

Wanaka Community Board
10 August 2016

Report for Agenda Item: 6

Department: Property & Infrastructure

Lakeland Adventures Limited – Sublease to Lakeland Adventures Wanaka Limited

Purpose

The purpose of this report is to consider an application from Lakeland Adventures Ltd, who currently hold a lease over Section 13 BLK XV TN of Wanaka being Recreation Reserve, to sublease to Lakeland Adventures Wanaka Limited to enable them to operate the Lakeland Adventures business, which they have purchased, from the existing log cabin which remains under the ownership of Lakeland Adventures Ltd.

Recommendation

That the Wanaka Community Board:

1. **Note** the contents of this report;
2. **Approve** the sublease of Section 13 BLK XV TN of Wanaka from Lakeland Adventures Limited to Lakeland Adventures Wanaka Limited subject to the following:
 - a. All terms and conditions of the original lease dated 1 December 1997 remain the same and in force;
 - b. The sublease is not to be further sublet without Lessor Consent;
 - c. All Lessor's costs associated in approving a sublease are to be paid by the Lessee;
3. **Delegate** authority to approve final terms and conditions of the Deed of Sublease and execution authority to Council's Property Manager.

Prepared by:



Blake Hoyer
APL Property Limited

18/07/2016

Reviewed and Authorised by:



Jeannie Galavazi
Senior Parks and Reserves
Planner

19/07/2016

Background

- 1 Lakeland Adventures has entered into an Agreement for Sale and Purchase (the "Agreement") to sell the Lakeland Adventure business ("the business") to Lakeland Adventures Wanaka Limited ("the Purchaser") dated 30 May 2016.
- 2 Queenstown Lakes District Council ("QLDC") is the registered owner of Section 13 BLK XV TN of Wanaka ("the Property") being Recreation Reserve from which the Lakeland Adventures business is run. The Property is leased to Lakeland Adventures by the Deed of Lease that commenced on 1 December 1997, registered instrument number 952464.3 (the "Ground Lease").
- 3 Lakeland Adventures is the owner of the log cabin which sits on the property which serves as the base for business operations and it intends to lease that cabin to the Purchaser.
- 4 Lakeland Adventures has formally sought consent to sublease the Ground Lease to the Purchaser in accordance with clause 9 (a) of the Ground Lease.

Comment

- 5 Clause 9 of the Ground Lease allows the Lessee to sublet the premises subject to obtaining the Lessor's prior written consent. Clause 9 further provides that consent for a sublease may not reasonably be withheld to a respectable, responsible, solvent and suitable sub-lessee. The consent can be subject to the following conditions being satisfied in advance:
 - a. The Lessee satisfying the Lessor that the proposed sub-lessee is responsible and of sound financial standing; information satisfying this requirement has been provided;
 - b. All rental and other money payable under the lease paid and up to date;
 - c. There is no existing remedied breach of any terms of the lease;
 - d. All of the Lessor's costs incurred with approving the sublease are paid by the Lessee;
 - e. If the Lessor requires, the sublease must contain a condition that the sub-lessee may not assign or further sublet without the prior written consent of the Council and satisfaction of the requirements of clause 9.
- 6 Documentation has been received in support of the sub-lessee being responsible and of sound financial standing which is attached to this report.
- 7 It is confirmed that all rental and other money payable under the lease is up to date and, further, there have been no breaches of the lease during the term.
- 8 This report recommends that further sublets be restricted without Lessor's consent and, further, that any costs incurred by the Lessor in approving this sublease are paid for by the Lessee.

- 9 The Ground Lease defines that the land shall be used solely for the purpose of the operation of guided fishing trips, the renting of fishing equipment, the selling of fishing licences, the renting of bikes and boats, water sport activity sales, the sale of confectionery and drinks, and the operation of an information and booking office for activities in the Wanaka Area. The subleases will be required to use the land for the same purpose and as such there will be no significant change in business activities.
- 10 The Ground Lease expires 30 November 2017.
- 11 The Lake Wanaka Lakefront Development Plan was adopted by Council in July 2016. Changes to car parking, landscaping and the inclusion of an events space and village green are proposed in the area where the Lakeland lease area (in particular the log cabin) is located. While the Wanaka Community Board has set an aspirational goal of completing these works within the next 5-6 years, timing for the implementation for these works is uncertain until funding is procured through future 10-year and Annual Plans.
- 12 Any application for a new ground lease will need to be granted in accordance with the requirements and process set out in the Reserves Act and will also need to take into consideration the Development Plan.
- 13 This report recommends that any approval of a sublease is subject to the following conditions:
- a. All terms and conditions of the original lease dated 1 December 1997 remain the same and in force.
 - b. The sublease is not to be further sublet without Lessor Consent.
 - c. All Lessor's costs associated in approving a sublease are to be paid by the Lessee.

Options

- 14 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:
- 15 Option 1 Council can grant the Sublease subject to the terms and conditions outlined above.
- Advantages:*
- 16 The purchasers of the Lakeland Adventures' business will be able to operate from the log cabin and recreation reserve.
- Disadvantages:*
- 17 There are no obvious disadvantages to issuing a sublease.
- 18 Option 2 Council can grant the Sublease in subject to alternative terms and conditions as those outlined above.

Advantages:

- 19 Similar to Option 1 however Council may wish to add, delete or amend the terms and conditions recommended in this report.

Disadvantages:

- 20 Similar to Option 1.
- 21 Option 3 Council can decline the Sublease.

Advantages:

- 22 There are no obvious advantages to declining a sublease.

Disadvantages:

- 23 The purchasers of the Lakeland Adventure business won't be able to operate from the log cabin / recreation reserve and will need to relocate to an alternative location.
- 24 This report recommends **Option 1** for addressing the matter as it will enable the Lakeland Adventures business to continue to operate for the remainder of the lease.

Significance and Engagement

- 25 This matter is of low significance, as determined by reference to the Council's Significance and Engagement policy as it does not involve a Council strategic asset, is not inconsistent with policy and strategy and does not impact on Council's capability and capacity.

Risk

- 26 This matter related to the operational risk OR027, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because it requires a decision from Council for a commercial activity.
- 27 Option 1 recommended above mitigates the OR27 risk by providing the applicant with a decision in a timely manner.

Financial Implications

- 28 Council will continue to receive rental income in accordance with the lease despite whether it is subleased or not.
- 29 All legal fees associated with preparing the licence will be met by the applicant.

Council Policies, Strategies and Bylaws

- 30 The following Council policies, strategies and bylaws were considered:

- Wanaka Lakefront Reserves Management Plan – The continuance of a lease over this land is supported by policy 5.2.3.3.
- Lake Wanaka Lakefront Development Plan
- Significance and Engagement Policy – The matter is of low significance.

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

31 This matter is included in the 10-Year Plan/Annual Plan

- Administration associated with overseeing this lease will be covered in existing property budget provisions.

Local Government Act 2002 Purpose Provisions

32 The recommended option:

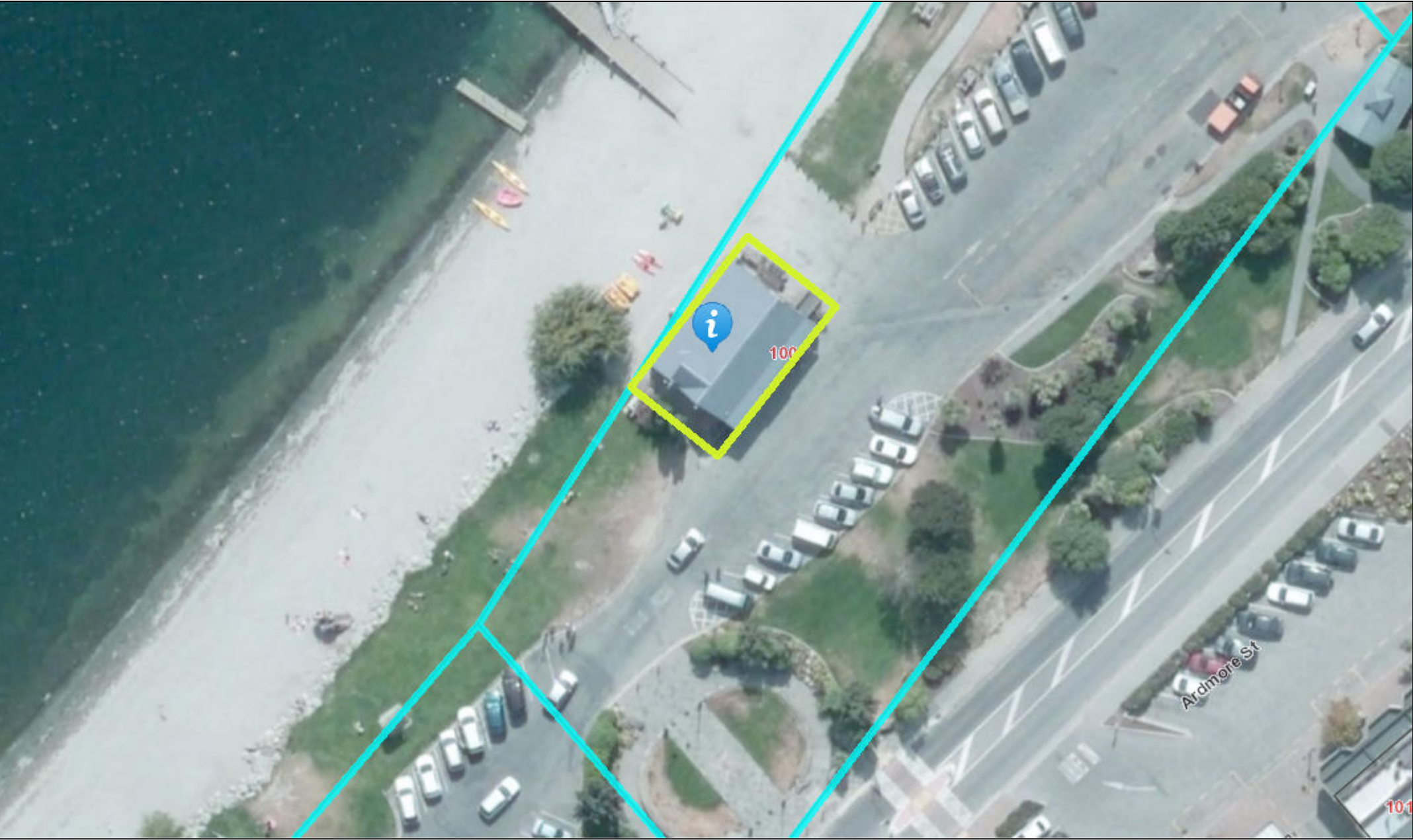
- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by providing income to Council and a decision in a timely manner;
- Can 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

33 Given there is no proposed change in business activity, consultation with public on this matter is not deemed necessary.

Attachments

A Site Plan



The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Queenstown Lakes District Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented by the GIS data. While reasonable use is permitted and encouraged, all data is copyright reserved by Queenstown Lakes District Council. Cadastral information derived from Land Information New Zealand. CROWN COPYRIGHT RESERVED