

QLDC Council  
25 May 2017

Report for Agenda Item: 5

**Department: Property & Infrastructure**

**Underground Service Easement – Reserve Adjacent to 719 Frankton Rd, Queenstown**

**Purpose**

The purpose of this report is to consider granting an Underground Service Easement over Recreation Reserve to allow the owners of 719 Frankton Rd, PJ Palmer Family Trust, to connect to an existing lateral sewer line and to discharge stormwater to an existing overland flowpath.

**Recommendation**

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 property on title OT2D/451 subject to the following conditions:
  - a. PJ Palmer Family Trust to notify and liaise with QLDC Property & Infrastructure Department in advance of any onsite works so that they can oversee and provide input relating to existing in ground infrastructure;
  - b. A \$2,000 bond to be payable to QLDC prior to construction works commencing;
  - c. The work site to be evidenced by before and after photographs or video to be provided by the applicant;
  - d. A comprehensive safety plan must be prepared and implemented, at the applicant's cost, to ensure a safe environment is maintained around the subject site.
  - e. Certificate of adequate public liability cover to be received;
  - f. Reinstatement of the area to be completed immediately following installation and to the satisfaction of QLDC's Property & Infrastructure Department. Reinstatement to include any fencing or other structures.
  - g. Within 3 months of completion of the work, the applicant to provide QLDC with a surveyed easement and signed Deed of Easement.

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 – Property & Infrastructure; 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:



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10/04/2017

Reviewed and Authorised by:



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Senior Planner: Parks &  
Reserves

26/04/2017

## Background

- 1 Council administers the reserve that contains the Frankton walking track, being legally described as Section 50 Block XXI Shotover SD, Certificate of title 583561.
- 2 The reserve is classified as Recreation Reserve, NZGZ 1967 p 1787.
- 3 PJ Palmer Family Trust, the owners of 719 Frankton Road (the ‘applicants’), are constructing a dwelling and must discharge both their wastewater and stormwater.
- 4 The 100mm wastewater/sewer drain for 719 Frankton Road will be trenched through 7.8m of reserve land and connect with an existing sewer lateral in place for the neighbouring house at 715 Frankton Road. The lateral then runs 4.4m to connect with the main sewer.
- 5 The applicant’s 100mm stormwater drain will also connect with the neighbouring properties’ existing stormwater drain, via underground trench, which is 1m from the boundary of the applicant’s property. 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.
- 6 The total length of drainage the applicant is seeking within the Recreation Reserve is therefore 39.4m with the easement width being 3m.

- 7 All access to the site will be from 719 Frankton Road. During construction, the work site will be fenced for public safety and hazard signs posted. The work will be clear of the public walkway which will remain open to the public at all times.
- 8 On completion of the works, the reserve will be reinstated to its original condition.

### **Comment**

- 9 The Recreation Reserve in the vicinity contains the Frankton Track and surrounding vegetated areas.
- 10 Connection with the existing sewer lateral and stormwater drain as proposed, rather than connecting directly to the sewer across the reserve, will minimise disruption for the Frankton Track and all vegetation will be maintained.
- 11 The extent of Recreation Reserve the applicant is seeking for an easement is 39.4m long and 3m wide with a total area of 118.2m<sup>2</sup>.
- 12 As per the Easement Policy 2008, both an application fee along with a one-off underground services easement fee are applicable. In accordance with the policy, the easement fee is calculated at \$284.86 plus GST.

Land value of property	= \$390,000
Size of property	= 48,562 m <sup>2</sup>
Easement area	= 118.20 m <sup>2</sup>

Calculation:

\$390,000 / 48,562 m <sup>2</sup>	= \$8.03 / m <sup>2</sup>
30% of \$8.03	= \$2.41 / m <sup>2</sup>
\$2.41 x 118.20 m <sup>2</sup>	= \$284.86 plus GST

- 13 Existing infrastructure may exist in the recreation reserve which may be crossed by the easement. The applicant will need to liaise with QLDC's Infrastructure Team to ensure existing infrastructure is not damaged during the installation.
- 14 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.
- 15 Granting an easement is permitted by the Reserves Act 1977, however, such easement must be publicly notified in accordance with Section 48(2) unless it can be shown that people's ability to enjoy the reserve is not affected and that there is no long-term effect on the land. These matters are considered below.

Does the easement affect the ability of people to use and enjoy the reserve?:

- 16 While there would be some temporary minor disruption during the installation of the sewer and stormwater lines, long-term there would be no detrimental effect on the ability of the public to use and enjoy the reserve. Once the installation is

complete, users of the reserve would be unaware that any changes that have been made to the reserve.

Does the easement create any long-term permanent effect on the reserve?:

- 17 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 will be underground it is considered that the creation of the easement will not have any long-term effect on the reserve.
- 18 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.
- 19 This report recommends that any approval granted for an easement be subject to the following conditions;
  - a. PJ Palmer Family Trust to notify and liaise with QLDC Infrastructure Department in advance of any onsite works so that they can oversee and provide input relating to existing in ground infrastructure;
  - b. A \$2,000 bond to be payable to QLDC prior to construction works commencing;
  - c. The work site to be evidenced by before and after photographs or video to be provided by the applicant;
  - d. A comprehensive safety plan must be prepared and implemented, at the applicant's cost, to ensure a safe environment is maintained around the subject site.
  - e. Certificate of adequate public liability cover to be received;
  - f. Reinstatement of the area to be completed immediately following installation and to the satisfaction of QLDC's Infrastructure Department. Reinstatement to include any fencing or other structures.
  - g. Within 3 months of completion of the work, the applicant to provide QLDC with a surveyed easement and signed Deed of Easement.

**Options**

- 20 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.
- 21 Option 1 Council grant the easement over Recreation Reserve, Section 50 Blk XXI Shotover SD, subject to the conditions outlined above.

*Advantages:*

- 22 Construction of the dwelling at 719 Frankton Road can proceed as planned.
- 23 Council will receive an easement fee of approximately \$284.86 plus GST plus GST.

*Disadvantages:*

- 24 The easement area will not be available for other utility infrastructure.
- 25 Access to a small area of the reserve will be temporarily limited (NB: The track itself will remain open to the public).
- 26 Option 2 Council grant the easement over Recreation Reserve, Section 50 Blk XXI Shotover SD, subject to alternative conditions.

*Advantages:*

- 27 Similar to Option 1 however the Council may deem it appropriate to add, amend or delete some or all of the proposed conditions.

*Disadvantages:*

- 28 Similar to Option 1.
- 29 Option 3 Council decline the easement over Recreation Reserve, Section 50 Blk XXI Shotover SD.

*Advantages:*

- 30 The reserve will not be encumbered by a new easement.

*Disadvantages:*

- 31 The applicant may need to consider alternative routes for their service which may result in greater impact to existing infrastructure, the public and users of the reserve.
- 32 This report recommends **Option 1** for addressing the matter as it will enable the construction of the dwelling on 719 Frankton Road to proceed as planned.

### **Significance and Engagement**

- 33 This matter is of low 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.

### **Risk**

- 34 This matter relates to operation risk OR011A, 'Decision Making'. The risk is classed as moderate. 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 the easement.

## **Financial Implications**

- 35 Council will receive an easement fee of approximately \$284.86 plus GST in accordance with the easement policy.
- 36 All costs associated with the survey and registration of the easement on Council's title will be paid for by the applicant.

## **Council Policies, Strategies and Bylaws**

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

- Significance & Engagement Policy 2014 – the proposal is a matter with low significance in terms of this policy as it does not impact Council's strategic assets, affect a large number of residents, ratepayers and the environment and is not expected to create a community interest in the matter.
- Easement Policy 2008 – the application is consistent with the policy.
- 10-Year Plan/Annual Plan – the matter is not included in the 10-Year Plan / Annual Plan as the applicant will pay all costs.

## **Local Government Act 2002 Purpose Provisions**

38 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 a member of the public to connect their services with existing infrastructure at no cost to Council.;
- Can be implemented through current funding under the 10-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.

## **Consultation: Community Views and Preferences**

39 No consultation is envisaged or required by Council as it has low significance with regard to the Significance & Engagement Policy 2014, is consistent with s10 of the Local Government Act and is not included in the 10-Year Plan/Annual Plan.

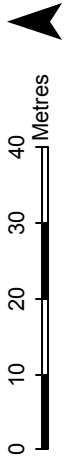
## **Attachments**

- A Site Plan
- B Plan of drainage layout

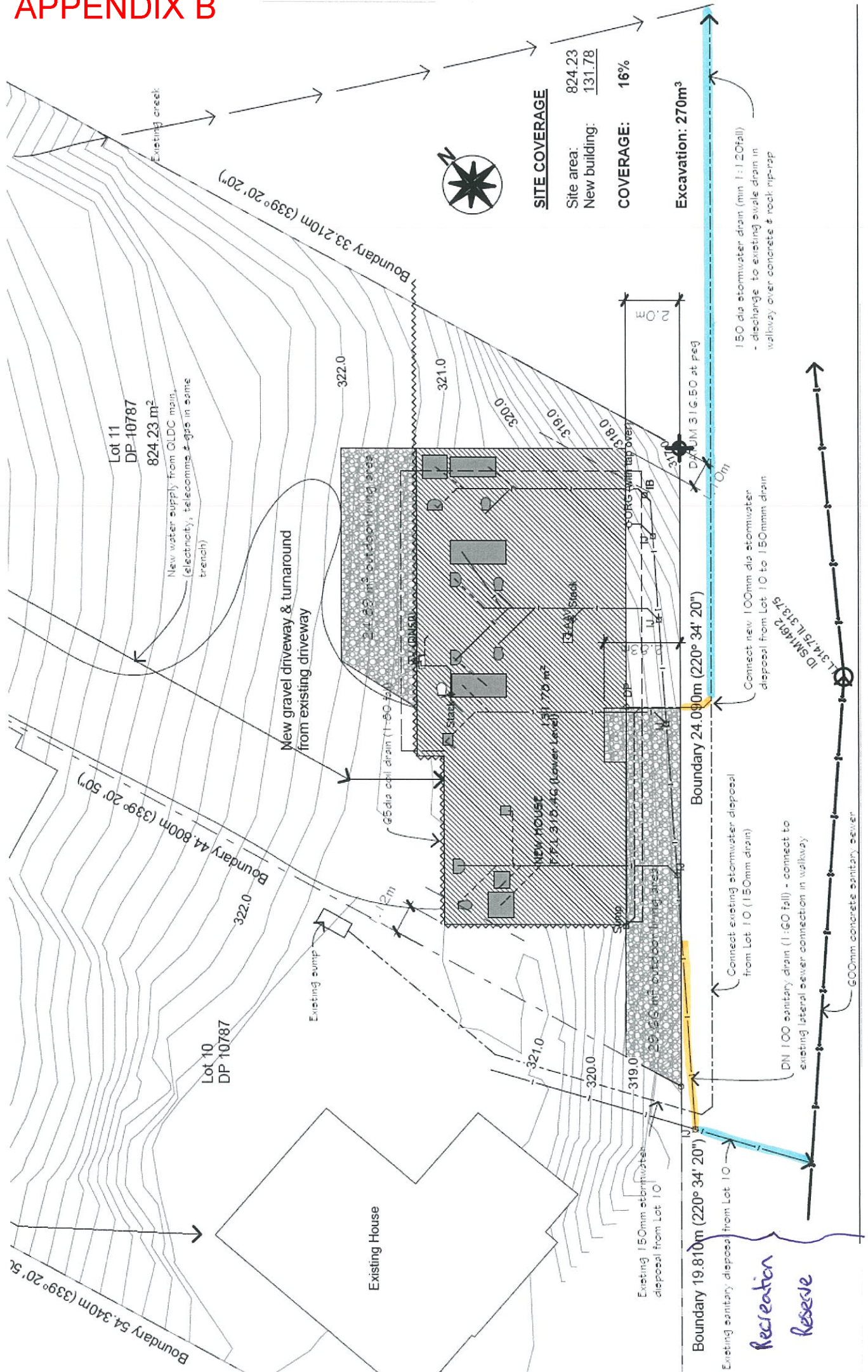
# APPENDIX A



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 L and Information New Zealand. © CROWN COPYRIGHT RESERVED



# APPENDIX B



**SITE COVERAGE**

Site area: 824.23  
New building: 131.78

**COVERAGE: 16%**

**Excavation: 270m³**

Existing drainage to be utilised by applicant

New connections

recreation reserve