

**QLDC Council**  
**10 October 2019**

**Report for Agenda Item | Rīpoata moto e Rāraki take : 7**

**Department: Community Services**

**Title | Taitara: Underground Services Easement over Local Purpose Reserve at Frankton Marina, for Rockgas Limited**

**PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO**

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The purpose of this report is to consider approving an underground services easement in favour of Rockgas Limited, over Local Purpose (Marina & Accessway) reserve at Frankton Marina (legally described as Sections 52 & 53 Blk XXI Shotover SD).

**RECOMMENDATION | NGĀ TŪTOHUNGA**

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That Council:

1. **Note** the contents of this report;
2. **Approve** an underground services easement for the right to convey gas, to Rockgas Limited, over Section 52 & 53 Blk XXI Shotover SD, subject to Section 48 of the Reserves Act;
3. **Agree** that public notification of the intention to grant the underground services (gas) easement is not required, as the statutory test in Section 48(3) of the Reserves Act 1977 is met for the reasons set out in this report;
4. **Delegate** authority to approval final terms and conditions of the easement and execution authority to the General Manager Community Services; and
5. **Agree** to exercise the Minister's consent (under delegation from the Minister of Conservation) to grant an underground service easement to Rockgas Limited over Local Purpose reserve (legal description Section 52 & 53 Blk XXI Shotover SD).

Prepared by:

Reviewed and Authorised by:



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20/09/2019



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24/09/2019



Thunes Cloete  
Community Services  
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26/09/2019

## CONTEXT | HORPOAKI

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- 1 Council administers the Local Purpose (marina & accessway) reserve off Sugar Lane, along the Frankton Marina, legally described at Sections 52 and 53 Blk XXI Shotover SD (herein referred to as 'the reserve').
- 2 Lakes Marina Projects Limited are developing the new Frankton Marina precinct, with approximately 80 private and commercial berths. The Frankton Marina precinct includes a number of facilities including fuelling, floating sheds and land based commercial buildings.
- 3 The Council Engineering Acceptance allowed for underground power and gas infrastructure to be installed within the reserves to service these facilities.
- 4 An approval has already been granted to Aurora Energy Limited for an easement for the right to convey power across the reserve. The work to install the underground power cable was undertaken, and at that time a pipe to convey gas was installed in the easement corridor.
- 5 Lakes Marina Projects Limited now seek approval on behalf of Rockgas Limited for the right to convey gas through the easement over the reserve.

## ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

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- 6 This report seeks approval for the underground easement required to convey gas to the Frankton Marina precinct, noting that the infrastructure is already established alongside Aurora Energy Limited's electricity infrastructure. The suggested easement will enable Aurora Energy Limited and Rockgas Limited to hereafter operate, access and maintain that infrastructure.
- 7 The underground infrastructure location utilises the shortest and most practical route possible between connections on Frankton Road and the marina development. The earthworks involved excavating a trench within the reserve approximately 1000mm deep. The area has since been reinstated as part of the wider marina development.
- 8 The easement corridor is as per a previous Council approval to Aurora Energy Limited, and upon final survey is proposed to be approximately 3m wide and approximately 55 m long and is shown on the easement plan (Attachment A).
- 9 As per the Easement Policy 2008, a one off underground easement fee payable by Lakes Marina Projects Limited is required for new easements. As Lakes Marina Projects Limited have paid this fee for the easement corridor, and this request is only for the placement of additional services into the easement, this fee is not considered to be payable again as the area is already anticipated to contain a services easement.
- 10 Under the Reserves Act 1977, Ministerial consent is required before an easement can be granted over a reserve. This consent is delegated to Council and must be granted prior to the easement being lodged with LINZ.

- 11 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?

- 12 While there was some temporary minor disruption during the installation of the underground pipes, long term there will be no detrimental effect on the ability of the public to use and enjoy the reserve. The area is now reinstated and users would be unaware that the pipes are buried below.

Does the easement materially alter or permanently damage the reserve?

- 13 Aside from during the installation process, this easement will not affect the ability of the reserve to provide for its current purpose. As the infrastructure is underground it is considered the creation of the easement will not have any long term effect on the reserve.
- 14 Taking into account the above factors, it is not considered the easement will permanently affect the reserve or the ability of people to use and enjoy the reserve, and therefore it is recommended public notification is not deemed necessary.
- 15 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:
- 16 Option 1 Grant the easement subject to the conditions.

*Advantages:*

- 17 The easement will allow for effective management of gas infrastructure through the reserve.
- 18 Co-locating the gas infrastructure within the same easement corridor to contain electricity infrastructure is efficient and means less land is otherwise encumbered.
- 19 Infrastructure was installed at no cost to Council.

*Disadvantages:*

- 20 Part of the reserve was disturbed and inaccessible to the public for a short amount of time, although this occurred regardless whilst the electricity infrastructure was established.
- 21 Option 2 Council declines the easement.

*Advantages:*

- 22 The reserve will not be encumbered by the easement as it relates to the gas infrastructure, although the same easement corridor has already been approved to contain electricity infrastructure.

*Disadvantages:*

- 23 The application would be required to amend their Resource Consent and relocate their gas infrastructure.
- 24 This report recommends **Option 1** for addressing the matter as the cables are already in place and would cause no further impact to the general public.

**CONSULTATION PROCESS | HĀTEPE MATAPAKI:**

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**SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA**

- 25 This matter is of medium significance, as determined by reference to the [Council's Significance and Engagement Policy](#) because it involves Council local purpose reserve, the impact of the decision however is minor.
- 26 The persons who are affected by or interested in this matter are the general public and users of the reserve.

**RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA**

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- 27 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 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**

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- 28 The applicant has paid an application fee and has agreed to pay for all legal, LINZ and surveying costs to register the easement.
- 29 Council will receive an easement fee in accordance with the easement Policy 2008.

**COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEWE ME NGĀ TIROHANGA A TE KAUNIHERA**

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- 30 The following Council policies, strategies and bylaws were considered:
- Significance and Engagement Policy
  - Easement Policy 2008
  - Sunshine Bay, Queenstown Bay, Frankton, Kelvin Heights Foreshore Management Plan
- 31 The recommended option is consistent with the principles set out in the named policies.
- 32 This matter is not included in the Ten Year Plan/Annual Plan

33 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 effectively managing sewerage and stormwater drainage around the reserve;
- Can be implemented through current 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**

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A Scheme Plan of Easements – Areas shown A, B and C