

QLDC Council
28 April 2022

Report for Agenda Item | Rīpoata moto e Rāraki take: 5

Department: Property & Infrastructure

Title | Taitara: Change of purpose of 63 Ballarat Street

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to request Council to change the purpose of 63 Ballarat Street (local purpose reserve) to a “site for a community centre and roading and related purposes”.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 The Queenstown Arterials project, a long intended Council project, has secured a designation and resource 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 63 Ballarat Street (**‘reserve’**) is a local purpose reserve, with the purpose of a “site for a community centre”. A small sliver or strip of the reserve is required to enable the construction of stage 1 of the Arterials. This will not preclude use of the wider site for community or 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 Council changes the purpose of the reserve to a “site for a community centre and roading and related purposes”.

RECOMMENDATION | NGĀ TŪTOHUNGA

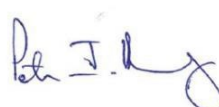
That Council:

1. **Note** the contents of this report;
2. **Agree** to change the purpose of 63 Ballarat Street (Local Purpose reserve), by notice in the Gazette, to a “site for a community centre and roading and related purposes”; and
3. **Authorise** the Council’s General Manager Property & Infrastructure to submit the Gazette notice.

Prepared by:

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Transport Strategy Manager
8/04/2022

Reviewed and Authorised by:

Peter Hansby
GM Property and Infrastructure
8/04/2022

CONTEXT | HOROPAKI

- 4 The Queenstown Arterials project is required to address traffic and congestion in the Queenstown town centre as well as improve 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, 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 2021, after expiration of the appeal period.¹ The designation is operative in the 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 approximately 411m².
- 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 reserve 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 Under s 24A of the Reserves Act, a territorial authority may, by notice in the Gazette, change the purpose for which a local purpose reserve is classified within its classification as a local purpose reserve. In order for the Arterials to be built and used as road, Council needs to change the purpose of the reserve to a “site for a community centre and roading

¹ Resource Management Act 1991, s 116.

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

and related purposes”. It is permissible for local reserves to have more than one purpose.³

- 11 There is a parallel, yet separate, process being worked through under s 140(4) of the Local Government Act 2002 (**LGA**) because the reserve is “vested in trust” in Council for a local purpose (site for a community centre). Under the separate LGA process, Council has sought the Minister of Local Government’s approval to use the sliver for an additional or different purpose. The additional or different purpose that is sought is “roading and related purposes”.
- 12 Option 1 Council accepts to change the purpose of the reserve to a “site for a community centre and roading and related purposes”.

Advantages:

- 13 Enables the Arterials project to be constructed on the sliver in accordance with the designation and resource consents.
- 14 Enables construction of the Arterials project in a timely fashion, consistent with existing contractual arrangements.
- 15 Ensures safe vehicle passage and adequate pedestrian amenity and footpath widths along the Arterials route.
- 16 Leaves the remainder of the reserve available to be used for its present purpose.
- 17 Enables better utilisation of reserve land.

Disadvantages:

- 18 The sliver of the reserve will not be used for its current specified purpose.
- 19 Option 2 Council declines to change the purpose of the reserve to a “site for a community centre and roading and related purposes”.

Advantages:

- 20 The sliver of the reserve is used for its current specified purpose.

Disadvantages:

- 21 Would not enable the Arterials project to be constructed and made operational.
- 22 Would not ensure safe vehicle passage and adequate pedestrian amenity and footpath widths along the Arterials route.

³ *Friends of Turitea reserve Society Inc v Palmerston North City Council* HC PMN CIV-2006-454-879 25 July 2007.

- 23 Would necessitate changes to the works and authorisations that have already been approved for the Arterials project.
- 24 Would not enable better utilisation of reserve land.
- 25 Option 3 Council uses a different parcel of land to complete the Arterials project.

Advantages:

- 26 The sliver of the reserve is used for its current specified purpose.

Disadvantages:

- 27 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.
- 28 The Arterials project could not go ahead if additional land could not be found.
- 29 Would not enable better utilisation of reserve land.
- 30 This report recommends **Option 1** for addressing the matter because it enables the Arterials project to progress while leaving the remainder of the reserve available for its current purpose. The alteration to the purpose will in fact enable better access to community use of the rest of the reserve. 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

- 31 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 Consenting 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.
- 32 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 reserve is not a significant strategic asset under the Council's SEP.
- 33 Although the SCP does not need to be followed in regards to changing the purpose of the reserve, Council has undertaken significant public consultation in regards to the wider Arterials project.

- 34 Since 2008, 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.
- 35 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;
 - h. Inclusion of the Arterials project in the Fast-track Consenting Act; and
 - i. the Arterials Designation and resource consent applications in 2020.
- 36 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.
- 37 Consultation undertaken for the Arterials designation was extensive with affected parties and included both residential and commercial properties. This included an overview of the project, fast-track consent process and Stage 1 commencement date. Meetings were also held with representatives of the Wakatipu Rugby Club and representatives of the Queenstown Squash Club..
- 38 **ATTACHMENT B** is a detailed summary of the consultation and engagement activities that were undertaken for the Arterials project.⁴

> MĀORI CONSULTATION | IWI RŪNANGA

- 39 Iwi was consulted on the Town Centre Master Planning and 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.
- 40 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

⁴ Queenstown Arterials Application and Notice of Requirement, Appendix 9 Consultation Summary Report.

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

41 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.

42 The approval of the recommended option will support the Council by retaining 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

43 The applicant will pay for the project management and costs associated with changing the purpose of the reserve.

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

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

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

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

46 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

47 As the reserve is a local purpose reserve, Council has the ability under s 24A of the Reserves Act to change its purpose. Section 24A of the Reserves Act states:

(1) Notwithstanding section 24, **where any local purpose reserve is vested in a territorial authority or regional council, that territorial authority or regional council may, by notice in the Gazette, change the purpose for which that reserve is classified within its classification as a local purpose reserve.**

(2) Before the specified purpose of any local purpose reserve is changed pursuant to subsection (1),—

(a) the territorial authority or regional council shall publicly notify the proposed change of purpose, specifying the reason or reasons for the proposal:

(b) every person claiming to be affected by the proposed change of purpose shall have a right of objection to the change, and may, at any time within 1 month after the date of the first publication of the notice of the proposal, give notice in writing of his or her objections to the proposed change and of the grounds thereof to the chief executive of the territorial authority:

provided that, where the date of the first publication of the notice of the proposal falls between the period commencing with 10 December in any year and ending with 10 January in the next succeeding year, notice of objection to the proposed change may be given at any time before 10 February next following that period:

(c) the territorial authority or regional council shall as soon as practicable consider all objections lodged in accordance with paragraph (b):

(d) any person who does not lodge an objection in accordance with this subsection shall be deemed to have assented to the change of purpose set forth in the public notification.

(3) Nothing in subsection (2) shall apply in any case where the reason for the proposed change of purpose is to bring the specific purpose for which the reserve is classified into conformity with—

(a) **the operative district plan** in force under the Resource Management Act 1991 for the district in which the reserve is situated:

(b) **any resource consent applying to the reserve** granted by the territorial authority or regional council in accordance with Part 6 of that Act.

48 Under s 24A(3) of the Reserves Act, a change in purpose does not need to be publicly notified if the reason for the proposed change is to bring the specific purpose for which the reserve is classified into conformity with either:

- a. the operative district plan in force under the Resource Management Act 1991 for the district in which the reserve is situated; or
- b. any resource consent applying to the reserve granted by the territorial authority or regional council in accordance with Part 6 of that Act.

49 The Council has obtained a designation and resource consents (including earthworks consents for disturbing contaminated sites on the entire Arterial route) for the Arterials project and therefore the proposal to change the purpose of the reserve will not need to be publicly notified. As set out above, Council has already undertaken a significant consultation process as part of the wider Arterials project.

50 Changing the purpose of the reserve to a “site for a community centre and roading and related purposes” will be in accordance with s 24A of the Reserves Act. 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

51 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. Approval of the recommendation will enable efficient and timely construction of the consented and designated Arterials route, which has been the subject of significant public consultation and comment.

52 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 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
C	Expert Consenting Panel Record of Decision: Designation of the corridor of the proposed Queenstown Town Centre Arterial road and to construct, maintain and operate this Arterial road Not attached but available upon request.