake management plan; **or** request the Chief Executive to negotiate terms for a management contract for service for the operation of Dudding Lake with Duddings Lake Ltd, such terms to be confirmed by Council before final adoption of any contract; and that the intention to enter into a management contract with Duddings Lake Ltd for a ratepayer contribution of approximately \$37,500 be communicated publicly and no final decision be taken before Council's meeting on 29 April 2010 to provide the opportunity for public views to be heard.

2 Context

2.1 Background

The alternative management proposal by Duddings Lake Ltd has come about as a result of Council's decision to remove the infrastructure at Dudding Lake and

return it to use as a recreational park in line with the original intention for the area. Before commenting on the proposal, it is useful to consider Council's previous decisions on this facility.

In early 2007, Council called for tenders in the hope of attracting a commercial operator who would remove the financial burden on ratepayers. In a second round of that process, Howard & Maureen Lange, experienced accommodation operators, contracted with Council to undertake all necessary work and secure continued public access. They found that not possible for a number of reasons, which should be borne in mind when assessing the alternative management proposal. (It is interesting to note also that perusal of the facility's file shows that the issues raised by the Langes had been raised on a number of previous occasions.)

Firstly, concerns around health and safety posed by motorised water craft on the lake; secondly, the lack of an area in which campers can congregate limits the market significantly; thirdly, the inability to separate campers from day visitors; fourthly, lake water levels during a dry summer season, and finally, poor drainage in parts of the park.

However, community consultation showed clearly that residents wanted to see Dudding Lake retained, but there was a division of feeling in terms of how much financial support should be applied to it. The resolutions from Council's meeting on 26 November 2009 are attached as Appendix 1. They reflect the choices that the Lake should operate at least cost; continue to be available until the end of summer; that a decision on investing in the road be left on the table; and that the park be available for camping.

The alternative management proposal has now come forward from Duddings Lake Ltd.

2.2 LTCCP

The LTCCP noted that the Lake would be retained, funded as a Marton Park, and that a management plan would be developed with Marton stakeholders during 2009/10.

That management plan was adopted after a process of formal consultation, and led to the resolutions in Appendix 1.

This proposal is not consistent with the resolutions adopting the management plan.

2.3 Significance

The proposal does not trigger Council's significance policy.

2.4 Maori consultation

Not appropriate at this time, given the very recent consultation on the Council's management plan for Dudding Lake.

2.5 Legal issues

The proposal from Duddings Lake Ltd is for a lease of three years, with three further rights of renewal.

It is suggested that, rather than entering a lease, Council enter into a management contract with Duddings Lake Ltd. This would be the same as Council's relationships with MALT, Taihape Community Development Trust and others.

For completeness of information, it should also be noted that Dudding Lake has its own Trust Deed, and this proposal is not in contravention of that Deed in any way.

2.6 Approach

The alternative management proposal has been circulated publicly as part of the Council's order paper, but has not had the opportunity for public comment.

It is proposed that whatever decision Council reaches at its meeting, it should be seen as a 'proposal' or indicative decision, which is not finally adopted for a one month period.

This would provide the opportunity for the community to make its views known; whilst not being a consultation process, it would strengthen any examination of Council's decision-making process on what has been a fraught issue at times. This is doubly appropriate given the lack of adherence to tendering policies.

If Council decides to enter into an arrangement with Duddings Lake Ltd, it might also wish to confirm that, if such an arrangement finished early, Option 1 would be implemented immediately.

3 Analysis

3.1 Views

The proposal from Duddings Lake Ltd was received in time for distribution with Council's order paper, but there has not been the opportunity for discussion / negotiation with the shareholders. It may be most appropriate for this report to seek some guidance from Council on the direction it wishes to take, and to confirm arrangements at its April meeting. (Since 4 March 2010, the house at Dudding Lake has been occupied under a tenancy agreement between Council and Bruce Gordon, and this will remain in place for the next month as a minimum.)

The four shareholders in Duddings Lake Ltd spoke to Council at its meeting on 25 February 2009, proposing to explore a relationship with the NZ Motor Caravan Association. However, this alternative management proposal makes no reference to the NZMCA, and Council may wish to explore this point with them – and also seek clarification on projected visitor numbers – not mentioned in the proposal but something the community may well expect if an increased contribution is required on their part. It is unclear whether day visits by District residents will incur a charge.

Had the proposal been received as part of a public tender process, Council would have evaluated the skills and experience of the proposers. This is clearly inappropriate when the proposers are known to councillors individually. However, Council must also make sure that it balances the risks, opportunities and costs around this proposal in the same way that it would any other contract for service. Its own policies around tendering and achieving best value for ratepayers demand this.

There is a risk to Council in entering a management contract without performance bonds and public liability insurances in place. However, this is not a major risk because the management of the Lake could revert to Option 1 if Duddings Lake Ltd defaulted,

It must be acknowledged that this could be a very generous offer from a small group of local residents, prepared to ‘put their money where their mouth is’ and keep Dudding Lake open on the basis that some people, at least, wanted to see. However, Council must also acknowledge that the company and sub-lessee lack experience running a public camping ground. Further, whilst Duddings Lake Ltd believes Council will be relieved of the burden of dealing directly with the operator, it will be a unique and possibly vexing contract for staff to manage; it may also prove difficult for Councillors’ to adhere to the same governance role as they have for other Council management contracts.

3.2 Terms

A full evaluation of the proposal has not been possible within the timeframe, but the following points are raised for Council’s consideration:

- a) Any right of renewal on the initial term should be on the basis of Council having the power of veto;
- b) As a management contract, no rental would be payable, and the site will continue to be a ‘public place’;
- c) Any maintenance requirements which are in common with other Council parks should have the same standards, e.g. mowing should be in line with other similar parks which is a standard of the length of the grass being no more than 100 mm at any time;

- d) Clarification of the comment in the proposal from Duddings Lake Ltd (*e) attend to the rectification of the electrical cable to the house* – that this is the main power supply to the house estimated at an investment of \$25,000;
- e) That Council’s responsibility to undertake structural repairs or rebuilding of the roadway be left lying on the table whilst the success of the venture is proven;
- f) That fees and charges proposed by the company undergo the same process as that for swimming pools – that they are set after consultation with Council, having regard for maximising the use of the Lake and fees charged in comparable facilities in neighbouring districts.
- g) That the issue of stock running in the area be the subject of further discussion, taking into account the total area proposed, a definition of the maximum area, and possible impact on the lake;
- h) Further clarification around para q in the proposal from Duddings Lake Ltd, which proposes that the company can ‘close the area for good reason’;
- i) That the terms of ejecting members of the public be restricted to only those covered by law or bylaw;
- j) That the grant proposed in para 7 of the proposal from Duddings Lake Ltd not be adjusted annually in line with CPI, but rather, have the same formula for escalation as is found in other contracts for parks and reserves services;
- k) The introduction of an exit clause/notice period;
- l) The need for clarity around water quality/quantity in the lake; Council can take no responsibility for either, particularly noting easements allowing water takes from the lake.
- m) The need to clarify in the contract the responsibilities of Duddings Lake Ltd in terms of health and safety, such as hazard identification and what standards are to be set.
- n) Key performance indicators will need to be developed over key matters such as efficiency of spend of the Council’s grant, maintenance of infrastructure, public safety, and health and safety.
- o) That Duddings Lake Ltd should be required to provide six monthly reports in October and March of each year, and present to Council in similar fashion to Rangitikei Tourism, town centre groups, etc.

Finally, Duddings Lake Ltd has sought that there be a lease, which shall contain such other provisions as are generally in the terms of the lease made between the Marton Borough Council and P D & G M Max. This lease was written from a

very different starting position, and the expectations on both parties have changed since 1987. It is recommended that this is not pursued.

3.3 Options

The main options for Council to consider are:

1. To decline the proposal

Council could consider the proposal and decline it on the basis of increased cost when compared to Option 1, already adopted (following formal public consultation) and communicated to the community.

2. To undertake a public tender (or equivalent process) in order to measure Duddings Lake Ltd's proposal against any other proposal

This approach from Duddings Lake Ltd has come rather late in the process of determining the future for Dudding Lake. During public consultation, there was one other party who indicated a commercial interest in the Lake. At that time, officers were communicating that a future for the Lake should be at least cost. There may be others who, if they understood Council to be prepared to make some ongoing contribution, would be interested in submitting a proposal. This option would also mean that Council would observe full transparency in terms of tender process.

3. To accept the proposal, subject to negotiations between officers and the company and an opportunity for the community to comment

Duddings Lake Ltd has presented an interesting proposal which may provide greater value to the community than returning the Lake to a recreational park. However this will also come at greater cost. The terms of the proposal require some clarification and negotiation, which should be resolved before adoption. A pause before a final decision provides an opportunity to test community views on the proposal.

3.4 Costs

This proposal will cost the ratepayers more than currently provided for in the draft Annual Plan.

Whilst Duddings Lake Ltd is seeking a \$25,000 grant, it should be noted that there is also the value of the residence, estimated at \$180/week or \$9,000 p.a.

Removal/sale of the house would have seen the proceeds of that sale applied to the Dudding Lake rate account for expenditure on the park.

Council will also need to fund depreciation of \$12,000 (\$6,000 for the house and sheds; \$3,600 for the ablution block and \$2,500 for the wastewater system).

It is unclear as to whether rates will be paid by Duddings Lake Ltd; assuming this is not so, there is total expenditure of around \$37,500.

In essence, this proposal is very similar to Option 2, consulted on last year, but whereas that option had an estimated net cost of \$61,000, it now has an estimated net cost of \$37,500.

It should also be noted that Council has resolved on a number of occasions to continue operating the Lake during the summer when there has been no budget to do so. Consequently, the rate account for Dudding Lake is overdrawn.

4 Conclusions

This is an interesting proposal from four committed Marton residents, seeking to ensure that Dudding Lake remains operating as it has in the past; their aims and aspirations in the undertaking are unclear. Although the proposal talks about the retention of the lake as 'an attractive and useful public amenity', it does not include an analysis of projected income and expenditure. Nor is there a comment on business risks. It is unclear how sustainable the proposed arrangement is likely to be.

The costs to ratepayers, which have already been significant, will be higher than the budgeted amount in the draft Annual Plan, a burden which would fall most heavily on Marton ratepayers. This means Council must determine if it believes the increased investment provides improved wellbeing to/for the community.

A number of points – and there will be more as the proposal is discussed with Duddings Lake Ltd – have been highlighted as needing clarification.

If Council chooses to accept the offer – possibly subject to negotiation – then it is recommended that this is done on the basis of indicating to the community provisional acceptance, and providing a one month period for comment from the community. Council may also wish to clarify whether, given the earlier consultation about the management plan for the park, Option 1 should be implemented if a contract with Duddings Lake Ltd were to finish early.

5 Recommendation

- 5.1 That the report on Dudding Lake – Alternative Management Proposal be received.
- 5.2 That the Council determine to either:
- a) Decline the proposal from Duddings Lake Ltd, on the basis of increased cost to that option chosen following public consultation on the Dudding Lake management plan;
- or**
- b) Request the Chief Executive to negotiate terms for a management contract for service for the operation of Dudding Lake with Duddings Lake Ltd, such terms to be confirmed by Council before final adoption of any contract; and that the intention to enter into a management contract with Duddings Lake Ltd for a ratepayer contribution of approximately \$37,500 be communicated publicly and no final decision be taken before Council's meeting on 29 April 2010 to provide the opportunity for public views to be heard.

Clare Hadley
Chief Executive