

22 May 2019

Queenstown Lakes District Council Parks and Reserves Department Private Bag 50072 Queenstown 9348

Attention: Aaron Burt

Via E-mail: aaron.burt@qldc.govt.nz

Dear Aaron,

SKYLINE ENTERPRISES LIMITED – PROPOSED EASEMENTS FOR DEVELOPMENT OF SKYLINE ENTERPRISES LIMITED CAR PARK

Introduction

Southern Planning Group act for Skyline Enterprises Limited ("SEL"). Over the last three to four years SEL has been progressing a major redevelopment of the Skyline gondola and restaurant in Queenstown.

The re-development proposal has necessitated a number of statutory approvals which have been assessed by the Queenstown Lakes District Council ("Council") pursuant to both the Resource Management Act 1991 and the Reserves Act 1977. A summary of the existing approval applications directly related to the SEL development and assessed by the Council to date is outlined below:

Resource Consent Approvals

- ➤ RM160647 was a resource consent application for the redevelopment and expansion of the existing lower terminal, gondola and restaurant building located on Bob's Peak. This application was lodged in July 2016 and was publicly notified and progressed by direct referral through the Environment Court. A final decision approving the proposal was issued by the Environment Court on 15th February 2019.
- ➤ RM171172 was a resource consent application for the construction and operation of a multi-level car park building comprising 448 parking spaces to facilitate the parking demand of the existing SEL facilities and the expanded proposal sought in RM160647. This proposal was lodged in October 2017 and was publicly notified and progressed by direct referral through the Environment Court. A final decision approving the proposal was issued by the Environment Court on 15th February 2019.
- RM171459 was a resource consent application to construct a new indoor and outdoor kiwi enclosure within the Kiwi Birdlife Park ("KBP"). This was a requirement of the RM160647 & RM171172 proposals to mitigate effects of construction noise and vibration on the Kiwi. The application was lodged in

December 2017 and the Council's decision was issued on a non-notified basis in March 2018.

Reserves Act 1977 Approvals

➤ ROW Easement Over Lot 2 DP 345184. This was an application made under Section 48 of the Reserves Act to authorise the establishment of a Right of Way over a strip of Council Recreation Reserve 'sand whiched' between the SEL lower terminal site and the Kiwi Birdlife Park to accommodate pedestrian, cycle and vehicular traffic and construction of a new retaining wall, fence and associated earthworks.

The matter was processed on a publicly notified basis and received submissions from Ziptrek, Basil Walker and Peter Flemming and was heard by a panel of Councillor's on 1st September 2016. The Council resolved to approve the ROW Easement at their full Council meeting of 2 September 2016.

Lease and Easements for the car park building. This was an application made under Sections 48 and 54(1)(d) of the Reserves Act to approve a Lease of part of the Ben Lomond Recreation Reserve immediately behind the lower terminal building to be used for construction and operation of a commercial car park and administrative offices associated with the SEL facilities on the Ben Lomond Recreation Reserve.

The proposal also sought a variety of Easements for Rights of Way, undergrounding power lines and storm water infrastructure including the discharge of such into the pond on the KBP site.

The proposal was publicly notified and received no submissions and was subsequently approved by the Council at their full Council meeting on 8th March 2018.

➤ ROW and infrastructure services Easements. This was an application to approve Easements for existing and proposed infrastructure services (gas, power, storm water, waste water, potable water and telecommunications reticulation), Rights of Ways over existing vehicle tracks and a widened gondola cableway Easement. The proposal also sought Easements for rock fall protection works which are required to eight bluffs as part of the RM171172 Environment Court Decision.

At the time of drafting this application the proposal has progressed through public notification with two submissions having been received from Ziptrek (oppose) and Basil Walker (neutral). A hearing was held on the 19th March 2019 and a final decision from the Council is currently pending.

➤ Lessors Approval for construction of the new Kiwi enclosures. This was an application made under the terms and conditions of the KBP Lease granted under the Reserves Act 1977 to authorise construction of the new kiwi enclosures approved by resource consent RM171459.

Lessor approval for this matter was approved by Council's agents at APL Property Limited on 20th February 2018.

With the resource consent decisions having been issued by the Environment Court and the necessary Reserves Act approvals having been granted or decisions imminent, SEL has commenced detailed design and planning towards achieving compliance with the conditions of the resource consents.

In doing so, a number of matters have arisen which will necessitate a variation to the approved plans and conditions of the resource consents RM160647 and RM171172. The most significant of these changes is an alteration to the site layout and overall circulation of vehicles, mountain bikes and pedestrians at the lower terminal and car park area.

In order to facilitate the desired changes to the site layout the car park building is shifting further north within the Lease Area and is reducing in size. In addition, the geotechnical engineers have identified that rock anchors will now need to extend beyond the Lease Area boundary, an access track and bench is required for maintenance and construction of the primary cut face and there are three additional bluffs which should be subject to rock fall mitigation.

A variation to the resource consents RM160647 and RM171172 will be lodged with the Council shortly.

The purpose of this correspondence, however, is to formally request the grant of Easements over Council owned Recreation Reserve pursuant to Section 48 of the Reserves Act 1977 for:

- Right of Support for the establishment of rock anchors beyond the site boundary in favour of Section 1 SO 22971& Area A (Car Park Lease);
- ➤ Right of Support and Rock Fall Prevention Measures for the bluffs 18, 19 and 20 in favour of Section 1 SO 22971& Area A (Car Park Lease);
- Right of Way in favour of Section 1 SO 22971 & Area A (Car Park Lease);
- Right to Convey Electricity in Gross for Aurora Energy Limited.

Plans illustrating these new Easements prepared by Patterson Pitts Group is attached as **Appendix [A]**. The full proposal is described in detail below:

Detailed Description of the Proposal

As identified above there are four types of Easements sought. The details relating to each are discussed individually in the proceeding sections. The requirement for these new Easements has largely arisen due to a change in the site layout and more efficient and safe management of pedestrian, vehicular and mountain bike traffic. Specifically, the primary proposed changes include:

 The roading access into the site has been revised to be direct two-way access to and from the car park building i.e. not a loop road around the lower terminal building;

- The vehicular access way along the eastern elevation of the lower terminal building has been amended to a pedestrian and cycle way (with occasional vehicle use for SEL maintenance operations);
- To accommodate the amended coach and delivery parking and manoeuvring areas the car park building has been made shorter in length by 8.4m meaning it has reduced from 94.44m to 86.10m in length;
- The distance of the car park building to the northern boundary of the Skyline lease area has reduced from 8.214m to 1.7m:

The proposed change in the car park building's position further north has resulted in amendments to the location and extent of the earthworks needed to site the car park into the topography.

Right of Support for Rock Anchors

GeoSolve have provided expert geotechnical assessment and reporting for the SEL development proposals. In their report submitted with the car park building resource consent application it was noted with regard to the stability of the schist in the primary cut face that it has some defects and that rock anchors may be required for retention. Additional investigations and assessment were recommended to be undertaken at detailed design stage to confirm any appropriate remedial measures.

It was however expected that a grid of rock anchors would be required and that any anchors that would be required were expected to remain within the Lease Area boundary¹.

Subsequently, GeoSolve have now commenced more detailed design and investigation of the earthworks and have assessed the new car park building location and proposed earthworks plans. A copy of their latest assessment is attached as **Appendix [B]**.

This latest assessment notes that that the recommendations provided in their geotechnical report submitted with the original application are appropriate however, the proposed excavation location has been amended and there is now an 18m high cut in the northern extent of the earthworks area.

Due to the changes in the cut locations and heights, the recommended rock anchors can no longer all be accommodated within the car park Lease Area boundary. Easements for these retention structures are subsequently proposed and illustrated on the Patterson Pitts Group plan in **Appendix [A]** as areas 'S', 'T', 'U', 'O', 'P', 'Q', 'I', 'R' & 'Y'.

<u>Right of Support and Rock Fall Prevention Measures for the bluffs 18, 19 and 20</u>

During the processing of the resource consent application RM171172 GeoSolve prepared reports specifically addressing the rock fall and alluvial fan hazards². These reports contained a map of all the known rock bluffs located within the Ben Lomond Recreation

¹ GeoSolve Geotechnical Report for Resource Consent Carpark Building Queenstown Skyline Revision: 1 August 2017 GeoSolve Ref: 160073.03, page 11

² GeoSolve Report Ref: 160073.03 13 March 2018 and 160073.03 14 May 2018

Reserve and above the car park building /lower terminal area. Each bluff or bluff series was identified numerically.

In the last report dated 14th May 2018 two remedial options for alleviating rock fall risk to a tolerable level were proposed. One of these options being the removal, anchoring bolting and meshing of bluffs numbered 10,11,12,13,15,16,28,29 was ultimately included as mitigation in the conditions of the Environment Court's final decision on RM171172.

As identified in the introduction, Easements have been sought over these bluffs in the latest application for Easements under the Reserves Act 1977 which is pending approval from the full Council.

As a result of the changes to the earthworks required to implement the new site layout and amended location of the car park building there are three additional bluffs that GeoSolve recommend should be incorporated into the carpark earthworks with respect to rock fall management being bluffs 18, 19 and 20 and the area south of bluff 22.

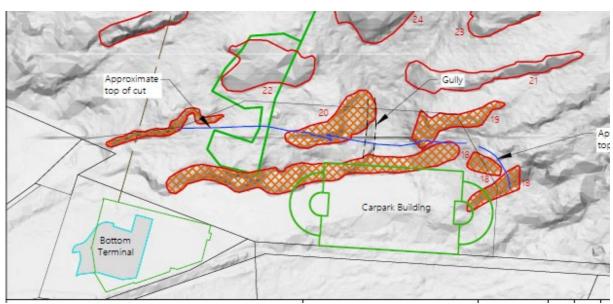


Figure 1. Bluff Systems 18 – 20 Shown Hatched. Source GeoSolve Limited

These bluffs are illustrated in Figure 1. Above and are located partly within and partly immediately adjacent to the existing SEL car park lease boundary.

These areas are proposed to be subject to Easements for rights to support and rock fall mitigation and are illustrated on the Patters Pitts Group Easement plan in **Appendix [A]** as areas 'S', 'T', 'U', 'O', 'P', 'Q', 'I', 'R' & 'Y'.

Right of Way in Favour of Section 1 SO 22971& Area A

As part of the suite of changes in the variation package, SEL are seeking that a Right of Way be granted along the Recreation Reserve that sits between the car park Lease Area and the KBP site and legally described as Pt Section 129 Blk XX Shotover SD.

This Right of Way would connect to an additional proposed Right of Way running immediately adjacent to the northern boundary of the Car Park Lease Area.

The purpose of these Right of Way Easements is to facilitate access and enable construction of localised retaining, rock fall mitigation and drainage works within the proposed cut. This includes the formation of a track close to the top of the proposed batter slope.

The proposed Right of Way Easements are needed to ensure that following construction there remains access to the benched track behind the car park building to ensure that maintenance, repair and monitoring of the localised retaining, drainage and rock fall mitigation measures can be undertaken.

The proposed Right of Way areas are illustrated as Easement areas 'D', 'W', 'V' and 'U' on the Patterson Pitts Group Easement Plan in **Appendix [A]**.

<u>Right to Convey Electricity in Gross for Aurora Energy Limited</u>

As noted in the introduction, SEL previously obtained approval from Council in 2016 for the creation of a ROW Easement over Lot 2 Deposited Plan 345184. This ROW Easement also comprised a Right to Convey electricity, telecommunications, water, storm water and waste water in favour of the existing lower terminal site and the SEL car park area.

The Easements did not however provide an Easement in Gross for Aurora Energy. Accordingly, the opportunity is being taken with this application to provide such an Easement over areas 'A' and 'B' on the Patterson Pitts Group Easement Plan in **Appendix** [A].

<u>Assessment of Effects of the Proposed Easements</u>

All of the proposed Easements in this application necessitate physical modification of the affected areas of Council Reserve land. The degree of modification varies between the separate aspects of the proposal.

For example, the establishment of the Easement in Gross for Aurora Energy is located within an area (Lot 2 DP 345184) that is already approved under the Reserves Act and Resource Management Act for earthworks and modification to create retaining, access and provision of services. The addition of an Easement in Gross to Aurora will not result in any physically discernible change from the already approved development.

Similarly, the establishment of rock anchors that extend beneath the boundary of the SEL car park lease area will not change the fact that the approved development will have large cut faces into the toe of Ben Lomond or a grid of rock anchors to provide support. These visual elements were authorised in the Environment Court consent decisions.

The parts of the rock anchors extending beyond the Lease boundary will be underground and therefore imperceptible to the public. There are no other activities, access or infrastructure in the area of the proposed rock anchors which would find these intrusions an impediment.

The creation of the ROW Easement over Area 'D' will not result in any physical changes to the Reserve on Pt Section 129 Blk XX Shotover SD over and above that anticipated by the existing Resource Consent approvals. This area is to be developed to a Grade 2 track standard in accordance with the Environment Court decision for RM171172 and will also be sufficient for the type of very limited vehicle access needed along this proposed ROW. No additional earthworks or development are needed to provide for this access – the proposal merely seeks the legal right of access.

The proposed works for rock fall mitigation and establishment of access to the earthworks bench behind the car park building will result in physical modification beyond the scope of the existing Environment Court decisions and Reserves Act Lease approvals.

These proposed works will result in the earthworks extending north beyond the SEL car park Lease boundary and west beyond the car park Lease boundary. The rock fall mitigation works will involve either the removal of loose blocks of material, mesh covering and/or rock anchoring of the bluffs identified as 18, 19 and 20 and that area south west of bluff 22.

These works are located in areas that fall partly within the SEL car park Lease area and immediately adjacent to it. They will therefore be perceived as works directly associated with the gondola redevelopment proposal and not isolated from it.

While the earthworks for rock bluff stabilisation and access for on-going maintenance extend beyond the Lease boundary the applicant has received a supporting landscape visual assessment from Boffa Miskell with respect to the changes in earthworks and landscape modification.

Specifically, Boffa Miskell note that:

"The proposed changes to the Lower Site will not degrade the visual coherence and naturalness of the landscape any further than the originally consented proposal (Figure 11). The proposed changes can be absorbed into the landscape and overall the design is consistent with the existing modified urban landscape of Brecon Street." 3

A full copy of the Boffa Miskell Landscape Assessment which will be submitted with the resource consent variation is attached as **Appendix [C]**.

While the proposal is considered appropriate from a landscape perspective, it is also necessary to consider the effects on the recreational values in the affected areas. In this case, the areas subject to rock fall remediation and creation of access ways are topographically prohibitive to enabling recreation.

They are steep and bluffy areas of the Ben Lomond Recreation Reserve with no existing tracks or easy access to them. They are covered in woody weeds and wilding conifers and there is no known existing recreational use in the affected areas.

³ Boffa Miskell Skyline Queenstown Effects of proposed changes to RM160647 and RM171172, Assessment of Landscape & Visual Effects, page 11

There is a cleared strip in the vegetation enabling the conveyance of electricity via Aurora Energy's overhead power lines near the north western corner of the proposed works.

Given the above, it is considered that the effects of the proposed earthworks on recreational values will be de-minimus and the proposal will meet the purpose for Recreation Reserves in that it does not significantly adversely affect the natural environment and beauty of the countryside based on the expert advice of Boffa Miskell and the proposed works do not impact on the ability of the Reserve to provide for recreational activities and recreational tracks⁴.

In addition to all of the above, the resource consent conditions for both RM160647 and RM171172 as approved by the Environment Court contain an extensive suite of conditions in respect of the following matters:

- Geotechnical investigations and detailed design for earthworks and natural hazard mitigation works;
- Engineering review and acceptance for all servicing, earthworks and access matters,
- Traffic Management and Site Management Plans,
- Construction Noise & Vibration Management Plans;
- Communication Plans for keeping key stakeholders and adjacent neighbours informed of particular works and scheduling of development;
- Preparation of Easement plans and registration of Easements,
- Implementation of landscape planting and remedial works to cut faces.

Full copies of the current Environment Court decisions RM160647 and RM171172 which include all the relevant conditions are attached as **Appendix [D]**.

While the applicant is seeking to lodge a concurrent variation to these resource consents to authorise the changes described herein under the Resource Management Act, it is not intended to vary or delete the conditions of consent that avoid, remedy or mitigate the effects of the development including earthworks and services installation.

Accordingly, all physical works of the proposed Easements in this application will be controlled by Council through the detailed design, certification and monitoring processes in the relevant conditions of consent. Any approval given to establish these Easements under the Reserves Act should in my opinion include a condition that they must be implemented in accordance with the resource consent approvals RM160647 and RM171172 and any subsequent variation to those consents granted by the Council.

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⁴ Section 17(1) Reserves Act 1977

Summary

As illustrated above, and in the attached documents, the proposed Easements are considered to have minimal impact on the affected Recreation Reserves and particularly in terms of landscape and natural values and the provision and/or protection of outdoor recreational activities.

The proposed physical works are supported by an expert landscape assessment prepared by Boffa Miskell. Further, the conditions of RM160647 and RM171172 (including any future variation) that avoid, remedy or mitigate the effects of all works associated with the SEL redevelopment proposal will apply to the Easements sought in this proposal.

Accordingly, it is considered appropriate for the Council to authorise public notification of this application and ultimately to grant the proposal in accordance with Section 48 of the Reserves Act 1977.

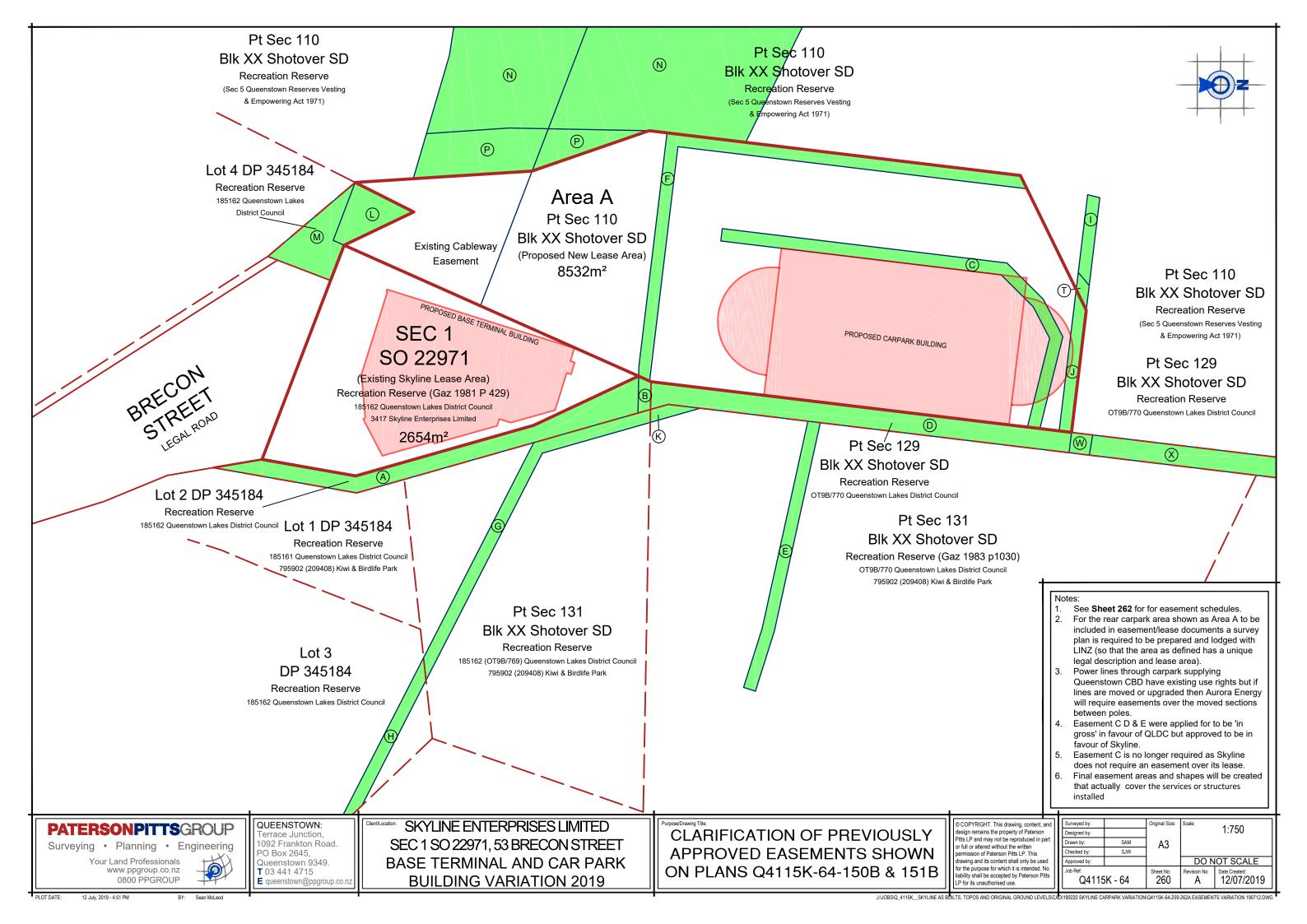
Yours faithfully

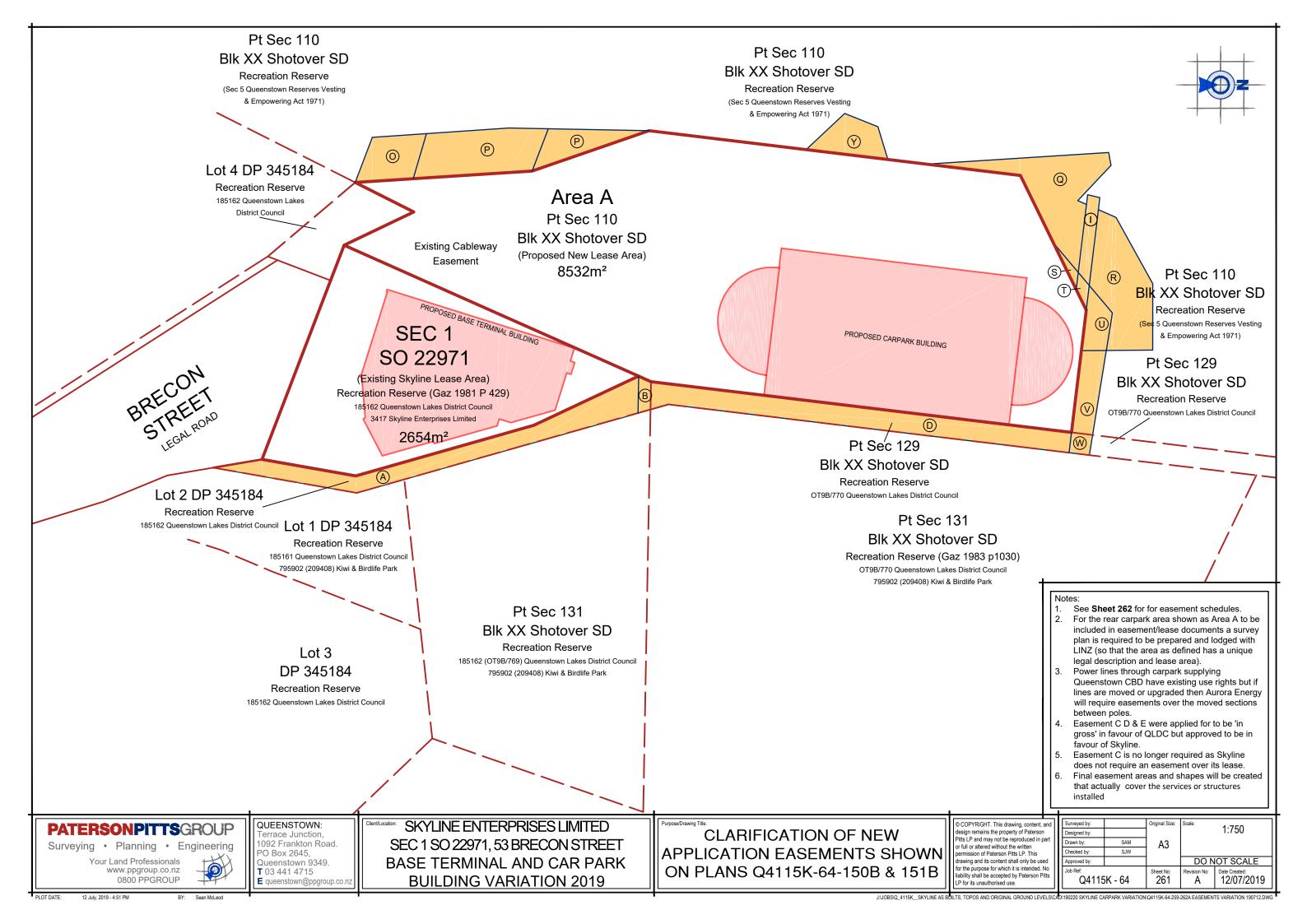
Sean Dent DIRECTOR

SOUTHERN PLANNING GROUP

16250 - SEL CAR PARK EASEMENTS #2

ATTACHMENT B Pt Sec 110 Pt Sec 110 Blk XX Shotover SD Blk XX Shotover SD Recreation Reserve (Sec 5 Queenstown Reserves Vesting Recreation Reserve & Empowering Act 1971) (Sec 5 Queenstown Reserves Vesting & Empowering Act 1971) **Existing Cableway** Easement Lot 4 DP 345184 Recreation Reserve Area A 185162 Queenstown Lakes District Council (L) Pt Sec 110 **Existing Access** Blk XX Shotover SD Easement **Existing Cableway** (Proposed New Lease Area) Easement 8532m² Pt Sec 110 Blk XX Shotover SD PROPOSED BASE TERMINAL BUILDIN Recreation Reserve (Sec 5 Queenstown Reserves Vesting SEC 1 PROPOSED CARPARK BUILDING & Empowering Act 1971) SO 22971 Pt Sec 129 (Existing Skyline Lease Area) Blk XX Shotover SD Recreation Reserve (Gaz 1981 P 429) Recreation Reserve 185162 Queenstown Lakes District Council OT9B/770 Queenstown Lakes District Council 3417 Skyline Enterprises Limited 2654m² Pt Sec 129 Blk XX Shotover SD Recreation Reserve Lot 2 DP 345184 OT9B/770 Queenstown Lakes District Council Recreation Reserve Pt Sec 131 185162 Queenstown Lakes District Council Lot 1 DP 345184 Blk XX Shotover SD Recreation Reserve 185161 Queenstown Lakes District Council Recreation Reserve (Gaz 1983 p1030) 795902 (209408) Kiwi & Birdlife Park OT9B/770 Queenstown Lakes District Council 795902 (209408) Kiwi & Birdlife Park See Sheet 262 for for easement schedules. Pt Sec 131 For the rear carpark area shown as Area A to be Blk XX Shotover SD included in easement/lease documents a survey plan is required to be prepared and lodged with Recreation Reserve LINZ (so that the area as defined has a unique Lot 3 185162 (OT9B/769) Queenstown Lakes District Council legal description and lease area). DP 345184 795902 (209408) Kiwi & Birdlife Park Power lines through carpark supplying Queenstown CBD have existing use rights but if Recreation Reserve lines are moved or upgraded then Aurora Energy 185162 Queenstown Lakes District Council will require easements over the moved sections between poles. Easement C D & E were applied for to be 'in gross' in favour of QLDC but approved to be in favour of Skyline. Easement C is no longer required as Skyline does not require an easement over its lease. Final easement areas and shapes will be created that actually cover the services or structures installed SKYLINE ENTERPRISES LIMITED © COPYRIGHT. This drawing, content, and design remains the property of Paterson Pitts LP and may not be reproduced in part Original Size: QUEENSTOWN: **PATERSONPITTS**GROUP 1:750 **CLARIFICATION OF EXISTING** SEC 1 SO 22971, 53 BRECON STREET SAM 1092 Frankton Road. A3 Surveying • Planning • Engineering or full or altered without the written permission of Paterson Pitts LP. This **EASEMENTS SHOWN ON** PO Box 2645, hecked by: SJW Your Land Professionals DO NOT SCALE BASE TERMINAL AND CAR PARK Queenstown 9349. rawing and its content shall only be used for the purpose for which it is intended. No liability shall be accepted by Paterson Pitts www.ppgroup.co.nz PLANS Q4115K-64-150B & 151B T 03 441 4715 Sheet No: 259 vision N 12/07/2019 0800 PPGROUP **BUILDING VARIATION 2019** Q4115K - 64





EXISTING EASEMENTS:

Existing Easements				
Purpose				
		Tenement	Document	
Right of access		Lot 4 DP 345184	L6359549.5	

Existing Easements to be canceled			
Purpose	Identifier	Servient	Creating
,		Tenement	Document
Cableway	-	Part Sec 110 Blk XX Shotover SD	L5014878.1
Cableway	(L)	Lot 4 DP 345184	L5014878.1

PROPOSED EASEMENTS:

Schedule of Easements in Gross - New				
Purpose	Identifier	Servient Tenement	Grantee	
Right to convey electricity	AB	Lot 2 DP 345184	Aurora Energy Limited	

Schedule of Easements - New			
Purpose	Identifier	Servient Tenement	Dominant Tenement
Right of Way	(S)	Pt Sec 129 Blk XX Shotover SD	Sec 1 SO 22971
	(S)	Pt Sec 110 Blk XX Shotover SD	& Area A,
Right of support and rock fall	(P)	Pt Sec 110 Blk XX Shotover SD	Sec 1 SO 22971 & Area A
prevention measures	STU B P	Pt Sec 110 Blk XX Shotover SD	Area A

PREVIOUSLY APPROVED EASEMENTS:

Schedule of Easements in Gross Carpark approval							
Purpose	Purpose Identifier Servient Tenement						
		Pt Sec 110 Blk XX Shotover SD					
Right to convey	(0)	Pt Sec 129 XX Shotover SD	Aurora Energy				
electricity	B	Lot 2 DP 345184	Limited				
	© (K	Pt Sec 131 Blk XX Shotover SD					
	Œ	Lot 3 DP 345184					

Schedule of Easements Carpark approval						
Purpose Identifier Servient Domin						
Right of Way	AB	Lot 2 DP 345184	Sec 1 SO 22971 & Area A			
Right to convey water, electricity and telecommunications Right to drain sewage and stormwater	A B	Lot 2 DP 345184	Sec 1 SO 22971 & Area A			
Right of Way	₽	Lot 4 DP 345184	Sec 1 SO 22971 & Area A			
Right to drain	©	Pt Sec 110 Blk XX Shotover SD	Sec 1			
stormwater	(Pt Sec 129 Blk XX Shotover SD	SO 22971 & Area A			
	E	Pt Sec 131 Blk XX Shotover SD				

PREVIOUSLY APPROVED EASEMENTS:

Schedule of Easements in Gross Gondola approval			
Purpose	Identifier	Servient Tenement	Grantee
Right to convey electricity	0WX	Pt Sec 129 Blk XX Shotover SD	Aurora Energy Limited

Schedule of Easements Gondola approval			
Purpose	Identifier	Servient	Dominant
		Tenement	Tenement
Cableway, right of access and to convey telecommunications	(N)	Pt Sec 110 Blk XX Shotover SD	Sec 1 SO 22971, Area B, and Sec 1 SO 24832
Right of Way	(L)	Lot 4 DP 345184	Sec 1 SO 22971 & Area B

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SEC 1 SO 22971, 53 BRECON STREET
BASE TERMINAL AND CAR PARK
BUILDING VARIATION 2019

Purpose/Drawing Title:

SCHEDULES OF EASEMENTS

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