

**QLDC Council  
28 April 2016**

**Report for Agenda Item: 8**

**Department: Property & Infrastructure**

**Proposed land to be acquired for road and road to be stopped – Middleton Road, Queenstown**

**Purpose**

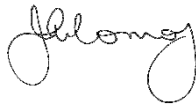
The purpose of this report is to consider entering a land exchange agreement between Woodlot Properties Limited and the Queenstown Lakes District Council which will involve land acquisition and partial stopping of Middleton Road, Queenstown as defined in the Clark Fortune McDonald and Associated plan 11435 Drawing 04 14.01.16.

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Approve** a land exchange be undertaken under Sections 114,116,117 and 120 of the Public Works Act 1981 as per the Clark Fortune McDonald Associates' plan 11435 Drawing 04 14.01.16 (the plan); and
3. **Approve** Council undertaking the legalisation including gazettal and registration at the applicant's cost; and
4. **Approve** Sections 1-5 (combined area of 207m<sup>2</sup>) being stopped and exchanged for Section 6 (120m<sup>2</sup>) which will vest in Queenstown Lakes District Council as road; and
5. **Subject** to the applicant paying to Council full market value for the road to be stopped, less the road closure costs.
6. **Subject** to the applicant indemnifying Council for any costs associated with the road closure costs which may exceed full market value of the road; and
7. **Subject** to the applicant, at its cost, undertaking the legalisation survey and all associated registration costs.

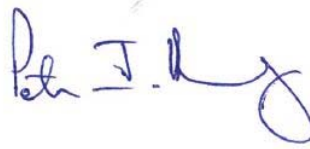
Prepared by:



Joanne Conroy  
Property Advisor  
APL Property

24/03/2016

Reviewed and Authorised by:



Peter Hansby  
General Manager, Property &  
Infrastructure

11/05/2016

## Background

- 1 The existing formed Middleton Road was vested as part of a residential subdivision in May 2010. Its formation is constructed to service a residentially zoned area of Queenstown Hill that could ultimately see 200 plus dwellings.
- 2 The topography in the area of the proposed legalisation is very steep with near vertical cut batters and sloping sections.
- 3 Building on the sections adjoining the road can be challenging and requires careful driveway and parking design.
- 4 The applicant is in the process of constructing five dwellings fronting Middleton Road. The impact of access onto the properties could be minimised if a small portion of the legal road can be acquired by the applicant to accommodate a more appealing design.
- 5 The road to be stopped and disposed of is unformed, steep and is not required for future public access or services.
- 6 The applicant has offered to acquire the land at market value and vest a smaller section of new road on the opposite side. That section of land to vest as road provides access to future lots as consented by RM081212.

## Comment

- 7 Attachment A details the proposed area of land/road subject to this legalisation proposal.

The proposal is that:

- 8 Sections 1-5 (combined area of 207m<sup>2</sup>) be stopped and exchanged for Section 6 (an area of 120m<sup>2</sup>) which will vest in Council as road. Section 6 is currently part of Lot 102 DP 411971 and is owned by Queenstown Hill Developments Ltd and Remarkable Heights Limited Joint Venture. The Joint Venture has provided a signed agreement consenting to the exchange.
- 9 Council can use the provisions of Sections 114, 116 and 117 of the Public Works Act 1981 for this road stopping and land exchange. Council would undertake this

process at the applicant's cost, with such cost to be deducted from the market value of the land. This is standard practice for road closures as the resultant land's value can then be valued on the basis that that land can be sold. It is estimated that the cost to close the roads will be approximately \$25,000.

- 10 A market assessment of the land value is not available at the time of writing this report but will be available prior to the Council meeting. In the interim, the value of the land has been estimated to be \$60,000.
- 11 Council can therefore expect to receive approximately \$35,000 for the sale of the stopped road in addition to the exchange of land. Should for some unforeseen reason the cost to close the road exceed the market value of the land however, the applicant is to cover all further closure costs to ensure Council does not incur a financial loss.

## **Options**

- 12 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.
- 13 Option 1 To approve the land acquisition and stopping as proposed subject to the applicant meeting all costs and paying market value for the land less the legalisation costs.

### *Advantages:*

- 14 Will enable the developer to complete the proposed dwellings and for the dwellings to have reasonable access and parking spaces.
- 15 Will result in Council receiving approximately \$35,000 for the sale of the stopped road that would not otherwise be received.

### *Disadvantages:*

- 16 As the legal road is too steep to provide access or be used for services, no disadvantages have been identified.

- 17 Option 2 Decline the proposed land acquisition and legalisation.

### *Advantages:*

- 18 None identified.

### *Disadvantages:*

- 19 The developer will have to provide a more difficult access to the dwellings.
- 20 Council will not receive the proceeds from the land sale being approximately \$35,000.

- 21 This report recommends **Option 1** for addressing the matter.

### ***Significance and Engagement***

22 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it relates to an area of legal road. However the road concerned is not significant because the topography makes it unusable for public access or utilities.

### ***Risk***

23 This matter related to the operational risk OR11 – decision making as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because the Public Works Act dictates the process to be followed in closing and legalising roads and there is no ability for Council to act outside that process.

24 The recommended option considered above mitigates the risk by: Treating the risk - putting measures in place which directly impact the risk.

### **Financial Implications**

25 In this instance the road closure and legalisation costs will be met by the applicant and therefore the developer carries the risk if the process cannot be completed or takes longer than anticipated. Council will receive approximately \$60,000, less the legalisation costs.

### **Council Policies, Strategies and Bylaws**

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

- Significance and Engagement Policy

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

28 This matter is not included in or contemplated by the 10-Year Plan/Annual Plan.

### **Local Government Act 2002 Purpose Provisions**

29 The recommended option:

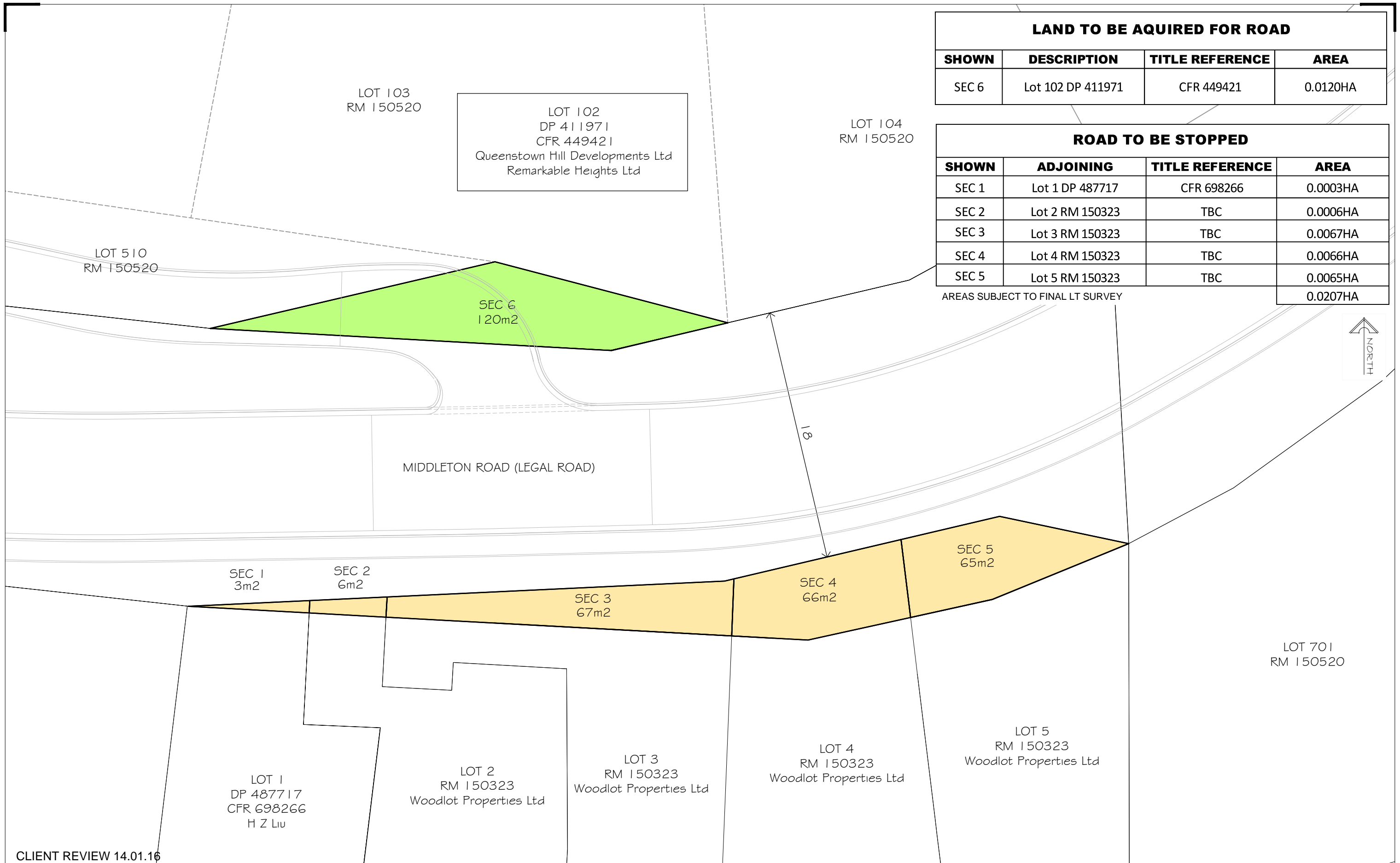
- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by facilitating better access for five dwellings;
- Can be implemented through current funding under the 10-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.

## **Consultation: Community Views and Preferences**

30 The persons who are affected by or interested in this matter are the developer concerned as the owner of the land adjacent to the road to be stopped, and the owners of the land across the road, both of whom have agreed to the proposal.

### **Attachments**

- A Clark Fortune McDonald Associates' plan 11435 Drawing 04 14.01.16 showing the road to be stopped and sold to the applicant shaded yellow and the road to be taken and legalised shown shaded green.
- B Location Plan



LAND TO BE ACQUIRED FOR ROAD			
SHOWN	DESCRIPTION	TITLE REFERENCE	AREA
SEC 6	Lot 102 DP 411971	CFR 449421	0.0120HA

ROAD TO BE STOPPED			
SHOWN	ADJOINING	TITLE REFERENCE	AREA
SEC 1	Lot 1 DP 487717	CFR 698266	0.0003HA
SEC 2	Lot 2 RM 150323	TBC	0.0006HA
SEC 3	Lot 3 RM 150323	TBC	0.0067HA
SEC 4	Lot 4 RM 150323	TBC	0.0066HA
SEC 5	Lot 5 RM 150323	TBC	0.0065HA
AREAS SUBJECT TO FINAL LT SURVEY			0.0207HA

CLIENT REVIEW 14.01.16

Rev.	Date	Revision Details	By
A	14.01.16	Update boundaries	RB

**Clark Fortune McDonald & Associates**  
 Licensed Cadastral Surveyors - Land Development - Planning Consultants  
 309 Lower Shotover Road, P.O.Box 553 Queenstown  
 Tel. (03)441-6044, Fax (03)442-1066, Email admin@cfma.co.nz  
 Shop 2, Otago House, 475 Moray Place, P.O. Box 5960  
 Tel. (03)470-1582, Fax (03)470-1583, Email admin@cfma.co.nz

**SECTIONS 1 - 6 BEING A PROPOSED ROAD  
 LEGALISATION - MIDDLETON ROAD**

Client	Surveyed	Signed	Date	Job No.	Drawing No.
WOODLOT PROPERTIES LTD	-	-	-	11435	04 Sheet 001
Drawn	Signed	Date <td>Scale</td> <td colspan="2">1:125 @ A1 1:250 @ A3</td>	Scale	1:125 @ A1 1:250 @ A3	
RWB	-	01.01.14	-	-	
Designed	Signed	Date <td>Datum &amp; Level <td>Rev.</td> <td>-</td> </td>	Datum & Level <td>Rev.</td> <td>-</td>	Rev.	-
-	-	-	Mt Nic 2000 & MSL	A	-

Notes:  
 All dimensions shown are in meters unless shown otherwise.  
 Any person using Clark Fortune McDonald drawings and other data accepts the risk of:  
 - Using the drawings and other data in electronic form without requesting and checking them for accuracy against the original hard copy versions.  
 - Ensuring the information is the most recent issue.  
 Copyright on this drawing is reserved.



The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Queenstown Lakes District Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented by the GIS data. While reasonable use is permitted and encouraged, all data is copyright reserved by Queenstown Lakes District Council. Cadastral information derived from Land Information New Zealand. CROWN COPYRIGHT RESERVED