

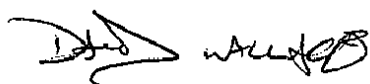
**QLDC Council
30 April 2015****Report for Agenda Item: 5****Department: Infrastructure****Land Transfer to facilitate replacement Kawarau Falls Bridge****Purpose**

- 1 The purpose of this report is to:
 - a. authorise the transfer of land to be vested in the Crown for the proposed new Kawarau Falls Bridge to be developed by the New Zealand Transport Agency (NZTA); and
 - b. delegate authority to the Chief Executive to give effect to the transfer of land and to grant access to the land prior to vesting to allow construction works to commence.

Recommendation

- 2 That Council:
 1. Authorise the transfer of the land described as Parts of Legal Road (parcels 3181413, 3194932, 3181405, 3181396) and Part of Section 29, Block XVIII Town of Frankton, being part of Kawarau Falls Recreation Reserve situated in Block XVIII Town of Frankton to the Crown, to be vested in the Crown as road, for purposes associated with the proposed new Kawarau Falls Bridge without seeking compensation for the transfer.
 2. Delegate to the Chief Executive powers to take all steps necessary to give effect to the transfer of land described as Parts of Legal Road (parcels 3181413, 3194932, 3181405, 3181396) and Part of Section 29, Block XVIII Town of Frankton, being part of Kawarau Falls Recreation Reserve situated in Block XVIII Town of Frankton, to be vested in the Crown for the proposed new Kawarau Falls Bridge, including but not limited to the signing of any necessary consents on behalf of the Council, and to negotiating, finalising, and signing, an appropriate Memorandum of Agreement with the Crown on behalf of the Council to give effect to the transfer, if the Chief Executive considers it necessary; and;
 3. Delegate to the Chief Executive powers to grant access to the land described as Parts of Legal Road (parcels 3181413, 3194932, 3181405, 3181396) and Part of Section 29, Block XVIII Town of Frankton, being part of Kawarau Falls Recreation Reserve situated in Block XVIII Town of Frankton prior to vesting in the Crown as road, to allow construction works to commence, including but not limited to the negotiating, finalising, and signing of an appropriate Land Entry Agreement with the Crown on behalf of the Council if the Chief Executive considers it necessary.

Prepared by:



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10/04/2015

Reviewed and Authorised by:



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13/04/2015

Background

- 3 A Notice of Requirement (NOR) to alter a Designation, RM120413, was recommended for approval by Queenstown Lakes District Council on 8 March 2013. On 28 March 2013 the NZTA issued its decision in accordance with section 172 of the Resource Management Act 1991 (RMA) to accept the QLDC recommendation made in relation to the NOR.
- 4 The designation recommended by QLDC and accepted by the NZTA envisages the land subject of this report being vested in the Crown as legal road, as per the recommendations in this report, for the purposes of constructing the proposed bridge.
- 5 The NOR decision was appealed to the Environment Court. These appeals were resolved and the amended Designation confirmed on the 26th of November 2013.
- 6 Opus Consultants wrote to QLDC on 12 December 2014 outlining that in order to give effect to the Designation and to construct the new bridge the NZTA sought to declare the land subject of this report as "Road" in accordance with section 114 of the Public Works Act 1981 (PWA). The "Road" when declared would then automatically vest in the Crown. The NZTA is seeking QLDC approval for this change from QLDC ownership to Crown ownership/control, and also Council consent in its capacity as territorial authority in the district where the proposed road is located.
- 7 The areas of land in question owned by QLDC proposed to be declared as road are shown in Attachment 1 to this report and are described as follows:

Description of Land	Designated Purpose	Area(m ²)
Parts Legal Road (parcels 3181413, 3194932, 3181405, 3181396) situated in Block XVIII Town of Frankton	Road vested in QLDC	2,200
Part Section 29, Block XVIII Town of Frankton, being part of Kawarau Falls Recreation Reserve	Recreation Reserve under the Reserves Act 1977. Vested in trust in Council for recreation purposes	440 approx.

- 8 The other areas of land hatched red on plan in Attachment A are not owned by Council however prior to the land being declared as road under section 114(2)(h) of the PWA Council will be required to give written approval to all land being declared road in the District including land not owned by QLDC.
- 9 The land is required to allow for construction of the bridge and subsequent remediation and planting of the surrounding area as required by the Designation. It will be legal road vested in the Crown.

Comment

- 10 The decision regarding the appropriateness of the NOR and potential bridge project has been made by QLDC and the NZTA and this report does not relate to the appropriateness of the Designation or the bridge design.
- 11 The recommendation in this report facilitates giving effect to the proposal contemplated through the NOR decision that supported the QLDC recommendation on the NOR in 2013. The methodology proposed to transfer land and declare relevant land as "Road" under the Public Works Act provided a Memorandum of Agreement and a Land Entry Agreement are in place is considered appropriate.
- 12 The NZTA has also requested entry to the QLDC land subject of this report prior to vesting taking place. It is common for vesting to take place after works have been completed. The recommendations proposed in this report include the requirement for a Land Entry Agreement to be entered into as the Council will remain as the owner and in control of the land until legalisation is completed.
- 13 In terms of the part of recreation reserve sought it is noted that the land sought is a portion of a larger parcel of recreation reserve land. NZTA will need to arrange for a Survey Office Plan to be approved to accurately define that land before vesting as road can be formally completed. Usually preparation of such a plan is delayed until physical works have been completed to ensure that the minimum land required is vested as legal road, and that the area accurately reflects the physical works carried out at the site.
- 14 Denis Mander, Principal Planner Infrastructure, has been consulted and is satisfied that the proposed recommendation to allow land (QLDC road) to be vested to facilitate the bridge construction is appropriate.
- 15 The Parks and Reserves section of Operations has reviewed the proposed vesting of reserve land in the Crown and is satisfied that it is appropriate to vest the land in this case to support the previous QLDC decision to recommend the NOR for the new bridge be approved. The portion of reserve land proposed to be transferred is steep and very difficult to access. It has very limited recreational value. In addition to the Council's consent, NZTA will also need to obtain the consent of the Minister of Conservation to the declaration of the reserve land as road, under section 114(2)(e) of the Reserves Act.
- 16 It is understood that the Council has not entered into discussions with the NZTA relating to potential financial compensation for the land proposed to be

transferred. Any financial compensation would relate to the transfer of Council controlled unformed road and 440m² of reserve to be used as NZTA road.

- 17 It is considered there is considerable community benefit arising from the replacement of the existing problematic single lane Kawarau Falls bridge. The community benefit that will arise is considered to outweigh financial compensation that may be agreed to transfer land which is predominantly legal road for use by the NZTA as road.

Options

- 18 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:

- 19 **Option 1** – Accept recommendation to land transfer without financial compensation and delegate powers to the Chief Executive to authorise entry and take all steps to give effect to the transfer following final NOR decision.

Advantages:

- 20 Will facilitate the development of the new Kawarau Falls Replacement Bridge in accordance with previous QLDC decision supporting the amendment to the State Highway designation.

- 21 Permitting access prior to the land transfer being legally actioned will facilitate work commencing on the project at an earlier stage.

Disadvantages:

- 22 A portion of reserve land (that is difficult to access) will not remain available for recreation purposes.

- 23 Council will not receive financial compensation for transferring a portion of recreational reserve and legal road to the Crown.

- 24 There are no other apparent disadvantages.

- 25 **Option 2** – Accept recommendation to land transfer but defer until agreement is reached regarding financial compensation for the land transferred and delegate powers to the Chief Executive to authorise entry and take all steps to give effect to the transfer following final NOR decision.

Advantages:

- 26 Same as Option 1 with additional potential benefit that the Council may reach agreement to be compensated for the land proposed to be transferred.

Disadvantages:

- 27 Same as Option 1 with potential additional costs of investigating financial compensation with no guarantee it will be agreed.

28 Could delay the process and bridge development.

29 **Option 3 – Do Nothing**

Advantages:

30 There are no advantages to this option. The start of the project would be delayed and would not be certain.

Disadvantages:

31 QLDC would not be facilitating work that is supported by its previous recommendation to approve the NOR.

32 This report recommends Option 1 for addressing the matter.

Significance and Engagement

33 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because the decision to recommend the NOR and associated land has been made and this report is seeking delegation to facilitate a project that has been notified and supported by QLDC.

Risk

34 This matter does not have significant risk. This is because QLDC has already decided to support the proposed designation of the land in question for the purpose of a new bridge construction.

Financial Implications

35 There are financial implications arising from the subject of this report. Currently the recommended option does not seek financial compensation for the transfer of Council owned land. However there will be considerable community benefit arising from the bridge establishment and this is considered to outweigh potential financial compensation that could be sought. Delays to the project may result if financial compensation is sought.

Council Policies, Strategies and Bylaws

36 There are no relevant Council Policies, strategies or bylaws.

37 This matter is not included in the 10-Year Plan or Annual Plan as it is an NZTA project.

Local Government Act 2002 Purpose Provisions

38 The recommended option will help meet the current and future needs of communities for good-quality local infrastructure and performance of regulatory functions in a way that is most cost-effective for households and businesses by facilitating a NZTA project to improve State Highway networks in the District.

39 The recommended option 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.

Consultation: Community Views and Preferences

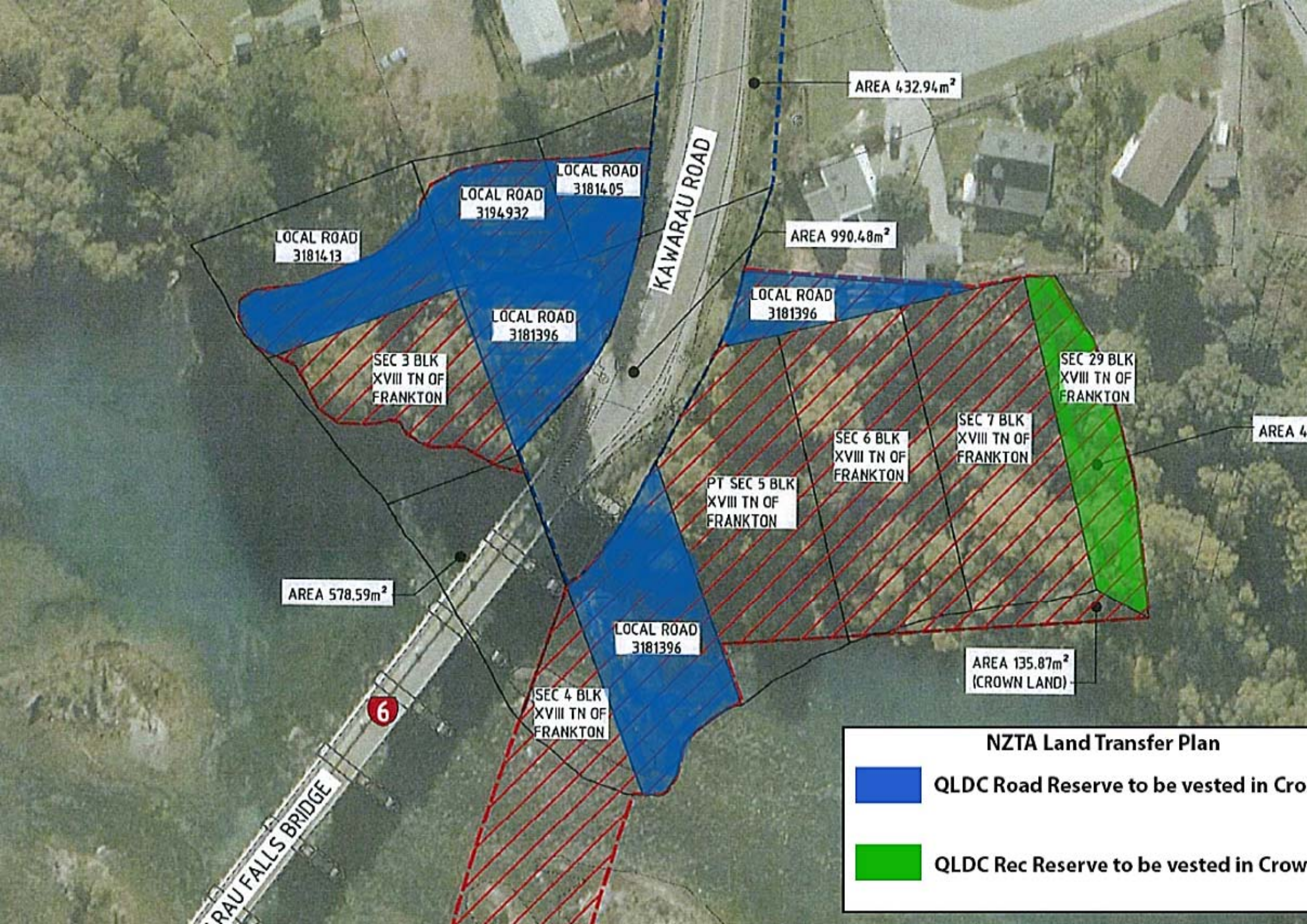
- 40 The persons who are affected by or interested in this matter have already been involved, or provided with the opportunity to be involved, in the notified process undertaken for the amendment to the State Highway designation.

Legal Considerations and Statutory Responsibilities

- 41 The vesting of land in the Crown for road is governed by section 114 of the Public Works Act.
- 42 The Council has been asked to sign consents that will be forthcoming relating to the vesting of the land in the Crown as road under sections 114(2)(b) and (h) of the Public Works Act:
- a. In its capacity as the person in whom the land or its control is vested (section 114(2)(b)) for the areas identified blue and green on the attached plan; and
 - b. In its capacity as territorial authority in whose district the proposed road is located (section 114(2)(h)) for the areas hatched red on the attached plan.
- 43 The delegations to the Chief Executive authorised by this report come within the delegations permitted by clause 32(1) of Schedule 7 to the Local Government Act 2002. There is no power to delegate a decision to dispose of assets (including land assets) other than in accordance with the Long Term Plan, so the Council cannot delegate that aspect of the decision, and must make it itself.

Attachments

- A NZTA Land Transfer Plan



AREA 432.94m²

AREA 990.48m²

LOCAL ROAD 3181413

LOCAL ROAD 3194932

LOCAL ROAD 3181405

KAWARAU ROAD

LOCAL ROAD 3181396

LOCAL ROAD 3181396

SEC 3 BLK XVIII TN OF FRANKTON

SEC 29 BLK XVIII TN OF FRANKTON

SEC 6 BLK XVIII TN OF FRANKTON

SEC 7 BLK XVIII TN OF FRANKTON

PT SEC 5 BLK XVIII TN OF FRANKTON

AREA 4

AREA 578.59m²

LOCAL ROAD 3181396

AREA 135.87m² (CROWN LAND)

SEC 4 BLK XVIII TN OF FRANKTON

RAU FALLS BRIDGE

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NZTA Land Transfer Plan

- QLDC Road Reserve to be vested in Crow
- QLDC Rec Reserve to be vested in Crow