

Acquisition of land - Matarangi tennis courts

TO	Thames-Coromandel District Council
FROM	Len Whittaker - Acting Area Manager Mercury Bay
DATE	9 December 2014
SUBJECT	Acquisition of land - Matarangi tennis courts

1 Purpose of report

For Council to consider the acquisition of land that comprises three of the five parcels of land that make up Matarangi tennis courts. The sites are located at 100 Matarangi Drive (2 courts), 105 Matai Place (2 courts) and 624 Matarangi Drive (2 courts)- Matarangi.

There is also a proposal to create a pedestrian right of way over another property situated at 113 Kauri Place Matarangi.

2 Background

The titles

100 Matarangi Drive

On 27 September 1984 Council approved the subdivision that created 100 Matarangi Drive (**Attachment A**). There is no commentary included in the application or decision supporting vesting of this parcel in Council. 100 Matarangi Drive is comprised in computer freehold register SA33B/959 and is owned by Burfoot Limited.

105 Matai Place

On 26 September 1985 Council approved the subdivision that created 105 Matai Place (**Attachment B**). A letter dated 10 September 1985 to the Developer's consultant states "*the tennis courts will remain under the control of Matarangi Beach Estate Limited, until a local organisation to control them is formed, to ensure proper maintenance and running of the courts*". 105 Matai Place is comprised in computer freehold register SA36B/105 and is owned by Burfoot Limited.

624 Matarangi Drive

On 5 November 1997 Council approved the subdivision that created 624 Matarangi Drive (**Attachment C**). A letter dated 10 July 1997 to the Developer's consultant states "*the tennis court is to remain in the ownership of Matarangi Beach Estates*". 624 Matarangi Drive is comprised in computer freehold register SA63C/913 and is owned by Burfoot Limited.

113 Kauri Place

This lot was created as part of the 1997 subdivision and until recently had another tennis court located on it. This has recently been removed with the developer intending to sell that lot as a residential lot (**Attachment I**).

The historical intent

Concept of Matarangi Development

It appears the foresight of the original developers, Kenwood Properties Limited, was to develop Matarangi in the same manner as completed under Stage 11. This created residential lots with other areas set aside for pedestrian access and community facilities such as tennis courts and children's play area. It seems the whole subdivision concept was

to develop an exclusive area in which to live with all facilities and land outside the residential lots to be held and maintained in private ownership with a management company overseeing the maintenance responsibilities.

This is further confirmed by an encumbrance registered on a number of titles in the Pines that requires all lot owners to pay \$250 (plus GST): or 1/28th share of the previous year's cost of maintaining the tennis courts, playground area and pathways which form part of the subject lots contained in Stage 11.

Ownership and Management of Tennis Courts

However the concept and management arrangements did not progress to later stages of the subdivision and no such encumbrance is registered on titles to fund maintenance on the land being. There have been a number of issues with Matarangi recreational land with ownership and management of the tennis courts being an issue for the Matarangi community, particularly the Matarangi Residents and Ratepayers Association. Concerns have existed about the possibility that the courts and the land on which they exist could be sold or developed and therefore lost as a community asset/public reserve.

It is noted that the report to the Mercury Bay Community Board 9 September 2014 (**Attachment D**) stated that *"Council currently manages the sites and pays for the majority of the maintenance costs associated with the courts and other facilities on site"*.

Council staff have confirmed that Council has recently completed line marking on the courts located at 100 Matarangi Drive, and undertaken a minor fence repair. The open space surrounding the tennis courts is included in the Parks contract together with the minimal open space surrounding the other two locations. However Council has not undertaken any court or fence maintenance at the other two locations.

Burfoot Limited have suggested that it should not have to pay the rates payable on the three parcels from the date of the Mercury Bay Community Board resolution (9 September 2014) If Council are so minded it could resolve to pay the appropriate amount to Burfoot Limited as the purchase price.

3 Issue

The land that comprises the three tennis courts sites is currently owned by Burfoot Limited. They have offered to transfer the land and improvements to Council without payment. Council needs to consider the costs associated with owning the sites which may need initial capital expenditure and on-going operational expenditure and whether the tennis courts are being used to the highest and best use prior.

Additionally to ensure that pedestrian connectivity is maintained from Kauri Crescent onto the reserves that form part of the Matarangi area, Burfoot Limited have offered a pedestrian walkway over the land located at 113 Kauri Crescent. The proposed access strip is shown in the survey plan provided by Burfoot Limited, (**Attachment J**). If Council were to acquire this access strip it would be affected using the Public Works Act 1981. All costs associated with formation of the walkway would be Council's; however no fencing costs would be incurred. As can be seen there has been pedestrian connectivity provided in the past, however this lot is to be marketed as a residential lot, the tennis court that was on having now been removed.

4 Discussion

Often a concept that is considered when acquiring land is the highest and best use of property. This can be described as the most probable use of a property which is physically possible, appropriately justified, legally permissible, financially feasible, and which results in the highest value of the property being valued.

Highest and Best Use

100 Matarangi Drive

As illustrated in (**Attachment E**) the land surrounding the tennis courts has a vast area of open space and also comprises a Council playground and picnic tables that appeared to have been constructed and installed without agreement between the two parties.

105 Matai Place

As illustrated in (**Attachment F**)

624 Matarangi Drive

As illustrated in (**Attachment G**)

Zoning

The zoning for all three properties is Recreation Passive Zone for both the Operative District Plan and the Proposed District Plan.

This zoning is applied to areas of public or private land which is held for the purpose of recreation and leisure activities. Permitted activities with the zone include informal recreation activities, such as tennis, festivals and events. Subdivision and subsequent residential development of the sites would most likely be discretionary or non-complying activities given the zone requirements.

Whilst this report is not advocating the proposition that the land be developed by Council, the zoning of the land clearly limits the ability of the current owner to use the land to its highest and best use.

The current owners have indicated that they will vest ownership of the land and facilities to the Council at no cost and with no expectation of development/reserve contribution credits being provided by the Council.

Transferring ownership to the Council has a benefit to the current owner in terms of lessening the total rates they currently pay and passing the maintenance burden of the land to Council.

It is also the case that transferring ownership to the Council has the associated benefit of protecting the recreational use of the land in the long term.

Council staff and the Mercury Bay Community Board Chair have met with Matarangi Ratepayers Association who strongly support the transferal of the courts to Council. Staff have no information as to the level of use by residents or visitors. Equally there has been no engagement with the owners or the community on any alternative potential uses for the courts. For instance they could be developed as playgrounds, skate parks, basketball areas, fitness areas or other similar recreational uses. Consequently there is little understanding as to the level of utilisation, or to the potential controversy or support that any change of use may attract.

The discussions held with the Matarangi Ratepayers Association have included the potential for the ratepayers association to lead the development of a community organisation to take on the management and development of the tennis courts and potentially other Matarangi recreational facilities. Cost sharing for the development and maintenance of the courts has been discussed, with the principle supported by the association.

Thames-Coromandel District Council and Waikato Regional Council Rates

Transferal to Council will remove from the current owner the current rates associated with the land. The rating information associated with the three tennis court sites is presented in Table 1.

Tennis Court Location	Rating Valuation (TCDC)	TCDC Rates	WRC Rates
100 Matarangi Drive, Matarangi	113,000	1644.92	157.00
105 Matai Place, Matarangi	121,000	1659.41	160.39
624 Matarangi Drive, Matarangi	132,000	1679.34	165.04
Totals	366,000	4983.67	482.43

Table 1: Rating Information Matarangi Tennis Court Sites

If Council declares the parcels recreation reserves under the Reserves Act 1977, the rating treatment of the parcels would change such that on the commencement of the new rating year (1 July 2015), the land would be 100% exempt from rates.

Capital and Operational Maintenance and Expenditure

An itemised costing from year 1 - year 10 for both capital and operational expenditure is appended as **(Attachment H)**. The figures have been provided by staff from the Mercury Bay Area Office based on visual inspection of the courts and estimated from quotes received from other jobs that have been completed recently. There has not been an expert detailed asphalt and turf assessment report carried out for any of the courts, the figures have been developed with the underlying assumption that the courts will be maintained to at least an acceptable standard for use as tennis courts. These costs should be considered a worst case scenario given the intention is for some form of community financial contribution to the maintenance and development of the courts, should Council take ownership of the land.

Generally the courts have been maintained however staff advise that if there will be a need for some expenditure on all three parcels for minor fencing repairs and line marking.

As can be seen in attachment H the courts located at 624 Matarangi Drive require re-surfacing. The attachment contains two potential resurfacing options with estimated costs.

As mentioned there are encumbrances registered the titles of a number of properties that require that the owners of these properties to pay an annual fee for the maintenance of other commonly used areas. However this arrangement is not in effect for the three parcels of land being offered. It is anticipated that funding for all expenditure would be locally by Mercury Bay area ratepayers.

Tennis Court Location	Surfacing	CAPEX Year 1	OPEX Year 1	Total Year 1	Total 10 years
100 Matarangi Drive, Matarangi	Asphalt	\$1,750	\$4,250	\$6,000	\$40,080
105 Matai Place, Matarangi	Asphalt	\$2,650	\$1,750	\$4,400	\$39,790
624 Matarangi Drive, Matarangi	Green Turf	\$46,750	\$3,000	\$49,750	\$69,500
Totals - Option One				\$57,150	\$149,370

Table 2: Summary of Capital and Operation Maintenance Expenditure - Option One

Tennis Court Location	Surfacing	CAPEX Year 1	OPEX Year 1	Total Year 1	Total 10 years
100 Matarangi Drive, Matarangi	Asphalt	\$1,750	\$4,250	\$6,000	\$40,080

105 Matai Place, Matarangi	Asphalt	\$2,650	\$1,750	\$4,400	\$39,790
Alternative 624 Matarangi Drive, Matarangi Replace turf with AC Surfacing	Asphalt	\$55,750	\$3,000	\$58,750	\$64,730
Totals - Option Two				\$69,150	\$144,600

Table 3: Summary of Capital and Operational Maintenance Expenditure - Option Two

Summary

Burfoot Limited have offered three parcels of land held by it generally used as tennis courts to Council with payment. Two of the three parcels are in reasonable condition, however the courts on the land located at 624 Matarangi Drive are considered by staff to require reasonable significant upgrades to be considered usable with the next 12-24 months. It is noted that there is no specific budget in the draft long term plan for making provision for maintenance of these courts over the next 10 years.

There is also the opportunity to acquire a pedestrian access strip that would lead from Kauri Crescent to the reserves that connect parts of Matarangi.

5 Suggested resolution(s)

That the Thames-Coromandel District Council:

1. Receives the report.
2. Confirms that it approves the acquisition and ownership of the land and all associated facilities within or upon the land legally described as Lot 12 DPS 79697 (624 Matarangi Drive, Matarangi), Lot 524 DPS 39800 (105 Matai Place, Matarangi), Lot 516 DPS 36944 (100 Matarangi Drive, Matarangi) and delegates to the Chief Executive authority to complete all necessary documentation to complete the transfer of ownership.
3. Confirms that once in Council ownership Council declares the land parcels land described as Lot 12 DPS 79697 (624 Matarangi Drive, Matarangi), Lot 524 DPS 39800 (105 Matai Place, Matarangi) and Lot 516 DPS 36944 (100 Matarangi Drive, Matarangi) respectively, to be recreation reserve subject to the Reserves Act 1977, and delegates the Chief Executive authority to give the necessary public notice in accordance with the Reserves Act 1977.
4. Confirms that it approves the acquisition and ownership of the pedestrian access strip over 113 Kauri Crescent, Matarangi and delegates to the Chief Executive authority to complete all necessary documentation to complete the acquisition.
5. Instructs the Chief Executive that in the event that there are no objections to the classification of the land as reserve to attend to the gazettal and any other outstanding items associated with the completion of the transfer and land status of the land described as Lot 12 DPS 79697 (624 Matarangi Drive, Matarangi), Lot 524 DPS 39800 (105 Matai Place, Matarangi) and Lot 516 DPS 36944 (100 Matarangi Drive, Matarangi).
6. Notes that the transfer is on a zero payment basis and that development or reserve contribution credits will not be given in association with this transfer and that the Burfoot Limited is responsible for payment of all outstanding rates on the parcels until the date of transfer.

References-Tabled/Agenda Attachments

- Attachment A** DPS36994 - 100 Matarangi Drive
Attachment B DPS39800 - 105 Matai Place
Attachment C DPS79697 - 624 Matarangi Drive

- Attachment D** Mercury Bay Community Board 9 September 2014 report and resolutions
- Attachment E** Aerial - 100 Matarangi Drive
- Attachment F** Aerial - 105 Matai Place
- Attachment G** Aerial - 624 Matarangi Drive
- Attachment H** CAPEX and OPEX
- Attachment I** CT 113 Kauri Crescent
- Attachment J** Survey plan proposed land for acquisition

Attachment A
Attachment A - DPS36994 - 100 Matarangi Drive

Attachment B
Attachment B - DPS39800 - 105 Matai Place

Attachment C
Attachment C - DPS 79697 - 624 Matarangi Drive

Attachment D
Attachment D - MBCB 9 September 2014 report and resolutions

Attachment E
Attachment E - 100 Matarangi Drive - Matarangi

Attachment F
Attachment F - 105 Matai Place - Matarangi

Attachment G
Attachment G - 624 Matarangi Drive - Matarangi

Attachment H
Attachment G - CAPEX and OPEX

Attachment I
Attachment I - CT 113 Kauri Crescent

Attachment J
Attachment J - Survey plan proposed land for acquisition