

QLDC Council
3 February 2022

Report for Agenda Item | Rīpoata moto e Rāraki take : 6

Department: Community Services

Title | Taitara New reserve licence for Glenorchy Community Association

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to consider granting a licence to the Glenorchy Community Association (GCA), to establish and operate a temporary community nursery and garden on QLDC reserve, adjacent to the Glenorchy Cemetery.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Grant** a new licence over cemetery reserve under section 54(1)(a) of the Reserves Act to the Glenorchy Community Association (GCA), for use of the site as a community nursery and garden, adjacent to the Glenorchy Cemetery with legal description Section 2 Block XVIII Tn of Glenorchy, subject to the following conditions:

Commencement	TBC
Term	5 years
Renewal	None
Rent	Subject to the Community Facility Funding Policy (\$1 per annum at commencement)
Permitted use	For the purposes of a community nursery and garden, and associated activities
Insurance	Lessee to hold Public Liability Insurance of at least \$2,000,000
Safety/Suspension	Council to retain ability to suspend or vary the licence for safety or other purposes
Termination	Council can give 2-years cancellation notice

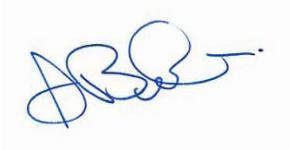
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21/01/2022

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21/01/2022

Approved by:



Thunes Cloete
General Manager,
Community Services

21/01/2022

CONTEXT | HOROPAKI

- 1 The Glenorchy Community Association (GCA) seeks to establish a community garden and nursery, on reserve land adjoining the Glenorchy Cemetery on Coll Street. The intent of the nursery is to diversify the local economy, and to grow and provide plants for local community projects in Glenorchy (including the Bible Face native planting project).
- 2 The reserve is legally known as Section 2 Block XVII Tn of Glenorchy, and the purpose of the reserve is for a cemetery. The reserve is not currently used as a cemetery, given the adjoining site (Section 1 Block XVII Tn of Glenorchy) is used for burials and interments.
- 3 The reserve is subject to the Burial and Cremation Act 1964, in addition to the Reserves Act 1977. The reserve is not currently covered by a Reserve Management Plan (RMP).
- 4 Section 21 of the Burial and Cremation Act 1964 specifies a local authority shall not make use of land comprised in a cemetery for any purpose except as authorized by the Act. However, section 21(2) provides that a local authority can grant a lease over any unused portion of cemetery land for a term *not exceeding 5 years*. Legal advice has confirmed this approach, and the licence will be processed in accordance with this advice.
- 5 The reserve licence has been publicly notified, and no submissions were received.
- 6 The GCA has been in discussion with the Council's Parks and Reserves team regarding the establishment of the nursery. The nursery will be located in the western corner of the reserve, sharing boundaries with the Coll Street road reserve and the Glenorchy Cemetery (Section 1 Block XVIII Tn of Glenorchy). It is anticipated the remaining area of reserve not occupied by the nursery, will be used for grazing.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 7 The GCA is seeking a licence to provide legal tenure within the nursery boundaries upon the reserve. As outlined above, the Burial and Cremation Act 1964 states a local authority can grant a lease over any unused portion of cemetery land for a term *not exceeding 5 years*, therefore a term of 5 years with no right of renewal is proposed.
- 8 The location chosen within the reserve is the most practical and logically placed, as it is positioned close to the road for ease of access, and connection to the water supply. A vehicle access will be created in this location, and will be applied through the appropriate QLDC department. It therefore makes practical sense to locate the nursery in this location.
- 9 The nursery will consist of a fenced area which will contain garden beds, a greenhouse, shade house and potting shed. The wider licence area will be utilised for planting, visual improvements and wind protection. Any structures will be temporary, and will be painted recessive colours to help blend into the environment.
- 10 It should be noted that the GCA have received confirmation from the QLDC Planning Department, that resource consent is not required as the proposed activity is permitted under the District Plan.

11 Option 1 Grant a new licence to the GCA.

Advantages:

- 12 Will support local planting and revegetation projects, diversify the local economy, and benefit the wider community.
- 13 Will increase utilisation of the reserve.
- 14 The intention to grant the licence has been publically notified, and there are no objections.

Disadvantages:

- 15 Would restrict the use of the reserve land occupied by the nursery for other activities.
- 16 Places a structure upon the reserve.

17 Option 2 To decline the request.

Advantages:

- 18 Would not restrict the use of the reserve land occupied by the nursery for other activities.
- 19 Would not place any structures upon the reserve.

Disadvantages:

- 20 Would not support local planting and revegetation projects, diversify the local economy, or benefit the wider community.
- 21 Would not increase use of the reserve.

22 This report recommends **Option 1** for addressing the matter because the licence will service the community and increase utilisation of the reserve.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 23 This matter is of low significance, as determined by reference to the Council’s Significance and Engagement Policy as the land it relates to is not identified as a significant asset, and the proposal is for a nursery that will support recreation and community wellbeing.
- 24 The Council has notified the proposed licence in accordance with section 119 of the Reserves Act 1977. It recognised that the GCA represent a proportion of the community with this proposal.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 25 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 it is dealing with issuing a licence over land that is a community asset. It is however recognised that the licence is for a fixed term of five (5) years.
- 26 The intention to grant the licence has been publically notified, with no objections or submissions being received.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 27 Council has covered the costs associated with notifying the proposed licence, and will similarly meet any costs associated with drafting any final legal agreement, being estimated at total cost of \$1000.

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

- 28 The following Council policies, strategies and bylaws were considered:
- a. *Significance and Engagement 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 and will not have any impact on it.

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

- 31 As outlined above, the site is subject to the Burial and Cremation Act 1964 and the Reserves Act 1977.
- 32 QLDC's legal department have confirmed the maximum term of a lease on this site cannot exceed five (5) years including right of renewal, in accordance with the Burial and Cremation Act. The licence sought is in accordance with this advice.
- 33 Under section 176 of the Resource Management Act 1991 (RMA), no person may use land subject to a designation Council, without the prior written consent of the requiring authority. Council's Parks and Open Spaces Planning Manager will provide written approval in accordance with section 176 of the RMA, upon the granting of the licence by Council.

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

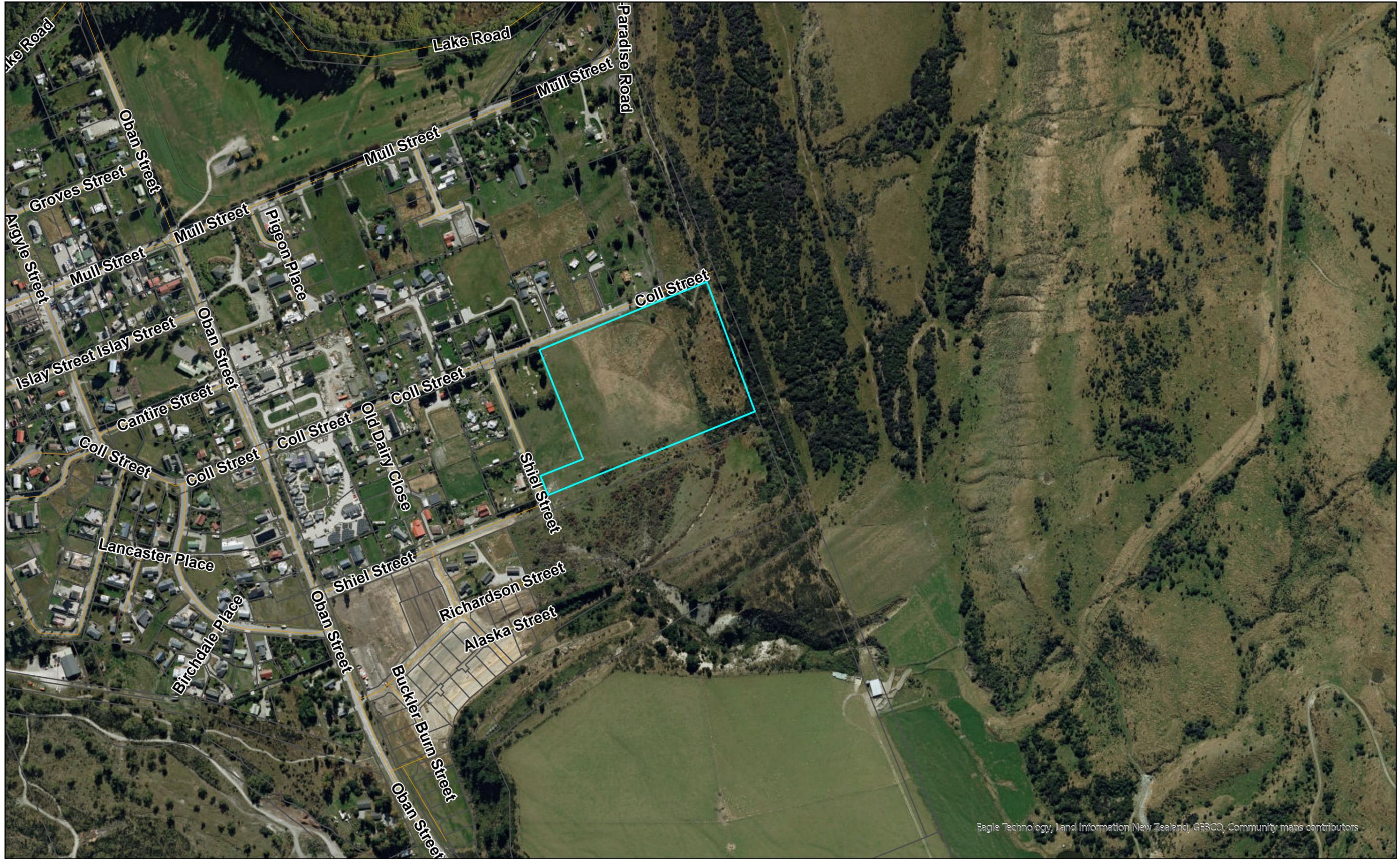
- 34 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by providing support for a community activity; and
- 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	Overview Location
B	Licence Plan

Overview Location



Eagle Technology, Land Information New Zealand, GEBCO, Community maps contributors

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Nursery Licence Area



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