

**Wanaka Community Board
25 October 2017**

Report for Agenda Item: 5

Department: Community Services

Agreement to Grant a Temporary Right of Way & Underground Services Easement – Spark New Zealand Limited, Platinum Ridge Recreation Reserve

Purpose

To consider recommending to full Council to approve an Agreement to Grant a Temporary Right of Way and Underground Service Easement over Recreation Reserve for the purposes of providing power supply to a temporary networking facility to be located at Beacon Point, Sticky Forest.

Recommendation

That the Wanaka Community Board:

1. **Note** the contents of this report;
2. **Recommend** to full Council (on 26 October 2017):
To approve an Agreement to Grant a Temporary Right of Way and Underground Service Easement over Recreation Reserve Lot 726 DP 399076 in accordance with section 48 (1)(d) of the Reserves Act 1977 in favour Spark New Zealand Limited subject to the following conditions:
 - a. Spark New Zealand Limited to notify and liaise with QLDC's Infrastructure Department in advance of any onsite works so that they can oversee and provide input relating to existing in ground infrastructure;
 - b. The work site to be evidenced by before and after photographs, video or similar to be provided by Spark New Zealand Limited;
 - c. A comprehensive safety plan must be prepared and implemented, at Spark New Zealand Limited's cost, to ensure a safe environment is maintained around the subject site;
 - d. Certificate of adequate public liability cover to be received;
 - e. Method of installation of power supply and location to be confirmed with Council Engineers before commencement of works;
 - f. Reinstatement of the area to be completed immediately following installation and to the satisfaction of QLDC's Infrastructure Department. Reinstatement to include any roading, fencing or other structures.
 - g. The term of the Agreement shall be for a period of 2 years with a further term of 2 years at Council's sole discretion.

Recommend to Council:

3. **That** notification of the intention to grant the easements is not required as the statutory test in section 48(3) of Reserves Act 1977 is met for the reasons set out in this report; and
 4. **That** authority to approve final terms and conditions of the Agreement to Grant an Easement, including location, and execution authority be delegated to the General Manager – Property & Infrastructure; and
 5. **That** it exercise the Minister's consent (under delegation from the Minister of Conservation) to the granting of easements to Spark New Zealand Limited over Lot 726 DP 399076.
6. **That** the above actions be included in the Chief Executive Officer's report to Council on 26 October 2017 for action by Council.

Prepared by:



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Property Advisor
APL Property Limited

4/10/2017

Reviewed and Authorised by:



Aaron Burt
Senior Planner: Parks &
Reserves

10/10/2017

Background

- 1 Council administers the reserve known as Platinum Ridge Reserve and legally described as Lot 726 DP 399076, classified as Recreation Reserve.
- 2 Spark New Zealand Limited (Spark) are seeking a Right of Way and Underground Services Easement over the Recreation Reserve to install, and provide power supply, to a temporary networking facility to be located in the adjoining property at Beacon Point, Sticky Forest. The temporary networking facility is being introduced to ensure ongoing access to digital services in the area.
- 3 Spark are seeking to install the facility before the Christmas holiday season to ensure the network is equipped for the significant increase in usage and demand for mobile services in the area over the holiday season particularly, and the ongoing increase in demand in the area generally.
- 4 The network has historically experienced difficulties coping with the high usage in demand, particularly over the Christmas holidays, leading to a network collapse in Christmas holiday period of 2015/2016.

- 5 The Office of Treaty Settlement (OTS), who administer the land known as Sticky Forest, have consented to granting a 2 year licence (the licence) for the placement of the temporary networking facility.
- 6 Spark intend to install a permanent facility in the general area in due course and are in discussions with Council's Planning Department to achieve this. The temporary facility will ensure continuity of service while planning for a new permanent facility continues.
- 7 It is proposed that the electricity supply would be installed at 300-600mm depth by means of mole ploughing in order to minimise impact on the reserve. Spark have noted they are willing to liaise with Council as to the most appropriate method of installation of the power supply and location of the service.

Comment

- 8 Given the urgency of having the facility installed prior to the Christmas holidays, this is being put to the Wanaka Community Board on 25 October 2017, with a request that the recommendations be formally considered and put to Council the following day for action. Council will be updated on the views expressed by the Wanaka Community Board at the meeting on 26 October 2017.
- 9 Vehicles will be required to pass over the reserve in order to install and service the networking facility and lay the appropriate power supply. A temporary right of way easement is therefore recommended in addition to the underground service easement.
- 10 Noting that the licence between Spark and OTS is limited to a period of 2 years, it is recommended that the easements be temporary in nature and coincide with the terms of the licence. Acknowledging this licence may be extended and Spark may not be in a position to provide a permanent facility following the initial term, it is further recommended an additional term of 2 years be granted at Council's sole discretion.
- 11 Due to the temporary nature of the easements, it is recommended that an Agreement to Grant an Easement is exercised which will negate the need for the easements to be formally surveyed and registered against the title of the reserve.
- 12 The power supply will require a 3m wide easement parcel at an approximate length of 200m through the reserve (based on the current proposed route).
- 13 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 \$450.00 plus GST for the proposed route.

Land value of property	= \$93,000
Size of property	= 37303 m ²
Easement area	= 600 m ²

Calculation:

$$\begin{aligned} \$93,000 / 37303 \text{ m}^2 &= \$2.49 / \text{m}^2 \\ 30\% \text{ of } \$2.49 &= \$0.75 / \text{m}^2 \\ \$0.75 \times 600 \text{ m}^2 &= \$450.00 \text{ plus GST} \end{aligned}$$

- 14 Under the Reserves Act 1977, Ministerial consent is required before an easement can be granted over a reserve. This consent is currently 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 electrical connections, 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 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.
- 19 This report recommends that any Agreement to Grant an Easement be subject to the following special conditions:
- a. Spark New Zealand Limited to notify and liaise with QLDC's Infrastructure Department in advance of any onsite works so that they can oversee and provide input relating to existing in ground infrastructure;
 - b. The work site to be evidenced by before and after photographs, video or similar to be provided by Spark New Zealand Limited;
 - c. A comprehensive safety plan must be prepared and implemented, at Spark New Zealand Limited's cost, to ensure a safe environment is maintained around the subject site;
 - d. Certificate of adequate public liability cover to be received;
 - e. Method of installation of Council supply and location to be confirmed with Council Engineers before commencement of works;

- 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. The term of the Agreement shall be for a period of 2 years with a further term of 2 years at Council's sole discretion.

Options

20 Option 1 Council can enter into an Agreement to Grant the temporary easements over Recreation Reserve Lot 726 DP 399076 subject to the conditions recommended above.

Advantages:

21 A temporary network facility can be established before the forthcoming Christmas holidays to address the expected increase in usage and demand for mobile services in the area.

22 Council will receive an Easement Fee for the use of the reserve.

Disadvantages:

23 The reserve will be encumbered with utility infrastructure.

24 Access to the reserve will be temporarily limited.

25 Option 2 Council can enter into an Agreement to Grant the temporary easements over Recreation Reserve Lot 726 DP 399076 subject to alternative conditions.

Advantages:

26 Similar to Option 1 however Council may wish to amend the conditions proposed.

Disadvantages:

27 Similar to Option 1

28 Option 3 Council can decline to enter into an Agreement to Grant the temporary easements over Recreation Reserve Lot 726 DP 399076.

Advantages:

29 The easement area would be available for other utility infrastructure.

Disadvantages:

30 Council would not receive an Easement Fee for the use of the reserve.

31 This report recommends **Option 1** for addressing the matter as it will enable the temporary networking facility to be installed without significant disturbance to the reserve or access to same.

Significance and Engagement

32 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 temporary in nature, is not inconsistent with policy and strategy and does not impact on Council's capability and capacity.

Risk

33 This matter relates to operation risk OR011A Decision making. The risk is classed as moderate. 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 the easement.

Financial Implications

34 Council will receive a fee for the use of the reserve as per the easement policy.

35 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

36 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.

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

38 This matter is not included in the 10-Year Plan/Annual Plan, however all expenses will be met by the applicant.

39 Local Government Act 2002 Purpose Provisions

40 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 enable the temporary networking facility to be installed without cost to the public;
- 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

41 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.

42 Further, it is not considered that the easement will permanently affect the reserve or affect the ability of people to use and enjoy the reserve and, therefore, public notification is not deemed necessary in accordance with sections 48(2) and 48(3) of the Reserve Act 1977.

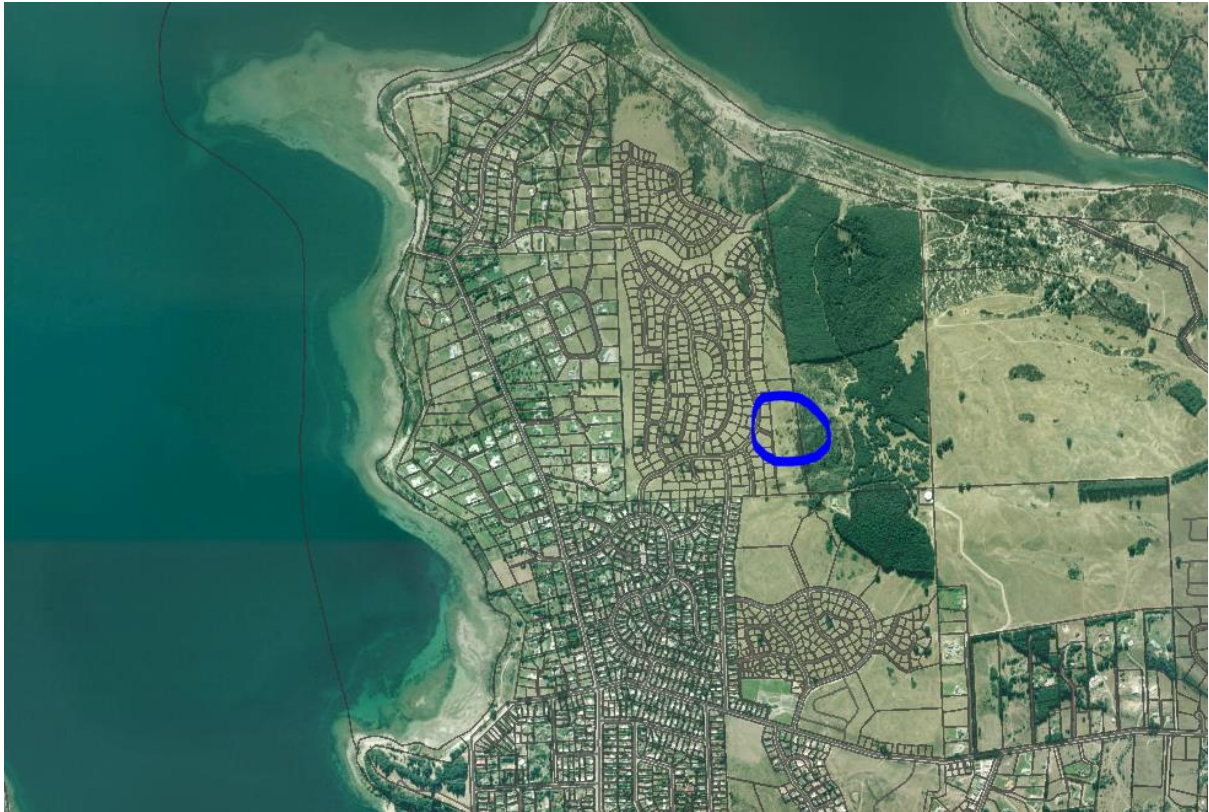
Attachments

A Site Plan

B Indicative Location Map

Temporary Easement to Spark New Zealand Limited,
Platinum Ridge

Attachment A - Site Plan



Temporary Easement to Spark New Zealand Limited,
Platinum Ridge

Attachment B – Indicative Location Plan

