

QLDC Council  
30 June 2022

Report for Agenda Item | Rīpoata moto e Rāraki take [9]

Department: Planning & Development

Title | Taitara Amendments to the Relationship Framework Agreement between the Queenstown Lakes District Council and the Queenstown Lakes Community Housing Trust

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

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The purpose of this report is to seek Council approval of recommended amendments to the Relationship Framework Agreement between the Council and the Queenstown Lakes Community Housing Trust.

RECOMMENDATION | NGĀ TŪTOHUNGA

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That Council:

1. **Note** the contents of this report;
2. **Approve** the amended Relationship Framework Agreement [in Attachment A to this report]; and
3. **Authorise** the General Manager Planning & Development to make minor amendments to the Relationship Framework Agreement [in Attachment A to this report] for clarity and that do not affect the Council's position in any material way.

Prepared by:



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9/06/2022

Reviewed and Authorised by:



Tony Avery  
General Manager – Planning &  
Development

9/06/2022

## CONTEXT | HOROPAKI

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### Overview of the Relationship Framework Agreement

- 1 The current Relationship Framework Agreement (RFA) was agreed by Council and the Queenstown Lakes Community Housing Trust (the Trust) on 22 March 2019<sup>1</sup> and is required to be reviewed within three years of being executed<sup>2</sup>.
- 2 The purpose of the RFA is to formalise the relationship between Council and the Trust to govern how the parties work together to deliver affordable housing. The RFA confirms the following key matters:
  - a) The relationship is intended to be part of the long-term solution for housing in our district, and that the parties agree to work together with openness.
  - b) Land or cash contributed from the Council to the Trust are to be used exclusively for the mutually agreed purpose and will be subject to an encumbrance in favour of Council.
  - c) The Trust is an independent entity with its own deed and board of trustees. The trustees of the Trust will always include one trustee appointed by the Council.
  - d) The Council will continue to provide IT and administrative support as well as a provision of an annual grant, with the mutual aim of reducing the support services from the Council to the Trust over time.
  - e) The RFA includes a protocol for the Trust's Secure Home programme which, together with the long-term below-market rentals, are intended to be the housing products that the Council wants to see its contribution used for.
  - f) In the future other affordable home products developed between the Council and the Trust will be included in additional protocols in the RFA.
- 3 The process undertaken for initiating the review of the RFA has involved a meeting held on 29 March 2022, between Julie Scott (Trust Executive Officer), Tony Avery, Amy Bowbyes and Councillors Shaw, Ferguson and Miller. These Councillors attend regular Trust board meetings to observe proceedings.
- 4 The matters raised during the meeting are discussed in the Analysis and Advice section below.

### Overview of the Queenstown Lakes Community Housing Trust

- 5 QLDC facilitated the creation of the Trust in 2007 as one of the recommendations which came out of Council's Housing Strategy at the time. The Trust is an independent,

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<sup>1</sup> QLDC Council, 7 March 2019, Agenda Item 5.

<sup>2</sup> Attachment A, cl 7.2, p5.

registered Community Housing Provider and is the Council-preferred delivery mechanism for affordable housing work in our district.

- 6 To date, the Trust has delivered affordable housing products to 243 families with funding from a combination of sources. Tables 1 & 2<sup>3</sup> below show the breakdown of household types assisted and funding sources for the Trust.

Developers (IZ)	\$24,762,474	59.2%
Crown Grants	\$4,790,000	11.5%
QLDC (Land and annual operating grants)	\$12,259,036	29.3%

Shared Ownership Households	124
Secure Home Households	46
Rent Saver Households	14
Affordable Rental (AR) Households	8
Public Housing Rental (PHR) Households	38
Senior Housing Households (AR)	1
Senior Housing Households (PHR)	12

- 7 To date the Trust has built and delivered a total of 8 housing developments on land received through an inclusionary zoning-type process (be this private plan changes under the an RMA process, or through the more recent Special Housing Area (SHA) process). These are detailed in Table 3<sup>4</sup> below.

<sup>3</sup> Source: Queenstown Lakes Community Housing Trust, 27 May 2022.

<sup>4</sup> Ibid.

<b>Development</b>	<b>Year completed</b>	<b>No. of Homes</b>	<b>RMA / SHA</b>
Nerin Square, Lake Hayes Estate	2013	27	RMA
Shotover Country	2016	44	RMA
Riverside, Wānaka	2017	11	RMA
Northlake, Wānaka	2018	2	RMA
Shotover Country	2019	6	SHA
Hikuwai, Wānaka	2021	6	RMA
Alps View, Lake Hayes Estate	2022	13	SHA

- 8 The Trust has construction underway with a further 10 homes at Northlake currently, whilst it's looking to commence construction on sections in Longview, Hāwea later this year, and civil works on its 68-Lot Tewa Banks project (Jopp St, Arrowtown) in spring 2022. See Table 4 for the pipeline of the Trust's upcoming developments delivered through inclusionary zoning<sup>5</sup>.

<b>Development</b>	<b>Estimated completion date</b>	<b># of Homes</b>	<b>RMA / SHA</b>
Northlake, Wānaka	2023	10	RMA
Longview, Lake Hāwea	2025	68	SHA
Coneburn, Queenstown	2026	60	SHA
Tomasi, Arthurs Point	2026	9	SHA

- 9 Additionally, the Trust has received direct Council contributions, comprising land for the Tewa Banks development at Arrowtown (68 homes) and the Suffolk Street development at Arrowtown (10 homes), and a financial contribution from the sale of land at Lakeview.

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<sup>5</sup> Ibid.

## ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

### Amendments to the Relationship Framework Agreement

- 10 During the meeting held on 29 March 2022 Ms Scott discussed three changes sought by the Trust to Schedules 1 & 2 of the RFA<sup>6</sup>. The Schedules contain protocols that apply to the Trust's Secure Home Programme and Rental Programme to govern the form of the transactions to be entered into through these programmes.
- 11 Clause 2 of Schedules 1 & 2 enables the Trust to seek amendments to the transactions set out in the protocols to enable the Trust to continue adapting to circumstances and conditions, subject to Council's agreement. The amendments sought by the Trust are within the ambit of cl 2 of Schedules 1 & 2. Through the three-yearly review process, other amendments to the RFA can be made, however the Trust has only requested changes to the Schedules.
- 12 The three changes sought by the Trust are explained in turn below:
- a) Clause 4 of Schedules 1 & 2, currently require that "[t]he Council's encumbrance shall be first ranking over any other security", whereby the purpose of the encumbrance (required by cl 3 of the Schedules) is to assert Council's right to resume ownership of land contributions in the event of insolvency of the Trust. The Trust is concerned that the current wording of cl 4 of Schedules 1 & 2 will affect the ability of the Trust to register a mortgage against the underlying title unless an arrangement is entered into between the Council and the bank. To address this issue, the Trust seeks that the wording of cl 4 in Schedules 1 & 2 is adjusted to include the following additional words (underlined), as follows:
- The Council's encumbrance shall be first ranking over any other security provided if the Trust needs to use the land as security for finance purposes then Council agrees to work with the Trust to facilitate same so as to protect the interests of the Council and the institutional funder.*
- Discussion and recommendation:** The amendment requested by the Trust would still achieve the key requirement of cl 3 and cl 4, with additional flexibility for Council to work with the Trust to achieve the primary objective of delivering affordable housing. The amendment sought would mean that any agreement for the land to be used as security would still be subject to Council consideration and agreement. It is recommended that this amendment is approved, as shown in **Attachment A**.
- b) The Trust seeks that a new clause is added to Schedule 2 to acknowledge the Trust's role in Public Housing. The wording of the clause (cl 6) is as follows:

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<sup>6</sup> Attachment A, Schedules 1 & 2, pp 8 – 10.

Households which qualify for an income related rent subsidy through a New Zealand government agency may also be approved for an agreement to rent a Trust Property under the Trust's Public Housing Rental Protocol.

**Discussion and recommendation:** Central Government has a very small number of Public Housing properties in the district, and no confirmed intentions of increasing their portfolio here. However, they are willing to fund the Trust to provide Public Housing due to the Trust's status as a registered Community Housing Provider. This is done through the Income Related Rent Subsidy (IRRS).

Under this model, the Trust has been able to assist many households on its waiting list to register with the Government for Public Housing, at which point the Trust places them in a Trust home. Here their rent is set by the Ministry of Social Development (MSD) at 25% of their income, and MSD tops the Trust up to full market rent (and sometimes beyond)<sup>7</sup>.

The bulk of Public Housing Rental tenants assisted by the Trust are working families on low incomes, whilst around 25% are seniors with no assets who receive the pension as their only income. A number of ex-Lakeview tenants have secured housing from the Trust under this programme<sup>8</sup>.

Without the Government's IRRS, the Trust would still be assisting these households but instead of the Government providing the subsidy, the Trust would need to. Thus, the IRRS adds a significantly positive benefit to the Trust's cashflow position.

It is recommended that this amendment is approved, as shown in **Attachment A**.

- c) The Rental Terms in cl 5a of Schedule 2 currently specify a periodic lease of no less than 5 years. The Trust has had legal advice that the RFA cannot stipulate the length of a lease (as it would need to be agreed by the tenant), however the RFA can say that the Trust won't terminate the lease in the first 5 years. The amended wording sought to cl 5a of Schedule 2 is as follows:

*The occupant(s) can live at the Property in accordance with a separate Residential Tenancy Agreement ~~with periodic lease periods of no less than 5 years~~, and QLCHT agrees not to terminate the lease in the first 5 years*

**Discussion and recommendation:** The amendment sought by the Trust does not change the intent of cl 5a of Schedule 2 and ensures that the clause is legally robust. It is recommended that this amendment is approved, as shown in **Attachment A**.

- 13 During the meeting on 29 March 2022 attendees discussed whether there could be certainty that the three Councillors drawn to attend Trust meetings are from the new three constituencies to be introduced in the coming election. It is recommended that the

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

RFA is not amended to address this matter, however it is acknowledged that this is a valid consideration for Council when undertaking the appointment process at the start of the next electoral term.

- 14 During the meeting on 29 March 2022, attendees also discussed whether additional measures relating to sustainable building design, climate resilience and universal access are being addressed by the Trust. Ms Scott explained the Trust had recently engaged external consultants to undertake a comprehensive sustainability review of its 68-lot Tewa Banks project (Jopp St) where a number of further initiatives have been identified to improve energy efficiency of the homes, along with improvements for increased sustainability of the overall development. Additionally, as part of this review, the Trust has developed a development guidebook which it will use as a guiding template for future developments.
- 15 With regard to universal access, the Trust has a policy whereby 10% of the new homes built by the Trust are to be accessible housing (homes which enable independent living for persons with disabilities), and to adopt the Lifemark<sup>9</sup> lifetime design principles, and pursue accreditation for prototype houses within new developments to the extent feasible, having regard to single-level older persons housing, family-type housing, and multi-level housing.
- 16 Sustainable building design, climate resilience and universal access are also addressed in the Queenstown Lakes Homes Strategy and will be further investigated through the Joint Housing Action Plan that is being developed under the Queenstown Lakes Spatial Plan, and potentially through the draft QLDC Climate & Biodiversity Plan. Ms Scott has explained the sustainability initiatives underway through the Trust's delivery plans. The purpose of the RFA is to govern how QLDC and the Trust will work together to deliver affordable housing, and it is important that the RFA maintains the independence of the Trust. It is recommended that the RFA is not amended to address these matters.
- 17 In order to record that a periodic review of the RFA has occurred, a new clause H is proposed to be added to the Introduction section of the RFA, stating the following:

*QLDC and QLCHT have performed a periodic review on or around 29 March 2022 pursuant to clause 7.2 of this Agreement. As a result of that review, Schedule 1 (Secure Home Programme Protocol) and Schedule 2 (Rental Home Programme Protocol) have been updated in this version of the Agreement.*

### Reasonably Practicable Options

- 18 Option 1: Approve the amended RFA in Attachment A

#### *Advantages:*

- 19 This will address the matters raised by the Trust regarding the protocols that apply to the Trust's Secure Home Programme and Rental Programme.

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<sup>9</sup> Lifemark Design Standards Handbook: <https://docs.tcdc.govt.nz/store/default/3219847.pdf>



20 Clause 2 of Schedules 1 & 2 enables the Trust to seek amendments to the transactions set out in the protocols to enable the Trust to continue adapting to circumstances and conditions, subject to Council's agreement. The amendments sought by the Trust are within the ambit of cl 2 of Schedules 1 & 2 and are discrete amendments that do not fundamentally change the current RFA.

*Disadvantages:*

21 The new cl 5d sought by the Trust to be added to Schedule 2 would give greater acknowledgement of the work the Trust does as a Public Housing provider. This may be perceived to be an inappropriate function of the Trust, as Public Housing is a function of Central Government.

22 Option 2: Not approve the amended RFA in Attachment A

*Advantages:*

23 The RFA would continue to be silent on the Trust's work in the Public Housing space. It may be perceived that Public Housing should only be delivered by Central Government.

*Disadvantages:*

24 This option may limit the Trust's ability to continue delivering affordable housing as it would limit the Trust's ability to adapt to changing circumstances and conditions.

25 Regarding cl 4 of Schedules 1 & 2, this option would affect the ability of the Trust to register a mortgage against the underlying title, which may be appropriate in some circumstances.

26 Regarding the new cl 5d sought by the Trust to be added to Schedule 2, this option would miss the opportunity to acknowledge the work the Trust currently does as a local provider of Public Housing due to limited investment by Central Government in Public Housing in the district.

27 Regarding cl 5a of Schedule 2, this option would result in this clause remaining *ultra vires*.

28 This report recommends **Option 1** for the following key reasons:

- a) The recommended amendments are within the ambit of cl 2 of Schedules 1 & 2 and are discrete amendments that do not fundamentally change the current RFA;
- b) The recommended amendments acknowledge the Trust's role as a Public Housing provider, and it is appropriate for this role to be acknowledged; and
- c) The recommended amendments make minor adjustments to the transaction protocols to support the Trust's Secure Home and Rental Programmes to continue delivering affordable housing.



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**CONSULTATION PROCESS | HĀTEPE MATAPAKI:**

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**> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA**

- 29 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because the decisions result in minor adjustments to the RFA in regard to work already being undertaken by the Trust.
- 30 The persons who are affected by or interested in this matter are the Council and the Trust, as signatories of the RFA. The Council has directly engaged with the Trust on this matter.

**> MĀORI CONSULTATION | IWI RŪNANGA**

- 31 The Council has not engaged with iwi on this matter as only Council and the Trust are signatories of the RFA.

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**RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA**

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- 32 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.
- 33 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 approving the minor changes to Schedules 1 & 2 to support the Trust's Secure Home and Rental Programmes to continue delivering affordable housing.

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**FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA**

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- 34 There are no operational or capital expenditure requirements in relation to this report.

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

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- 35 This matter aligns with the following principles of the Vision Beyond 2050<sup>10</sup>:
- Thriving people
  - Opportunities for all
- 36 The recommended option is consistent with the principles set out in these vision statements.
- 37 This matter is not included in the Ten Year Plan/Annual Plan and does not have financial implications for the Council.

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<sup>10</sup> <https://www.qldc.govt.nz/your-council/our-vision-mission#vision-beyond-2050>

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

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38 The recommended amendments to the RFA Schedules are minor and will assist the Trust to continue to deliver affordable housing. The amendments do not change the overall purpose of the RFA, summarised at paragraph 4 above.

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

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39 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 recommended amendments to the RFA achieve these outcomes. 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 as no funding is sought in this report;
- 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

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A	Amended Relationship Framework Agreement (June 2022)
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