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| Report No: | RESC1-08-11 |
| File No: | R878-1 |
| Date: | 14 July 2011 |
| Decision Required | |

REPORT SUMMARY

Report to: Engineering Services Committee
Meeting Date: 4 August 2011
Report Author: Dugald Ley, Development Engineer
Adrian Humphries, Regulatory Manager
Subject: **Tasman Loop Trail Bylaw**

EXECUTIVE SUMMARY

This report provides a summary of a proposed bylaw which will support the successful operation of the Tasman Loop Trail. The intended bylaw would allow activities on the loop trail to be controlled so as to prevent nuisance to other users and to allow some cost recovery to assist in maintenance costs of the trail.

RECOMMENDATION/S

That the report be received.

DRAFT RESOLUTION

THAT the Engineering Services Committee receives the Tasman Loop Trail Bylaw report, RESC11-08-11 and;
THAT the Engineering Services Committee agrees that the proposed Tasman Loop Trail Bylaw is appropriate under Section 155 of the Local Government Act 2002 as outlined in the report RESC11-08-11; and
THAT the Engineering Services Committee approves that under Section 156 of the Local Government Act 2002 the proposed Tasman Loop Trail Bylaw be circulated for public consultation under the special consultative procedure as set out in Section 83 of the Local Government Act 2002 and noted in the report RESC11-08-11.

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1. Purpose

- 1.1 The purpose of this report is to provide background to the Engineering Services Committee regarding the proposed Tasman Loop Trail Bylaw (or new name to be developed) 2011 (attached as Appendix A) and a recommendation to proceed via the special consultative procedure as defined in Section 83 of the Local Government Act 2002.

2. Background

- 2.1 Councillors will recall that Council has an agreement with the Ministry of Economic Development to construct stage one of the Tasman Loop Trail.
- 2.2 The initial focus of the Government overseen by the Ministry of Economic development is to create a series of “Great Rides of New Zealand” and this will be branded Nga Haerenga (the New Zealand Cycle Trail).
- 2.3 The Tasman Loop Trail and the Nelson City Dun Mountain Trail were lucky enough to be selected by the Ministry as one of the 18 trails which will rank as “a high quality asset that offers a world-class cycling experience and enhances New Zealand’s competitiveness as a visitor designation”.
- 2.4 Council received \$2,145,911 as a contribution to the first 44.2 kilometres (stage one) of the total Loop Trail length of 175 kilometres. Council is required to brand the Tasman Loop Trail as part of Nga Haerenga. The agreement with the Ministry of Economic Development also includes a clause that:

“The Tasman Loop Cycle Trail be managed and maintained in a manner that is consistent with the objectives of Nga Haerenga, New Zealand Cycle Trail; and

“Council must remove the branding of the Tasman Loop Cycle Trail if the Ministry considers the Council has failed to comply with the trial being managed and maintained appropriately”.

- 2.5 It is clear in the funding agreement that once the trail has been audited as the “Nga Haerenga, New Zealand Cycle Trail” then that high standard needs to be maintained.
- 2.6 Council needs to protect what happens on and around the trail to ensure the Nga Haerenga brand is maintained. In order to comply with these requirements it is proposed that a bylaw be made under the Local Government Act 2002. This will also allow the safe use of the trail and reduce any incidents of nuisance.
- 2.7 Council staff have spoken to colleagues at Selwyn District Council who created the “Selwyn District, Christchurch to Little River Rail Trail: Prebbleton to Lincoln Bylaw 2007” which is now in force and this has been used as the basis of this proposed bylaw.

Bylaw Detail

- 3.1 As the trail is 175 km long the type of restrictions pertaining to each area varies greatly. The intention is that this will allow many types of users to enjoy the trail whilst still reducing nuisance and enhancing safety. A set of maps of the loop trail denoting where particular restrictions are located is also attached (Appendix B).
- 3.2 Two features of the bylaw are highlighted:
 - i) restrictions on where dogs and horses can be walked or ridden;
 - ii) restrictions on advertising signage without appropriate approval and targeted rates on the landowner where the sign is erected.
- 3.3 The process to enact a bylaw is via Section 155 of the Local Government Act 2002. That section requires Council to consider a proposed bylaw as follows:
 - Is it the most appropriate way of addressing the perceived problem;
 - Alternatives to a bylaw;
 - Effectiveness of the bylaw;
 - Cost-benefit analysis of the bylaw; and
 - Community wellbeing.

- 3.4 Council staff have considered these points and can confirm that the requirements of Section 155 have been met. These requirements and the considerations by staff are shown below in Appendix C.
- 3.5 Cr Kit Maling (Council’s representative on the Nelson Tasman Cycleway Trust) has agreed to “champion” this bylaw through the special consultative process.
- 3.6 In clarifying the two restrictions noted above, these are required because:
- i) Horses and Dogs – Horses damage the cycleway and leave large deposits, dogs, not so large. In some cases, ie stopbanks allowance has been provided for cyclists/walkers on one side and horse and rider on the other with signage depicting this. In areas of bird habitat and where the trail traverses private property, dogs will not be permitted as if they are uncontrolled they will disrupt nesting birds.
 - ii) Signage advertising goods and services. This needs to be considered in terms of controlling the size, shape and look of signs adjacent to the trail. Additionally, controlling their use as a means of collecting a targeted rate should be examined. Any income from the targeted rate could be used for marketing and/or maintenance of the trail. (Note, administration of this is most likely to lie with the entity that manages marketing of the trail).
- 3.7 Section 83 of the Local Government Act 2002 sets out the requirements that a bylaw needs to follow and is not dissimilar to Council’s recently approved “Dog Control Bylaw, 2009”. This has been considered and any new bylaw will be consistent.
- 3.8 It is proposed that staff be given approval to formalise the bylaw via the Section 83 process and report back to Council for final approval after the special consultative procedure.
- 3.9 The proposed bylaw is to protect what happens, on, over and around the Tasman Loop Trail. This will allow Council to meet its commitment to the Ministry of Economic Development and so that the trail can be classed as one of the 18 high quality assets in New Zealand providing a world-class cycling experience.

4. Present Situation/Matters to be Considered

- 4.1 Without this bylaw it is unlikely that Tasman District Council can comply with the requirements of the Ministry of Economic Development and this could result in the funding being withdrawn. It is also imperative that the use of the trail be such that safety of users and freedom from nuisance be maintained.

5. Financial/Budgetary Considerations

- 5.1 It is proposed that the special consultative procedure be funded through existing budgets. It is likely that one meeting will be scheduled with stakeholders and subsequently public submissions will be invited. Council will need to hear these submissions in a separate forum.
- 5.2 There may be some slight increase in enforcement costs, however with appropriate signage at selected points along the route it is envisaged that this will largely be self-policing due to the number of cyclists/walkers using the trail.
- 5.3 After an initial outlay it is anticipated that the targeted rate will cover replacement signage costs.

6. Options

- 6.1 Continue with the process and protect the route so that the standard “great trail ride of New Zealand” is maintained.
- 6.2 Do not continue with the process. This will mean that other than signage and the goodwill of the users the trail could deteriorate from damage by animals and subsequent deterioration of the surface. Also Council would have no power to control dogs that may threaten endangered birds.

7. Pros and Cons of Options

- 7.1 Continuing with the process will allow a suitable bylaw to be consulted upon and put in place.
- 7.2 Not continuing will put at risk funding and safe use of the loop trail for all users and a low degradation of the trail and potential loss of the Nga Haerenga brand.

8. Evaluation of Options

- 8.1 Continuation of the process is seen as the only viable option to protect Council’s ability to maintain the Nga Haerenga brand, part of the New Zealand Cycle Trail.

9. Significance

- 9.1 This is not a significant decision according to the Council's Significance Policy because it does not contravene the funding threshold and there are no major social, economic, environmental or cultural impacts.

10. Recommendation

- 10.1 That the process be allowed to continue via the special consultative procedure so that the public can have input to the proposed bylaw.

11. Timeline/Next Steps

- 11.1 Once the resolution below is passed then staff will start the process and consult with interest groups before publicly advertising the proposal. It is planned to enact the bylaw before the end of 2011.

11. Draft Resolution

- 11.1 THAT the Engineering Services Committee receives the Tasman Loop Trail Bylaw report, RESC11-08-11 and;**
- 11.2 THAT the Engineering Services Committee agrees that the Tasman Loop Trail Bylaw is appropriate under Section 155 of the Local Government Act 2002 as outlined in the report RESC11-08-11; and**
- 11.3 THAT the Engineering Services Committee approves that under Section 156 of the Local Government Act 2002 the Tasman Loop Trail Bylaw be circulated for public consultation under the special consultative procedure as set out in Section 83 of the Local Government Act 2002 and noted in the report RESC11-08-11.**

Appendices:

Appendix A – Proposed Bylaw

Appendix B – Proposed Bylaw maps

Appendix C – Section 155 of the Local Government Act 2002