

QLDC Council
16 December 2021

Report for Agenda Item | Rīpoata moto e Rāraki take : 12

Department: Property & Infrastructure

Title | Taitara 121 Plantation Road, Wānaka: Proposed Disposal of Reserve

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 This report relates to the land known as the “old pool site” at 121 Plantation Road Wānaka (Site), adjacent Mount Aspiring College. The purpose of this report is to seek a resolution from the Council to revoke the reserve status over the Site and dispose of the it, where there is an opportunity to transfer the Site to the Ministry of Education for an expansion of Mount Aspiring College.
- 2 The Wānaka Community Board considered this matter at its meeting on 4 November 2021, and endorsed the proposal to revoke the reserve status and transfer the Site to the Ministry of Education.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Resolve** pursuant to section 24(1) of the Reserves Act 1977 that the recreation reserve classification over the land at 121 Plantation Road Wānaka, vested in the Queenstown Lakes District Council, Record of Title OT14B/354 (the Site) is revoked on the basis the Site is no longer needed for reserve purposes because:
 - a. the swimming pool on the Site has since been decommissioned and replaced with a superior facility at the Wānaka Recreational Centre; and
 - b. there is already high quality recreational space to meet the needs of the community in the area.
3. **Approve** public notification of the proposal to revoke the reserve classification over the Site in accordance with sections 24 and 119 of the Reserves Act 1977;
4. **Appoint** members of the Wānaka Community Board (any two of which can form a hearing panel) to hear any submissions and make a recommendation to Council in accordance with section 120 of the Reserves Act 1977; and
5. **Delegate** to the Chief Executive the authority to take such action and sign such documents as may be reasonably necessary to implement the above resolutions and matters ancillary to them.

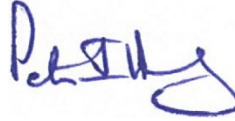
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3/12/2021

Reviewed and Authorised by:



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3/12/2021

CONTEXT | HOROPAKI

- 3 This report relates to the recreation reserve situated at 121 Plantation Road Wānaka, vested in Council, Record of Title OT14B/354, being Lot 1 on DP 22331 with an area of 6,441 sqm (the **Site**). A diagram of the Site is included in **Attachment A**.
- 4 The Wānaka community pool was previously situated on the Site, however it was decommissioned when the new pool was opened at the Wānaka Recreational Centre in mid-2018. The Site is due to be either re-purposed or disposed of by Council.
- 5 The Ministry of Education (**MoE**) have been in discussions about the Site. The Site is adjacent to Mt Aspiring College and MoE wish to acquire the Site to facilitate expansion of the school.
- 6 While there are a number of methods available for transferring the Site, if the transfer is Council-led, the Council will need to revoke the reserve status from the Site (in accordance with the Reserves Act 1977) to enable disposal. The discussions between Council and MoE officers have established support for this approach.
- 7 If the Site is sold to MoE, then there is also the opportunity to incorporate into the terms of sale a Site-specific active travel route for the Wānaka Schools to Pool initiative.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

Background and ownership

- 8 In 1954 the Site was part of a larger block of land that was subdivided and set aside as recreation reserve vested in the Crown pursuant to s 13 of the Land Subdivision in Counties Act 1946. The reserve was identified as 'part of section 221 DP 8072' (**Reserve**).
- 9 Following the creation of the Reserve, in 1983 the Reserve was vested in the Council under the Reserves Act 1977 by Gazette Notice GN 599661 – NZGZ 1983 p. 2176 which stated:

pursuant to the Reserves Act 1977, and to a delegation from the Minister of Lands, the Assistant Commissioner of Crown Lands hereby classifies the reserve, described in the Schedule hereto, as a recreation reserve, and vests the said reserve in the Lake County Council in trust for that purpose, with effect from 1 April 1983
- 10 In 1992 the Reserve was further subdivided to form the Site (OT14B/354) and a balance lot. In 1995, gazette notice 894644/3 was issued revoking the reserve status for the balance lot and stated:

Gazette Notice revoking the reservation of the within land as a recreation reserve and further declares the said land may be disposed of by the Queenstown Lakes District Council – 2.11.1995 at 9.34am.
- 11 As the balance lot became freehold land on revocation of the reserve status, the Council was free to deal with it as it saw fit. The balance lot was later subdivided (by the Council)

in 1996 into two parcels and again in 1997 into the smaller residential lots that exist along Totara Terrace.

- 12 If it is decided that the Site is no longer required for its current reserve purpose, the Council may revoke the reserve status and dispose of the Site in the same manner as the balance lot, in accordance with s 24 of the Reserves Act 1997 (the **Act**).
- 13 When revocation occurs, usually Section 25(1) of the Act operates so that if the land was vested in the Crown or in any local authority or trustees deriving title from the Crown, it becomes Crown land available for disposal under the Land Act 1948, and in any other case may be disposed of in such manner and for such purpose as may be specified by the Minister.
- 14 However, Section 25(4) further provides that for the purpose of s 25(1) where a reserve was vested in the Crown under s 13 Land Subdivision and Counties Act and was later vested in the Corporation of the county as a reserve, the title of the reserve shall be deemed to have been derived by the Corporation otherwise than from the Crown. Accordingly, for the purpose of revocation and subsequent disposal, the land may be disposed of in such manner and for such purposes as may be specified by the Minister.
- 15 The Council's interpretation of this provision that the land vested in the Crown as reserve land under the Land Subdivision in Counties Act is not intended to revert to Crown ownership. Rather, when its reserve status is revoked, subject to any direction from the Minister, the Council is free to dispose of the Site as it sees fit and realise value for the land. This was certainly the case when the reserve status of the balance lot was revoked.
- 16 Gazette Notice GN 894644/3 (referred to above) makes it clear that when the balance lot had its reserve status revoked, the Council was free to dispose of the land.

Revoking Reserve Status and disposal

- 17 Under section 24(1)(b) of the Reserves Act 1977, pursuant to a resolution (with the reasons stated), the Council may notify the Commissioner in writing that the classification of the reserve should be revoked.
- 18 We have engaged with the Parks Planning team when assessing whether the Site is no longer needed for reserve purposes. The Parks Planning team consider the Site is not needed for reserve purposes because the Site accommodated a swimming pool which has since been decommissioned and replaced with a superior facility at the Wānaka Recreational Centre. They assessed that the Site is also not needed for reserve purposes on the basis that there is high quality recreational space to meet the needs of the community in this area.
- 19 If it is resolved that the Site is not needed for reserve purposes, it is considered that it would be appropriate to dispose of the Site to MoE, given the Site is adjacent to Mt Aspiring College and would enable the school to expand, which is of benefit to the community.

20 Before the reserve classification is revoked, under s 24(2)(b) of the Reserves Act, the Council must also consult with the Commissioner and decide if the proposed reserve revocation should be publicly notified. The proposed steps and timetable which detail this process are set out in **Attachment B**. Officers recommend that the Council publicly notify the proposed revocation, as set out in the consultation section below at 34.

Engaging with Ngāi Tahu

21 Typically when reserves are being disposed of they are considered 'relevant land' under the Ngāi Tahu Claims Settlement Act 1998 and are subject to a first right of refusal to Ngāi Tahu.

22 In this case, because of the history of how the Site vested in the Council, Council's view is the Site is not relevant land subject to a first right of refusal (refer s 48 Ngāi Tahu Claims Settlement Act 1998), because the Site vested through the Land Subdivision and Counties Act 1946 and does not re-vest in the Crown once reserve status is revoked. This view has been made known to MoE officers.

23 Council officers have contacted Ngāi Tahu to explain the Council's proposed revocation of reserve status for the Site and potential disposal to MoE, and Council's reasons for considering that the first right of refusal will not apply.

Disposal to MoE

24 Officers have discussed with MoE the value of the Site. MoE have indicated it is agreeable to paying for the land based on an appropriate valuation.

Options

25 Option 1 Revoke Reserve Status and dispose of the Site, potentially to MoE

Advantages:

26 The process is Council-lead so we are able to consult and engage with the community. The proposed disposal to MoE benefits the community through facilitating expansion of Mount Aspiring College. The Council will receive consideration for the disposal to MoE (valuation method to be agreed).

Disadvantages:

27 Community views are unknown so there may be future work for the Council to undertake if the proposed revocation is publicly notified and people object to the revocation.

28 Option 2 Retain the Site as Recreational Reserve

Advantages:

29 Although the former pool on the Site is no longer in use, if the Site retains its status as a recreational reserve, the Council could use the Site in another way for the purpose of recreation which could benefit the community.

Disadvantages:

30 The Site may not be widely used for a long time. Retaining the Site could damage the Council's relationship with MoE given the Site is ideal for facilitating expansion of Mt Aspiring College. MoE also has the ability to compulsorily acquire the Site under the Public Works Act 1981 in any case so a transfer may occur.

31 This report recommends **Option 1** for addressing the matter because revoking the reserve status over the Site and disposing to MoE benefits Mount Aspiring College and in turn, the community. In any case, a transfer to MoE may go ahead in any case given MoE's ability to compulsorily acquire the Site.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

32 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy. Although the Site is not a Strategic Asset and is not activity being used (given the new pool in Wānaka), revocation of the reserve and potential disposal to MoE could affect a number of people in the community.

33 The persons who are affected by or interested in this matter are people in the Wānaka community who may be people affiliated with Mount Aspiring College, Ngāi Tahu and other members of the Wānaka community who may lose a potential recreational space.

Public Notification

34 If the Council makes a resolution to revoke the reserve status over the Site, we recommend that the Council gives public notice of the proposed revocation in accordance with s 24(2) and 120 of the Reserves Act. As above, we have identified that some community members may have an interest in the disposal. In the interest of openness and transparency, we recommend that persons who claim to be affected have the opportunity to make submissions or objections to the proposed revocation.

35 We suggest that members of the Wānaka Community Board are appointed to a hearings panel to consider any submissions and objections received and hear any oral submissions if so requested. If objections are received, these are to be considered by the panel who are to make a recommendation whether or not to proceed with the proposal. The disposal of the land will proceed only if the panel recommends this outcome and the recommendation is accepted by the Council.

36 The recommendation and summary of objections / submissions is to be forwarded to the Commissioner with the Council's resolution (refer s 24(2)(c) Reserves Act). The Minister is to then make a determination that the Reserve is no longer suitable for its classified purpose and may revoke the classification by gazette.

> MĀORI CONSULTATION | IWI RŪNANGA

- 37 As stated above, the Council is contacting Ngāi Tahu informing them of the proposal and inviting feedback. We anticipate we will further consult with Ngāi Tahu if they wish to be involved.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 38 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00009 Ineffective management of community assets within the QLDC Risk Register. This risk has been assessed as having a high inherent risk rating.
- 39 The approval of the recommended option will support the Council by allowing us to avoid the risk. This shall be achieved by engaging with the community to determine if revoking the reserve status of the Site and disposal to MoE is the most appropriate use of the Site.
- 40 There is a risk that upon the revocation of the reserve status, the Minister may not take the same approach as previously and may specify different terms of disposal (see paragraphs 14-16 above). This risk is considered low as it would involve the Minister departing from prior practice.
- 41 There is a risk Ngāi Tahu may challenge Council's view that the Site will not be subject to a first right of refusal, and this may lead to legal proceedings and/or a reassessment of the process outlined in this report. This risk is considered moderate and will be managed during the process.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 42 The main financial implication is the disposal of a Council asset for value. The Council will receive consideration for the transfer of the Site to MoE. Any valuation method is still to be agreed. The proceeds of a sale will go to the Wānaka Asset Sale Reserve and be available for other Council community initiatives. The potential sale has not been budgeted for in the 10 Year Plan. The transaction costs are not expected to be a material impost on Council.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 43 The following Council policies, strategies and bylaws were considered:
- Vision Beyond 2050 (thriving people)
 - Significant and Engagement Policy
 - Property Sale and Acquisition Policy 2014
- 44 The recommended option is consistent with the principles set out in the named policy/policies.

45 This matter is not specifically included in the Ten Year Plan/Annual Plan. While Reserves are considered in the Plans, given the pool on the site is no longer in use, this reserve is not specifically mentioned.

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

46 The Council will need to engage with the Reserves Act 1977 process for revoking a reserve. The legal interests of Ngāi Tahu are discussed above.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

47 Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act given that any use of the Site is intended to benefit the community;

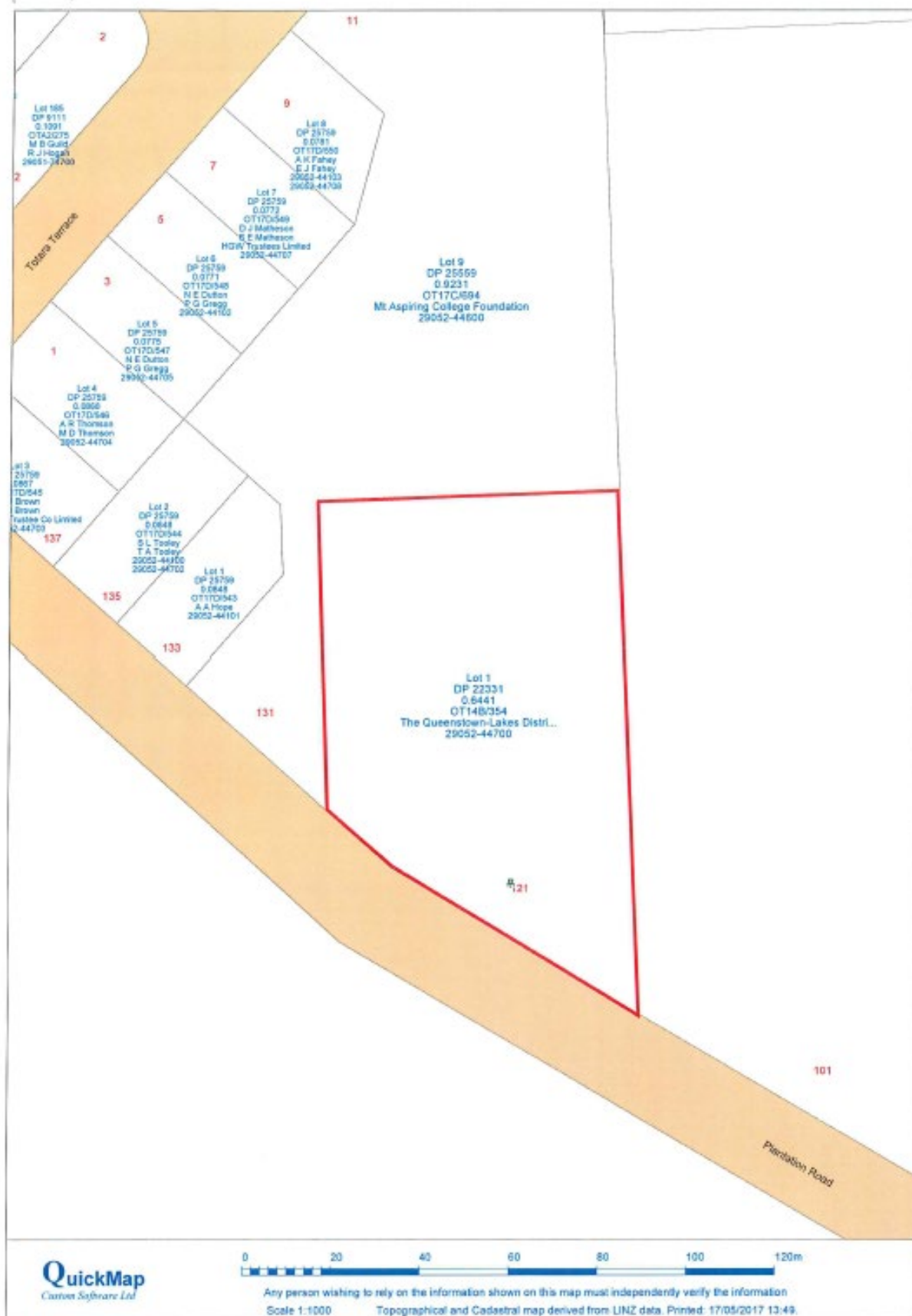
48 The recommended option:

- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Site diagram
B	Process for revoking reserve and disposal

Attachment A – Site Diagram





Attachment B – Process for revoking reserve and disposal

<p>October – November 2021</p>	<p>Initiate process</p> <ul style="list-style-type: none"> • Letter to Ngāi Tahu raising our position that we understand the Site is not subject to a right of first refusal • Council officers assess whether reserve classification should be revoked to enable disposal (through s 24(1)(b) Reserves Act process) and consider disposal; • Discussions with MoE as to potential transfer and valuation
<p>4 November 2021</p>	<p>Matter taken to Wānaka Community Board</p> <ul style="list-style-type: none"> • WCB endorse proposal to revoke reserve status and for potential transfer to MoE
<p>16 December 2021</p>	<p>Report to Full Council</p> <ul style="list-style-type: none"> • Council to make resolution to revoke reserve classification on the basis the Site is no longer needed for reserve purposes; • Make decision on the recommendation to publicly notify proposed revocation
<p>Early – Mid 2022</p>	<p>Publicly Notify Revocation</p> <ul style="list-style-type: none"> • Officers consult with the Commissioner on the proposed revocation (s 24(2)(b) Reserves Act) • Officers consult further with Ngāi Tahu if they wish to be involved • Officers arrange public notice • Hearings Panel hears and considers submissions / objections and makes recommendation on whether to proceed with proposal • Council resolution and recommendation (and summary of objections if applicable) forwarded to the Commissioner <p><i>Once consultation / public notification is completed</i></p> <p>Minister to make Decision</p> <ul style="list-style-type: none"> • Minister to determine that reserve is no longer suitable for the purpose of its classification (s 24(3) Reserves Act) • Minister gives gazette notice revoking reserve <p>Disposal of the Site</p> <ul style="list-style-type: none"> • Council holds Site as freehold (and no longer subject to reserve classification) • Valuation for the Site to be agreed with MoE (each obtain individual valuations using same methodology) • Council to dispose of the Site to MoE