

| | | |
|---------------------------|---|--|
| Report to: | Council – Public Excluded | |
| Date: | 30 March 2022 | |
| Subject: | Potential Sale of Council Land – Beach Road | |
| Prepared by: | Dave Clibbery – Senior Manager Operations | |
| Input sought from: | Matt Hoggard – Strategy, Policy & District Plan Manager | |
| Authorised by: | Will Doughty – Chief Executive | |

1. SUMMARY

Enquiries have been received regarding the purchase of a small parcel of landlocked Council owned land in Kaikōura.

2. RECOMMENDATION

- a) That Council gives approval for a process towards the sale of Lot 6 DP 6752 by deadline tender to the 3 adjacent residential properties.
- b) That legal advice be obtained regarding the potential uplift of the existing instrument on the title that prevents it to be used for a dwellinghouse.
- c) Delegates the Chief Executive Officer to determine the release of this public excluded report.

3. BACKGROUND

Council owns a 314m² lot of freehold land (legal description Lot 6 DP 6752) at the rear of 230 Beach Road. This lot was one of a number created in 1987 through the stopping of a relatively long 20 metre strip of road reserve that ran alongside the railway corridor behind the properties facing Beach Road. The intention of Council was that the stopped road would be subdivided into lots that could be amalgamated with the adjacent properties. An impediment to this was however in section 321 (1) of the Local Government Act 1974 which prevented the creation of lots that did not have road access, as these do not.

That provision was however circumvented by use of section 321 (3) b of that Act which permitted the restriction of s321 (1) to not apply if council resolved do so on the basis that the sites would not be used for a dwellinghouse. KDC passed such a resolution in November 1987 and these resolutions were subsequently reflected on the relevant titles as follows:

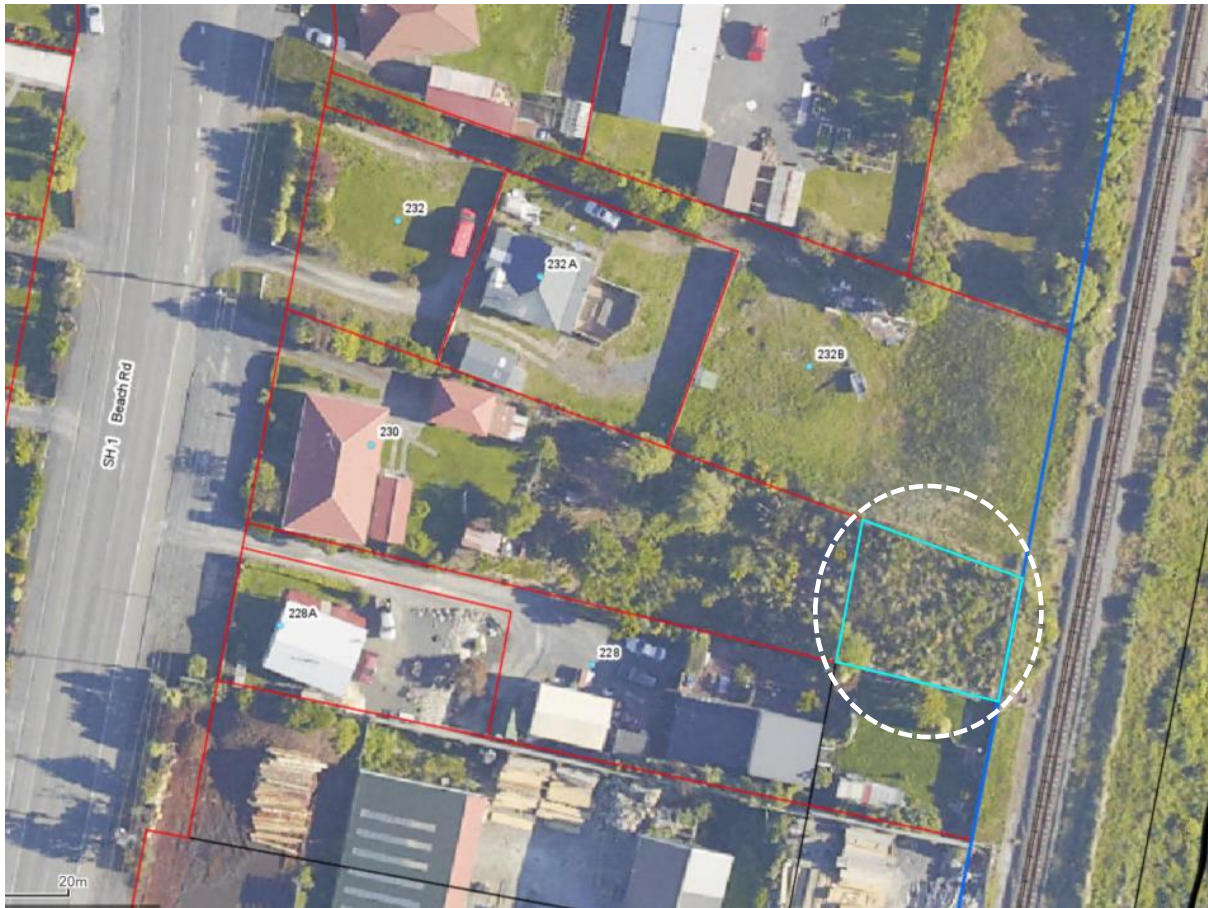
IN THE MATTER of Section 321 Local Government
Act 1974

The KAIKOURA COUNTY COUNCIL at its meeting on the 19 day of November 1987 resolved that it was satisfied that the allotments 1-18 and 20-26 on Plan L.T. 6752 were not intended to be used as sites for dwelling houses and the Council resolved on that ground that subsection 1 of Section 321 Local Government Act should not apply.


Principal Officer



With the exception of 230 Beach Road these adjacent properties acquired the new lots created on sections of closed road and amalgamated them into their titles.



Lot 6 DP 6752

4. POTENTIAL SALE

This exception was recently brought to the attention of staff through enquiries of potential purchasers of 230 Beach Road, including the successful buyer, who remains interested in a purchase of the Council land. Subsequently the owner of 228 Beach Road has also expressed interest in acquiring the lot, and it might also potentially be of interest to buyers of the larger adjacent partially developed lot of 232B, which is currently on the market.

Whilst the lot is not large its addition to any of these 3 properties could either support or constrain further subdivisions in that area, and the recent expressions of interest from 3 parties suggest that this may be a good time to sell it.

Though this and the other lots created from the road closure all have the same legal instruments on them preventing construction of dwellings upon those sites it would appear that if they were amalgamated with other adjacent lots that have road access that it would not be unreasonable for Council to then resolve that the grounds upon which this restriction was initially placed no longer exist. It is suggested that it would be worthwhile to obtain legal advice regarding the legitimacy of such a resolution, and if supportive, that Council then made a resolution to this effect to give potential buyers of the lot greater certainty regarding its potential use prior to inviting tenders.

It would however appear appropriate that the responsibility and legal costs of giving that uplift legal effect through changes to titles would however be borne by individual lot owners. Even if such a resolution was given legal effect and the instrument removed the construction of a dwelling would of course require achieving compliance with the District Plan and any other relevant regulations.

Because of the landlocked nature of the land it is only considered practically saleable to the adjacent properties, and as such attempting a valuation based on comparable market rates or indeed any other standard valuation methodology will probably be unreliable.

Government land values of residential properties in that area are currently in the \$180 to \$230 per m² range, and on that basis this 315m² would be worth in the order of \$60,000, but again it is suspected that such an approach may not accurately reflect its true value.

It is believed that the only way to assess its value is to invite offers from the 3 adjacent properties, and this would best done through a deadline tender process.

5. COMMUNITY OUTCOMES

The issue discussed in this report relate to the following community outcomes:



Development

We promote and support the development of our economy