

**QLDC Council**

10 August 2023

**Report for Agenda Item | Rīpoata moto e Rāraki take [7]**

**Department: Property & Infrastructure**

**Title | Taitara : Road Realignment at Hunter Road and Speargrass Flat Road**

**Purpose of the Report | Te Take mō te Pūroko**

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The purpose of this report is to consider an unformed legal road realignment between Hunter Road and Speargrass Flat Road.

**Recommendation | Kā Tūtohuka**

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That the Council:

1. **Note** the contents of this report;
2. **Approve** initiation of the procedures of Section 114 of the Public Works Act 1981 to declare as road those portions of land shown on the attached Clark Fortune McDonald & Associates plan 14231 dated the 24/06/20, shown in blue and held in Record of Title OT12A/419 totalling 2.0237 hectares subject to survey;
3. **Approve** initiation of the procedures of section 116 of the Public Works Act 1981 to stop those portions of road shown on the attached Clark Fortune McDonald & Associates plan 14231 dated the 24/06/20, shown in yellow totalling 2.6842 hectares;
4. **Approve** that the road realignment be subject to the registration of Right of Way (Pedestrian) easements shown as area A and B on Attachment B to this report;
5. **Approve** that all necessary resource consents for the subdivision and associated road realignment be obtained by the applicant;
6. **Approve** that the exchange be completed subject to consideration to be assessed by a registered valuer appointed by the Council;

7. **Agree** that Council's approval to undertake this process and any sale and purchase agreements relating to it shall be limited to a period of 2 years from the date of this resolution;
8. **Agree** Council's costs in undertaking the process are to be billed and paid monthly by the applicant; and
9. **Delegate** final terms and conditions along with approvals for the placing or removal of easements, minor alignment and area changes and signing authority to the Chief Executive of Council.



**Name:** Quintin Howard  
**Title:** Property Manager

15 July 2023



**Name:** Tony Avery  
**Title:** General Manager, Property & Infrastructure

21 July 2023

## Context | Horopaki

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1. The Council has a number of unformed legal roads throughout the district, often derived from the Crown via some of the earliest surveys of the district. The 'paper' roads when unformed for vehicles, are often useful for placing infrastructure, or to provide connections for the growing number of trails developed by the Queenstown Trails Trust (QTT).
2. The Council has received a request to realign a portion of the unformed legal road adjoining property owned by Duncan Robertson and Jan Hunt. The realignment is requested by the landowner who has made a resource consent application to subdivide the block into 4 parcels. The site is currently going through a notified subdivision consent RM210827, which has been notified with 6 submissions received, and is currently on hold..
3. The unformed legal road is currently approximately between 30 and 20m metres wide, however a 20m width is proposed to be created/retained following the road realignment process, which is more typical as a local road width.
4. Through the road realignment process, the Council will also gain ROW Pedestrian easements at both ends of the road stopping in order to provide preferred trail alignments for the future trail. These are shown as easement areas A & B and are coloured green.

## Analysis and Advice | Tatāritaka me kā Tohutohu

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5. Council is considering the road realignment because it is viewed to improve Council and public access through the privately-owned land and is a preferable location compared to the existing unformed legal road route for the future trail alignment. These benefits would accrue irrespective of whether the proposed subdivision gains consent or not and is not considered to be a determinant for whether the consent will be approved or not. In addition, the Queenstown Trail network will benefit from the relocated road, by gaining a preferred alignment that is more easily constructable and will have a more consistent gradient. It should be noted that the construction timing of the proposed link is not currently known.
6. Under the proposal illustrated on Attachment B, legal road will be stopped and transferred (highlighted in yellow), with new road (highlighted blue). The road realignment takes place wholly within the applicants property, and therefore will not directly affect other owners nearby.
7. With a road realignment, the Council is typically concerned with ensuring that public access is preserved, and that the new alignment will be no less favourable than at its existing position. These are also requirements for the Public Works Act 1981 road legalisation process.
8. Council's Chief Engineer, Transport Strategy Manager and Roding Operations Manager have been consulted on the application and approve of the stopping. The road width proposed under the new alignment will be decreased to approximately 20m which is a typical width for local roads throughout the district.

9. The process of stopping the road and taking of new road will be undertaken pursuant to sections 114 & 116 of the Public Works Act. Section 114 covers the process to declare land to be road, whilst section 116 relates to the stopping of existing legal road. Final approval of the stopping sits with the Minister of Lands, who will review the overall impact of the proposal, along with any written consents before making a decision.
10. As the road being stopped and exchanged is greater than the new road being vested, the exchange is not considered to be equitable. Should the request be approved by Council, a registered valuer will be appointed by the Council to value the land and set the applicable compensation payable.
11. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.
12. Option 1 Agree to progress the proposed road realignment.

*Advantages:*

- Will realign the road to provide for a more beneficial and optimal utilisation of the land for future trail public trail construction and the proposed development.
- Will continue to provide a future infrastructure route between Hunter Road and Speargrass Flat Road.
- Will result in compensation payable to Council for the inequity of exchange.

*Disadvantages:*

- Would stop and relocate an existing road as currently positioned.

13. Option 2 Decline the request.

*Advantages:*

- Will preserve the current status quo with the unformed legal road alignment.

*Disadvantages:*

- Would not realign the road to provide for a more beneficial and optimal utilisation of the land for future trail public trail construction and the proposed development.
- Would not result in compensation payable to Council for the inequity of exchange.

14. This report recommends **Option 1** for addressing the matter because it will result in a more beneficial trail route and improve the utilisation of the land for the proposed private development at no cost to the Council.

## Consultation Process | Hātepe Matapaki

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### Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

15. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it involves the stopping and disposal (through exchange) of Council legal road.
16. The persons who are affected by or interested in this matter are the residents and ratepayers of the Queenstown Lakes District.
17. The Council has carried out initial consultation with both the Queenstown Trail Trust and Walking Access Commission, with no concerns being raised by either party.

### Māori Consultation | Iwi Rūnaka

18. The Council has not consulted with Iwi in this instance, as the exchange involves land of particular interest to the owner and adjoining owners, as well as future trail users including iwi.

## Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

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19. This matter relates to the Community & Wellbeing risk category. It is associated with RISK00009 within the QLDC Risk Register. This risk has been assessed as having a high inherent risk rating. This matter relates to this risk because the Council seeks to dispose of a perpetual property right through the disposal of legal road (through exchange), and this risk needs to be highlighted when considering the approval of any roading action.
20. The approval of the recommended option will support the Council by allowing us to implement additional controls for this risk. This shall be achieved by the Public Works Act process requiring the consent of adjoining property owners and the Minister of Lands.

## Financial Implications | Kā Riteka ā-Pūtea

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21. All costs associated with the exchange will be met by the applicant. Compensation payable by the applicant for the inequity of the exchange, will be valued by a registered valuer, appointed by the Council.

## Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

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22. The following Council policies, strategies and bylaws were considered:
  - Vision Beyond 2050, supporting Thriving People through provision of effective roading assets.
  - Significance & Engagement Policy 2021

- Property Sale and Acquisition Policy 2014
- The recommended option is consistent with the principles set out in the named policies.
- This matter is not included in the Ten Year Plan/Annual Plan but has no effect upon it.

#### Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

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23. To carry out the road exchange the Council must follow the procedures of section 114, 116, 117 & 120 of the Public Works Act 1981, receiving all necessary consents to the Exchange.

#### Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

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24. The recommended option:

- 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. This is enabled by the optimal location of roads within the district for the benefit of the wider community. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act;
- Can be implemented through current funding under the Ten Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not significantly alter 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 | Kā Tāpirihaka

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A	Overview Plan
B	Road Realignment Plan