

QLDC Council
25 May 2017

Report for Agenda Item: 4

Department: Property & Infrastructure

Frankton Flats Land Exchange

Purpose

The purpose of this report is to consider exchanging land on the Frankton Flats between Remarkables Park Ltd (RPL) and the Council. The exchange is intended to legalise land adjacent to part of the Queenstown Trail, as well as Hawthorne Drive (EAR).

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Approve** a land exchange between Remarkables Park Ltd and the Council on the Frankton Flats, in accordance with Section 114, 116, 117 and 120 of the Public Works Act 1981 and as per the attached plans showing land transferring to Remarkables Park in blue and to Council in green, subject to the approval of the Queenstown Airport Corporation; and
3. **Approve** the road, when stopped, being disposed of via amalgamation with adjoining Remarkables Park Ltd land currently held in Computer Freehold Registers 654720 and 689640, subject to resource consent being granted; and
4. **Approve** the land being acquired from Remarkables Park Ltd measuring approximately 370 square metres and situated at the Eastern end of the exchange area, being amalgamated with Council freehold land currently held in Computer Freehold Register 507467, subject to resource consent being granted; and
5. **Approve** the exchange being for nil consideration, but costs to enact the exchange be shared equally between both parties, less any additional surveying required which would be paid for by Council; and
6. **Agree** that Council's approval to undertake this process and any sale and purchase agreements relating to it shall be limited to a period of 3 years from the date of this resolution; and
7. **Note** that entering into this agreement will not affect the existing Kawarau River Trails Works and Maintenance Agreement between Remarkables Park Ltd and the Queenstown Trails Trust; and

8. **Delegate** final terms and conditions along with approvals for removing or granting any easements, covenants, encumbrances in relation to the relevant land, minor alignment and area changes and signing authority to the Chief Executive of Council.

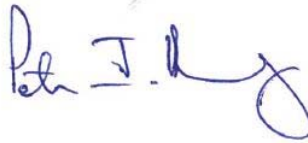
Prepared by:



Dan Cruickshank
Property Advisor

11/05/2017

Reviewed and Authorised by:



Peter Hansby
General Manager, Property &
Infrastructure

12/05/2017

Background

- 1 Remarkables Park Ltd (RPL) have been undertaking development of their Frankton Flats land for some years, and own what was originally farmland. The area is now developed into residential, retail and schooling use, with more likely to follow in the future.
- 2 Council is currently in the process of constructing the extension to Hawthorne Drive known as the Eastern Access Road (EAR) which runs through the RPL land bounded by the Queenstown Airport and Kawarau River. Whilst forming the road, Council asked and received approval from RPL to widen the formed road, to achieve an optimal placement of the roadway.
- 3 Council has a legal 'paper' road running adjacent to the Kawarau River, which accommodates the Queenstown Trail and a top terrace trail used mainly as a temporary connection whilst a section of the lower trail was being repaired following a landslide. It would not be practical to form a road in this area, as most of the paper road comprises the bank leading down to the river from the top terrace.
- 4 The lower trail has since reopened and fewer people are traversing it, due to its steep incline from the Shotover Delta. The exchange is relevant to the top trail only, and is expected to be used more frequently in the future once Hawthorne Drive and the new High School are opened.
- 5 RPL has publicised that it is designing a gondola which would run from the Frankton Flats to the Remarkable Ski field, via land either side of the Kawarau River. Whilst this gondola is still some way off construction, RPL have submitted to the current District Plan Review in order to help it succeed through resource consenting.

Comment

- 6 Following construction of Hawthorne Drive, a realignment of boundaries on the north side of the road is now required. RPL have proposed a mutually beneficial

exchange which would see this stretch of road legalised, as well as a number of smaller parcels adjacent to the Kawarau River legal road, in return for receiving stopped road which will be used predominantly for a gondola pylon at some point in the future.

- 7 A number of smaller parcels intended to transfer to Council adjacent to the river, have been identified by RPL to enable ease of access and mowing of the verge. There are also three gullies which cut into the RPL land and if the boundaries were not realigned, might require bridging once development has been completed. RPL and Council are conscious that there is a closing window of opportunity to correct boundaries along the river, before land is sold to other parties.
- 8 It should be noted that the Queenstown Airport Corporation (QAC) have issued a Notice of Requirement (NOR) to acquire RPL land north of Hawthorne Drive. Whilst we are confident that it does not include any of the land proposed by the exchange, we recommend that QAC confirm their approval to Council entering a binding exchange agreement.
- 9 A current market valuation has been commissioned to assess the exchange and whether any inequity of exchange exists. The valuation concluded that in aggregate, there is a marginal positive benefit to Council in carrying out the exchange of \$7,750 excl GST.
- 10 This inequity is primarily due to the land being legalised next to Hawthorne Drive, which is zoned Remarkables Park Zone Activity Area 6, this being for mixed use activity. Whereas the land/road adjacent to the Kawarau River is Activity Area 2A, intended for riverside public recreation.
- 11 On this basis, it is recommended that the exchange proceed for nil consideration, subject to both parties sharing the cost of enacting the transfer. RPL have confirmed that they agree with this arrangement, but as they have already paid for surveying of a number of the parcels being exchanged, they have asked that survey costs borne by Council be excluded from the cost share.
- 12 The process to stop exchange and vest legal road would be undertaken pursuant to sections Section 114, 116, 117 and 120 of the Public Works Act. Section 116 requires that when stopping road, either adequate road will remain or that all adjoining owners consent to the stopping. We consider that adequate road will remain following the exchange, and that in general, access is improved to the top terrace trail through it.
- 13 Council's Programme Director and Manager Parks and Reserves have been consulted on the proposal and approve of the exchange. Council is not aware of any in-ground infrastructure on the existing legal road, but this will be confirmed and be legalised through easement if found at transfer.
- 14 The Queenstown Trails Trust also entered into an agreement with RPL in 2015, whereby RPL agreed to maintain the portion of trail adjacent to their property. The agreement will be unaffected by the exchange.

Options

15 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.

16 Option 1 Agree to initiate the road stopping and exchange of roads as proposed.

Advantages:

17 It will legalise land currently formed as road, as well as provide additional clearance space around sections of the Queenstown Trail network.

18 It will enable otherwise unusable land to be incorporated in the RPL development.

19 Council and ratepayers will benefit as the exchange has been proposed at nil consideration by the applicant.

Disadvantages:

20 The legal road which is set to transfer to RPL would no longer be available for transport requirements in the future.

21 Option 2 Agree to initiate the road stopping and exchange of roads subject to other terms and conditions.

Advantages:

22 Similar to above.

Disadvantages:

23 Similar to above.

24 Option 3 Decline the request.

Advantages:

25 The legal road which is set to transfer to RPL would continue to be available for transport requirements in the future.

Disadvantages:

26 It would not legalise land currently formed as road, as well as provide additional clearance space around sections of the Queenstown Trail network.

27 It would not enable otherwise unusable land to be incorporated in the RPL development.

28 Council and ratepayers would not benefit from an exchange proposed at nil consideration by the applicant.

- 29 This report recommends **Option 1** for addressing the matter, as it provides a means to legalise both existing formed road and trail, at minimal cost to the Council and Community.

Significance and Engagement

- 30 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because the issue relates to roads, identified as a strategic asset. In this case the significance is medium because the portions of road to be stopped will either no longer be required for transport purposes or will be realigned to a better location, once the stopping and exchange project is completed.

Risk

- 31 This matter relates to the strategic risk SR3, working within legislation as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because stopping and exchanging roads must follow the process detailed in Public Works Act.
- 32 This report addresses the risk by seeking a Council resolution to stop the road, enabling the correct process to commence.

Financial Implications

- 33 The exchange has been proposed by the applicant at nil consideration, however the Council intends to cost share all legalisation costs with the applicant apart from further survey costs which Council will pay alone. Council's share of the legalisation costs are expected to be in the region of \$20,000.

Council Policies, Strategies and Bylaws

- 34 The following Council policies, strategies and bylaws were considered:
- Property Sale and Acquisition Policy 2014
- 35 The recommended option is consistent with the principles set out in the named policy/policies. Council will own land for a core purpose or function (principle 1), by carrying the exchange it will legalise trails and roads on the Frankton Flats.
- 36 This matter is not included in the 10-Year Plan/Annual Plan because the road stopping was not contemplated at the time the plan was written. It will result in positive income that was un-budgeted.

Local Government Act 2002 Purpose Provisions

- 37 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 ensuring Council has roading assets in locations most beneficial to the community and rate payers;

- 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

38 The persons who are affected by or interested in this matter are current and future users of the trails and roads on the Frankton Flats.

39 The Council has planned and notified the location of Hawthorne Drive and the EAR over a number of years, and this proposal will help legalise that road. A section of the Queenstown Trail will also be protected by the legalisation. The land being transferred to RPL does not reduce or impede public ability to traverse the top terrace trail in this area. Adjacent owners which would normally be asked to provide their consent to a road stopping (RPL) have proposed the exchange.

Attachments

- A Overview Plan
- B Plan with resulting land owner

Attachment A: Proposed Exchange Plan



Attachment B: Proposed Exchange Plan (resulting land owner)

