



QUEENSTOWN LAKES DISTRICT COUNCIL
DOCUMENTATION FOR SIGNING AND SEALING

TO: Mike Theelen, Chief Executive
FROM: Brooke Allan
DATE: 2nd December 2021
SUBJECT: Licence to Occupy application 413 Speargrass Flat Road
FILE REF: LO210010

Urgent Request?

Please indicate date required by: _____

In submitting this document for execution I confirm that to the best of my knowledge, and on making proper enquiry, that this document is fit for execution by Council.

In particular:

- That the key details (terms, legal descriptions etc) have been checked and are correct
- Council's delegations have been followed (who authorised this transaction)
- Any and all consenting issues observed (financial contributions, consent conditions, etc)
- Document meets legal requirements and has received legal scrutiny if necessary
- Arrangements have been made for custody of document and records (including electronic) have been updated.

COMMENTS

Monetary value (if applicable) _____

Authority (please tick the appropriate box)

- Council / Committee Resolution (to be included in documentation, together with date)
- Statutory Delegation
- Financial Delegation

SIGNATURE

REPORT SIGN-OFF SHEET | TE RĪPOATA WHAKAOTIKA

Name of report: LO210010 - Licence to Occupy - 413 Speargrass Flat Road
Delegated Authority: Mike Theelen, Chief Executive

Urgent Request? No
Please indicate date required by: ASAP

AUTHORITY

- Council / Committee Resolution (to be included in documentation, together with date)
- Statutory Delegation
- Financial Delegation

Monetary value (if applicable): N/A

SUBMITTER'S STATEMENT

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SIGNATURE



Brooke Allan
Subdivision Officer

2/12/2021

**QLDC Council
2 December 2021**

Department: Property & Infrastructure

Title | Taitara Licence to Occupy application 413 Speargrass Flat Road.

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO




- 1 The purpose of this report is to consider granting a Licence to Occupy Road Reserve to enable X-Ray Trust Limited, the owners of 413 Speargrass Flat Road, to landscape the unformed legal road reserve to the north of the property.

RECOMMENDATION | NGĀ TŪTOHUNGA

- 2 That the Chief Executive;
 1. **Notes** the contents of this report and in particular;
 2. **Grants** a licence to occupy the unformed legal road reserve adjacent to 413 Speargrass flat road road reserve to enable X-Ray Trust Limited to landscape the reserve subject to the following conditions;
 - a. The licence shall remain at Council's pleasure.
 - b. If the licence agreement is ended the licensee shall be responsible for reinstating all licence areas to Councils satisfaction.
 - c. Building and Resource Consent to be obtained prior to works commencing if required.
 - 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. All services including three-waters, phone, power and gas within the road reserve must be identified and catered for and no compromise shall be made to Council Infrastructure or access to same.
 - g. Access to the road reserve must be ensured at all times and any landscaping must allow for the road to be traversed.
 - h. All Landscaping is to be maintained by the Licensee to ensure it is in good neat order and does not present a fire risk or make the use of the road unsafe.

- i. Council may require, at their complete discretion, the planting to be trimmed or removed at any time upon request. This shall be done at the licensee's cost within one month of any request.
- j. The applicant consents to a Covenant in Gross being recorded against the title at their cost to ensure the recommended terms and conditions of the Licence continue in perpetuity for all future owners of the property.

3. **Authorises** this report and resolution to be made available to the public as part of the next CEO's report to Council.

Prepared by:	Reviewed and Authorised by:	Approved by
		
Brooke Allan Subdivision Officer 2/12/2021	David Wallace Manager for Resource Management Engineering 7/12/2021	Mike Theelen Chief Executive <u>17/12/21</u>

CONTEXT | HORPOAKI

- 3 X-Ray Trust Limited (herein referred to as the "the Applicant") own 413 Speargrass Flat Road, legally known as Lot 1 DP 475822 and 433 Speargrass Road legally known as Lot 1 DP 475822. A section unformed legal road (LINZ ID: 3187969) runs between the two land parcels. Please see Attachment A for a location plan.
- 4 The applicant has been granted by Resource Consent RM150560 which allows for extensive landscaping managed by an approved Landscape management plan, see attachment B.
- 5 The intention is to continue the implementation of the planting programme over the unformed legal road to integrate the landscaping with the rest of the property with native shrubs and trees.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 6 Council's Engineers have been consulted who raised concerns regarding the proposal as legal roads, regardless of their formed state must be able to be accessed and navigated by the public at all times. It was proposed that it may be more appropriate for the applicant to apply to stop the road.

- 7 The applicant advised that they do not wish to apply to stop the road at this stage and would like to proceed with the Licence to occupy application. To mitigate Council's Engineers concerns they have volunteered a condition requiring planting to be undertaken in a manner that allows road to be traversed. As such Council's Engineers have since confirmed support for the proposal subject to the following;
 - a. Council may require, at their discretion, the planting to be trimmed or removed at any time upon request. This shall be done at the licensees cost within one month of any request.
 - b. Access to the road reserve must be ensured at all times and any landscaping allow for the road to be traversed.
- 8 The road reserve is not known to be have ever been used by the public whether by foot or vehicle due to its isolated location and the fact that it tee's off the unformed portion of Mooney Road.
- 9 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:
- 10 Option 1 Council can grant the Licence to Occupy Road Reserve application subject to the conditions proposed above.

Advantages:

- 11 The applicants can proceed with their proposal as desired.
- 12 The unformed road will be maintained by a private party.

Disadvantages:

- 13 The unformed legal road will be occupied with private landscaping.
- 14 Public access to the unformed legal road may be obstructed.

- 15 Option 2 Council can decline the Licence to Occupy Road Reserve application.

Advantages:

- 16 The unformed legal road would remain free of private landscaping.
- 17 Access to the unformed legal road will remain open to the public.

Disadvantages:

- 18 The applicant would be unable to proceed with their proposal.

- 19 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

- 20 This matter is of [medium] 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.
- 21 The level of significance determines the level of compliance necessary with the decision making requirements in sections 76-78 of the Local Government Act 2002. A higher level of compliance must be achieved for a significant decision.
- 22 There are no persons, other than the applicants, identified who are adversely affected by or would be significantly interested in this matter.
- 23 Council Engineers have been consulted about this application and their comments are contained within this report.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 24 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.
- 25 This matter relates to this risk because a property right contained in the road reserve does carry risk to Council for any future works. The risk has been mitigated by retaining the licence at Council's pleasure.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 26 The Applicants have paid a fee for their application to be processed which includes the preparation of the licence document if successful.
- 27 Should legal review of the licence be required, Council's legal costs will be recovered from the applicant.
- 28 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 | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 29 The following Council policies, strategies and bylaws were considered:
- Significance and Engagement Policy 2014* – 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.

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

31 This matter is not included in the Ten Year 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-KĀIKA

32 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 enabling the applicant to complete their desired landscaping whilst ensuring public access to the road reserve is maintained at no cost to the community;
- 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 LOCATION PLAN
- B LANDSCAPE MANAGEMENT PLAN
- C COVER LETTER