

Full Council

19 March 2026

Report for Agenda Item | Rīpoata moto e Rāraki take [6]

Department: Property & Infrastructure

Title | Taitara: Mt Aspiring College Foundation, Removal of a QLDC Covenant, to Enable a Proposed Subdivision and Effective Transfer of 6396m² of Land Value Ownership to the Foundation

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to seek approval from Full Council, for the Mt Aspiring College Foundation (MACF) proposal to cancel a covenant in favour of the Queenstown Lakes District Council (QLDC), registered on former Recreation Reserve land.

Executive Summary | Whakarāpopototaka Matua

Council land was made available to the MACF in 1997, but it became apparent that the tenure prevented them from obtaining a mortgage necessary to finance their desired development. As a solution, the land was transferred to MACF ownership for \$1, so they could then obtain a mortgage as the legal owner. Council protected its significant financial interest in the land by a covenant to ensure the land value (minus improvements) was repaid from proceeds if the land were ever sold (a copy of the covenant and subsequent deed of modification to that covenant are included as Attachment B to this report). This mechanism with outcomes and responsibilities was agreed by the parties. MACF now seeks another mortgage, but the covenant is identified by their bank as inhibiting that endeavour as it essentially reduces a proportion of the available equity/security of land value in favour of QLDC (correspondence from their legal representative is included within Attachment A).

Consequently, the MACF now seeks the removal of the covenant. This would effectively transfer the substantial value of the land interest from QLDC to MACF, contrary to the premise of the original agreement. The proposed solution involves a subdivision and a return of an area of land to Full Council ownership, with the MACF obtaining an unencumbered ownership of the balance of land moving forward (a copy of the proposed subdivision plan is included as Attachment C of this report).

This matter was brought before the Wānaka-Upper Clutha Community Board (WUUCB) for its consideration on 12 February 2025. The WUCCB confirmed their support for the proposal from MACF for Council to surrender an existing covenant and seek a subdivision, as described in the Recommendation of this report.

The item is now brought before Council for a substantive decision, in acknowledgement of the significant land value involved.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Approve** the surrender of an existing covenant on Lot 9 DP 25559 (9231m²), that otherwise requires that the proceeds of any land sale or disposal, are returned to the QLDC. The surrender of the covenant will:
 - a. Enable the MACF to subdivide the land and obtain the full financial benefit of Lot 1 (5990m²);
 - b. Enable the balance Lot 2 (3241m² with an existing dwelling) to revert back to Council's full ownership;
3. **Agree** that the obligations of the Council and MACF will be assured by the terms of a property agreement between QLDC and MACF (included as Attachment D), and a new covenant to allow QLDC a first right of refusal for any potential sale of Lot 1;
4. **Note** that the effective financial benefit to the MACF for Lot 1 will be substantial, and that this should be balanced with the needs and aspirations of other community entities who might also benefit (or could have benefitted) from the release of the land value from the former recreation reserve; and
5. **Note** that the delegation to revoke or vary a covenant under the Land Transfer Act 2017, is delegated to the General Manager Property & Infrastructure.

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Context | Horopaki

1. The MACF was established in 1993 to provide boarding facilities and is a charitable trust (the Trust) operating independently of the Mount Aspiring College (MAC), with its purpose to further the education of students at the college. Its function in supporting the college, involves “ensuring long-term financial security, supporting exceptional education for all, and managing the prudent investment of financial support and donations” (referenced from MACF website).
2. The Mt Aspiring College (MAC) Foundation is funded through a combination of donations, business partnerships, events, and a long-term endowment fund (\$350,000+ as of late 2025). Key income sources also include operating the MAC Hostel and targeted fundraising for projects that enhance student wellbeing, facilities, and resources. The foundation operates as a separate charitable entity to provide funding beyond what is provided by the Ministry of Education.
3. Between 1994 to 1995, the Department of Conservation and Council went through a public process to revoke the reserve status of Totara Terrace Recreation Reserve, comprising approximately 15,770m² of land, located at Totara Terrace and Plantation Road. The result was that part of the former reserve was subdivided into eight residential lots to be sold by Council (with proceeds to be allocated towards capital funding and community facilities), and that the balance Lot 9 DP 25559 (9231m²) was to be used by the MACF to build student apartments. The recent image below identifies the residential allotments sold by Council (shaded blue), and Lot 9 DP 25559 (shaded yellow). Documents included as Attachment E illustrate the context and associated considerations at the time.



4. At the time, Council otherwise could have retained ownership of the land and leased it to MACF, but this scenario created issues for the MACF to obtain a mortgage and develop the land. Hence, options to transfer ownership, but to retain land value, rights to the asset were traversed with the elected members of the (then) Council.
5. The discussions of Councillors and decision of Full Council at the time, established that should the land ever be sold by MAC, that 100% of the land value (less costs of development) would be returned to Council. In addition, any mortgage required to fund the hostel would be permitted to take priority over Council's caveat.
6. Because Lot 9 otherwise had a substantial value, Councillors sought to retain that value whilst still assisting MACF, so the covenant was registered on the title as a solution. The purpose being if MACF were to sell any land, the Council/community would receive the value of the land it initially transferred to MACF for \$1 and otherwise would have owned as an asset (or sold and benefitted from the proceeds). Because Lot 9 was created from public reserve, the Council consideration at the time noted this was necessary so Council and the community would be protected against any profiteering by the school on the sale of the public reserve (refer to Attachment E - QLDC Agenda Report 28 March 1995).
7. The land was successfully transferred to the MACF in 1996, and a covenant was registered to consolidate and bind the expectations and agreed outcomes.
8. In 1997, a deed of modification was registered to allow a lender to register a first charge mortgage, which allowed the MACF to borrow to fund the hostel's construction.
9. As a result of the actions above, the positive benefits to students and the community have been considerable. To move forward from here, a different solution to the status quo that has prevailed for nearly three decades is proposed, and this solution has been evaluated by Council officers. It will however be for Full Council to consider and decide, and the endorsement of the WUUCB to progress hereafter is now sought.
10. As a matter of context, as of 3 October 2024, Lot 9 DP 25559 was assessed as having an indicative potential land value of \$4,900,000, with a market value (including improvements and chattels) of \$7,700,000. If subdivided, as proposed, Lot 1 would have a potential land value of \$2,900,000 (market value including improvements \$5.425m) and Lot 2 would have a potential market value of \$3,000,000.
11. The MACF propose to subdivide Lot 9 DP 25559 into two lots. Proposed Lot 1 for the MACF will be 5990m² and contain the six existing hostel buildings and the schools-to-pool easement pathway. Proposed Lot 2 will be 3241m² and contain an existing dwelling, part of the schools-to-pool easement/pathway, and balance land with further development potential. Lot 2 will transfer back to the QLDC. This will require that the covenant is surrendered, and the matter progressed as per the property agreement between the QLDC and MACF.

12. The MACF will take full responsibility for the subdivision development, including for all associated costs. This will include consenting, surveying, servicing, consideration of any development contributions and any associated expenses necessary to ultimately obtain final titles.
13. The outcome of a successful subdivision will be that the MACF will own a significant asset, which has transpired from a \$1 purchase in 1997. It will be necessary for them to take the full responsibility to meet all costs of the proposed subdivision development, however the costs of such compared to the financial return will be marginal.
14. The QLDC will also have a tangible community asset in the form of Lot 2 (and its dwelling), with options for future consideration by elected members on how best to utilise that asset or any proceeds that might eventuate. The existing dwelling may also be rented as a residential tenancy.

Analysis and Advice | Tatāritaka me kā Tohutohu

15. In the 1990s when the arrangement to support the MACF was established, there was an element of uncertainty about the future of the school and how central government might ultimately influence the location and opportunities for secondary education in the Upper Clutha area.
16. Looking back at that time and the actions of the 'then' Council, a cautious approach is understandable. This is relevant because the land value of Lot 9 DP 25559 was not unsubstantial, and there could have been many options and alternate community demands for Council to direct resources (or the proceeds from any sale of the land). The success of the endeavour was simply speaking, not guaranteed, and Council required a level of comfort that any proceeds from the reserve would not be subsequently squandered through unforeseen events, despite the best intentions of all.
17. The outcome of the arrangement has been successful in terms of the original aspirations of the Trust. It is recognised that the Trust's future aspirations and initiatives will be facilitated by a review of the status quo and how the covenant functions. The subdivision solution is being put forward, in the opinion of the MACF, as a mutually beneficial scenario.
18. The benefit for the MACF will be to attain the full value of the land it requires, and the flexibilities associated with the ownership of such. Given the future of the MACF and its ongoing activities seem on balance to be assured, Council does not realistically require the safety-net of the covenant to protect the land value whilst supporting the MACF, as its practical need is diminished. The land value to be potentially realised by the MACF, from an initial purchase price of \$1, is a substantial return on an investment.
19. Nonetheless, the land value of Lot 9 DP 25559 is considerable, and Council will also directly benefit from the surplus MACF land of Lot 2 returning to Council's full ownership. This is beneficial when compared to the status quo where Council maintains its land interest, but this is balanced against the improbability this will ever be realised.

20. The mechanics of the above can be assured by an agreement between the MACF and Council, so that responsibilities, expectations and outcomes are clear. This has been formulated in collaboration between the legal representatives of the MACF and Council and is at a stage where it may be carried forward to support a resolution to Full Council.
21. 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.
22. Option 1: Approve the surrender of the covenant and progress a subdivision.

Advantages:

- Benefits to the MACF in that they can seek to obtain the full financial value of proposed Lot 1, to support their identified aspirations moving forward, and the flow-on benefits to the college, students and their families.
- Benefits to QLDC in partial return of land value associated with the recreation reserve by the creation of Lot 2, and the value of the residential unit. Ability for elected members to ultimately decide how the community might best utilise this asset.

Disadvantages:

- QLDC relinquishes interests in the full extent of land value provided by the covenant, albeit it seems less likely that this value will ever be released and returned to Council, as the status quo would prevail indefinitely.
- QLDC is going against a clear agreement and premise for such, that may undermine credibility and encourage others to seek to alter agreements. This is relevant because the agreement is very clear, and the proposal effectively seeks to renege on that agreement. In a broader sense, Council is subject to a multitude of agreements and needs to maintain a level of integrity and credibility and not open itself up to potentially exponential challenges.

23. Option 2: Decline the surrender of the covenant and maintain the status quo.

Advantages:

- QLDC retains the option to potentially re-acquire the full land value of Lot 9 if the land is ever sold. However, this outcome does not seem likely to ever transpire.

Disadvantages:

- The MACF are not enabled to progress their aspirations, that are reliant upon having full financial ownership of Lot 1.

- QLDC will not benefit from the return of land associated with Lot 2 at no cost to Council, and elected members will not ultimately be able to decide how that asset might best be utilised.

24. This report recommends **Option 1** for addressing the matter because it has the potential to benefit both QLDC and the MACF. The proposal is also supported by the WUCCB.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

25. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2024 because there are essentially no costs associated with maintaining the status quo, as it represents a longstanding agreement between QLDC and the MACF prevailing in perpetuity. However, changing the nature of that arrangement can result in improved community outcomes for both the MACF and QLDC. The WUCCB in its role as an advocate for community interests, has endorsed the proposal and confirmed that progressing this matter will allow the possibility for improved community outcomes.

26. The persons who are affected by or interested in this matter are the residents/ratepayers of the Queenstown Lakes District community, MAC, its students and their families.

27. Council has not undertaken any public consultation.

Māori Consultation | Iwi Runaka

27. Council has not consulted with Iwi in relation to this matter.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

28. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10056 Ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.

29. The approval of the recommended option will allow Council to retain the risk at its current level. This is achieved by engaging with the WUCCB and Full Council, to seek consideration of the matter.

Financial Implications | Kā Riteka ā-Pūtea

30. The MACF propose to take full responsibility for all costs associated with the subdivision and creation of freehold titles for Lot 1 (for MACF) and Lot 2 (for QLDC).

31. Council will obtain the benefit of Lot 2 and its financial value, whereas instead maintaining the status quo would most likely not have any material financial benefit for either Council or the MACF.

32. Upon the creation of Lot 2 and its transfer to Council ownership, the existing dwelling may be rented.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

33. The following Council policies, strategies and bylaws were considered:

- Property Sale and Acquisition Policy 2014
- Council's Significance and Engagement Policy 2024

34. The recommended option is consistent with the principles set out in the named policies.

35. This matter is not included in the Long Term Plan/Annual Plan

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

36. Legal representatives for both Council and the MACF have been involved in the preparation of a property agreement to establish expectations and outcomes to enable the creation of Lot 1 and Lot 2, and changes to the covenant scenario.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

37. 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 recommendation of this report enables the WUCCB to act as an advocate for the community, to endorse the matter moving forward so that community benefits might occur. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

38. The recommended option:

- Can be implemented through current funding under the Long Term Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not significantly alter 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 | Kā Tāpirihaka

A	MACF Hostel Programme and Letter from MACF's Legal Representative
B	Covenant & Deed of Modification
C	Proposed Subdivision Plan
D	Property Agreement
E	History