

**QLDC Council  
6 September 2018**

**Report for Agenda Item: 5**

**Department: Property & Infrastructure**

**Waterfall Park - Road Realignment**

**Purpose**

The purpose of this report is to consider a road realignment at Waterfall Park, between Waterfall Park Developments Ltd and the Council.

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Approve** initiation of the procedures of section 114 of the Public Works Act 1981 to declare as road those portions of land shown on the attached Paterson Pitts plan Q6388-24-2 dated the 27/03/18, shown in green and held in Computer Freehold Registers 789176 & 770518 totalling 0.3314 hectares;
3. **Approve** initiation of the procedures of section 116 of the Public Works Act 1981 to stop those portions of road shown on the attached Paterson Pitts plan Q6388-24-2 dated the 27/03/18, shown in red totalling 0.3314 hectares;
4. **Approve** the road shown in red, when stopped, being disposed of in exchange for the portions of land shown in green, in accordance with sections 117 & 120(3) of the Public Works Act 1981 and amalgamated with the adjoining land held in Computer Freehold Register 789176;
5. **Approve** that the exchange be at Nil consideration;
6. **Agree** that Council's approval shall be subject to the applicant providing legal access to the Waterfall, to the satisfaction of Council;
7. **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 2 years from the date of this resolution;
8. **Agree** Council's costs in undertaking the process, be billed and paid monthly by the applicant; and
9. **Delegate** final terms and conditions along with approvals for the placing or removal of easements, minor alignment and area changes and signing authority to the Chief Executive of Council.

Prepared by:

Reviewed and  
Authorised by:



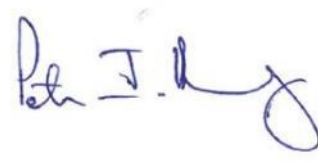
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## Background

- 1 Waterfall Park is a rural 'no exit' road positioned to the north of Lake Hayes, but south of Millbrook. The road services a small number of properties, which access the road via the Arrowtown to Lake Hayes Road.
- 2 The Council has received a request to realign a portion of the road adjoining properties owned by Waterfall Park Development Ltd. The realignment is requested for the northern end of the road, leading up to the waterfall itself. A comprehensive Hotel and Wellness development is currently planned for the site and has been the focus of a previous Special Housing Area request to Council.
- 3 Council has previously agreed to process requests to realign legal roads, where they are within a development area, and still maintain their overall width and start and end locations.
- 4 The legal alignment of Waterfall Park Road is currently approximately 10 metres wide, and this width will be retained with the proposed.

## Comment

- 5 Council is considering the road realignment because it does not impact Council or public access through the privately-owned land and is a preferable location for the planned development.
- 6 Under the proposal illustrated on Attachment B, legal road will be stopped and transferred (highlighted in red), with new road (highlighted green). The road realignment takes place beyond the last neighbour's driveway access, and therefore will not directly affect other owners nearby. The suitability of the site for the proposed development, will be assessed separately through the resource consenting process.
- 7 Beyond the road stopping area to the north, is privately owned land held by the developers. They are proposing the construction of a walking track up to the waterfall, however it should be noted that legal access to the waterfall is not currently provided and it is recommended that this be confirmed and provided as part of this realignment request.

- 8 We understand from the applicant, that Fish and Game have agreed to provide an Affected Person's Approval for their development. Waterfall Creek is an important spawning river in the district.
- 9 With a road realignment, the Council is typically concerned with ensuring that public access is preserved, and that the new alignment will be no less favourable than at its existing position. These are also requirements for the Public Works Act road legalisation process.
- 10 Council's Chief Engineer, Transport Strategy Manager and Manager of Planning Practice have been consulted on the application and approve of the stopping. The road width proposed under the new alignment is similar to the existing at approximately 10m and will therefore not materially affect the use of the road. However, it is acknowledged that the road will be placed closer to the adjoining bank which may increase requirements on the developer to form retaining on that side of the road.
- 11 The process of stopping the road and taking of new road will be undertaken pursuant to sections 114 & 116 of the Public Works Act. Section 114 covers the process to declare land to be road, whilst section 116 relates to the stopping of existing legal road. Final approval of the stopping sits with the Minister of Lands, whom will review the overall impact of the proposal, along with any written consents before making a decision.
- 12 As the road being stopped is equal to the new road being vested, the exchange is considered to be equitable and is therefore proposed on a nil consideration basis.

### **Options**

- 13 Option 1 Agree to commence the road realignment shown on the attached plan by Paterson Pitts Q6388-24-2.

#### *Advantages:*

- 14 Will realign the road to provide for a more beneficial and optimal utilisation of the land for the proposed development.

#### *Disadvantages:*

- 15 May increase requirements for retaining land adjacent to the repositioned road.
- 16 Does not provide a legal access solution all the way to the Waterfall.

- 17 Option 2 Decline the request.

#### *Advantages:*

- 18 Would not increase requirements for retaining land adjacent to the repositioned road.

*Disadvantages:*

- 19 Would not realign the road to provide for a more beneficial and optimal utilisation of the land for the proposed development.
- 20 This report recommends **option one** for addressing the matter because it will result in a more beneficial layout for the development and utilisation at the land and will come at no cost to the Council.

***Significance and Engagement***

- 21 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 considered to be low as the portion of road be realigned is small and does not affect access to the public or adjoining properties.

***Risk***

- 22 This matter relates to the strategic risk SR3, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because stopping roads must follow the process detailed in the Public Works Act.
- 23 This report addresses the risk by seeking a Council resolution to stop the road, enabling the correct process to be commenced.

**Financial Implications**

- 24 The applicant has agreed to pay all costs incurred by Council to enact the proposed road realignment.

**Council Policies, Strategies and Bylaws**

- 25 The following Council policies, strategies and bylaws were considered:
- Property Sale and Acquisition Policy 2014
- 26 The recommended option is consistent with the principles set out in the named policy.
- 27 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. As all costs to Council are being met by the applicant, Council will not require specific budgets to progress the project.

**Local Government Act 2002 Purpose Provisions**

- 28 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; and

- Can be implemented through current funding under the 10-Year Plan and Annual Plan; and
- 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**

29 The persons who are affected by or interested in this matter are the users and visitors to Waterfall Creek and adjacent property owners. As adjacent owners are all have their access to their properties placed prior to the proposed realignment, and that the road is a 'no exit' no direct consultation is required. Further written approvals will be included for any directly affected property owners with the request to the Minister of Lands, however as the road is not being materially affected for any other owner other than the applicant, it is likely that the road stopping will progress without any further written approvals.

### **Attachments**

- A Overview plan
- B Survey plan with affected areas
- C Photos from site