

QLDC Council
28 April 2022**Report for Agenda Item | Rīpoata moto e Rāraki take : 4****Department: Property & Infrastructure**

Title | Taitara 121 Plantation Road, Wānaka: Proposed reserve revocation and disposal to the Ministry of Education

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

This report relates to the land (the “site”) known as the “old pool site” at 121 Plantation Road Wānaka, adjacent Mount Aspiring College. The purpose of this report is to seek approval from Council to proceed with the reserve revocation process and to seek approval to dispose of the property to the Ministry of Education (the “proposal”).

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Consider** the submissions made by submitters to the proposal, and note that no objections to the proposal were received;
3. **Approve** pursuant to section 24(1) of the Reserves Act 1977 and subject to the Department of Conservation ratifying the revocation, that the recreation reserve classification over the land at 121 Plantation Road Wānaka, vested in the Queenstown Lakes District Council, Record of Title OT14B/354 (the site) is revoked on the basis the site is no longer needed for reserve purposes because:
 - a) the swimming pool on the site has since been decommissioned and replaced with a superior facility at the Wānaka Recreation Centre; and
 - b) there is already high quality recreational space to meet the needs of the community in the area.
4. **Direct** officers (a) to provide to the Ministry of Education the submission received in relation to the Schools to Pool proposal and (b) to request the Ministry of Education to consider and respond to the submission;
5. **Approve** the land being declared as surplus land to be sold in accordance with the Property Sale and Acquisition Policy 2014, and publicly notifying this intention; and
6. **Approve** the land being sold to the Ministry of Education on the following basis:
 - a. The sale must be subject to the reserve revocation process being completed;

- b. The purchase price must not be materially less than an average of the valuations obtained by Council and the MoE, or otherwise as determined by an independent umpire appointed to resolve any difference in such valuations; and
- 7. **Delegate** to the Chief Executive the authority to take such action and sign such documents as may be reasonably necessary to implement Council’s resolutions above, and matters ancillary to them.

Prepared by:



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Title: General Counsel

5/04/2022

Reviewed and Authorised by:



Name: Pete Hansby
Title: GM, Property & Infrastructure

5/04/2022

CONTEXT | HOROPAKI

- 1 This report relates to the recreation reserve situated at 121 Plantation Road Wānaka, vested in Council, Record of Title OT14B/354, being Lot 1 on DP 22331 with an area of 6,441 sqm ('the site'). A diagram of the site is included as Attachment A.
- 2 The Wānaka community pool was previously situated on the site, however it was decommissioned when the new pool was opened at the Wānaka Recreation Centre in mid-2018. The site is due to be either re-purposed or disposed of by Council.
- 3 The Ministry of Education (MoE) has been in discussions with Council about the site. The site is adjacent to Mt Aspiring College and MoE wish to acquire the site to facilitate expansion of the school.
- 4 The Council needs to revoke the reserve status from the site (in accordance with the Reserves Act 1977) to enable disposal to MoE. This process is underway, where full Council approved public notification of the proposed reserve revocation at its meeting on 16 December 2021. As public notification has been undertaken, this matter comes before Full Council again for approval.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

Background and ownership

- 5 The background and ownership of the site was outlined in the report to full Council on this matter dated 16 December 2021. For reference and context it is repeated below.
- 6 In 1954 the site was part of a larger block of land that was subdivided and set aside as recreation reserve vested in the Crown pursuant to s 13 of the Land Subdivision in Counties Act 1946. The reserve was identified as 'part of section 221 DP 8072' (Reserve).
- 7 Following the creation of the reserve, in 1983 the reserve was vested in the Council under the Reserves Act 1977 by Gazette Notice GN 599661 – NZGZ 1983 p. 2176 which stated:

pursuant to the Reserves Act 1977, and to a delegation from the Minister of Lands, the Assistant Commissioner of Crown Lands hereby classifies the reserve, described in the Schedule hereto, as a recreation reserve, and vests the said reserve in the Lake County Council in trust for that purpose, with effect from 1 April 1983
- 8 In 1992 the reserve was further subdivided to form the site (OT14B/354) and a balance lot. In 1995, gazette notice 894644/3 was issued revoking the reserve status for the balance lot and stated:

Gazette Notice revoking the reservation of the within land as a recreation reserve and further declares the said land may be disposed of by the Queenstown Lakes District Council – 2.11.1995 at 9.34am.
- 9 As the balance lot became freehold land on revocation of the reserve status, the Council was free to deal with it as it saw fit. The balance lot was later subdivided (by the Council)

in 1996 into two parcels and again in 1997 into the smaller residential lots that exist along Totara Terrace.

- 10 If it is decided that the site is no longer required for its current reserve purpose, the Council may revoke the reserve status and dispose of the site in the same manner as the balance lot, in accordance with s 24 of the Reserves Act 1997 (the **Act**).
- 11 When revocation occurs, usually Section 25(1) of the Act operates so that if the land was vested in the Crown or in any local authority or trustees deriving title from the Crown, it becomes Crown land available for disposal under the Land Act 1948, and in any other case may be disposed of in such manner and for such purpose as may be specified by the Minister.
- 12 However, Section 25(4) further provides that for the purpose of s 25(1) where a reserve was vested in the Crown under s 13 Land Subdivision and Counties Act and was later vested in the Corporation of the county as a reserve, the title of the reserve shall be deemed to have been derived by the Corporation otherwise than from the Crown. Accordingly, for the purpose of revocation and subsequent disposal, the land may be disposed of in such manner and for such purposes as may be specified by the Minister.
- 13 The Council's interpretation of this provision that the land vested in the Crown as reserve land under the Land Subdivision in Counties Act is not intended to revert to Crown ownership. Rather, when its reserve status is revoked, subject to any direction from the Minister, the Council is free to dispose of the site as it sees fit and realise value for the land. This was certainly the case when the reserve status of the balance lot was revoked.
- 14 Gazette Notice GN 894644/3 (referred to above) makes it clear that when the balance lot had its reserve status revoked, the Council was free to dispose of the land.

Revoking Reserve Status and disposal

- 15 Under section 24(1)(b) of the Reserves Act 1977, pursuant to a resolution (with the reasons stated), the Council may notify the Commissioner in writing that the classification of the reserve should be revoked.
- 16 Officers have assessed that the site is not needed for reserve purposes because the site accommodated a swimming pool which has since been decommissioned and replaced with a superior facility at the Wānaka Recreation Centre. Officers assessed that the site is also not needed for reserve purposes on the basis that there is high quality recreational space to meet the needs of the community in this area. Given the site is adjacent to Mt Aspiring College, disposal of the site to MoE would enable the school to expand, which is of benefit to the community.
- 17 Before the reserve classification is revoked, under s 24(2)(b) of the Reserves Act the Council must consult with the Commissioner and decide if the proposed reserve revocation should be publicly notified. Council officers consulted with the Department of Conservation (DoC) in January 2022 and received their support on 15 February 2022 to proceed with notifying the proposal.

Engaging with Ngāi Tahu

- 18 Typically when reserves are being disposed of they are considered 'relevant land' under the Ngāi Tahu Claims Settlement Act 1998 and are subject to a first right of refusal to Ngāi Tahu.
- 19 In this case, because of the history of how the site vested in the Council, Council's view is the site is not relevant land subject to a first right of refusal (refer s 48 Ngāi Tahu Claims Settlement Act 1998), because the site vested through the Land Subdivision and Counties Act 1946 and does not re-vest in the Crown once reserve status is revoked. This view has been made known to MoE officers.
- 20 Council officers contacted Ngāi Tahu to explain the Council's proposed revocation of reserve status for the site and potential disposal to MoE, and Council's reasons for considering that the first right of refusal will not apply. Ngāi Tahu subsequently agreed with Council's assessment on the 17th January 2022.

Council approvals and public notification

- 21 The Wānaka Community Board endorsed notification of the intention to revoke reserve status over the site at their meeting of the 4th November 2021. This was subsequently approved by full Council at their meeting of the 16th December 2021 where the following resolution was passed:

On the motion of Councillor Smith and Councillor MacLeod it was resolved that the Queenstown Lakes District Council:

1. *Note the contents of this report;*
2. *Resolve pursuant to section 24(1) of the Reserves Act 1977 that the recreation reserve classification over the land at 121 Plantation Road Wānaka, vested in the Queenstown Lakes District Council, Record of Title OT14B/354 (the site) is revoked on the basis the site is no longer needed for reserve purposes because:*
 - a. *the swimming pool on the site has since been decommissioned and replaced with a superior facility at the Wānaka Recreational Centre; and*
 - b. *there is already high quality recreational space to meet the needs of the community in the area.*
3. *Approve public notification of the proposal to revoke the reserve classification over the site in accordance with sections 24 and 119 of the Reserves Act 1977;*
4. *Appoint members of the Wānaka Community Board (any two of which can form a hearing panel) to hear any submissions and make a recommendation to Council in accordance with section 120 of the Reserves Act 1977; and*
5. *Delegate to the Chief Executive the authority to take such action and sign such documents as may be reasonably necessary to implement the above resolutions and matters ancillary to them.*

22 The notice of intention to revoke the recreation reserve status over the site was advertised in the Wanaka Sun publication on the 24th February 2022. Submissions and Objections were required within one calendar month of the advertisement.

23 Direct notifications were also issued to Iwi contacts to invite their feedback as follows:

- Te Rūnanga o Moeraki
- Kāti Huirapa Rūnaka ki Puketeraki
- Te Rūnanga o Ōtākou
- Aukaha

Response to public notice

24 Council received three submissions to the public notification, which are summarised as follows and included as Attachment B.

Submitter	Matters Raised	Office Comments
Mount Aspiring College Board of Trustees (MAC)	<p><u>Supportive</u></p> <p>Strongly supportive of the Council’s proposal to revoke the reserve status and subsequent disposal to the MoE.</p> <p>The land if acquired by the MoE would likely be used to facilitate the construction of a new school gymnasium and associated facilities.</p>	N/A
Active Transport Wānaka	<p><u>Supportive</u></p> <p>Supportive of the Council’s proposal to revoke the reserve status and subsequent disposal to the MoE.</p> <p>Requested that any transfer of land includes a condition that the MoE/MAC agree to the proposed ‘Schools to Pool’ shared pathway proposal</p>	Council officers clarified with the submitter that they were not objecting to the proposal to revoke reserve status, but that they would like it noted to Council negotiators that the pathway form part of the sale negotiations.
Ministry of Education	<p><u>Supportive</u></p> <p>Supportive of the Council’s proposal to revoke the reserve status, and potential disposal to the MoE to support the future educational needs of the Wānaka community.</p>	N/A

- 25 Council officers confirmed with Active Transport Wānaka that they are supportive of the reserve revocation proposal and are *not* objecting to the proposal. The Schools to Pool pathway proposed in their submission has been advised to the MoE and will form part of disposal discussions.
- 26 As all three submissions received were confirmed to be supportive of the revocation proposal (i.e. there were no objections received), in accordance with the Reserves Act an objections hearing is not required. This is because under the Reserves Act the requirement for a hearing is only triggered by the receipt of an objection. Accordingly, the Wānaka Community Board is not required to revisit its endorsement of the proposal (where members were to make a recommendation to Council after hearing objections), but rather this matter may go straight to full Council for approval.
- 27 Council officers recommend that the revocation be approved by full Council for the reasons set out in this report, and that the formal request to revoke reserve status be submitted to the Commissioner via the DoC.

Disposal to MoE

- 28 Negotiations between the Council and MoE over the potential disposal of the site are ongoing.
- 29 Officers have discussed the value of the site with MoE. Council and MoE have both instructed valuers to conduct market valuations for the land to assess its value but is still pending at the time of writing this report.
- 30 To facilitate a timely agreement over the sale with the MoE, approval is requested to delegate final terms and conditions and sale price to the Chief Executive, where sale price is not to materially deviate from the Council's valuation.

Options

- 31 Option 1 Agree to revoke Recreation Reserve status and dispose of the site to the MoE.

Advantages:

- 32 Is in accordance with all submissions received to the public notification.
- 33 Will provide the opportunity to disposal of the site to the Ministry of Education, enabling educational benefits to the Wānaka Community.
- 34 Will reduce potential holding costs for maintenance of the grounds, if sold, that can be diverted to other higher importance land holdings.
- 35 Would enable the Council to receive funds from the disposal.
- 36 Is in accordance with the provisions of the Reserves Act.

Disadvantages:

- 37 Would reduce the available reserve land provision administered by the Council in this area of the district. However, as assessed by officers, there is already high quality recreational space to meet the needs of the community in this area
- 38 Option 2 Decline continuing with the reserve revocation process.
- Advantages:*
- 39 May allow the Council to consider other purposes for the site that may be of benefit to the community.
- Disadvantages:*
- 40 Would not be in accordance with all submissions received to the public notification.
- 41 Will not provide the opportunity to dispose of the site to the MoE, enabling educational benefits to the Wānaka community.
- 42 Would not reduce potential holding costs for maintenance of the grounds, if sold, that can be diverted to other higher importance land holdings.
- 43 Would not enable the Council to receive funds from the disposal.
- 44 This report recommends Option 1 for addressing the matter of revoking the reserve status over the site because the Council has other high quality recreational spaces nearby, along with a superior public pool facility. Revoking the reserve status will also facility a potential disposal to the MoE which would benefit Mount Aspiring College and in turn, the community.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 45 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy. Although the site is not a Strategic Asset and is not activity being used (given the new pool in Wānaka), revocation of the reserve and potential disposal to MoE could affect a number of people in the community.
- 46 The persons who are affected by or interested in this matter are people in the Wānaka community who may be people affiliated with Mount Aspiring College, Ngāi Tahu and other members of the Wānaka community who may lose a potential recreational space. All of these persons were able to submit or object to the Proposal through public notification.

Public Notification

- 47 The Council issued public notice of the proposed revocation on the 24th February 2022 in accordance with s 24(2) and 120 of the Reserves Act as described earlier in this report. Three submissions were received, all supportive of the proposal.

> MĀORI CONSULTATION | IWI RŪNANGA

48 As stated above, the Council has contacted local Iwi informing them of the proposal and inviting feedback as part of the Reserves Act notification process. Subsequently no submissions were received.

49 The Council also contacted Ngāi Tahu directly to inform them of the proposal.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

50 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.

51 The approval of the recommended option supports the Council by allowing it to avoid the risk. This has been achieved by engaging with the community to determine if revoking the reserve status of the site for a potential disposal to MoE is the most appropriate use of the site.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

52 The main financial implication is the disposal of a Council asset for value. The Council will receive approximately the market value for the site, if sold to the MoE.

53 The proceeds of a sale will go to the Wānaka Asset Sale Reserve and be available for other Council community initiatives. The potential sale has not been budgeted for in the 10 Year Plan.

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

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

- Vision Beyond 2050 (thriving people)
- Significant and Engagement Policy 2021
- Property Sale and Acquisition Policy 2014

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

56 This matter is not specifically included in the Ten Year Plan/Annual Plan. While Reserves are considered in the Plans, given the pool on the site is no longer in use, this reserve is not specifically mentioned.

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

57 The Council has engaged with the DoC in accordance with the Reserves Act 1977 process for revoking a reserve. The legal interests of Ngāi Tahu are discussed above.

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

58 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 wellbeing of communities in the present and for the future. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act given that any use of the site is intended to benefit the community;

59 The recommended option:

- 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	Property plan
B	Reserve revocation submissions