

**Wanaka Community Board
24 May 2018**

Report for Agenda Item 1

Department: Planning & Development

Licence to Occupy Air Space over Road Reserve – 67 Brownston St, Wanaka

Purpose

The purpose of this report is to consider granting a Licence to Occupy Road Reserve Air Space to enable the owners of 67 Brownston St, Wanaka to erect a canopy and sunshade.

Recommendation

That the Wanaka Community Board:

1. **Note** the contents of this report and in particular;
2. **Grant** a licence to occupy the air space of Brownston St road reserve to enable the owners of 67 Brownston St, Wanaka to extend canopies and a sunshade into the reserve subject to the following conditions;
 - a. Building and Resource Consent to be obtained prior to works commencing if required.
 - b. Approval of a Traffic Management Plan (TMP) and Corridor Access Request (CAR) by Council Engineers before work commences.
 - c. All activities are to be undertaken in accordance with Worksafe New Zealand's standards for the work environment.
 - d. Any works within the road reserve to be undertaken to the specification and approval of Council's Engineers.
 - e. Structures must not compromise roading or services maintenance activities.
 - f. Ongoing maintenance of the structures are to be the responsibility of the Licensee.
 - g. The Licensee pay a fee of \$5,312.30 plus GST in accordance with the charging policy for Licences to Occupy Air Space.
 - h. The applicant consents to the Licence being encumbered against the title of Section 13 BLK IV TN of Pembroke to ensure the recommended terms and conditions continue in perpetuity for all future owners of the property.

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2 May 2018



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3 May 2018

Background

- 1 The land at 67 Brownston St, Wanaka, legally described as Section 13 BLK IV TN of Pembroke, is intended to be developed into a lodge/hotel. Until recently, it has served as a mini golf site.
- 2 As part of the architectural design of the planned building, the developers would like to extend 2 identical canopies into the air space above the Brownston Street road reserve. The canopies will serve to provide shelter and improve the aesthetic of the built form.
- 3 The canopies are triangular in shape and will extend to a maximum distance of 1.4m over the footpath at their apex. The total area of occupation is 14m².
- 4 Between the 2 canopies, also within the air space above the road reserve, is proposed to be a sun screening mesh. The mesh will not extend further into the road reserve than the canopies.
- 5 Plans and images of the canopies / screening are attached to this report for reference.

Comment

- 6 In accordance with the Charging Policy for Licences to Occupy Air Space, adopted by the Finance Audit Property & Corporate Committee on 5 February 2003, it is recommended that a fee of \$5,312.50 plus GST be charged to the applicant for their use of the air space above the road reserve.
- 7 The fee has been calculated using the rateable land value of \$1,280,000 or \$1,264.82 per square meter. A market valuation has not been sought in this instance. The aforementioned policy sets the fee at 30% of the land value;

Licence area – 14 m²Land value - \$1,264.82 / m²

Calculation:

$$\$1,264.82 \times 30\% = \$379.45 / \text{m}^2$$

$$\$379.45 \times 14 \text{ m}^2 = \mathbf{\$5,312.30 \text{ plus GST}}$$

- 8 Council's Engineers have been consulted in respect to this application and have noted no concerns.
- 9 This report recommends the conditions for approval;
 - a. Building and Resource Consent to be obtained prior to works commencing if required.
 - b. Approval of a Traffic Management Plan (TMP) and Corridor Access Request (CAR) by Council Engineers before work commences.
 - c. All activities are to be undertaken in accordance with Worksafe New Zealand's standards for the work environment.
 - d. Any works within the road reserve to be undertaken to the specification and approval of Council's Engineers.
 - e. Structures must not compromise roading or services maintenance activities.
 - f. Ongoing maintenance of the structures are to be the responsibility of the Licensee.
 - g. The Licensee pay a fee of \$5,312.30 plus GST in accordance with the charging policy for Licences to Occupy Air Space.
 - h. The applicant consents to the Licence being encumbered against the title of Section 13 BLK IV TN of Pembroke to ensure the recommended terms and conditions continue in perpetuity for all future owners of the property.

Options

- 10 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:
- 11 Option 1 Council can grant the Licence to Occupy Road Reserve application subject to the conditions proposed above.

Advantages:

- 12 The applicant can complete their development as planned.
- 13 Council will receive a fee for the occupation of the air space.

Disadvantages:

- 14 There will be some disruption to the public during the development and installation of the canopies.
- 15 The air space above the road reserve will be encumbered with private structures.
- 16 Option 2 Council can grant the Licence to Occupy Road Reserve application subject to conditions alternative to those proposed above.

Advantages:

- 17 Similar to Option 1 however Council may wish to add, amend or remove certain conditions.

Disadvantages:

- 18 Similar to Option 1.
- 19 Option 3 Council can decline the Licence to Occupy Road Reserve application.

Advantages:

- 20 The air space above the road reserve will not be encumbered by private structures.
- 21 The public will not be disrupted by construction activities.

Disadvantages:

- 22 Council will not receive a fee for the use of the air space.
- 23 The developer will need to review their plans which may result in a aesthetically less pleasing building frontage.
- 24 This report recommends Option 1 for addressing the matter because it enables a well designed building to proceed, while protecting the interests of the public.

Significance and Engagement

- 25 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.

Risk

- 26 This matter relates to the strategic risk SR3 Management Practise - working within legislation, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because a variety of operational risks (such as meeting levels of service, regulatory compliance and the health and safety risks associated with parties using roads) are triggered when the Council considers whether or not to grant the licence to occupy.

- 27 This matter also relates to strategic risk SR6a – assets critical to service delivery (infrastructure assets) with the risk classified as low. This is because the impact of the occupation is minimal for the public and does not have a significant permanent impact on Council's infrastructure.
- 28 This matter also relates to operational risk SR27 levels of service, as documented in the Council's risk register. This risk is classed as moderate. This matter relates to this risk as it requires a decision from Council for a private activity.
- 29 The recommended option treats the risks by ensuring conditions of approval are established and included within the licence.

Financial Implications

- 30 The Applicants have paid a fee for their application to be processed which includes the preparation of the licence document if successful.
- 31 Should legal review of the licence be required, Council's legal costs will be recovered from the applicant.
- 32 Council's legal costs to have the Licence encumbered upon the applicant's title will be recovered from the applicant.

Council Policies, Strategies and Bylaws

- 33 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.
 - *Charging Policy for Licences to Occupy Air Space* – the policy is applicable in circumstances when commercial buildings are built to the boundary of the developer's property and building infrastructure protrudes past the boundary into Queenstown Lakes District Council's air space.
- 34 The recommended option is consistent with the principles set out in the named policies.
- 35 This matter is not included in the 10-Year Plan/Annual Plan as the cost of the licence will be met by the applicant.

Local Government Act 2002 Purpose Provisions

36 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 a proposed accommodation development to proceed.
- 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

37 Council Engineers have been consulted about this application and their comments are contained within this report.

Attachments

- A Site Plan
- B Architectural Drawings
- C Floor Plans