

**QLDC Council
18 December 2014**

Report for Agenda Item: 5

Department:

Legal and Regulatory

5: Proposed Amendment to Property Subcommittee Terms of Reference

Purpose

- 1 To consider amendments to the terms of reference for the Property Sub-Committee (PSC).

Recommendation

2 That Council:

- a. Approve** the recommended amendments to the terms of reference for the Property Sub-Committee

Prepared by:



Kristy Rusher
Senior Solicitor

4/12/2014

Approved by:



Ruth Stokes
General Manager, Operations

4/12/2014

Background

- 3 Council has assigned functions powers and roles to the Property Sub-committee (PSC) by setting the terms of reference for the Property Sub-Committee¹. The current terms of reference are attached as Attachment A.
- 4 It is proposed to adjust the scope of the PSC terms of reference to enable a wider range of business to be dealt with, ensuring that Council agenda time is utilised efficiently and that decisions on transactions can be made within commercially desirable timeframes.

¹ This was assigned by way of resolution dated 14 November 2013.

- 5 This matter was considered by Council at its meeting of 25 September 2014 and was left lying on the table. Further consultation with elected members and Council's property services contractor has occurred in the interim. It is no longer proposed that PSC be delegated the power to grant a lease. The revised terms of reference for consideration are set out in Attachment B.

Comment

- 6 Currently, the PSC has a power of recommendation to Council on matters such as the grant of leases, licences and temporary road closures. Matters are referred to Council for its decision to initiate the administrative steps in the statutory processes. After the completion of those steps, Council will then consider what decision it wishes to take on the transaction.² An example is the notification of a lease issued under the Reserves Act 1977. This is initiated by Council resolving to notify an intention to grant a lease, hearing any submissions, and then considering whether it wants to grant the lease or whether it wants any conditions on the lease.
- 7 PSC has no delegated power to carry out the preliminary administrative steps for these matters. Additionally, there are no powers available to deal with minor variations to transactions that already have received Council approval. Minor variations to the contract such as rent prices or lease areas, or hours of operation must be determined by full Council unless those powers are delegated to a subordinate decision making body.
- 8 The advice from the Council's property contractor is that having regard to previous trends in transactions, it is estimated that 70 (roughly 6 transactions per Council meeting) may be required to go through a formal approval process within the next 12 months. Depending on the legislation or process that applies, between 1 and 3 reports to Council are required for each of those transactions.
- 9 The fortnightly meeting cycle of the PSC means that if PSC has the power of decision for the administrative steps only, then Council can conduct transactions enabling Council meeting time to focus on the decision to enter the transaction and the appropriate conditions to be imposed.
- 10 The proposed terms of reference would:
- a. retain the current practice of the Chair of PSC directing that PSC is not to consider matters of special importance or significance, and directing those items to Council for consideration.
 - b. enable the administrative steps to many decisions to be undertaken by PSC, with Council making the final decision on leases and licences and the terms/conditions of those transactions;
 - c. enable Council to give effect to contract terms that have been granted by Council, with PSC considering minor matters which require consent on a technical basis. Examples are the assignment of leases to new tenants.
 - d. enable Council to give effect to some of the powers for using roads for other purposes as permitted under the Local Government Act 1974.

² Note: On some matters a hearings panel is appointed to hear and recommend on submissions

- e. Enable Council to consent to the creation or surrender of easements across its property.
- f. Reserve to Council the exercise of the Minister of Conservation's delegated powers.

11 The proposed terms of reference for the PSC will enable the Council to progress commercial and charitable transactions concerning Council property.

Financial Implications

12 There are no direct cost implications of this decision, although it is anticipated that adjusting the terms of reference will enable the efficient use of elected member and officer time.

Local Government Act 2002 Provisions

13 This decision meets the purpose of the Local Government Act 2002 as it provides for the effective and efficient conduct of commercial and charitable transactions with Council property.

14 The views and preferences of affected persons (the businesses and community associations within the district) have been considered and the proposal is made in order that Council may offer an efficient process for dealing with its property transactions. Council's property management company and Council officers have also been consulted. They consider the proposed amendments to the terms of reference will assist the community to do business with Council.

15 The advantage of amending the terms of reference for the PSC is that Council will have the opportunity to manage its affairs as and when commitments arise, and a sub-ordinate body can manage the preliminary administrative work making the use of Council meeting time more efficient.

16 The disadvantage of amending the terms of reference for the PSC is that staff and Council's property contractor may need to alter the administration of work flows to accommodate the more streamlined process.

17 If Council decides not to amend the terms of reference for the PSC, the advantage of retaining the same decision making process is that there will be no need to change any practices or procedures.

18 The disadvantage of not changing the terms of reference is that Council will spend meeting time dealing with minor administrative matters and may have to receive up to three reports for a transaction (depending on the legislation that applies).

Council Policies

19 There are no policies applicable to the setting of a committee's terms of reference.

Consultation

17 No public consultation is required on the scope of the committee's terms of reference.

Publicity

18 No publicity is required.

Attachments

- A Existing Terms of Reference for Property Subcommittee
- B Proposed Terms of Reference for Property Subcommittee

Property Subcommittee Terms of Reference

Membership

Property Subcommittee will have four appointed members - the Mayor and three Councillors.

Quorum

The quorum for every meeting shall be two.

Chair

The Mayor will be the Chair.

Frequency of Meetings

The Property Subcommittee will meet on the second and fourth Thursdays of the month (approximately every two weeks).

Parent Body

The Property Subcommittee reports to the Queenstown Lakes District Council.

Objectives of the Committee

To provide prompt authoritative decisions on a range of property transactions (other than sale or acquisition)

Terms of Reference

- 1 Giving effect to the terms and conditions of any property transaction approved by Council.
- 2 Exercise the Council's right to consent where the Council is an affected party in a resource consent application because it owns an adjoin property. The Resource Management Act requires that these decisions be made in time for the consent notification determinations to be made within 10 working days.
- 3 Renewal of leases, granting non-exclusive licences to occupy Council property (including road reserves and other reserves) and any other similar activities prescribed by Council.

- 4 Granting temporary road closures of 4 hours or greater duration but less than 13 hours duration. For closures greater than 13 hours duration the application is determined by the Council or the Wanaka Community Board.
- 5 To hear and determine applications for special exemptions under the Fencing of Swimming Pools Act 1987.
- 6 The power to receive and determine applications for funding pursuant to the Heritage Incentive Policy

Public Excluded

Due to the commercially sensitive nature of the transactions considered by the Property Subcommittee the public will be excluded.

Delegated Authority

The Property Subcommittee will have delegated authority to carry out activities within its terms of reference.

Delegation Limitations

The Property Subcommittee may not delegate any of its responsibilities, duties or powers and its powers exclude powers that cannot be delegated to committees under the Local Government Act 2002.

Other than as specifically authorised in these terms of reference, the Property Subcommittee also may not (i) Authorise or commit the Council to any expenditure, (ii) commit the Council to any binding decisions, (iii) appoint any working parties, and/or (iv) make appointments to any other bodies.

Procedure

The Chairperson will report all decisions of the Property Subcommittee to the next Council meeting following the committee meeting.

Attachment A

~~26 Sept~~18 December 2014

Property Subcommittee Terms of Reference

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Membership

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Comment [KR1]:

Comment [KR2]: existing

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3 Notify the intention to grant a lease or licence under the Reserves Management Act 1977.

Comment [KR3]: new

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4 Hear submissions and make recommendations to Council.

Comment [KR4]: new

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5 Authorise officers to negotiate terms and conditions for the grant or renewal of leases or licences (such terms and conditions being subject to Council's approval). For the avoidance of doubt this includes:

- a. (acting in the capacity as an administering body only) any leases or licences to occupy pursuant to the Reserves Act 1977;
- b. any lease or licence to occupy road reserve.

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6 Grant, decline and authorise execution of:

- a. minor variations to any lease or licence;
- b. approvals for removal of vegetation on reserves (section 42 Reserves Act 1977);
- c. leases or licences of air space or subsoil of roads (section 341 Local Government Act 1974);
- d. applications for structures across roads (section 344 Local Government Act 1974);
- e. easements (including easements under section 48 of the Reserves Act 1977) which do not comply with Council's policy;
- f. application for waiver of fees under \$20,000;
- g. renewal of leases or licences where the renewal is for 5 years or less and where Council has no discretion;
- h. The assignment of leases and licences;
- i. Subleases;
- j. Lessor's approval or consent;
- k. Table and chair licences (including setting the price of the licence) where the proposal does not comply with Council's policy.

Comment [KR5]: new

Comment [KR6]: new

Comment [KR7]: new

Comment [KR8]: new

Comment [KR9]: new

Comment [KR10]: existing but restated

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7 Hear and determine rent reviews where the proposed rental value is not provided for by a Council policy.

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8 Determine applications for Granting temporary road closures of between 4 hours or greater duration but less than and 13 hours duration.

Explanatory note: For closures greater than 13 hours duration the application is determined by the Council or the Wanaka Community Board.

9 Determine applications for road names which do not comply with the Council's road naming policy.

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310 To hear and determine applications for special exemptions under the Fencing of Swimming Pools Act 1987.

Comment [KR11]: new

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411 The power to receive and determine applications for funding pursuant to the Heritage Incentive Policy.

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Comment [KR12]: unchanged

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5 Where the Council is the administering body of a reserve, to consider for the purpose of making a recommendation to Council, the granting of leases, licenses, easements or other matters delegated by the Minister of Conservation under the Reserves Act 1977 to Local Authorities in his delegation dated 12 June 2013 (See

Schedule 1)-

~~6 To make a recommendation to Council, at the next full Council meeting, on the granting of such leases, licenses, easements or other matters delegated by the Minister of Conservation in his delegation dated 12 June 2013.~~

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~~7 It is recommended that the reports that the Property Subcommittee review be in the recommended format (see Schedule 2)~~

~~8 To recommend to Council that notice be sent to the Department of Conservation for their national reserve records regarding any change of reserve classification or other actions requiring a gazette notice due to the Council granting of leases, licenses, easements or other matters delegated by the Minister of Conservation in his delegation dated 12 June 2013.~~

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Explanatory note: These delegations do not preclude any matter being determined for any reason by the Council or a committee (including a subcommittee) of the Council or to the Wanaka Community Board, as appropriate.

Public Excluded

Due to the commercially sensitive nature of the transactions considered by the Property Subcommittee the public will be excluded.

Delegated Authority

The Property Subcommittee will have delegated authority to carry out activities within its terms of reference, and may sub-delegate any of its powers or functions to any officer of Council. This power of sub-delegation does not include the powers of the Minister of Conservation.

Delegation Limitations

~~The Property Subcommittee may not delegate any of its responsibilities, duties or powers and its powers exclude powers that cannot be delegated to committees under the Local Government Act 2002.~~

Other than as specifically authorised in these terms of reference, the Property Subcommittee ~~also~~ may not (i) Authorise or commit the Council to any expenditure, (ii) ~~e~~C~~o~~mmit the Council to any binding decisions, (iii) ~~A~~a~~p~~point any working parties, and/or (iv) ~~M~~m~~a~~ke appointments to any other bodies.

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Nothing in the terms of reference authorises the Property Subcommittee to delegate a responsibility, duty or power that cannot be delegated to committees pursuant to the Local Government Act 2002.
~~The Property Subcommittee may not delegate any of its responsibilities, duties or powers and its powers exclude powers that cannot be delegated to committees under the Local Government Act 2002.~~

Procedure

The Chairperson will report all decisions and all notifications of the Property Subcommittee to the next Council meeting following the Property Sub-committee meeting.