

QLDC Council
29 July 2021**Report for Agenda Item | Rīpoata moto e Rāraki take : 11****Department: Property & Infrastructure****Title | Taitara Use of sliver of 63 Ballarat Street for additional / different purpose****PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO**

- 1 The purpose of this report is to obtain Council's agreement to use a 411m² sliver of 63 Ballarat Street for an additional or different purpose, namely roading and related purposes.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 The Queenstown Arterials project, a long intended project of the Council's has secured designation and consents through the Fast-track consenting legislation. Funding for the first portion of this project has also been secured under the "shovel ready project" funding from Central Government and construction contracts have been let.
- 3 A small sliver of local purpose reserve land, held by Council as a site for a community centre, is required to enable construction of stage 1 of the Arterials. This will not preclude use of the wider site for such purposes in due course, and in fact will facilitate them by managing traffic around the Council land holdings in a more sensible fashion. It is proposed that the Minister of Local Government's approval be sought to give an additional or different purpose (namely roading and related purposes) to this 411m² sliver of 63 Ballarat Street.

RECOMMENDATION | NGĀ TŪTOHUNGA


That Council:

1. **Note** the contents of this report;
2. **Agree** to use a 411m² sliver of 63 Ballarat Street (**the site**) for an additional or different purpose, namely roading and related purposes; and
3. **Authorise** the Council's General Manager Property & Infrastructure to seek approval of the Minister of Local Government to use a 411m² sliver of the site for an additional or different purpose, namely roading and related purposes.

Prepared by:



Reviewed and Authorised by:



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15/07/2021

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15/07/2021

CONTEXT | HOROPAKI

- 4 The Queenstown Arterials project is required to address traffic and congestion in the Queenstown town centre as well as improving pedestrian safety and town centre amenity. These issues have been identified in a number of strategies and studies since the early 2000s, including the 2005 FutureLinks Transport and Parking Strategy, 2008 and 2014 Inner Links Study and 2017 Queenstown Town Centre Masterplan Town Centre Arterials indicative business case.
- 5 On 17 December 2020, the Council applied under the COVID-19 Recovery (Fast-track Consenting) Act to designate the corridor of the proposed Town Centre Arterial road and sought resource consents for specific activities associated with it. On 16 April 2021, the Expert Consenting Panel approved the notice of requirement and associated resource consents. The resource consents commenced on 11 May, after expiration of the appeal period.¹ The Council must now include the designation in the District Plan and Proposed District Plan.²

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 6 As part of stage 1 of the Arterials, a sliver of 63 Ballarat Street is required to construct the road. This sliver is shown in **ATTACHMENT A** (area marked green). It amounts to 411 m².
- 7 This sliver is essential to connect Melbourne Street and Henry Street. The width of the alignment is determined by the width of those other streets and there is no movement possible north-east of the road. The alignment will enable safe vehicle passage, adequate pedestrian amenity and footpath widths (2800mm to the south side of the street and 2700mm to the north side), as well as the construction of a retaining wall to accommodate the grade change in the land.
- 8 In addition, this sliver may be required to accommodate works associated with a pedestrian over bridge as part of Project Manawa. Project Manawa entails the construction of new council offices and a cultural facility at 63 Ballarat Street. Although Project Manawa is not consented, the nature and scale of such development is provided for in the Queenstown Town Centre zoning that applies to the site.
- 9 The swimming pool site is Crown reserve land, vested in trust to the Council for a local purpose reserve. The specified purpose is a “site for a community centre”.
- 10 Land that is vested in trust to the Council is “endowment property” for the purposes of the Local Government Act 2002 (LGA). Endowment property “must be retained by the

¹ Resource Management Act 1991, s 116.

² COVID-19 Recovery (Fast-track Consenting) Act 2020, sch 6 cl 41.

local authority for the purpose for which the property was vested in the local authority”. However, s 140(4) of the LGA provides that the Minister of Local Government may approve in writing “additional or different purposes for which the property may be used”.

- 11 In order for the Arterials to be built and used as road, the Minister of Local Government needs to approve an additional or different purpose for the sliver of the swimming pool site. The additional or different purpose that is sought is “roading and related purposes”.
- 12 Option 1 Council accepts to use the 411m² sliver for additional or different purposes.

Advantages:

- 13 Enables the Arterials project to be constructed and become operational in a timely fashion.
- 14 Ensures safe vehicle passage and adequate pedestrian amenity and footpath widths.
- 15 Enables Project Manawa to proceed, which benefits the local community by having updated cultural and community facilities.
- 16 Enables better utilisation of reserve land.

Disadvantages:

- 17 The 411 m² sliver of the site is not used for its current specified purpose.
- 18 Option 2 Council declines to use the 411 m² sliver for additional or different purposes.

Advantages:

- 19 The 411 m² sliver of the site is used for its current specified purpose.

Disadvantages:

- 20 Would not enable the Arterials project to be constructed and operational.
- 21 Would not ensure safe vehicle passage and adequate pedestrian amenity and footpath widths.
- 22 Would not enable Project Manawa to proceed and therefore would not provide benefits to the local community by having updated cultural and community facilities.
- 23 Would not enable better utilisation of reserve land.
- 24 Option 3 Council uses a different parcel of land to complete the Arterials project.

Advantages:

- 25 The 411 m² sliver of the site is used for its current specified purpose.

Disadvantages:

- 26 The consented design of the road relies on use of this particular portion of land. The steep grades in this area and location of existing privately owned land and assets mean that options that do not have other and potentially greater effects are not evident.
- 27 The Arterials project could not go ahead if additional land could not be found.
- 28 Would not enable better utilisation of reserve land.
- 29 This report recommends **Option 1** for addressing the matter because it enables the Arterials project to progress and provides land for updated cultural and community facilities. This option does not intrude upon any private landowner's existing rights or arrangements.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 30 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because affected individuals and organisations in the community have had the opportunity to participate in the approval of the designation and consents through the Fast-track Act process, the project is required to achieve Council's existing policy and strategies, the decision is required to give effect to the Council's objectives set out in documents such as the Infrastructure Strategy and Long Term Plan, the project is aligned with the Council's Climate Action Plan and mana whenua have been consulted in the course of preparing the project for fast-track consenting.
- 31 The Council's Special Consultative Procedure (**SCP**), as specified in the Council's Significance and Engagement Policy (**SEP**), provides the formal process that enables the community to have a say on significant decisions. The SCP does not need to be undertaken because the Site is not a significant strategic asset under the Council's SEP.
- 32 Although the SCP does not need to be followed in regards to using a sliver of the Site for an additional or different purpose, the Council has undertaken significant public consultation in regards to the wider Arterials project.
- 33 Since 2008, the Council has undertaken substantial consultation with a variety of stakeholders and interested parties including tangata whenua, Government and local government agencies, local residents and landowners. The types of consultation undertaken by the Council included public open days, letters, stakeholder workshops and meetings, public online survey, advisory groups, education campaigns, and landowner meetings.
- 34 The documents and business cases that were consulted on include:
 - a. the "Future Links" transportation study in 2005;
 - b. the Inner Queenstown Transportation Study – Final Scoping Report in 2008;
 - c. the Queenstown Inner Links Business Case in 2014;

- d. the Queenstown Town Centre Masterplan in 2018;
 - e. the Frankton to Queenstown Single Stage Business Case in 2019;
 - f. the Queenstown Town Centre Detailed Business Case in 2019;
 - g. the Way To Go Detailed Business Case in 2018-2020; and
 - h. the Arterials Designation in 2020.
- 35 As part of the to the Inner Queenstown Transportation Study – Final Scoping Report, public consultation comprised the release of the discussion document on the Council’s website, a mail out to ratepayers and delivery of letters to properties along the affected routes. A brochure was also distributed as an insert in the local paper, emails, briefings to local business and interest groups and a drop in session was held on 3 July 2008.
- 36 In relation to the Queenstown Inner Links Business Case, engagement activities included an article being placed in the December 2013 issue of the Council’s newsletter and a public open day held on 9 April 2014. The public, affected owners/occupiers and interested parties were advised of the open day in advance through a number of means including a public notice in local newspapers, on social media and targeted letters and emails to ratepayers and occupiers along and adjacent to the route and other stakeholders including NZ Police, the Chamber of Commerce, Queenstown Primary School, St Joseph’s School and Church, the Wakatipu Senior Citizens Association and CCS Disability Action. A web-based feedback option was provided as part of the open day and twelve online responses were received along with two detailed written ‘submissions’ that accompanied two of the online forms. Letters were sent to all those who were considered to be most directly affected by the project and, as a consequence, individual meetings were held with a number of parties
- 37 As part of the Queenstown Town Centre Masterplan, the Council held a range of engagement activities in 2017 including local information stands, introductions to Council staff and businesses, a public online survey, Stakeholders Options Workshops (April 2017), Findings and Testing Workshops (May 2017), weekly downtown Queenstown meetings, Advisory Group briefings and workshops to support the selection of preferred options.
- 38 Formal consultation on the Queenstown Town Centre Masterplan was undertaken in March 2018 and focussed on the masterplan programme which included the Arterial Route following refinements from stakeholder and investment partners’ feedback. A consultation document was produced and distributed by mail, through the local newspapers and was also made available online. The formal consultation period ran from 12 March 2018 – 13 April 2018 and was notified in the Otago Daily Times, Southland Times, Wanaka Sun and Mountain Scene. 586 submissions were received overall.
- 39 Consultation undertaken for the Arterials designation included sending letters to affected parties (these were properties along the Arterial road route and the property owner group included both residential and commercial properties). The letters gave an overview of the project, fast-track consent process and Stage 1 commencement date. They also directed people to the Council website where the Queenstown Town Centre Arterial project is shown as a major project with further information available about the project, road plans and the online Social Impact survey. Meetings were also held with representatives of the

Wakatipu Rugby Club on 11 September 2020 and representatives of the Queenstown Squash Club on 23 September 2020. Both clubs have a Reserve lease with Council for the grounds at the Queenstown Recreational Reserve where their clubrooms and facilities are located. Stage 2 of the Arterials project will result in the loss of these facilities to construct the new road. At the meetings, an overview of the project was given by Council, there was a general discussion on the impact on the club, the current lease status and the high level relocation options for the club.

- 40 **ATTACHMENT B** is a detailed summary of the consultation and engagement activities that were undertaken for the Arterials project.³

> MĀORI CONSULTATION | IWI RŪNANGA

- 41 As part of the wider Town Centre master planning, iwi consultation was undertaken via Chris Rosenbrock and Tim Vial of Kai Tahu Ki Otago (**KTKO**) and Dean Whaanga of Te Ao Marama in 2014. Iwi considered that the project as a whole should contribute to health and wellbeing and encourage cycling and walking. Iwi also highlighted that Maori cultural landscaping should be considered in the streetscape design and that iwi could be included in the design of any art installations along the route.
- 42 The fast-track consenting process again required further engagement with iwi. Te Ao Marama prepared a cultural impact statement as required by the legislation, and their involvement in refinement of the project design was meaningful and very valuable. The Council made a number of changes to its initial design to accommodate expressed concerns, particularly in relation to the potential for effects on Horne and One Mile Creeks. Iwi organisations did not make any subsequent comment on the application to the Expert Consenting Panel.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 43 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00009 and RISK00012 within the QLDC Risk Register. These risks have been assessed as having a high inherent risk rating. This matter relates to these risks because the decision is necessary to allow construction of the Arterials to proceed.
- 44 The approval of the recommended option will support the Council by allowing us to retain the risk at its current level. This shall be achieved by ensuring construction of the Arterials in the way approved by the Expert Consenting Panel after consideration of the application and comments from the community can proceed.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 45 The applicant will pay for the survey, project management and consenting costs associated with the approval of additional or different purposes.

³ Queenstown Arterials Application and Notice of Requirement, Appendix 9 Consultation Summary Report.

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

46 The following Council policies, strategies and bylaws were considered:

- Significant & Engagement Policy 2021.
- Long Term Plan
- Infrastructure Strategy

47 The recommended option is consistent with the principles set out in the named policy/policies.

48 This matter is included in the Ten Year Plan/Annual Plan in the Transport section.

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

49 As the reserve is vested on trust, s 140 of the Local Government Act 2002 (**LGA**) is engaged. Section 140 of the LGA states:

(1) In this section and section 141, property—

(a) means real property of every type; and

(b) includes every type of estate and interest in property.

(2) This section and section 141 apply to property or part of a property vested in a local authority in trust or as an endowment.

(3) The **property must be retained by the local authority for the purpose for which the property was vested in the local authority.**

(4) However,—

(a) **the Minister may approve in writing additional or different purposes—**

(i) **for which the property may be used; or**

(ii) for which income derived from the property may be used;
or

(b) unless expressly prohibited by the instrument that vested the property in the local authority, the local authority may sell or exchange the property and use the proceeds of the sale or exchange for a purpose identified by the local authority in accordance with section 141.

50 Section 140(3) requires that endowment property “must be retained by the local authority for the purpose for which the property was vested in the local authority”. However, the Minister of Local Government may approve in writing “additional or different purposes for which the property may be used”.

51 The use of the sliver of the Site for additional or different purposes will be considered in accordance with s 140 of the LGA. Legal advice has been sought in relation to the relevant Act and the recommended option is consistent with that advice.

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

52 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. The decision sought by this report will help to enable the efficient and timely construction of the consented and designated Arterials route, which has been the subject of significant public consultation and comment. 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 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	Manawa Land Plan
B	Consultation Summary Report