

QLDC Council
24 March 2015

Report for Agenda Item: 2

Department:
CEO Office

Lakeview Reserve Land Exchange Proposal

Purpose

- 1 To consider the notification and public consultation requirements for the Council's proposed exchange of reserve land on the Lakeview site as part of implementing the PC 50 Lakeview structure plan.

Recommendation

2 That Council:

- a. **Note** the contents of this report and in particular:

- i. The Lakeview reserve land (Pt Block XXXII TN of Queenstown and Pt Block LVI TN of Queenstown) partly occupied by the Queenstown Lakeview Holiday Park is not currently classified under the Reserves Act 1977.
- ii. The proposed exchange of reserve land for freehold land within the Lakeview site is an important step in implementing the Lakeview structure plan as advanced in PC 50 and in order to realise the site's development potential, for public and private use.

- b. **Authorise** officers to implement option 1 by proceeding with giving public notice of a proposal to:

- i. Notify the intention to classify the reserve land (Pt Block XXXII TN of Queenstown and Pt Block LVI TN of Queenstown) as recreation reserve under section 16(1) of the Reserves Act 1977.
- ii. Notify the intention to exchange an area of reserve land (Pt Block XXXII TN of Queenstown) for an equivalent area of adjacent Council-owned freehold land (made up of Lots 1-3 DP 354070, SO 24298, Pt Section 15 Blk XXIX TN of Queenstown, Section 10 Blk XXIX TN of Queenstown and Section 1 SO 12299) under section 15 of the Reserves Act 1977.

- c. **Appoint** a hearings Panel consisting of *[three members to be specified by Council]* to hear submissions and to report back to Council a recommendation whether or not to classify the land on behalf of the

Minister of Conservation and whether to recommend to the Minister that the land be exchanged.

- d. **Authorise** the Chief Executive to issue a media release and comment publicly on the resolution.

Prepared by:

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Paul Speedy, Manager Strategic
Projects and Support

12/03/2015

Reviewed and Authorised by:

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Adam Feeley
Chief Executive

12/03/2015

Background

- 3 In December 2013 the Council considered a report on the master planning and development options for the Queenstown Convention Centre (QCC). The report provided:
 - a. key principles for the development of the Lakeview site;
 - b. a preferred option for master-planning of the Lakeview site and location for the QCC;
 - c. an overview of the high-level planning, infrastructure and title issues associated with the proposed development;
 - d. options for funding the development of the QCC; and,
 - e. options for development of the balance of the Lakeview site (potentially providing returns to Council of \$10-30m over time).
- 4 The Council then approved a preferred master-plan and location option for the QCC and authorised the Chief Executive to enter into negotiations with commercial developers and potential private sector partners for the balance of the development land at the Lakeview site.
- 5 Subsequent property advice and discussions with property investors/developers and Ngai Tahu Tourism (NTT) have highlighted a reluctance to commit formally to any negotiations in the absence of:
 - a. a firm decision on the future of the QCC project; and/or
 - b. a consented planning framework to offer more development certainty; and/or
 - c. implementation of the proposed subdivision and new titles (land exchange).
- 6 In June 2014 the Council resolved to approve the development of the QCC (subject to conditions) and directed officers to report back to Council with:
 - a. a draft plan change for the establishment of a Lakeview sub-zone for Council consideration;
 - b. a proposed master-plan for the Lakeview site for the purpose of the proposed plan change for Council approval.
- 7 Further Lakeview master-plan design work was completed in preparation of environmental assessments and zone provisions for a proposed plan change incorporating the Lakeview site. The Lakeview sub-zone structure plan¹ (Attachment A) produced for the plan change sets out the configuration of reserves, roads and wider subdivision in accordance with the master-plan.
- 8 On 11 September 2014 the Council endorsed the proposed plan change provisions and Plan Change 50 - Queenstown Town Centre Zone Extension (PC 50) was publicly notified on 15 September 2014. The Council received 58

¹ Site Standard 10.6.5.1 xiii – Lakeview sub-zone Structure Plan, Urban Design Framework AEE Appendix B, page 25.

submissions and an independent hearings panel (committee) has held the following hearings:

- a. Hearing 17-24 November 2014
 - b. Facilitated mediation for all submitters 8-9 December 2014
 - c. Reconvened hearing 16 January 2015
 - d. Facilitated caucusing of expert witnesses 8-9 February 2015
 - e. Reconvened hearing 23 February 2015
- 9 The committee is currently awaiting final legal submissions from counsel representing submitters and the Council, which are due in March 2015. It is anticipated a recommendation from the committee will be completed by the end of April 2015.
- 10 In order to implement either the plan change or master-plan the Council will first need to exchange some of the freehold Lakeview land owned (by the Council) for an equal area of land held and administered as reserve land by the Council. This process (separate to the Resource Management Act 1991) is governed by s.15 of the Reserves Act 1977, requiring approval by the Minister of Conservation.

Comment

Reserve Status

- 11 The reserve land on the Lakeview site was initially vested in Council in trust to hold for recreation purposes. In 1953, the classification was changed by Council to a 'reserve for a municipal camping ground' under the Public Reserves, Domains and National Parks Act 1928.
- 12 On the passage of the Reserves Act 1977 all reserves existing immediately before the commencement of the Act were required to be classified according to their principal or primary purpose under the Act. For some reason, presumably oversight, the Minister (or Council) has not yet classified the land under the Act.
- 13 The Department of Conservation guidelines for administering bodies suggests it is mandatory to classify a reserve under the Reserves Act before public notification of a draft management plan, but desirable before exchange of land or granting a major lease.
- 14 The Reserves Act provides that the Minister shall classify unclassified reserves. The Minister has fully delegated some powers under the Act to local authorities through the Instrument of Delegation (IOD). In this instance the Council would be exercising a function of the Minister under the Act.
- 15 It is recommended that the Council rectify this previous failure to classify the Lakeview reserve land.

Classification

- 16 The Council can classify land according to seven different classes of reserve¹. Public notice of the intention to classify must be given at least one month before any decision to classify is made and the decision-maker must receive and fully consider all submissions and objections (including hearing from any person if the person so wishes). Once a classification is determined the resolution is to be notified to the Minister for Conservation and published in the Gazette.
- 17 The Reserves Act provides that no public notice is necessary where the classification proposed for any reserve is substantially the same as the purpose for which the reserve was held and administered immediately before the commencement of the Act. "Municipal Camping Ground" most naturally fits into the "Recreation Reserve" purpose. Camping is a form of recreation and naturally fits the express purposes of recreation reserves under the Act.
- 18 Considering that the adjoining James Clouston Memorial Reserve (Lot 1 Deposited Plan 7498) is already recreation reserve and the land was originally given in trust to the Council for the purpose of recreation reserve, it could be justified for the Council to classify the land as recreation reserve without notification. The Council would simply be taking a necessary administrative step. However as specific consultation is recommended for the proposed land exchange and the Queenstown campground is identified as a strategic asset, it is recommended that the classification be notified.
- 19 While not subject to the proposed reserve exchange, land also occupied by the Queenstown Lakeview Holiday Park (Part Block LVI Town of Queenstown) is also currently classified as municipal camping ground under the predecessor legislation. For the same reasons as outlined above, it is recommended that Council also classify this parcel as recreation reserve.
- 20 Considering these findings, and the express obligation in section 16 of the Reserves Act to classify all reserve land under the Act, it would be beneficial for Council's parks officers to undertake a review of Council's reserve holdings to see if any other land needs classification under the Reserves Act 1977.

Proposed Reserve Exchange

- 21 The Lakeview site is located immediately adjacent to the Ben Lomond Scenic Reserve, and forms the north-western urban boundary of the Queenstown Town Centre. As depicted on the attached Lakeview Base Map (Attachment B), the site comprises a mixture of freehold land and reserve land. In order to realise the site's development potential, for public and private use, a re-allocation of the land parcels is being considered. A land exchange plan of the proposed re-allocation within the Lakeview site is provided in Attachment C.
- 22 The land exchange plan is consistent with the structure plan developed for the PC 50 Lakeview sub-zone provisions and establishes the broad layout for the site, determining where any future development would be expected to occur

¹ The Reserves Act (section 17-23) prescribes seven separate classifications of reserve (Recreation, Historic, Scenic, Nature, Scientific, Government or Local Purpose).

within it. The areas delineated in the land exchange plan are based on the optimum location of future buildings, roads and open space to manage environmental effects of activities on the site and to maximise its efficient use.

- 23 At this time the Council is working on possible scenarios for the reserve land exchange. Options for use of the reserve land include the creation of a public open space (market square); a hot pools development (Ngai Tahu Tourism); and securing sections of the existing Ben Lomond Reserve bike track which are currently on Council freehold land.
- 24 There has already been a significant degree of public consultation on the QCC and PC 50 from which the public will be aware of the need to exchange reserve land in this way to implement the Lakeview structure plan.
- 25 The requirements of the Reserves Act state that land becoming reserve land must be held for the same "purposes" as the land being exchanged. The purposes of a recreation reserve are:
- "providing areas for the recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, with emphasis on the retention of open spaces and on outdoor recreational activities, including recreational tracks in the countryside".*
- 26 There is no requirement that on exchange the particular use must remain the same, as long as any change in use remains within the general purpose of the reserve classification.
- 27 The existing reserve land to be exchanged (Part Block XXXII Town of Queenstown), toward the eastern end of the Lakeview site (adjacent to the James Clouston Memorial Reserve), to be classified as recreation reserve as proposed above, is partly utilised by the Queenstown Lakeview Holiday Park, but the balance of this land is presently used as more permanent housing.¹ The land exchange will ensure that the parts of the reserve being used for recreation continue to be used in that way, and enable some of the Council's freehold land to be used for recreation and open space, which is more consistent with the purposes of a recreation reserve.
- 28 Any consideration to the future use of the proposed Lakeview recreation reserve (eg, baths, camping or mountain biking) is a matter for a management plan. It is intended to prepare a management plan for the Lakeview reserve land if the land exchange is completed.
- 29 In order for the Minister of Conservation to authorise the exchange of land the Council must first publicly notify the intention to exchange and have received and considered written public input on the proposal. All objections received and a resolution from Council requesting the exchange (if determined) can then be

¹ Approximately 50 cabins used as rented/private accommodation. The cabins are aged and of a poor standard. The Council intends to have them removed at some point after the licences expire on 30 September 2015 (when the land is required for an alternative use).

considered by the Minister. The exception to this notification requirement is if PC 50 was completed, then (assuming there had been sufficient consultation on the proposal) the Council could request approval (by resolution) directly from the Minister.

- 30 Considering the extent of topics promulgated by PC 50 and the activities proposed for the Lakeview site, it is recommended that Council undertake a full Reserves Act consultation process including receiving submissions from members of the public and a hearing to address matters specific to the Reserves Act considerations of an exchange, such as public access and recreation values.

Figure 1: Existing Land Titles and Status



Table 1: Proposed Consultation Timeline (Option 1)

24 March	Council resolution to publicly notify intention to: <ul style="list-style-type: none">• classify reserve land• exchange reserve land
31 March – 7 April	Notification advertisement in, Otago Daily Times, Mirror, Southland Times, and Lakes Weekly Bulletin
8 May	Submissions Close
22 May	Submissions heard by panel of Councillors (to be confirmed)
22 May – 29 May	Consider submissions and decision

Options

31 The options available to Council are:

- a. Option 1 (recommended option)
 - i. Notify the intention to classify the reserve land (Pt Block XXXII TN of Queenstown and Pt Block LVI TN of Queenstown) as recreation reserve under section 16(1) of the reserves Act 1977.
 - ii. Notify the intention to exchange an equal area of reserve land (Pt Block XXXII TN of Queenstown) for an equal area of adjacent Council-owned freehold land (made up of Lots 1-3 DP 354070, SO 24298, Pt Section 15 Blk XXIX TN of Queenstown, Section 10 Blk XXIX TN of Queenstown and Section 1 SO 12299) under section 15 of the Reserves Act 1977.
 - iii. Hold a Hearing (if requested) under s120(1)(c) of the Reserves Act 1977 and determine whether to classify the land on behalf of the Minister of Conservation and whether to recommend to the Minister that the land be exchanged.
- b. Option 2
 - i. Classify the reserve land (Pt Block XXXII TN of Queenstown and Pt Block LVI TN of Queenstown) as recreation reserve under section 16(5)(a) of the Reserves Act 1977.
 - ii. Wait until plan change 50 is completed then make a recommendation to the Minister of Conservation on the land exchange proposal.

c. Option 3 – status quo

32 Option 3 is not recommended. The Council has an obligation under the Reserves Act to classify all reserve land and it should, at a minimum, classify the land that has not yet been classified by exercising its power to do so under the Instrument of Delegation from the Minister of Conservation.

33 Option 1 is the recommended option because it will:

- a. Enable the Council to perform its Reserves Act obligation to classify all reserve land.
- b. Ensure that land held for recreation purposes is being used for recreation and improve the use of that land.
- c. Enable the Council to obtain the views of the public on the exchange of reserve land for freehold land, which is an important step in implementing the Lakeview structure plan as advanced in PC 50.
- d. Provide for further consultation and evaluation of the public's views on the exchange of land as part of the implementation of the Lakeview structure plan, to satisfy the Minister of the process undertaken if the exchange is subsequently recommended.

34 Option 2 would also enable the Council to comply with its obligation under the Instrument of Delegation to perform its Reserves Act obligation to classify all reserve land. It would also enable the Council to make a recommendation to the Minister of Conservation to exchange the land based on the consultation undertaken to date through the QCC consultation and the PC 50 process. But the Minister may feel that that consultation has not focused on the Reserves Act considerations of exchanging the land, which would be the focus of consultation undertaken under ss.119 and 120 of the Reserves Act. Undertaking that consultation now will reduce the risk of any delays if the Minister happens to take that view.

35 If Option 1 is selected, the Council may wish to consider whether any hearing held should be a hearing of the Full Council or a panel of Councillors, and if so, whether the panel should be delegated the decision-making power, or power only to summarise the submissions heard and make a recommendation for the Full Council.

Financial Implications

36 There is no material budget or cost implications resulting directly from a decision on either option. The wider anticipated Lakeview development project costs have been included within the 2015-25 10-year plan consultation documents.

Local Government Act 2002 Purpose Provisions

37 The proposed steps for the reserve land are consistent with s.10 of the Act, and reflect one of Council's core services – recreational/community amenities (s.11A(e)). The proposed management of the freehold land is being undertaken in accordance with sound business practices (s.14)(1)(f)).

Council Policies

38 The items discussed in this report have been assessed at a medium to high degree of significance. The 'Queenstown Campgrounds' are listed as a 'strategic asset' under the Council's Significance and Engagement Policy schedule of assets (appendix 3). However there is no decision that triggers a requirement for special consultation procedure. It is considered that any anticipated reduction in the use of the existing reserve land by the Queenstown Lakeview Holiday Park would not be significant and therefore does not engage the Policy on Significance to that extent. The level of engagement through notified public consultation (as well as consultation conducted to date) is proportionate to this degree of significance.

39 Other Council policies and plans considered were the:

- 2014/15 Annual plan;
- 2012/22 10-year plan;
- 2015/25 10-year plan consultation documents
- Campground Strategy, August 2005 (as amended in 2013).
- Naming of Parks and Reserves Policy, February 2004

Consultation

40 Representatives of the Department of Conservation have been consulted regarding the proposal to exchange and the status of the reserves. Consultation has also been undertaken in accordance with established protocols between the Council and local Iwi representation Kai Tahu Ki Otago and Te Ao Marama.

41 There has been extensive consultation regarding the proposed QCC and Lakeview development since the project's inception including consultation in the Council's 2013/14 Annual Plan. The consultation requirements of the Resource Management Act 1991 have followed for PC 50. The 2015-25 10-year plan consultation document has a specific section dedicated to the QCC and Lakeview development which includes the proposed land exchange.

42 Any decision to notify as proposed in Option 1 on reserve land requires Council to give public notice in accordance with s.119 of the Reserves Act 1977. Council is then required to give full consideration, in accordance with s.120 of the Act, to all objections and submissions received. This process will be used to give consideration to the views and preference of persons likely to be affected by, or to have an interest in the proposal under s.78 of the LGA.

Publicity

43 It is recommended the Chief Executive is authorised to issue a media release summarising the proposed action.

Attachments

- A Structure Plan
- B Lakeview Base Map
- C Land Exchange Plan