

Wānaka-Upper Clutha Community Board

21 November 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [3]

Department: Planning & Development

Title | Taitara: Licence to Occupy – Warren Street, Wānaka

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to consider granting a Licence to Occupy Road Reserve to Turk Holdings Limited allowing the owners of 23-31 Chalmers Street, legally described as Lots 1-3 DP 6888, to form an accessway and install a swale into an unformed section of Warren Street legal road reserve. This is part of an application for Resource Consent (RM210057) for a proposed subdivision, with the new access to serve Lots 3-5 RM210057, if consent is granted.

Recommendation | Kā Tūtohuka

That the Wānaka-Upper Clutha Community Board:

1. **Note** the contents of this report;
2. **Grant** a Licence to Occupy Warren Street road reserve to enable Turk Holdings Ltd to install an accessway with swale adjacent to 23-31 Chalmers Street contained within the Warren Street unformed road reserve, as part of Resource Consent (RM210057) for a proposed subdivision subject to the following conditions:
 - a. The licence shall remain at Council’s pleasure;
 - b. It is the responsibility of the applicant to ensure that all works on the road reserve comply with both the Building Act 2004 and the Resource Management Act 1991; resource and building consents are to be obtained prior to works commencing, if required;
 - c. All works must comply with both a Traffic Management Plan (TMP) and Corridor Access Request (CAR); the TMP and CAR must be approved by Council engineers before any work commences on the road reserve;
 - d. All activities are to be undertaken in accordance with Worksafe New Zealand’s standards for the work environment;
 - e. Any works within the road reserve to be undertaken to the specification and approval of Council’s engineers.
 - f. Any reinstatement works within the road reserve, if required, to be undertaken in accordance with the Council’s subdivision Code of Practice and to the satisfaction of Council’s engineers.

- g. All services including three-waters, telephone, power and gas within the road reserve must be identified prior to any works being undertaken on the road reserve; there shall be no damage to Council infrastructure nor shall access to the road reserve by Council be fettered before, during, or after the works are completed; Council reserves the right to charge a reasonable rate for any damage done to infrastructure;
- h. In the event that Council requires access to any Council services in or within close proximity to the agreed location (including responding to a failure, upgrade or maintenance of the water main), Council will not be liable for damage or reinstatement of any private works within the unformed legal road reserve;
- i. Prior to works commencing, photographic evidence or a Council inspection is to be carried out of the pre-existing condition of the area to be occupied, and then again once any reinstatement is complete, with reinstatement to be of current or better condition; photographs can be sent to kim.anderson@qldc.govt.nz and Council engineer inspection to be arranged with Rich Gurnell (rich.gurnell@qldc.govt.nz);
- j. Structures and/or occupation must not compromise roading or services maintenance activities.
- k. The current unformed accessway to 23-31 Chalmers Street, legally described as Lot 1-3 DP 6888 (future Lots 3-5 RM210057 if granted consent) within the road reserve, shall in no way obstruct the right of public passage to the unformed section of the legal road reserve;
- l. Should the provisional design plans provided during the Licence to Occupy application vary in any form, the applicant is to seek further approval of any new detailed plans under the engineering acceptance process and provide this approval to Council for additional Licence to Occupy approval (kim.anderson@qldc.govt.nz);
- m. The landscaping of the current Lot 1-3 DP 6888 accessway contained within the unformed road reserve is to be topsoiled and grassed as part of the subdivision works for future Lot 1 & Lot 2 development prior to the construction of the proposed alternative new accessway for future Lots 3-5 under RM210057, if granted consent;
- n. Prior to removal and remediation of the Lot 1-3 DP 6888 existing access from the unformed road reserve and replacement with accessway to future Lots 3-5 RM210057 (if granted consent), approval is completed either under an approved resource consent process or connection to Council services application and a copy of this approval is to be supplied to Queenstown Lakes District Council (QLDC) (kim.anderson@qldc.govt.nz);
- o. The licence area is not to be used for parking or as a construction material storage or staging area at any time;
- p. The QLDC Tree Policy is required to be followed for any established planting or trees within the licensed area prior to any works taking place and a copy of Council arborist approval to these works is to be provided to QLDC (kim.anderson@qldc.govt.nz).

- q. Any proposed planting within the licence area is to be of species approved by Council arborists that at full maturity does not grow higher than 1.1m;
- r. All planting within the licenced area is to be maintained by the Licensee to ensure it is kept in neat order not exceeding 1.1m high and does not represent any fire risk or impede on sightlines or the safe use of the accessway with any dead or dying planting to be replaced and removed;
- s. No trees shall be planted in the proposed occupation area of the road reserve;
- t. Council may require at its discretion the planting, trimming and/or removal of trees within the proposed occupation area at any time upon request, and this shall be done at the licensee's cost within one month of any request;
- u. The owners of Lot 1-3 DP 6888, or future Lots 3-5 RM210057, if granted consent, shall not inhibit, delay or prevent in anyway the formation of a formed road within the road reserve by the QLDC at any time in the future;
- v. The owners of Lot 1-3 DP 6888, or future Lots 3-5 RM210057, if granted consent, shall be responsible for the ongoing maintenance of the private accessway formed within the legal road reserve; this accessway is to be formed to the standard of a private right of way only and Council shall not be responsible for any ongoing maintenance associated with this access until such time as the access is upgraded to the standard of the public road or until an alternative agreement is obtained with Council for the maintenance of access;
- w. At the completion of the works, as-builts are to be submitted to Engineeringapprovals@qldc.govt.nz in a format compatible with QLDC's GIS system;
- x. The applicant must register a Covenant in Gross against the title of Lots 1-3 DP 6888 or future Lots 3-5 RM210057 (if granted consent) to ensure the recommended terms and conditions of the licence continue in perpetuity for all future owners of the property; evidence of the registration is to be provided to QLDC (kim.anderson@qldc.govt.nz) prior to works commencing. Failure to register the covenant will result in the licence being null and void.

Prepared by:



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30 October 2024

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30 October 2024

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31 October 2024

Context | Horopaki

1. Turk Holdings Limited (hereafter referred to as the “the applicant”) has applied for Licence to Occupy Road Reserve to allow the owners of 23-31 Chalmers Street, legally described as Lots 1-3 DP 6888, or Lots 3-5 RM210057 (if granted consent) to form an accessway with swale into an unformed section of Warren Street legal road reserve as a part of their Resource Consent (RM210057) application for a proposed subdivision.
2. All proposed earthworks associated with the formation of the new accessway shall be in accordance with QLDC subdivision Code of Practice (‘COP’), with no works commencing prior to approvals from Council.
3. Preliminary access lane plans show approximately 262m² of earthworks will be undertaken within the road reserve to enable the creation of accessway with swale. The earthwork area volumes are broken down into 92m³ topsoil stripping, 5m³ cut and 41m³ fill to subgrade, 32m³ fill and adjacent topsoil to finished surface.
4. The applicant will remain responsible for ensuring the contractor appointed to complete the construction of the accessway and swale has located any underground services and takes steps to ensure they remain protected.
5. The applicant has identified one Laburnum semi-mature tree within the road reserve that will require removal to allow creation of the proposed accessway. The applicant proposes to replace the removed tree with another of similar/suitable type plus one additional tree as per Council’s tree policy. The location of the new trees is to be decided by Council arborists once construction of the new accessway is completed.
6. The QLDC Tree Policy will be followed to ensure any damage or landscaping to the unformed section of Warren Street legal road reserve is kept to a minimum.
7. Any and all works within the road reserve are subject to the approval of the Resource Consent RM210057 for the proposed subdivision.
8. The current unformed access to 23-31 Chalmers Street, legally described as Lot 1-3 DP 6888 (future Lots 3-5 RM210057, if granted consent) contained in the Warren Street road reserve is to be topsoiled and grassed as part of the subdivision works phase of future Lot 1-2. During the construction works phase of the proposed subdivision of Lots 3-5, the new access lane will be created and used.
9. The unformed section of Warren Street road reserve is maintained by council recreation services and contains a metalled track that connects Chalmers Street through to the formed section of Warren Street. This track will remain un-impeded and accessible at all times, including during the creation of the proposed accessway and swale.

Analysis and Advice | Tatāritaka me kā Tohutohu

10. The proposed accessway will enable a fit for purpose access lane to the back portion of the applicant's site, giving effect under the resource consent for a proposed subdivision of 23-31 Chalmers Street, Wānaka and ensuring the proposed subdivision and any associated works are legally sanctioned.
11. The current unformed accessway being used by the applicant will be removed and a legal formation of the proposed accessway to be installed with support from Council with special conditions applied ensuring minimal disruption to the applicant, community and Council while safeguarding and future proofing Council's road reserve asset and ensuring the applicant is accountable for future maintenance and ongoing occupation.
12. There is a water mains pipe running within the proposed area. To mitigate any damage to Council infrastructure the applicant's plans are subject to approval by Council engineers and special conditions outlined above to limit the risk to the underground services during construction and thereby ensuring the applicant accepts all liability should any damage occur.
13. The preliminary plans indicate that approximately 262m² of earthworks will be required within the road reserve. This includes:
 - 92m³ of topsoil stripping
 - 5m³ of cutting
 - 41m³ of filling to subgrade
 - 32m³ of filling and adjacent topsoil to the finished surface
14. The application by Turk Holdings Limited is comprehensive, addressing regulatory compliance, environmental considerations and community impact. The proposed works are designed to ensure minimal disruption and adherence to council policies, reflecting a well-planned approach to the subdivision and accessway formation.
15. Council's engineers have been consulted who have confirmed support for the proposal subject to the following:
 - Road Corridor Engineer:
 - Noted no concerns, provided the stormwater component was reviewed and deemed an appropriate solution for the subdivision. This concern was mitigated as the applicant moved the initially proposed stormwater infrastructure to within the site and provided new plans showing its removal from the road reserve.
 - Road Operations Contracts Manager:
 - Noted if the formation of the proposed accessway doesn't meet COP standards, the applicant accepts and is clear that it will not be possible to vest this portion of accessway to Council in future and the accessway will have to remain private. This was contained within condition v).

- Queried that all services were to be located prior to any occupation and if the proposed formation of the accessway will have any impact on these existing services. These concerns were considered under conditions 'g', 'l' and 'w' which minimised any potential impact.
 - Condition 'l' was added to ensure any variation to the preliminary designs is approved prior to occupation. This will ensure that accessway formation will not have an effect on existing council services and any proposed plans approved under the Engineering Acceptance for cuts up to 500mm over the water main supply will have a 100mm cover remaining over the AC main.
 - Parks Planning:
 - Noted the proposed initial location of the stormwater infrastructure and whether an alternative location could be provided by the applicant due to concerns raised by the maintenance team. This concern was mitigated when the applicant removed the stormwater infrastructure from within the road reserve.
 - Concerns were raised by the maintenance team surrounding the mowing and landscaping maintenance. These concerns were addressed by adding condition 'r'.
 - The parks team also wanted clarity on the proposed location of the accessway and if there was availability to move the accessway closer to the applicant's property boundary to ensure the amount of road reserve occupied was limited and not adversely impeding the existing trail within Warren Street. The applicant volunteered additional conditions regarding accessway building works and landscaping to account for the proposed location of the new accessway and its effects on the nearby trail. These additional conditions are 'k', 'm' and 'p'.
16. 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.
- 20 Option 1 – The Board **grants** the Licence to Occupy Road Reserve application subject to the conditions proposed above.

Advantages:

- The applicant can give effect to the resource consent.

Disadvantages:

- A portion of unformed legal road reserve will be encumbered with private infrastructure.

- 21 Option 2 – The Board **decline** the Licence to Occupy Road Reserve application.

Advantages:

- A portion of the unformed legal road reserve will not be encumbered with private infrastructure.

Disadvantages:

- The applicant will need to find another way be able to give effect to their resource consent.
- The applicant will need to consider alternative location for the private accessway infrastructure.

17. This report recommends **Option 1** for addressing the matter as the works can be undertaken and completed under terms and conditions deemed appropriate by Council's engineers.

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 as it relates to Council's roading network which is identified as a significant asset.

19. There are no persons, other than the applicants, identified who are adversely affected by or would be significantly interested in this matter.

20. Council engineers have been consulted about this application and their comments are contained within this report.

Māori Consultation | Iwi Rūnanga

25. No Māori consultation is required for this occupation.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

21. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10021 Ineffective operations, maintenance or renewal of property or infrastructure assets within the QLDC Risk Register. This risk has been assessed as having a very high residual risk rating. Approval of the recommended option will allow the Council to implement additional controls for this risk, achieved by approving the recommended conditions for the Licence to Occupy.

Financial Implications | Kā Riteka ā-Pūtea

22. The applicant has paid a fee for the application to be processed which includes the preparation of the licence document, if successful.

23. Should a legal review of the licence be required, Council's legal costs will be recovered from the applicant.

24. Council's legal costs to have the Licence recorded against the applicant's title by a Covenant in Gross will be recovered from the applicant.

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

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

- **Significance and Engagement Policy 2024** – providing clarity on Council’s decision-making processes and assessing the extent to which individuals, organisations, groups and sectors in the community are affected by the Council’s decisions.
- **Long Term Plan** – the consideration to grant or otherwise a Licence to Occupy is considered part of the Council’s ‘Regulatory Services’ outlined in the Plan.
- **Council’s Urban Verge Mowing Policy 2007** - assumes most verges are grassed and places the civic responsibility of maintaining grassed verges on the adjacent property owner.

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

27. This matter is not included in the Long Term Plan/Annual Plan as the cost of the licence will be met by the applicant.

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

28. 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. Approval of this report’s recommendation will support these objectives by ensuring that a private development is undertaken in accordance with the Code of Practice and with minimal impact upon the wider community.

29. 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	Covering letter from applicant
B	Revision to initial application plans
C	Location of Site
D	Site Plans
E	Tree to be removed within the road reserve