

Council Report

Te Rīpoata Kaunihera ā-rohe

QLDC Council
12 September 2019

Report for Agenda Item | Rīpoata moto e Rāraki take 6

Department: Community Services

Title | Taitara Underground Service Easement over Recreation Reserve Adjacent to 719 Frankton Road, Queenstown

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to consider granting an underground services easement over Recreation Reserve, to allow the owners of 715-719 Frankton Rd (PJ Palmer Family Trust), to connect services and discharge stormwater to an existing overland flow path.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Approve** an underground easement over Recreation Reserve, Section 50 Blk XXI Shotover SD subject to section 48 (1)(d) of the Reserves Act 1977, in favour of the properties on titles OT1C/801 and OT2D/451 being Lots 10 & 11 DP 10787.
3. **Agree** that notification of the intention to grant the easement is not required as the statutory test in section 48(3) of Reserves Act 1977 is met for the reasons set out below;
4. **Delegate** authority to approve final terms and conditions, including location, and execution authority to the General Manager Community Services; and
5. **Agree** to the exercise of the Minister's consent (under delegation from the Minister of Conservation) to the granting of an easement to PJ Palmer Family Trust over Section 50 Blk XXI Shotover SD.

Prepared by:



Dan Cruickshank
Property Advisor - APL

23/07/2019

Reviewed and Authorised by:



Aaron Burt
Senior Planner:
Parks & Reserves
27/08/2019



Thunes Cloete
Community Services
General Manager
29/08/2019

CONTEXT | HORPOAKI

- 1 Council administers the reserve over which the Frankton walking track lies, legally described as Section 50 Block XXI Shotover SD, Certificate of title 583561. The reserve is classified as Recreation Reserve (Gazetted NZGZ 1967 p 1787).
- 2 PJ Palmer Family Trust (the applicants) own the properties at 715 and 719 Frankton Road, legally described as Lots 10 & 11 DP 10787 respectively. They have recently constructed a dwelling on Lot 11 and have retained the exiting dwelling on Lot 10.
- 3 As part of their development of Lot 11, they were required to discharge their stormwater into existing stormwater services within the Reserve.
- 4 The applicants previously applied for an easement to connect to the stormwater services, which was granted by Queenstown Lakes District Council 25 May 2017. Unfortunately, the application was only made for Lot 11 DP10787, and not Lot 10 DP 10787. This latest application seeks to include Lot 10 DP10787 in the easement, as it must also connect to the services in the reserve.
- 5 The applicants have installed a 100mm new stormwater drain commencing in Lot 10, passing through and connecting with Lot 11, before accessing the adjacent reserve, to connect with the existing stormwater pipe. The existing stormwater drain then runs 26.2m from the connection to an existing overland flowpath which has been designed to prevent inundation of the Frankton Track during peak flows.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 6 As noted under paragraph 4, this easement application has been considered and approved for Lot 11, however the applicants did not seek to confirm an easement for Lot 10 at the time. This has caused difficulties when coming to register the easement for Lot 11.
- 7 It was accepted in 2017 that the applicants should connect with the existing stormwater drain / overland flowpath, rather than creating a new discharge point into Lake Wakatipu, which would otherwise cause disruption for the Frankton Track and result in lost vegetation due to additional trenching.
- 8 As per the Easement Policy 2008, an easement fee of \$284.86 plus GST was calculated for these connections and has been charged to the applicants.
- 9 Under the Reserves Act 1977, Ministerial consent is required before an easement can be granted over a reserve. This consent is now delegated to Council and must be granted prior to the easement being lodged with LINZ.
- 10 Granting easements is permitted by the Reserves Act 1977, provided such easements must first be publicly notified unless it can be shown that public rights are not likely to be affected, and the reserve is not materially altered or permanently damaged. These matters are considered below.

Are the rights of the public in respect of the reserve, likely to be permanently affected?

11 There will be no detrimental effects on the ability of the public to use and enjoy the reserve. This application seeks to include rights to existing infrastructure.

Does the easement materially alter or permanently damage the reserve?

12 Because the infrastructure is underground and already established, it is considered the creation of the easement will not have any long term effect on the reserve

13 Taking into account the above factors, it is not considered that the easement will permanently affect the reserve, or the ability of people to use and enjoy the reserve, and therefore public notification is not deemed necessary.

Option 1 Grant the easement subject to the conditions.

Advantages:

14 The easement can allow the applicant to convey stormwater over the Reserve.

15 Council will receive an easement fee

Disadvantages:

16 The easement will encumber the reserve land.

17 Option 2 Council declines the easement.

Advantages:

18 There will be no encumbrance upon the land.

Disadvantages:

19 The applicant may need to remove their services and identify another means to discharge their stormwater.

20 This report recommends **Option 1** for addressing the matter as it will enable the necessary easements for approved infrastructure to be recorded.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

21 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement policy because it does not involve a Council strategic asset, is of low importance to the Queenstown Lakes District, is not of interest to the general community, is not inconsistent with policy and strategy and does not impact on Council's capability and capacity.

22 The Council has not undertaken any engagement with the community on this matter.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

23 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00009 within the QLDC Risk Register. This risk has been assessed as having a high inherent risk rating. This matter relates to this risk because a perpetual property right contained in the recreational reserve does carry risk to Council for any future development, and this risk needs to be highlighted when considering approving any easement.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

24 The applicant has paid an application fee and has agreed to pay for all legal consenting, LINZ and surveying costs to register the easement.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

25 The following Council policies, strategies and bylaws were considered:

- Significance and Engagement Policy
- Easement Policy 2008
- Sunshine Bay to Kelvin Heights Reserve Management Plan 1991

26 The recommended option is consistent with the principles set out in the named policies.

27 This matter is not included in the Ten Year Plan/Annual Plan, but has no effect upon it.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

28 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by allowing the activity at no cost to Council and providing an easement to allow a residential dwelling to access council services;
- Can be implemented without funding under the Ten Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly 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.

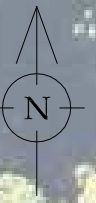
ATTACHMENTS | NGĀ TĀPIRIHANGA

- A Site Plan
- B Aerial Overlay

ATTACHMENT A



The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Queenstown Lakes District Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented by the GIS data. While reasonable use is permitted and encouraged, all data is copyright reserved by Queenstown Lakes District Council. Cadastral information derived from Land Information New Zealand. CROWN COPYRIGHT RESERVED



LOT 11
DP 10787
OT2D/451

LOT 10
DP 10787
OT1C/801

Easement as previously approved
Refer LT 532889 for dimensions

Frankton Track

Existing SW pipe and outfall
Discharges to existing stream

Lake Wakatipu

Note: Aerial image from Nearmap and boundaries from Land Information NZ

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EASEMENT LOCATION
715-719 FRANKTON ROAD
QUEENSTOWN

DATE: 2 Aug 2019	Scale 1:250	DRAWING & ISSUE No.
BY: B McLeod	Original Plan A3	4649-1R-1A

AURUM

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