

QLDC Council

29 June 2023

Report for Agenda Item | Rīpoata moto e Rāraki take [5]

Department: Property & Infrastructure

Title | Taitara : Waterfall Park Developments Limited – Road Realignment

Purpose of the Report | Te Take mō te Pūroko

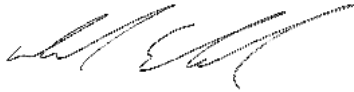
The purpose of this report is to consider a road realignment at Waterfall Park, between Waterfall Park Developments Limited and Queenstown Lakes District Council (QLDC).

Recommendation | Kā Tūtohuka

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 Paterson Pitts plan Q6388-24-2 dated the 27/03/18, shown in green and held in Computer Freehold Registers 789176 & 770518 totalling 0.3314 hectares;
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 Paterson Pitts plan Q6388-24-2 dated the 27/03/18, shown in red totalling 0.3314 hectares;
4. **Approve** that all necessary resource consents, including earthworks and any other relevant variations are obtained from the proposal;
5. **Approve** that the exchange be at Nil consideration;
6. **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;
7. **Agree** Council's costs in undertaking the process\ to be billed and paid monthly by the applicant;
8. **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.

Prepared by:



Name: Dan Cruickshank
Title: Director, APL Property Ltd

29 May 2023

Reviewed by:



Name: Quintin Howard
Title: Property Director

29 May 2023

**Reviewed and
Authorised by:**



Name: Tony Avery
Title: GM, Property &
Infrastructure

8 June 2023

Context | Horopaki

1. Waterfall Park is a rural 'no exit' road positioned to the north of Lake Hayes, but south of Millbrook. The road services a small number of properties, which access the road via the Arrowtown to Lake Hayes Road.
2. The Council has received a request to realign a portion of the road adjoining properties owned by Waterfall Park Development Ltd. The realignment is requested for the northern end of the road, leading up to the waterfall itself. The site is currently consented for a hotel development with 380 rooms but is subject to an application for a Retirement Village of 148 self-contained apartments.
3. The current request follows on from a previous road realignment request in 2018 which was approved by the Council at the time, but subsequently ended due to the development not being sufficiently progressed. The Council approved the following resolution at their meeting of 6 September 2018:

On the motion of Councillor Hill and Councillor McRobie it was resolved 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 Paterson Pitts plan Q6388-24-2 dated the 27/03/18, shown in green and held in Computer Freehold Registers 789176 & 770518 totalling 0.3314 hectares;**
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 Paterson Pitts plan Q6388-24-2 dated the 27/03/18, shown in red totalling 0.3314 hectares;**
4. **Approve the road shown in red, when stopped, being disposed of in exchange for the portions of land shown in green, in accordance with sections 117 & 120(3) of the Public Works Act 1981 and amalgamated with the adjoining land held in Computer Freehold Register 789176;**
5. **Approve that the exchange be at Nil consideration;**
6. **Agree that Council's approval shall be subject to the applicant providing legal access to the Waterfall, to the satisfaction of 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, 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.**
4. Council has previously agreed to process requests to realign legal roads, where they are within a development area, and still maintain their overall width and start and end locations.
 5. The legal alignment of Waterfall Park Road is currently approximately 10 metres wide, and this width will be retained with the current proposal.
 6. The Council has also entered into an easement agreement to ensure that pedestrian access is provided to the waterfall, which was a condition of the 2018 Council approval. The easement must be formed and registered by the landowner before the 18th August 2025 under the terms of the agreement.

Analysis and Advice | Tatāritaka me kā Tohutohu

7. Council is considering the road realignment because it does not impact Council or public access through the privately-owned land and is a preferable location for the planned development.
8. Under the proposal illustrated on Attachment B, legal road will be stopped and transferred (highlighted in red), with new road (highlighted green). The road realignment takes place beyond the last neighbour's driveway access, and therefore will not directly affect other owners nearby.
9. Beyond the road stopping area to the north, is privately owned land held by the developers. They are proposing the construction of a walking track up to the waterfall, with future public access easement agreed between Council and the applicant as part of the earlier 2018 request.
10. 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 road legalisation process.
11. Council's Chief Engineer, Transport Strategy Manager and Manager of Planning Practice have been consulted on the application and approve of the stopping. The road width proposed under the new alignment is similar to the existing at approximately 10m and will therefore not materially affect the use of the road.
12. However, it is acknowledged that the road will be placed closer to the adjoining bank which may increase requirements on the developer to form retaining on that side of the road. This requirement, and the associated developers' costs for installation and maintenance, has been recorded between the Council and the applicant, via a Heads of Agreement dated 20 July 2021.

13. 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.
14. As the road being stopped is equal to the new road being vested, the exchange is considered to be equitable and is therefore proposed on a nil consideration basis.
15. 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.
16. **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 the proposed development.

Disadvantages:

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

17. **Option 2** Decline the request.

Advantages:

- Would not stop and relocate an existing paper road as currently positioned.

Disadvantages:

- Would not realign the road to provide for a more beneficial and optimal utilisation of the land for the proposed development.

18. This report recommends **Option one** for addressing the matter because it will result in a more beneficial layout for the development and utilisation of the land and will come at no cost to the Council.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

19. 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.
20. The persons who are affected by or interested in this matter are the residents and ratepayers of the Queenstown Lakes District.

21. 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

22. The Council has not consulted with Iwi in this instance, as the exchange involves land of particular interest to the owner and adjoining owners only.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

23. 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.

24. 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

27. All costs associated with the exchange will be met by the applicant.

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

28. 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

29. The recommended option is consistent with the principles set out in the named policies.

30. 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

31. To carry out the road exchange the Crown 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

32. 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.

33. The recommended option:

- 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

A	Overview Plan
B	Road Realignment Plan