

Full Council

24 October 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [1]

Department: Community Services

Title | Taitara: 101 Ballantyne Road Oxidation Ponds Remediation Agreement

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to provide the Council with an update on a proposal to enter into a commercial agreement with Willowridge Developments Limited to remediate and complete earthworks at 101 Ballantyne Road (former Oxidation Ponds) with the intended purpose being the future development of the Ballantyne Road Sports Hub.

Public Excluded | Ārai te Iwi Whānui

It is recommended that **Attachment A** of this report 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)	Premature release of this information would likely reveal Council’s negotiating position and create a potential disadvantage, whilst also inhibiting the other party involved in the negotiation. It is also likely to detrimentally affect the relationship between the negotiating parties. Whilst there is public interest in this matter and the use of public funds involved, the countervailing benefit of achieving the best outcome financially and for ratepayer facilities outweighs that interest.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Note** the recommendation of the Wānaka-Upper Clutha Community Board from the meeting held on 10 October 2024;

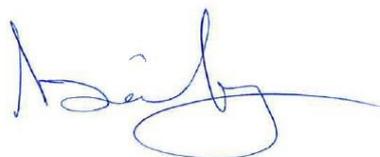
3. **Agree** that Council remediate contaminated areas and undertake earthworks to create a flat 20ha grassed site at 101 Ballantyne Road with the future intended purpose being the development of the Ballantyne Road Sports Hub for the Wānaka Upper Clutha community,
4. **Delegate** the Chief Executive the authority to enter into an agreement/contract with Willowridge Developments Limited to remediate and complete earthworks at 101 Ballantyne Road which is consistent with the terms outlined in the Public Excluded Ballantyne Road Agreement Memo dated 24 October 2024; and
5. **Agree** that the agreement/contract with Willowridge Developments Limited shall remain confidential until completion of the project but that the Mayor/Chief Executive be delegated authority to make a statement on the nature and timing of the work at an appropriate time.

Prepared by:



Name: Simon Battrick
Title: Sport & Recreation Manager
15 October 2024

Reviewed and Authorised by:



Name: Kenneth Bailey
Title: GM – Community Services
15 October 2024

Context | Horopaki

1. The Queenstown Lakes District Council (QLDC) – Central Otago District Council (CODC) Recreation & Sport Facilities Strategy 2018 (updated 2020) and the Draft Wānaka Recreation Centre (WRC) Masterplan 2018, identified early in the assessment process that all the unmet needs of recreation and sport activities could not be accommodated at the existing WRC site. A range of alternative locations were assessed to meet the demand for sports fields and other less land intensive activities for the future.
2. In late 2018, Council officers discussed the zoning of the 101 Ballantyne Road site as part of the Proposed District Plan, and it was agreed that the land be identified as a potential recreation and sports hub/park for the future. Residential development is proposed along the eastern edge of the site, there is existing light industrial along the northern and industrial proposed along the southern boundary. The existing Ballantyne Road industrial zone extends along the western boundary, on the other side of the road.
3. The site (101 Ballantyne Road, Wānaka) was previously used as wastewater oxidation ponds which were decommissioned in 2008/2009. In January 2021 the oxidation ponds were re-zoned from Ballantyne Road Mixed Business Use to Open Space and Recreation – Active Sport and Recreation Subzone. The site has since been re-zoned through the Proposed District Plan for recreation and open space activities and consists of approximately 20 hectares/50 acres of land.
4. The 2021/31 Long Term Plan allocated \$24M towards the remediation, site establishment works and development of the Ballantyne Road Sports Hub including sports fields and shared clubrooms, grass athletics track, carparking and ancillary facilities and a QLDC Parks Works depot.
5. In July 2022, a needs analysis and functional specification report was produced by consultants GLG in consultation with many key stakeholders.
6. In late 2022, Council staff undertook a master planning process to determine the general themes and activities proposed for the site because of the community consultation and needs analysis and created a draft Ballantyne Road Sports Hub Masterplan. This draft Masterplan was put on hold pending changes to the funding alignment in the Council’s Annual and Long Term Plans.
7. In June 2024, Council was approached by the neighbouring landowner Willowridge Development Limited (WDL) who indicated that it needed to remove approximately 149,000m³ from the existing development site and suggested that it could provide clean fill for the 101 Ballantyne Road site to create a flat 20ha grassed site under a commercial agreement with Council.
8. Council staff consider that entering into the proposed direct agreement with WDL will enable the remediation and earthworks required to provide a platform for future development of the site, to occur earlier as per the Wānaka-Upper Clutha community’s desire, as seen through the recent 2024/34 Long Term Plan submissions.

9. WDL is the physically closest clean fill supplier able to deliver the quantity of fill required, has access to the largest machinery supply in the Upper Clutha and has a track record of developments across the region. WDL can complete the works without accessing public roads thus reducing carbon emissions and has provided a commercial offer that will deliver the project in a shorter timeframe than what Council's 2024/34 LTP has provided.
10. Council staff also explored the option of establishing a commercial clean fill dumping site but this was discounted due to the cost, carbon emissions activity generation, logistics around the monitoring, staffing opex implications, charging requirements, testing implications and speed of delivery.
11. Delivery of the proposed agreement would enable a flat grassed site, but further development of sporting facilities and fields is subject to annual and long term plan funding, which does not imply these facilities will be delivered earlier than what is currently planned in the 2024/34 Long Term Plan.
12. Council staff presented a report to the Wānaka-Upper Clutha Community Board on the 10 October 2024 meeting about the proposed Developer Agreement with WDL. The Board was supportive of the proposal and resolved as follows:

That the Wānaka-Upper Clutha Community Board resolve to:

- 1. Note the contents of this report;**
- 2. Recommend to Council (Option 2) that Council remediate contaminated areas and undertake earthworks to create a flat 20ha grassed site at 101 Ballantyne Road with the future intended purpose being the development of the Ballantyne Road Sports Hub for the Wānaka Upper Clutha community;**
- 3. Recommend to Council that the Chief Executive has the delegated authority to enter into an agreement/contract with Willowridge Developments Limited to remediate and complete earthworks at 101 Ballantyne Road; and**
- 4. Agree that the agreement/contract with Willowridge Developments Limited remain confidential until completion of the project.**

Motion carried unanimously.

Analysis and Advice | Tatāritaka me kā Tohutohu

13. 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.
14. Option 1 Do nothing (status quo)

Advantages

- No staff time required to progress the agreement and works
- No requirement to finance the project or bring forward investment in the project

Disadvantages

- Unable to provide additional sporting facilities to cater for the current deficit of hours of usage in the Upper Clutha area
- The cost and or legislation for remediation may be more prohibitive in the future for Council

15. Option 2 Recommend to Council to enter into a commercial agreement with WDL to remediate and complete earthworks at 101 Ballantyne Road

Advantages:

- Contractor has the appropriate level of clean fill, machinery and expertise to undertake the works
- Contractor is a neighbouring landowner thus reducing the number of truck movements on public roads
- WDL has a proven track record of well-established developments locally and nationally
- The proposed commercial deal is financially advantageous for Council
- The Wānaka-Upper Clutha recreation and sporting community do not have to wait for construction to begin until Year 6 of the 2024/34 Long Term Plan for the proposed Ballantyne Road Sports Hub site investigation and remediation.

Disadvantages:

- Council is fiscally constrained in the 2024/34 Long Term Plan and has prioritised getting the basics right first as a foundational principle in developing that plan
- Possible works may cause dust nuisance issues
- Perception of unfairness by other contractors in being unable to dump their fill at 101 Ballantyne Road

16. Option 3 Decline the agreement with Willowridge Development Limited and explore other options for remediation and earthworks later

Advantages:

- Council does not incur any more financial debt in the short term
- Council may have more options to choose from in the future to remediate and complete the works
- Council can choose to explore other options for the use of the land at 101 Ballantyne Road

Disadvantages:

- A lost opportunity to complete remediation and earthworks at a financial achievable cost
- The Wānaka-Upper Clutha Community is likely to feel aggrieved that their recreation and sporting needs are not prioritised by Council
- The costs to remediate and complete earthworks will be more costly in the future
- The quantity of clean fill may not be available in the future

17. This report recommends **Option 2** for addressing the matter because it enables the early site establishment for the proposed Ballantyne Road Sports Hub at a financially advantageous cost to Council, it provides the Wānaka-Upper Clutha Community confidence that Council is committed to providing recreation and sporting facilities to meet the needs of the community.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

18. This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy 2021 because it involves a deficit in the level of service for sporting facilities in the Wānaka-Upper Clutha area.
19. The persons who are affected by or interested in this matter are the residents and ratepayers of the Upper Clutha area, sporting clubs, Regional Sport Organisations and event organisers.
20. The Council has previously consulted in 2022 with the community around the Ballantyne Road Sports Hub Masterplan and the intention to develop recreation and sporting facilities at 101 Ballantyne Road. This consultation and final masterplan were put on hold due to changes in funding alignment in the Long Term Plan. Subject to Council's approval, Council staff intend to re-engage with the community around the proposed final Masterplan before presenting to Council for a decision.
21. Feedback through the 2024/34 Long Term Plan consultation has also reinforced the need for Council to move quickly and the proposed agreement was timely to enable this opportunity.

Māori Consultation | Iwi Rūnaka

22. The Council will engage with mana whenua around the future development of the Site as part of the Ballantyne Road Sports Hub Masterplan and through the QLDC Spatial Plan 2.0.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

23. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10005 Ineffective planning for community services or facilities within the QLDC Risk Register. This risk has been assessed as having a high residual risk rating.

24. The approval of the recommended option will allow Council to avoid the risk. This will be achieved by development of a sporting hub in Wānaka which will enhance the quality and physical activity of the community in the Upper Clutha.

Financial Implications | Kā Riteka ā-Pūtea

25. The QLDC 2024/34 LTP contained funding in Year 6 of \$5.12M to begin site investigations and remediation of the Ballantyne Road Site. It is proposed to bring forward this amount as a reforecasting exercise to years 2024/25, 2025/26, and 2026/27, as required to progress the development of the site.

26. A public excluded memo has been provided to elected members because the public conduct of the whole or the relevant part of the proceedings of the meeting in public would be likely to result in the disclosure of information where the withholding of information is necessary to 'enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)'. To maintain the confidentiality of the agreement between Council and WDL and to protect the commercial position of both parties under Section 7(2)(i) of the Local Government Official Information and Meetings Act 1987.

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

27. The following Council policies, strategies and bylaws were considered:

- QLDC Vision Beyond 2050 – Thriving people | Whakapuāwai Hapori
- Draft Wānaka Recreation Centre Masterplan 2020
- QLDC - CODC Recreation & Sport Facilities Strategy 2020
- QLDC Community Facilities Strategy 2020
- Draft Ballantyne Road Sports Hub Masterplan 2022.

28. The recommended option is consistent with the principles set out in the named QLDC-CODC Recreation & Sport Facilities Strategy 2020 and the Draft Ballantyne Road Sports Hub Masterplan 2022.

29. This matter is included in the 2021/31 LTP and the 2024/34 LTP.

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

30. Council staff have sought legal advice regarding the change of use of the land from the initial use of sewerage treatment for which the land was acquired under the Public Works Act, to sports fields. The advice notes that the change of use from one public use to another does not trigger offer back requirements to the original owner. In the absence of any evidence produced by the previous landowner contradicting this position, Council will proceed with the process set out in the Public Works Act 1981 section 52(4) to set apart the land for use as sports fields.
31. The Public Works Act section 52(4) documentation is underway to ensure the finalisation of the transfer from a wastewater requirement to an open space requirement. This is expected to take approximately 6-8 months.

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

32. 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. The remediation and earthworks proposed to be undertaken will progress the development of the Ballantyne Road Sports hub which will enable sporting and recreational activities to occur for the community and potentially attract events and generate revenue for Council. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.
33. 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	Public excluded under LGOIMA Section 7(2)(i) - 101 Ballantyne Road Development Agreement 2024 Memo
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