

Full Council

19 September 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [8]

Department: Property & Infrastructure

Title | Taitara: Mooney Road Stopping & Sale – Xray Trust Ltd

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to consider approving a road stopping and disposal request at Mooney Road by Xray Trust Ltd.

Public Excluded | Ārai te Iwi Whānui

It is recommended that Attachment E is considered while the public is excluded. This recommendation is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows:

<i>Section and Grounds</i>	<i>Reason for this recommendation</i>
7(2)(i) to enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	To enable the vendor and purchaser to complete contract negotiations in a private and confidential environment, without undue influence from other parties.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Approve** the procedures of section 342 and the tenth schedule of the Local Government Act 1974 to stop that portion of legal road shown as Section 1 SO 599466 on **Attachment C**;
3. **Approve** the road, when stopped, being disposed of in accordance with section 345 (1)(a) of the Local Government Act 1974 and amalgamated with the adjoining land held in Computer Freehold Register 665219;
4. **Approve** the conditional sale of the legal road to be stopped, to the proprietor of CFR 665219, with settlement to occur before 19 September 2025. If settlement is delayed

beyond this date, Council to reserve the right to revalue the land and nominate a new 'market' purchase price;

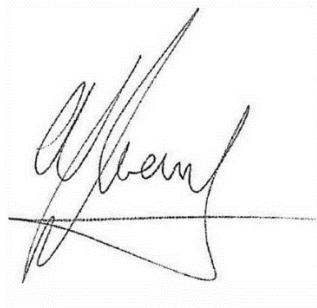
5. **Approve** Council's costs in undertaking the Tenth Schedule procedures of the Local Government Act 1974 be billed and paid on a monthly basis by the applicant with those costs being deducted from the road being sold at settlement;
6. **Agree** that Council's approval to undertake this process, including executing any sale and purchase agreements relating to it, shall be limited to a period of 2 years from the date of this resolution;
7. **Delegate** final terms and conditions, along with any associated agreements and consent notices to facilitate the legalisation and to provide any approvals for the placing or removal of easements, covenants, minor alignment, area changes and signing authority, to the Chief Executive of Council;
8. **Agree** to release this report/resolution publicly when disposal of the land is complete.

Prepared by:



Name: Roger Davidson
Title: Property Advisory Manager
14 August 2024

Reviewed and Authorised by:



Name: Tony Avery
Title: GM Property & Infrastructure
20 August 2024

Context | Horopaki

1. Queenstown Lakes District Council ('QLDC') has a number of unformed 'paper' legal roads throughout the district, particularly in rural areas.
2. XRay Trust Ltd (the applicant) has applied to stop a portion of unformed legal road running past their property to the South, and Millbrook Resort to the North. It is known as the unformed portion of Mooney Road (refer to Attachments A, B and C).
3. The applicant has previously been granted a licence to occupy road reserve by the Council in 2021 (refer to Attachment D). The licence to occupy request was to facilitate a landscaping plan requirement under RM150560. During the licence to occupy process, Council engineers recommended that it may be more appropriate longer term to stop the portion of road adjoining the property. The applicant has now requested this be completed.
4. The processing of the application and associated advice on the matter has been contracted to APL Property, in accordance with the Council's Property Services Panel.
5. Council advertised the proposed road stopping on 10 and 17 June 2024, with submissions open until 16 July 2024.

Analysis and Advice | Tatāritaka me kā Tohutohu

6. The applicant wishes to stop and acquire road adjoining their property and which is the subject of an existing licence to occupy for landscaping, required as a condition of implementing RM150560.
7. The legal road is not readily accessible, as it is occupied by fenced properties to the West, following the end of the formed portion of Mooney Road. The unformed legal road is not known to have ever been used by the public whether by foot, vehicle or other mode of transport. Both the applicant's property and Millbrook to the North have alternative legal road frontages and are not intended to use the unformed legal road.
8. The land adjoining the unformed legal road is zoned Wakatipu Basin Rural Amenity Zone to the south and Millbrook Resort zone to the north in the Proposed District Plan.
9. The applicant proposes to stop the existing legal road and incorporate it into their property with Record of Title 665219 with legal description Lot 1, 101 Deposited Plan 475822.
10. QLDC Roding and Transport Engineers have been consulted on the request and have confirmed their support for progressing the road stopping and disposal.
11. Initial consultation was carried out with the Queenstown Trails Trust and Herenga ā Nuku Aotearoa, the Outdoor Access Commission representatives. Neither party raised any concerns with the stopping proposal.
12. The process of stopping a road can be completed by Council pursuant to schedule 10 of the Local Government Act 1974. The Local Government Act 1974 process requires public notification to

consider affected parties. The process carries a potential to be taken to the Environment Court, should submitting parties disagree with the road stopping proposed.

13. During the notification process carried out in June/July 2024, there was (1) enquiry by groups / members of the public. This resulted in one (1) submission being received as follows:

WHO/WHOM	POSITION	COMMENT
Herenga ā Nuku Aotearoa, the Outdoor Access Commission	Non-objection	No objection due to being satisfied the road stopping had minimal or no impact on public access in the area.

14. The submission from Herenga ā Nuku Aotearoa, the Outdoor Access Commission is a non-objection and therefore it can be concluded that no objections were received to the public notification and that the Council may choose to progress the matter to its completion.
15. We have been advised by the applicant that Millbrook Resort, the main property owner adjoining the north of the road, is aware of the request and has no objection to the proposal. However, it should be noted that APL Property wrote to Millbrook Resort and all other adjoining owners as part of the public notification process, enabling them to make a submission should they have wished to do so.
16. Option 1 Agree to the proposed road stopping and sale, as described in this report.

Advantages:

- It provides a pragmatic utilisation of land and enables the applicant to comply with its Resource Consent conditions.
- Is not expected to impact public access rights as the paper road to be stopped is a dead end and does not access any reserve or community areas.
- Will provide income to the Council for the sale of the road once stopped.

Disadvantages:

- Stops an existing paper road and therefore removes public ability to traverse it.

17. Option 2 Decline the request.

Advantages:

- Would not stop an existing paper road, thereby retaining the public’s ability to traverse it.

Disadvantages:

- It would not provide a pragmatic utilisation of land and enables the applicant to comply with its Resource Consent conditions.

- Council and ratepayers would not benefit from the sale of land by receiving income for the stopped road.

18. This report recommends **Option 1** for addressing the matter because it releases unused legal road, subject to community consultation, that is of little use or benefit to residents or ratepayers.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

19. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it involves the stopping and disposal of Council legal road.
20. The persons who are affected by or interested in this matter are the residents and ratepayers of the Queenstown Lakes District.
21. The Council has carried out consultation with both the Queenstown Trails Trust and Herenga ā Nuku Aotearoa, the Outdoor Access Commission with the latter lodging a non-objection submission to the public notification of the proposed stopping.
22. The Council has publicly consulted on the proposal to stop the road, in accordance with the procedures of the Local Government Act, with no objections being received.

Māori Consultation | Iwi Rūnaka

23. The Council has not consulted with iwi in this instance, as the road disposal involves land of particular interest to the owner and adjoining owners, and is not easily accessible by the general public including iwi.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

24. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10021 within the QLDC Risk Register ('Ineffective operations and maintenance of property or infrastructure assets').
25. This risk has been assessed as having a high inherent risk rating. This matter relates to this risk because the Council seeks to dispose of a perpetual property right through the disposal of legal road, and this risk needs to be highlighted when considering approving any roading action.
26. The approval of the recommended option will support the Council by allowing additional controls for this risk to be implemented. This has been achieved by carrying out public notification of the intention to stop the legal road.

Financial Implications | Kā Riteka ā-Pūtea

27. All costs associated with the exchange will be met by the applicant. Upon completion of the stopping, the land will be sold to the applicant, less any costs.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

28. The following Council policies, strategies and bylaws were considered:
- Vision Beyond 2050, supporting Thriving People through provision of effective roading assets
 - Significance & Engagement Policy 2021
 - Property Sale and Acquisition Policy 2014
29. The recommended option is consistent with the principles set out in the named policy/policies. This matter is not included in the Long Term Plan/Annual Plan, but has no effect upon it.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

30. To carry out the road stopping, the Council must follow the procedures of section 342 and the tenth schedule of the Local Government Act 1974. This included providing public notice of the road stopping for a period of 40 days within which people may object. No objections were received.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kīaka

31. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. Approving the recommendation of this report will help to ensure Council has roading assets in locations most beneficial to the community and ratepayers. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.
32. The recommended option:
- Can be implemented through current funding under the Long Term Plan and Annual Plan;
 - Is consistent with the Council's plans and policies; and
 - Would not significantly alter 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.

Attachments | Kā Tāpirihaka

A	Overview plan
B	Road Stopping Scheme Plan
C	Road Stopping Survey Plan SO 599466
D	2021 Licence to Occupy Chief Executive report
E	Valuation (Public Excluded)
F	Submissions