

**Wanaka Community Board  
16 August 2018**

**Report for Agenda Item: 1**

**Department: Community Services**

**Easement for 450A Wanaka - Mount Aspiring Road**

**Purpose**

To consider an easement to convey lake water for irrigation, over the Damper Bay Recreation Reserve, adjacent to 450A Wanaka – Mount Aspiring Road.

**Recommendation**

That the Wanaka Community Board:

1. **Note** the contents of this report;
2. **Recommend to Council** that subject to section 48(1) of the Reserves Act 1977, an easement to convey lake water over Section 12 BLK XIII Lower Wanaka SD and Section 18 BLK XIII Lower Wanaka SD (Recreation Reserve) in favour of A & P Todd on Lot 1 DP 395762, is endorsed subject to the following conditions;
  - a. Any necessary resource consent is first granted for the proposed earthworks.
  - b. Approval is provided from LINZ for any authorisations necessary to convey and draw water over the bed of Lake Wanaka.
  - c. Notify and liaise with the QLDC Infrastructure Department in advance of any onsite works, so that they can oversee and provide input relating to any existing in-ground infrastructure (as appropriate);
  - d. All activities are to be undertaken in accordance with Worksafe New Zealand's standards for the work environment.
  - e. A \$2000 bond payable to QLDC prior to any excavation and the installation of pipes commencing;
  - f. A comprehensive safety plan must be prepared and implemented, at the applicant's cost, to ensure a safe environment is maintained around the site during excavation and works associated with laying the pipeline, and make specific reference to signage along the Millennium Track;
  - g. Certificate of adequate public liability cover to be received; and

- h. Reinstatement of the area to be completed immediately following installation and to the satisfaction of QLDC's Parks & Reserves Department.
  - i. Reinstatement of the track immediately following installation and associated works, to the satisfaction of the Upper Clutha Tracks Trust.
  - j. Council to retain the ability to vary any permitted water take through Recreation Reserve.
  - k. Easement approval to be valid for a period of up to 5 years from the date of full Council approval.
3. **Recommend to Council** that notification to grant the 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; and
  4. **Recommend to Council** that authority to approve final terms and conditions, and execution authority, is delegated to the General Manager Community Services; and
  5. **Recommend to Council** that the exercise of the Minister's prior consent (under delegation from the Minister of Conservation) to the granting of the easement to A & P Todd, Lot 1 DP 395762 over Section 12 BLK XIII Lower Wanaka SD and Section 18 BLK XIII Lower Wanaka SD (Recreation Reserve) is supported.

Prepared by:

Reviewed and Authorised by:



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2/06/2018



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## Background

- 1 Council administers the recreation reserve known as Damper Bay Lakeside Recreation Reserve near Wanaka, being legally described as Section 12 BLK XIII Lower Wanaka SD and Section 18 BLK XIII Lower Wanaka SD (Certificate of Title 2290).
- 2 The applicant requests an easement so they may draw water from Lake Wanaka, and transfer via a pipeline (over Council reserve) to their property for irrigation purposes. The property has access to a separate potable water supply for domestic use.

- 3 The applicant intends to lay a black-coloured pipe approximately 50-63mm in diameter along the easement. It is proposed to hand dig a trench from the applicant's property boundary down to the walking track. The track will also be trenched (and reinstated), and the pipe continued underground to three metres beyond the track on the lake side.
- 4 At this point the land drops away steeply over a rocky cliff, which is heavily vegetated. Where possible the pipe will be laid underground in this section, but for the majority of this area below the track it is intended that the pipe will be above ground, albeit not visible due to the dense undergrowth.
- 5 The applicant intends to carry out these activities within a five-year timeframe.

### **Comment**

- 6 A separate authorisation/easement is required from LINZ (on behalf of the Crown) for a right to draw and convey water from/over Lake Wanaka. That is a separate process and aside from this easement request to Council.
- 7 This report considers a request made by A & P Todd to grant a service easement to convey water over Council administered Recreation Reserve.
- 8 The proposed easement will be over Section 12 BLK XIII Lower Wanaka SD, and Section 18 BLK XIII Lower Wanaka SD.
- 9 The easement will traverse the Millennium Walkway on the Damper Bay Lakeside Recreation Reserve. The pipe will be trenched below the track so as not to disturb or affect the use of the track.
- 10 Beyond the track toward the lake, the proposed easement area cannot be readily accessed or viewed by members of the public. As such, whilst the water pipe will be located above ground in this area, it is recommended the easement be treated as an Underground Services Easement in accordance with QLDC's Easement Policy 2008. The request otherwise complies with Council's easement policy.
- 11 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 \$152.39 plus GST.

Land value of property	\$1,340,000
Size of property	537052 m <sup>2</sup>
Easement length	203.19 m(combined)

Calculation:	
\$1,340,000 / 537052 m <sup>2</sup>	\$2.50
30% of \$2.50	\$0.75
\$0.75 x 203.19 m	\$152.39 plus GST

- 12 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.

13 Granting an easement is permitted by the Reserve Act 1977, provided that any such easement must first 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 the reserve is not materially altered or permanently damaged. These matters are considered below:

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

14 Aside from physical works during the pipeline installation process and possible future repairs, the easement will not affect the ability of the reserve to provide for its purpose. The services will be located underground before the land drops steeply away over a rocky cliff which is heavily vegetated. It is proposed that the pipe will be black and hidden in dense vegetation to minimise visual effects.

Does the easement materially alter or permanently damage the reserve?

15 The easement will not affect the ability of the reserve to provide for its purpose. The proposed easement location incorporates a steep and densely vegetated area of the reserve which is not readily accessible to recreational users.

16 Taking into account the above, 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.

17 The proposal utilises the shortest route over the recreation reserve, and is considered a suitable location.

## **Options**

Option 1 Grant the proposed easement.

*Advantages:*

18 Will allow the applicant to access lake water for irrigation.

*Disadvantages:*

19 Disruption to the public's use of the track during pipeline installation

20 Potential future repairs to the pipeline may temporarily affect public use of the Millennium Walkway and Damper Bay Reserve.

21 Option 2 Decline the easement.

*Advantages:*

22 No disruption to the track, no pipeline installation or subsequent requirement for repairs to the pipeline.

*Disadvantages:*

23 The applicant would need to seek alternative means to provide water for irrigation.

24 This report recommends **Option 1** for addressing the matter as it will benefit the applicant and only result in minor and temporary effect on people's ability to enjoy the Reserve.

### **Significance and Engagement**

25 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 consistent with policy and strategy and does not impact on Council's capability and capacity.

### **Risk**

26 This matter relates to the operational risk OR011A, 'Decision Making', as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because 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**

27 All costs associated with the survey and registration of the easement on the Council's title will be paid for by the applicant. Maintenance of the easement will be borne by the application as per Council's easement policy and the Property Law Act 2007.

28 An easement fee to compensate Council for the land impacted by the easement will be charged in accordance with the Easement Policy 2008 and is calculated at \$152.39 plus GST. An easement application fee of \$600 plus GST has also been paid.

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

29 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 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 for underground service easements aside from the fact that the water pipe will be aboveground in places.
- Wanaka Lakefront Reserves Management Plan 2014: The area of the easement is located in the Damper Bay (to Waterfall Creek) Reserve. Objectives and policies seek to provide for public access and services easements are not precluded.

30 The recommended option is consistent with the policies.

31 This matter is not included in the 10-Year Plan/Annual Plan

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

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 allowing a water connection at no cost to Council with little disruption to the community;
- 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**

33 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, is not included in the 10-Year Plan/Annual Plan and, in accordance with the Reserves Act, people's ability to enjoy the reserve is not affected and there is no long-term effect on the land.

34 We understand that DOC and Kāi Tahu have been informed of the proposal to draw water from Lake Wanaka.

35 Otago Regional Council has been informed of the proposal and have commented it is a permitted activity if conditions from the Regional Plan: Water for Otago (the Water Plan) are met.

### **ATTACHMENTS**

- A Site Location Plan
- B Easement Plan
- C Photo of Reserve