

30th August 2018

Queenstown Lakes District Council
C/- APL Property Limited
Attention: Blake Hoger

Via E-mail: blake.hoger@aplproperty.co.nz

Dear Blake;

**SKYLINE ENTERPRISES LIMITED – APPLICATION FOR SERVICES EASEMENTS PURSUANT TO SECTION 48(1)
OF THE RESERVES ACT 1977**

Introduction

As you are aware Southern Planning Group act for Skyline Enterprises Limited (“SEL”) who are presently embarking upon a major upgrade and re-development of the iconic Skyline Gondola and Restaurant that operates between Bob’s Peak and Brecon Street in Queenstown (resource consent RM160647).

RM160647 is progressing by way of Direct Referral to the Environment Court. The Environment Court hearing was held during the week starting 22nd May 2017 and an interim decision has been issued by the Court on 15th August 2017.

One of the primary concerns that was raised by both submitters and the Council’s experts with respect to the original RM160647 application and indeed one of the remaining matters to address before a final decision can be issued by the Court, is the lack of on-site car parking that was proposed for visitors and staff to the SEL facilities.

SEL has subsequently sought a separate but inextricably linked resource consent (RM171172) for a multi-level car park building located behind the Lower Terminal building at Brecon Street. This application has also preceded to the Environment Court via direct referral with a hearing held in the week of 11th June 2018. A decision is anticipated from the Court on this application before the end of 2018.

SEL remains positive that the final decisions of the Environment Court will approve the developments sought in both RM160647 and RM171172 and planning and preparation is now being advanced to give effect to these decisions once received.

One of the key issues to enable works to commence as soon as possible following the grant of the decisions is ensuring that Easements for the infrastructure services necessary for the development have been obtained under the Reserves Act 1977.

Accordingly, the purpose of this correspondence is to formally request the grant of Easements over Council owned and administered Recreation Reserve land holdings pursuant to Section 48(1) of the Reserves Act 1977. The full proposal is described in detail below:

Proposal

Cancellation of Existing Easements

The alignment of the gondola cable way which presently exists and that sought in RM160647 are slightly different. In addition and as will be described in more detail in the proceeding sections of this application, the width of the cableway Easement is proposed to be widened to take account of a health and safety requirement to maintain a widened corridor clear of conifer trees.

As a result it is proposed to cancel the existing cableway Easement which is identified as Areas 'B' and 'E' on the proposed Easements plan contained in **Appendix [A]**. As will be outlined below in the following sections of this application, replacement Easements are to be implemented in its place.

Within the SEL Lease Area on Bob's Peak there are two ROW Easement Areas with a width of 10m¹. These are historical ROW Easements that provide for a ROW in favour of SEL.

These two ROW Easement Areas are understood to have been accidentally left as an Encumbrance over the SEL Lease Area Section 1 SO 24832 when it was created in 1997. Specifically, the SEL Lease Area was previously a much smaller parcel of 1.329Ha legally described as Section 143 SO 22470. The site was accessed via ROW Easements through the Ben Lomond Recreation Reserve from Lomond Crescent.

In 1997 SEL sought resource consent RM970293 to establish and operate a 600m long luge track and associated chairlift, to relocate the Queenstown Commercial Parapenters Limited low level take off area and to Lease 4.1022Ha of land for a period greater than 20 years.

RM970293 was approved by the Council and as a result of the increase in area of the SEL Lease Area from that contained in Section 143 SO 22470 to that now contained in Section 1 SO 24832, the new Lease Area encapsulated two parts of the ROW Easements previously required to provide legal access to the western boundary of Section 143 SO 22470.

This is illustrated on the Survey Office Plans 22470 and 24832 both of which are contained in **Appendix [B]**. This was simply an error with the subdivision planning as these redundant ROW Easements should have been cancelled at the time the subdivision was given effect to such that legal access was afforded to the boundary of the new lease area.

The proposal to cancel these ROW Easements does not impact on the legal ROW for Skyline to access the current SEL Lease Area as the remaining ROW Easement over the Skyline Access Road will continue to provide legal access to the south western boundary of the current SEL Lease Area Section 1 SO 24832.

The two areas of ROW Easements proposed to be cancelled are illustrated as Easement Areas 'cc' and 'dd' on the proposed Easements plan contained in **Appendix [A]**.

Existing Easements to be Maintained

As identified in the section above, there is an existing ROW Easement in favour of Skyline, from Lomond Crescent to the south western corner of the SEL Lease Area on Bob's Peak legally described as Section 1 SO 24832.

The existing ROW Easement passes over Pt Section 110 Blk XX Shotover SD and Section 106 BLK XX Shotover SD and covers the existing Skyline Access Road. It is proposed to maintain this ROW Easement with no

¹ ROW Easements 'B' & 'C' illustrated on Survey Office Plan 24832

changes. A small area of ROW Easement over part of the access to the top luge terminal on Pt Section 110 BLK XX Shotover SD also exists and is proposed to be retained. The ROW Easements are illustrated as Easement Areas 'ee', 'ff', 'gg', 'l', 'hh', 'ii', and 'BB' on the proposed Easements plan contained in Appendix [A].

There is a small land parcel that sits to the southwest of the SEL Lower Terminal Site and the approved SEL car park Lease Area legally described as Lot 4 Deposited Plan 345184. This is QLDC owned Recreation Reserve and part of the existing gondola cableway Easement overlays this site and affords a right of access for maintenance of the cableway.

It is proposed to retain this right of access Easement as this will still be required for the new gondola cableway proposed in RM160647. The right of access Easement over this landholding is illustrated as Easement Area 'F' on the proposed Easements plan contained in Appendix [A].

As will be discussed below in the next section of this application, SEL's proposals RM160647 and RM171172 have required works to be completed in favour of Kiwi Birdlife Park Limited and the development of new Kiwi enclosures on Section 1 SO 24407.

There is an existing ROW Easement in favour of Kiwi Birdlife Park Limited over Pt Section 129 Blk XX Shotover SD. This ROW Easement provides vehicular access from Hamilton Road into the north eastern corner of the Kiwi Birdlife Park. This Easement is to be retained and is illustrated as Easement Area 'C' on the proposed Easements plan contained in Appendix [A].

Easements for Kiwi Birdlife Park

One of the key matters that SEL needed to address as part of the RM160647 and RM171172 proceedings was how to manage the effects of construction noise and vibration on the Kiwi in both the existing indoor and outdoor enclosures adjacent to the SEL lower terminal.

Specifically, draft condition 20 in the recommended conditions put to the Court for RM160647 specifies the following:

20. *As volunteered by the Applicant, no earthworks and construction activity may commence on the lower terminal site until the following actions have been completed on Pt Section 131 Blk XX Shotover SD (Kiwi Birdlife Park Site):*
- (i) The relocation of the outdoor kiwi breeding enclosure;*
 - (ii) The construction of a new indoor kiwi viewing enclosure;*
 - (iii) Relocation of the kiwi into the new enclosures.*

(Advice Note – These matters have been agreed to by Kiwi Birdlife Park and shall be completed in direct consultation with them. Any additional resource consents or approvals under the Reserves Act (if required) shall first be obtained by the consent holder).

A similarly worded condition (condition 51) was put forward in the planners joint witness statement and recommended conditions for RM171172.

SEL has largely addressed this matter with Kiwi Birdlife Park having already obtained resource consent for a new indoor and outdoor kiwi enclosure (RM171459) on their behalf and having also received Lessors Approval² for the same under the terms of the Kiwi Birdlife Park Lease.

² Lessors Approval confirmed via letter from APL Property Limited dated 20th February 2018.

As part of the resource consent application RM171459 it was noted that there were various options for servicing the proposed buildings with power, fire-fighting water and waste water. The option was left open for connections to these services to be made through QLDC Recreation Reserve Pt Section 129 BLK XX Shotover SD located north east of the Kiwi Birdlife Park site and which has direct access to Hamilton Road. Kiwi Birdlife Park already hold a ROW Easement over this landholding³.

Condition 7 of RM171459 requires the existing ROW Easement to be varied prior to use and occupation of the building to enable the addition of these other infrastructure services and that the final wording of the easement variation instrument shall be approved by Council's solicitors prior to registration on the Computer Freehold Register for the site.

As a result of the above consent history and requirements for infrastructure servicing, SEL now request the granting of Easements over this landholding in favour of Section 1 SO 24407 to convey water, electricity and communications and an Easement in gross for Chorus. The proposed location of the Easement Area is illustrated as Easement Area 'C' on the proposed Easements plan contained in [Appendix \[A\]](#).

Easements for Aurora Energy Limited

As part of SEL car park building proposal a Lease and associated Easements have already been granted by the Council under Sections 48(1) and 54(1)(d) of the Reserves Act 1977.⁴

This approval authorised two options for Easements to relocate the existing overhead powerlines that pass over the Lower Terminal and Car Park site underground and around the periphery of the proposed car park building.

As part of the continued dialogue with Aurora it is understood that there is now a preference from Aurora to relocate all of the overhead lines that run in a northerly direction at the toe of the forested slopes of the Ben Lomond Recreation Reserve to an underground route along Gorge Road within the next five to ten years. To enable this preferred re-routing, it is proposed to create an Easement the entire way along the QLDC land holding Pt Section 129 BLK XX Shotover SD through to Hamilton Road in favour of Aurora Energy Limited. This is illustrated as Easement Areas 'C' and 'D' on the proposed Easement Plan in [Appendix \[A\]](#).

Should this be the preferred location to re-route the power lines this work can be completed as part of the development earthworks for RM171172 which requires the full upgrade of the existing track through Pt Section 129 BLK XX Shotover SD to a Grade 2 Standard shared walking and cycling trail. These works were already approved by Council by way of the provision of an affected party approval to the RM171172 application and a concurrent developer's agreement.⁵

Within the SEL Lease Area atop Bob's Peak (Section 1 SO 24832) there are currently no Easements for existing reticulated power services. It is therefore proposed to establish an Easement in favour of Aurora Energy Limited from the existing overhead power line connection on the south western edge of the Skyline Lease Area through the SEL Lease Area to the transformer adjacent to the newly constructed Luge chairlift top terminal. This Easement is illustrated as area 'G' on the proposed Easement Plan in [Appendix \[A\]](#).

As part of the RM160647 development proposal it is proposed to establish reticulated power from Lomond Crescent through the Ben Lomond Recreation Reserve, largely up the Skyline Access Road and into the SEL

³ ROW Easement Created by document L6359549.5

⁴ The proposal was approved by full Council at the scheduled meeting held on 8th February 2018.

⁵ QLDC Affected Party Approval signed by Mike Theelen, dated 20 April 2018 and Developers Agreement between Skyline Enterprises Limited and QLDC dated 20th April 2018

Lease Area on Bob's Peak. In order to protect these services an Easement in favour of Aurora Energy Limited is proposed. This is illustrated as Easement areas 'G', 'H', 'Q', 'S', 'V', 'T', 'W', 'Y', 'Z' and 'BB' on the proposed Easement Plan in [Appendix \[A\]](#). The exact

Proposed Gondola Cableway Easement

The existing gondola cable way Easement provides for the alignment of the current gondola line as well as an area 45m wide being 22.5m either side of the existing cableway centre line referred to as a 'fire break' which must be kept clear of vegetation. The existing Easement affects Pt Section 110 BLK XX Shotover SD and Lot 4 Deposited Plan 345184.

In 2016 SEL and the Council agreed that the conifer trees either side of the gondola needed to be removed for health and safety reasons with respect to the risk that they posed to the gondola if they were to fall. This risk exists whether or not the new gondola proposed in RM160647 is developed or not.

Subsequently, an Outline Plan (RM160956) was obtained by the Council to enable the necessary forestry works to be undertaken. This Outline Plan authorises the removal of all trees with the areas identified within the 70% clearance line and selective removal of all trees in the 100% clearance line on the approved plans.

There was also an agreement between SEL and QLDC⁶ which noted that QLDC had in principle agreed to vary the SEL Lease such that the fire break area would be extended to the 100% tree clearance area illustrated on the Patterson Pitts Group plans for the Outline Plan RM160956.

In accordance with this agreement and to accommodate the new gondola alignment that was proposed within the resource consent application RM160647, it is proposed to create a new gondola cableway Easement which is illustrated as Easement Area 'A' on the proposed Easement Plan in [Appendix \[A\]](#).

The existing cableway Easement also provides for a right of access for erection of the gondola stanchions and maintenance of the cableway as necessary⁷. It is proposed that Easement Area 'A' also incorporates the same rights of access.

Further, there is an existing telecommunications line that runs from Brecon Street to the SEL restaurant building along the existing gondola pylons. It is proposed to maintain this method of telecommunication servicing along the pylons of the new gondola sought in RM160647. As such, it is proposed that Easement Area 'A' also provides a right to convey telecommunications.

The existing cableway Easement also has a right of access for maintenance of the cableway over Lot 4 DP 345184. In addition, the earthworks for the establishment of the SEL car park building vehicle access proposed in RM171172 necessitate batter slopes being established within Lot 4 Deposited Plan 345184. Accordingly, it is proposed to establish a new ROW Easement over Lot 4 DP 345184 in favor of Section 1 SO 22971, Area 'B' on Pt Section 110 Blk XX Shotover SD (SEL Car Park Lease Area) and Section 1 SO 24832. This is illustrated as Easement Area 'E' on the proposed Easement Plan in [Appendix \[A\]](#).

Proposed New ROW Easements Over Existing Vehicle Tracks

Most people are very familiar with the main Skyline Access Road which provides access from Lomond Crescent to Bob's Peak through the Ben Lomond Recreation Reserve. However, it is less widely known that there is another existing vehicle track that commences on the uphill side of the main Skyline Access Road approximately 110m below the Ziptrek briefing deck.

⁶ Tree Felling Agreement between Skyline Enterprises Limited and QLDC Dated 7th April 2016

⁷ Skyline Enterprises Limited Lease 5014878.1, Second Schedule, Part 1, clause 2.

This track winds its way up to the SEL Luge top terminal and affords vehicle access for construction and maintenance activities in the upper portion of the SEL Lease Area in Section 1 SO 24832. However, this existing track is located outside the SEL Lease Area and is not formally recognized by a ROW Easement.

Accordingly, a new ROW Easement is proposed over this existing track in favor of the SEL Lease Area Section 1 SO 24832 and is illustrated as Easement Area's 'J', 'K', 'M', 'N' and 'P' on the proposed Easement Plan in **Appendix [A]**.

Proposed Infrastructure Services Easements

The SEL Lease Area on Bob's Peak (Section 1 SO 24832) is partially serviced by reticulated water, waste water and power located outside of the SEL Lease Area and without existing Easements. In addition, as part of the RM160647 development proposal it is proposed to repair and replace parts of the existing water and waste water reticulation and to install power, telecommunications and gas from Lomond Crescent to Section 1 SO 24832.

New Easements are therefore required to protect SEL's existing and proposed new reticulated services. There has already been an instance where Ziptrek have constructed their top briefing platform and access over SEL's existing waste water pipes.

In terms of the rights to drain sewage, Easements in favour of Section 1 SO 24832 (SEL Lease Area) are shown over the existing sewage reticulation through Pt Section 110 Blk XX Shotover SD and Section 106 Blk XX Shotover SD as Easement Areas 'I', 'J', 'L', 'N', 'R', 'S', 'T', 'U', 'X', 'Y', 'Z' & 'bb' on the proposed Easement Plan in **Appendix [A]**.

In terms of the rights to convey and store water, Easements in favour of Section 1 SO 24832 (SEL Lease Area) are shown over the existing and proposed new water reticulation through Pt Section 110 Blk XX Shotover SD and Section 106 Blk XX Shotover SD as Easement Areas 'I', 'J', 'L', 'N', 'O', 'Q', 'S', 'T', 'V', 'W', 'Y', 'Z', 'AA' and 'bb'.

It is noted that following more detailed design of the infrastructure services capacity that a water storage tank and pump station will need to be installed midway between Lomond Crescent and Section 1 SO 24832. This is specifically illustrated within proposed Easement Area 'T'. These facilities will be constructed largely below ground aside from the switch box and transformer, and will have an appearance similar to the Council infrastructure below:



Photographs 1 & 2. Middleton Road Pump Station & Transformer. Source – Patterson Pitts Group

With regards to the proposed new Easements in favour of Section 1 SO 24832 (SEL Lease Area) through Pt Section 110 BLK XX Shotover SD and Section 106 BLK XX Shotover SD for the conveyance of telecommunications these are illustrated as Easement Areas 'I', 'J', 'L', 'N', 'O', 'Q', 'V', 'W', 'S', 'Y', 'Z', 'bb' on the proposed Easement Plan in **Appendix [A]**.

In terms of the proposed new Easements in favour of Rockgas NZ Limited and Section 1 SO 24832 (SEL Lease Area) through Pt Section 110 BLK XX Shotover SD and Section 106 BLK XX Shotover SD for the conveyance of gas these are illustrated as Easement Areas 'H', 'Q', 'S', 'V', 'W', 'Y', 'Z' and 'BB' on the proposed Easement Plan in **Appendix [A]**.

In terms of new Easements for the drainage of storm water it is noted that discharging storm water from Section 1 SO 24832 into the forest on Pt Section 110 BLK XX Shotover SD (as has historically occurred) was raised as a key issue in the RM160647 Environment Court proceedings.

Subsequently, SEL sought and obtained land use consents and discharge permits from the Otago Regional Council for the discharge of storm water from the existing and proposed buildings into the forest on Pt Section 110 BLK XX Shotover SD.

The discharge occurs at three separate locations and all three locations require scour protection/armouring consisting of a turf reinforcement mat (e.g. Cirtex ECP2) or a rip rap i.e. rock armouring comprising a bedding of coarse cobbles/boulders or a mixture of both to transition the higher velocity flows from the rock to the soil slopes beneath, and promote dispersal in the upper 50m of the channels.

Accordingly, Easements are proposed to cover the upper 50m of the storm water discharge channels in Pt Section 110 BLK XX Shotover SD. These Easements are illustrated as Easement Areas 'JJ', 'KK' and 'LL' on the proposed Easement Plan in **Appendix [A]**.

Effects Assessment of Proposed Implementation of Physical Works

As identified above, a number of the proposed Easements are to protect existing infrastructure services that already provide for the operation of the SEL facilities on Bob's Peak but which have never been formally protected by Easements.

As such, a number of the proposed Easements do not require physical works for the creation of vehicle access tracks and installation of new reticulated services.

Where new infrastructure is proposed or existing infrastructure is to be replaced within the Ben Lomond Recreation Reserve as part of the re-development proposal RM160647 the Easement alignments have been chosen so as to minimise as much as is practicably possible, the impact of construction on users of the Skyline Access Road.

In this regard, it is noted that the RM160647 proposal was publicly notified and the upgrade of services and identification of Easements did form part of this proposal⁸. While a final decision is still being awaited from the Environment Court at the time of drafting this application, a set of track changed conditions was forwarded to the Environment Court as part of the closing legal submissions in those proceedings. A full copy of these conditions with red track changes indicating the QLDC/SEL proposed changes and green track changes indicating Ziptrek's proposed changes is contained in Appendix [C].

These conditions are expected to be very close to what the Environment Court may approve in their final decision. All physical works to implement the infrastructure services will need to be implemented in accordance with this resource consent and it is noted that the following relevant conditions from Appendix [C] will assist in mitigating any adverse effects arising from implementation of any physical works:

21. *As volunteered by the Applicant, where any excavation occurs via a hydraulic rock breaker mounted to an excavator, a sound-proof bracket is to be utilized. Any of the following models are authorized:*

*H1XA
H10XB
H8XA*

22. *When Ziptrek is undertaking commercial operations:*

- (a) no rock breaking activity shall be undertaken less than 50m from the Ziptrek top tree house; and
(b) no other construction and earthworks activity shall be undertaken less than 25m from all Ziptrek tree houses.*

35. *Prior to commencing works on site, the consent holder shall submit a traffic management plan to the QLDC Road Corridor Engineer at Council for approval. The Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor. All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Traffic Management Plan. A copy of the approved plan shall be submitted to the Principal Resource Management Engineer at Council prior to works commencing. The TMP for the upper Skyline area shall specifically provide for and/or directly address the following requirements as a minimum:*

- Maintenance of pedestrian and mountain bike access along the Skyline Access Road at all times;*
- Maintenance of vehicular access along the Skyline Access Road for Ziptrek;*
- Identification of a maximum specified speed limit for vehicles on the Skyline Access Road in recognition of its steep and narrow formation;*
- ~~Either a~~ A dedicated site traffic management supervisor ("STMS") shall be located at the upper and lower ends of the access road, monitoring the presence of construction and earthworks (and other) vehicles within the access road whenever there are*

⁸ Note that the RM160647 did not specify details all Easements or services upgrades contained in this application.

~~construction and earthworks related vehicles operating; or all heavy vehicles are to be in full two-way radio contact with other construction and earthworks-related heavy vehicles to manage the passage of uphill and downhill passing manoeuvres in a safe manner.~~

- Methods by which the STMS will communicate with other commercial users of the reserve during construction;
- Identification of a maximum specified speed limit for Lomond Crescent on the approach to and from the Skyline Access Road crossing point in recognition of the residential environment and lack of footpaths;
- Ensure consistency with the TMP's prepared in association with resource consent RM170147 (if granted for the proposed luge chair lift) and Outline Plan RM160956 (forestry activities) if the scheduling of construction works coincides with the land use approved in those decisions.
- Maintenance of traffic flow at the Isle Street, Brecon Street and Cemetery Road intersection.

36. As volunteered by the Applicant, prior to commencing any works on site, the consent holder shall undertake a photo survey of the existing Skyline access road, Lomond Crescent and Upper Thompson Street (east of numbers 66 and 71 Thompson Street) used in the proposed construction routes so that the extent of damage, if any, due to the construction traffic can be clearly and accurately determined. A copy of this photo record shall be submitted to the Resource Management Engineer at Queenstown Lakes District Council.
37. At least one month prior to the commencement of works the Consent Holder will arrange and conduct a pre-commencement site meeting with but not necessarily limited to; the lead contractor(s), Skyline management and all parties listed in the communications list at Appendix [1] of these consent conditions. At a minimum, in addition to an inspection of the site, and proposed work area, the following shall be covered at the pre-commencement site meeting:
- (a) Scheduling and staging of the works, for at least the first 3 months of site operations;
 - (b) Responsibilities of relevant parties;
 - (c) Contact details for relevant parties;
 - (d) Expectations regarding communication between all relevant parties;
 - (e) Noise mitigation;
 - (f) Proposals and frequency for additional site meetings with the above personnel; and
 - (g) Any other relevant matters identified by either the Consent Holder, its contractors or the key stakeholders identified in Appendix [1].
38. At least 21 days prior to the commencement of works the Consent Holder shall provide a communications plan to the Council for certification. The purpose of the communications plan is twofold: first to address the nature of communication and the receipt of advisory information regarding earthworks and construction activities, scheduling/timing of works and potential temporary nuisance effects including changes in access and second, to provide a contact for complaints/queries between the Consent Holder and the key stakeholders identified in Appendix [1]. The communications plan shall as a minimum address the following:

- (a) *Identify procedures and timing of public media releases and notification to key stakeholders advising of high impact events such as blasting and helicopter use with a minimum 5 working day warning period;*
 - (b) *Identify alternative (non-electronic) means of communicating key information with local residents i.e. mail drops;*
 - (c) *Identify the contact details for the lead contractor/project manager and a representative of the Skyline Enterprises Limited Management Team;*
 - (d) *Identify a regular (at least monthly) meeting of the key stakeholders in Appendix [1] including details of meeting location; and*
 - (e) *Establishment of an incident register for residents of Lomond Crescent to specifically deal with transportation issues on this road.*
39. *The consent holder shall install measures to control and/or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with QLDC's Land Development and Subdivision Code of Practice and 'A Guide to Earthworks in the Queenstown Lakes District' brochure, prepared by the Queenstown Lakes District Council. These measures shall be implemented prior to the commencement of any earthworks on site and shall remain in place for the duration of the project, until all exposed areas of earth are permanently stabilised. QLDC RM Engineering site inspectors shall be contacted to inspect these works prior to commencement of earthworks on site.*
40. *Prior to the commencement of any works on the site the consent holder shall provide to the Principal Resource Management Engineer at Council for review and acceptance, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (32), to detail the following engineering works required:*
- a) *The provision of an upgraded water supply to the development. This includes details and designs of all proposed modifications and upgrades to the existing water supply system. For clarification this includes all proposed upgrades at both the Upper Terminal and Lower Terminal locations. The costs of the additional connections shall be borne by the consent holder.*
 - b) *A detailed inspection inclusive of CCTV footage of all existing sewer pipes at both the Upper Terminal and Lower Terminal sites, to establish the current condition and gradients of these existing sewer pipes. Any proposed design upgrades to the existing sewer pipes are to be submitted to Council for review and acceptance prior to works commencing on site.*
 - c) *Any revision to the existing Fire Fighting provisions, namely the relocating of any fire hydrants, shall be submitted to Council for review and acceptance and shall be in accord with the NZ Fire Service Code of Practice SNZ PAS 4509:2008.*
 - d) *The provision of Design Certificates for all engineering works associated with this development submitted by a suitably qualified design professional (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.*
41. *A detailed construction methodology shall be prepared by a suitably qualified engineer to include all of the stages of excavation, construction, groundwater control measures, and retention measures to ensure adequate support is provided to the excavation, such that no adverse effects are caused to*

surrounding land, structures, roads and underground services. This shall be submitted to the Principal Resource Management Engineer at Council for review and acceptance.

45. *The consent holder shall submit to the Principal Engineer at Council for review and acceptance a detailed Site Management Plan (SMP) for the works in each construction zone being proposed prior to works commencing in that particular construction zone.*
42. *The consent holder shall submit "as-built" plans and information required to detail the location of all water, power and telecommunications installed. This information shall be formatted in accordance with Council's "as-built" standards.*
43. *On completion of the earthworks, the consent holder shall complete the following:*
 - a) *All earthworked/exposed areas shall be top-soiled and grassed/revegetated or otherwise permanently stabilised.*
 - b) *At the completion of all construction works the consent holder shall remedy and repair any damage caused to the surface of Lomond Crescent, Thompson Street or the Skyline Access Road such that these roads are returned to a state commensurate with or exceeding that which is documented in the photo survey required by condition (36) above.*
56. *Prior to the commercial operation of the development, the consent holder shall complete the following:*
 - a) *A computer Easement Plan shall be submitted to Council for approval showing details of any necessary easements to legalise any services associated with the development. This shall include:*
 - i. *New Easements for the relocated power, telecommunications and sewer services to the existing buildings and retaining wall on Section 106 BLK XX Shotover SD (No CT); Pt Section 110 BLK XX Shotover SD; Section 1 Survey Office Plan 24832; Section 1 Survey Office Plan 22971; Lot 2 DP 345184*

Once approved by council, the easements shall then be registered on the Computer Freehold Register for the sites, prior to operation of the development.

57. *Prior to the occupation of the building, the consent holder shall complete the following:*
 - a) *The submission of 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development at the consent holder's cost. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Roads (including right of way and access lots), Water, Wastewater and Stormwater reticulation (including private laterals and toby positions).*
 - b) *The completion and implementation of all certified works detailed in Condition (42) above.*
 - c) *The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.*
 - d) *The consent holder shall obtain a Code of Compliance Certificate under a Building Consent for any retaining walls constructed as part of this consent which exceed 1.5m in height or are subject to additional surcharge loads as set out in Schedule 1 of the Building Act.*

- e) *Any power supply and/or telecommunications connections to the building shall be underground from existing reticulation and in accordance with any requirements/standards of the network provider's requirements.*
- f) *The submission of Completion Certificates from both the Contractor and Approved Engineer for all infrastructure engineering works completed in relation to or in association with this subdivision/development (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1B and 1C Certificate.*

These conditions ensure that all works are undertaken in a manner that will avoid, remedy or mitigate the potential adverse effects on the Ben Lomond Recreation Reserve and its users. Of particular importance is the requirement for a detailed traffic management plan which maintains all pedestrian, mtb and Ziptrek vehicle access along the Skyline Access Road at all times.

Other key conditions (which were volunteered by SEL) are the requirements for meetings with all the key stakeholders (submitters on RM160647 and QLDC) prior to works commencing and the production of a communications plan to advise the public generally of the work occurring, the scheduling/timing of works and potential temporary nuisance effects including changes in access.

A number of 'standard' conditions also ensure that the detailed design of all infrastructure works is submitted for review and acceptance by Council's engineers, that the disturbed surfaces are stabilised, the roads are returned to the state they were in prior to construction commencing and that the Computer Easement Plan for all services is submitted to the Council for approval.

It is therefore considered that if Council confirms to grant the requested Easements to SEL the services will meet the appropriate engineering standards, public and commercial operator access will be maintained, the Easements will be formally registered and the Ben Lomond Recreation Reserve will be returned to a state such that it will not be materially altered or permanently damaged.

With regards to the proposed Easement 'D' & 'C' for the conveyance of power through Pt Section 129 BLK XX Shotover SD to Hamilton Road it is noted that this landholding is not part of the Ben Lomond Recreation Reserve but it's status is still that of a Recreation Reserve. The RM160647 conditions referred to above are not relevant to any works on this site. Rather, the RM171172 application by SEL for the car park building is relevant.

Specifically, as part of this application SEL volunteered to establish a shared pedestrian and cycle trail through this Recreation Reserve to provide a high standard trail link between Brecon Street and Hamilton Road. The proposal requires the following physical works:

- 470m³ of cut;
- 60m³ of cut will be re-used as fill;
- 60m³ of AP40 metal will be imported;
- Total volume of earthworks is 590m³;
- Total area of works will be 1,330m²;
- Max cut height would be 4.2m;
- Max fill depth would be 1.5m.

The Council provided an affected party approval as the landowner of this Recreation Reserve for the establishment of this trail and entered into a developer's agreement with SEL. It is proposed that should Council grant approval to the creation of these Easements for the conveyance of power that the physical works can be undertaken at the same time as establishing this shared cycleway.

The expert planning witnesses for QLDC, ORC and SEL prepared a final suite of recommended conditions to the Environment Court and a copy of these is attached as [Appendix \[D\]](#). Many of the conditions recommended by the planners are adopted from those listed above for the RM160647 application with respect to communications plans, rehabilitation of the work site, control of dust and sediment and engineering review and acceptance. These will not be repeated here but it is important to highlight that:

- Condition 16(c) requires engineering review and acceptance of a detailed work schedule accompanied by the written confirmation of the service provider for the proposed relocation and undergrounding of any existing power poles/services within any of the construction zones.
- Condition 16(d) requires engineering review and acceptance of a shared walking and cycle track extending from Brecon Street to Hamilton Road. The detailed design shall generally be to Grade 2 Standard, and no less than 2.0m wide as per the latest version of the QLDC Cycle Trail Design Standards and Specifications. Provision of lighting for the track shall be provided in line with the QLDC Southern Light Strategy (Part One-A Lighting Strategy March 2017, and Part Two- Technical Specifications July 2017).
- Condition 24(a) requires that prior to the commercial or public use of the car park development, the consent holder shall submit a computed Easement Plan to the Manager Resource Management Engineering at QLDC for approval showing details of any necessary easements to legalise any services associated with the development. Once approved by the Manager Resource Management Engineering, the easements shall then be registered on the Computer Freehold Register for the site, prior to commercial use of the car park development.

It is therefore considered that if Council confirms to grant the requested Easements to SEL the reticulated power services will meet the appropriate engineering standards and the network service provider's specifications, the Easements will be formally registered and the Recreation Reserve will be returned to a state such that it will not be materially altered or permanently damaged by the proposed Easements.

Similarly to the applications RM160647 and RM171172 the resource consent RM171459 which authorised the construction of the new Kiwi house at the Kiwi Birdlife Park contains conditions of consent relevant to the establishment of the physical services for potable and fire-fighting water through Pt Section 129 BLK XX Shotover SD.

The conditions ensure that all engineering works are undertaken in accordance with the Council's Land Development and Subdivision Code of Practice, that a traffic management plan is implemented, that dust and sediment control measures are implemented prior to works commencing, that all earthworked and/or exposed areas are top-soiled and grassed/revegetated or otherwise permanently stabilised and that any damage to existing road surfaces and berms that result from work carried out for this consent are remedied. A copy of RM171459 is attached as [Appendix \[E\]](#).

Specifically, condition 11 of that decision is particularly relevant and states:

11. *Prior to commencing any works on the site, the consent holder shall obtain 'Engineering Review and Acceptance' from the Queenstown Lakes District Council for all development works and information requirements specified below. An 'Engineering Review and Acceptance' application shall be submitted to the Manager of Resource Management Engineering at Council and shall include copies of all specifications, calculations, design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (5), to detail the following requirements:*
- a) *The provision of a fire hydrant(s) with adequate pressure and flow to service the proposed building with a fire fighting water supply in accordance with the NZ Fire Service Code of Practice for Firefighting Water Supplies SNZ PAS 4509:2008. This shall include a connection to the 100mm Council water main in Hamilton Road. Any alternative solution must be approved in writing by the Area Manager for the Central North Otago branch of the New Zealand Fire Service. The costs of the connection shall be borne by the consent holder.*
 - b) *The provision of a foul sewer connection to the development in accordance with QLDC standards. The costs of the connection shall be borne by the consent holder.*
 - c) *A Computed Easement Plan shall be submitted to Council for approval showing details of any necessary easements to legalise any services associated with the development. This shall include, but not be limited to:*
 - i. *A right to convey water easement in gross in favour of the QLDC for any hydrant(s) installed over Council Recreational reserve(s).*
 - ii. *Once approved by Council, the easements shall then be registered on the Computer Freehold Register for the site, prior to operation of the development.*
 - d) *The provision of a Design Certificate for the firefighting water main and hydrant shall be submitted by a suitably qualified design professional. The certificate shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.*

It is therefore considered that if Council confirms to grant the requested Easements to SEL the reticulated services will meet the appropriate engineering standards, the Easements will be formally registered and the Recreation Reserve will be returned to a state such that it will not be materially altered or permanently damaged.

Summary of Effects

Overall, it is considered that the Council can be assured that if the Easements are granted as sought by SEL the effects of the physical works within the Recreation Reserves can be appropriately controlled by requiring that all Easements and their associated physical works are implemented in accordance with the conditions of RM160647, RM171172 and RM171459.

Provided that the physical implementation of the services within the Easement areas are undertaken in accordance with the conditions of these consents it is considered that the Recreation Reserves will not be

materially altered or permanently damaged by the undertaking of the required works – it is noted as an example that it is difficult to ascertain the existing alignment of the water and sewer services installed in 1994.

Accordingly, pursuant to Section 48(3)(a)&(b) it is considered that this application for Easements can be processed on a non-notified basis under the Reserves Act 1977.

Proposed Costs of Easements

SEL is aware of the Council's Easement Policy 2008⁹. Specifically, it is acknowledged that there is an application fee of \$600 + gst for Easements for underground services and \$1,320 + gst for ROW Easements payable upon application. An invoice has been requested from APL Property Limited and these fees will be paid immediately upon receipt.

Also noted in Section 3 of the Easement Policy is that underground services are charged an Easement Fee determined by valuation per metre of easement length. This fee will be reviewed every 3 years. ROW Easements are also to be charged an Easement Fee determined by individual valuation and set at market rate.

As part of this application there are many hundreds of metres of underground services Easements and a substantial area of proposed new ROW. Applying the Easement Policy as outlined above will result in a substantial cost to SEL proposed development.

In this regard, it is noted that a number of the Easements proposed are to protect historical existing reticulated services and means of vehicular access which have never had Easements or in the case of the gondola cableway, are simply alterations of existing Easements.

It is therefore requested that the Council in coming to a decision to grant the Easements sought in this application, acknowledges the unique nature of this proposal and the protection of SEL historical services and access and subsequently applies its discretion not to charge SEL for the Easements over the existing infrastructure services and access and the gondola cableway Easements.

SEL would welcome the opportunity to discuss this matter with Council's agents at APL Property Limited before a final recommending report on this application is put to the Council for consideration.

Summary

This proposal is complex not by the nature of what is proposed but simply by the number of Easements proposed, the historical nature of some of the proposed Easements and their intertwined relationship to the three applications RM160647, RM171172 and RM171459 under the Resource Management Act 1991.

It is hoped that the application above and attachments contained hereto have clearly articulated what is proposed, the locations of the Easements and explained the relationship between what is proposed and the relevant Resource Management Act 1991 applications.

SEL and their advisors would be happy to meet and explain the proposal in more detail if that would be beneficial to APL Property Limited.

Overall, it is considered that the potential effects of the proposal can be adequately avoided, remedied or mitigated by requiring that all Easements that are approved are established in accordance with the conditions

⁹ <https://www.qldc.govt.nz/assets/Uploads/Council-Documents/Policies/Council-Property-Policies/Easement-Policy.pdf>

of consents RM160647, RM171172 and RM171459 as they are issued by the Environment Court and Queenstown Lakes District Council.

It is considered that adherence to the conditions contained within these decisions will ensure that the Recreation Reserves will not be materially altered or permanently damaged and that the rights of the public in respect of the reserves are not likely to be permanently affected.

As such, it is considered that this application can be processed on a non-notified basis pursuant to Section 48(3)(a) & (b) of the Reserves Act 1977.

Yours faithfully

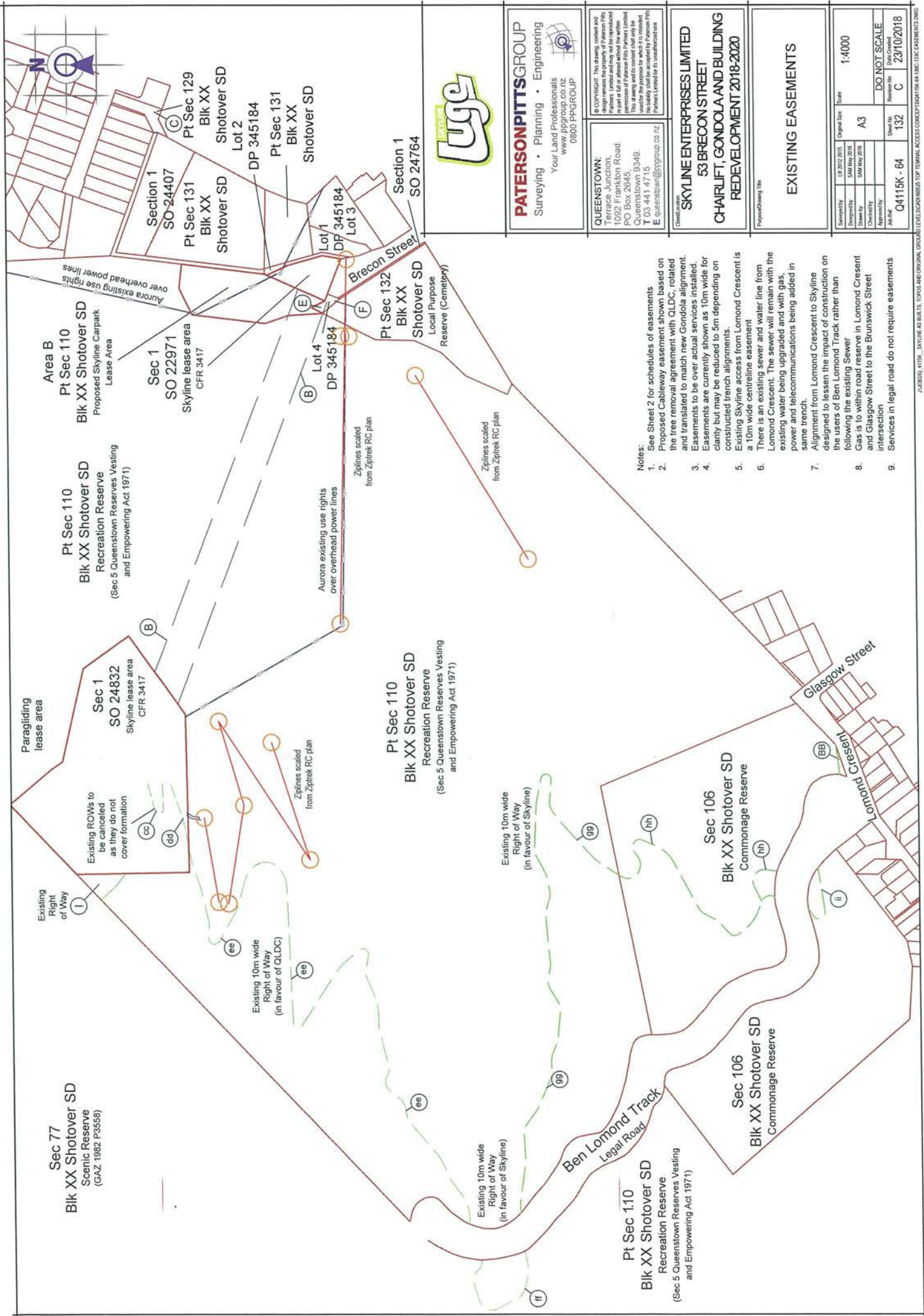


Sean Dent
DIRECTOR

SOUTHERN PLANNING GROUP
16015 – SEL SERVICES & ACCESS EASEMENTS

Attachments:

- A. Proposed Easements Plan by Patterson Pitts Group;
- B. Survey Office Plans 22470 and 24832
- C. RM160647 Track Changes Version of Recommended Conditions
- D. RM171172 Planners Joint Witness Statement Version of Recommended Conditions
- E. RM171459 Decision



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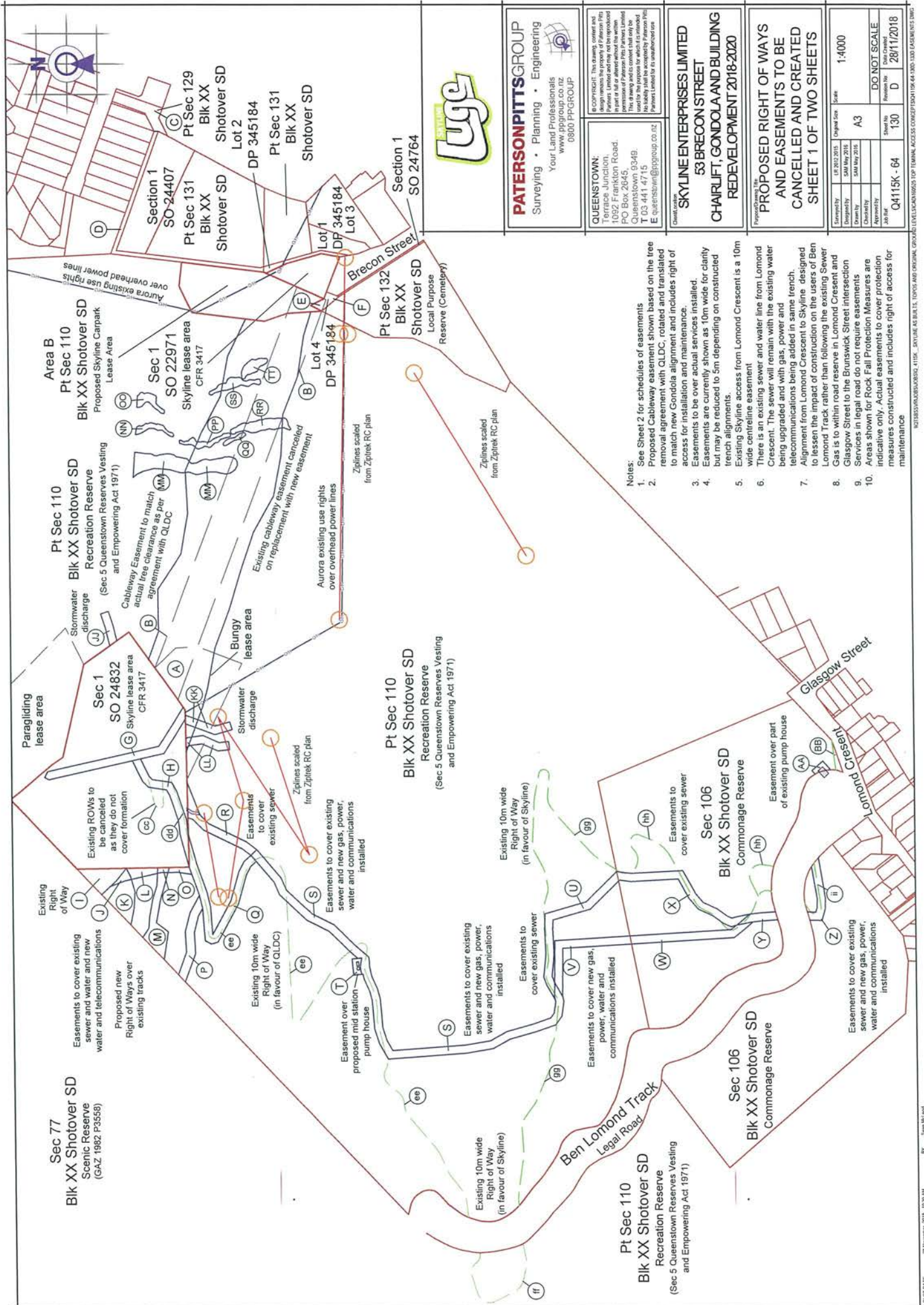
QUEENSTOWN:
 Terrace Junction,
 1092 Franklin Road,
 PO Box 2845,
 Queenstown 9349,
 T 03 441 4715
 E queenstown@ppgroup.co.nz

SKYLINE ENTERPRISES LIMITED
 53 BRECON STREET
 CHAIRLIFT, GONDOLA AND BUILDING
 REDEVELOPMENT 2018-2020

EXISTING EASEMENTS

Sanctuary	LP 2012 2015	Original Size	Scale	1:4000
Designed by	SAM May 2018	Drawn by	SAM May 2018	A3
Checked by		Approved by		
Job Ref	Q4115K - 64	Sheet No	132	DO NOT SCALE
		Revision No	C	Date Created
				23/10/2018

- Notes:**
- See Sheet 2 for schedules of easements
 - Proposed Cableway easement shown based on the tree removal agreement with QLDC, rotated and translated to match new Gondola alignment. Easements to be over actual services installed.
 - Easements are currently shown as 10m wide for clarity but may be reduced to 5m depending on constructed trench alignments.
 - Existing Skyline access from Lomond Crescent is a 10m wide centreline easement
 - There is an existing sewer and water line from Lomond Crescent. The sewer will remain with the existing water being upgraded and with gas, power and telecommunications being added in same trench.
 - Alignment from Lomond Crescent to Skyline designed to lessen the impact of construction on the users of Ben Lomond Track rather than following the existing Sewer
 - Gas is to within road reserve in Lomond Crescent and Glasgow Street to the Brunswick Street intersection
 - Services in legal road do not require easements



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 Torrance Junction,
 1092 Frankton Road,
 PO Box 2845
 Queenstown 9349
 T 03 441 4715
 E queensstown@ppgroup.co.nz

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Proposed easements for
**PROPOSED RIGHT OF WAYS
 AND EASEMENTS TO BE
 CANCELLED AND CREATED
 SHEET 1 OF TWO SHEETS**

Drawn by	SAJ May 2015	Scale	1:4000
Checked by	SAJ May 2015	Sheet No.	D
Approved by		Revision No.	D
Job Ref.	Q4115K - 64	DO NOT SCALE	
		Date Created	28/11/2018

- Notes:**
- See Sheet 2 for schedules of easements
 - Proposed Cableway easement shown based on the tree removal agreement with QLDC, rotated and translated to match new Gondola alignment and includes right of access for installation and maintenance.
 - Easements to be over actual services installed.
 - Easements are currently shown as 10m wide for clarity but may be reduced to 5m depending on constructed trench alignments.
 - Existing Skyline access from Lomond Crescent is a 10m wide centreline easement
 - There is an existing sewer and water line from Lomond Crescent. The sewer will remain with the existing water being upgraded and with gas, power and telecommunications being added in same trench.
 - Alignment from Lomond Crescent to Skyline designed to lessen the impact of construction on the users of Ben Lomond Track rather than following the existing Sewer Gas to within road reserve in Lomond Crescent and Glasgow Street to the Brunswick Street intersection
 - Services in legal road do not require easements
 - Areas shown for Rock Fall Protection Measures are indicative only. Actual easements to cover protection measures constructed and includes right of access for maintenance

Existing Easements		
Purpose	Identifier	Servient Tenement / Creating Document
Right of way	C	PI Sec 129 Blk XX Shotover SD L6359549.5
Right of access	F	Lot 4 L5014878.1
Right of way	(E) (I) (O) (L)	Part Sec 110 Blk XX Shotover SD L5014878.1
Right of way	(M) (U) (R)	Lot 4 Blk XX Shotover SD L5014878.1

Existing Easements to be cancelled		
Purpose	Identifier	Servient Tenement / Creating Document
Cableway	B	Part Sec 110 Blk XX Shotover SD L5014878.1
Cableway	E	Lot 4 L5014878.1
Right of way	(G) (R)	Sec 1 L5014878.1

Schedule of Easements in Gross		
Purpose	Identifier	Servient Tenement / Grantee
Right to convey electricity	(C) (D) (E) (H) (S) (V) (W) (Y) (Z) (R)	PI Sec 129 Blk XX Shotover SD Sec 1 SO 24832 Aurora Energy Limited
Right to convey gas	(H) (S) (V) (W) (Y) (Z) (R)	SO 24832 PI Sec 110 Blk XX Shotover SD Rockgas NZ limited
Right to convey water	(C)	PI Sec 129 Blk XX Shotover SD Queenstown Lakes District Council
Right to convey telecommunications	(C)	PI Sec 129 Blk XX Shotover SD Chorus NZ Ltd

Schedule of Easements		
Purpose	Identifier	Servient Tenement / Dominant Tenement
Cableway, right of access and to convey telecommunications	(A)	PI Sec 110 Blk XX Shotover SD SO 22971, Area B, and Sec 1 SO 24832
Right to convey water, electricity & telecommunications	(C)	PI Sec 129 Blk XX Shotover SD Section 1 SO 24407
Right of Way	(E)	Lot 4 DP 345184 Sec 1 SO 22971 & Area B & Area C Sec 1 SO 24832
Right of Way	(K) (J) (M) (N) (P)	PI Sec 110 Blk XX Shotover SD Sec 1 SO 24832
Right to drain sewage	(R) (U)	Shotover SD Blk XX Sec 1 SO 24832
Right to convey gas, water, electricity & telecommunications	(X) (V) (W)	Shotover SD Blk XX Sec 1 SO 24832
Right to drain sewage, right to convey gas, water, electricity & telecommunications	(S) (Z) (Y) (R)	PI Sec 110 Blk XX Shotover SD Sec 1 SO 24832
Right to convey, and store water	(T) (M)	PI Sec 110 Blk XX Shotover SD Sec 1 SO 24832
Right to drain sewage and convey water & telecommunications	(L) (J) (N)	PI Sec 110 Blk XX Shotover SD Sec 1 SO 24832
Right to convey water and telecommunications	(O) (U) (L) (R) (S) (T)	PI Sec 110 Blk XX Shotover SD Sec 1 SO 24832
Rock fall prevention measures	(M) (N) (O) (P) (Q) (R) (S) (T)	PI Sec 110 Blk XX Shotover SD Sec 1 SO 22971, Area B,



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QUEENSTOWN:
 Terrace Junction,
 1092 Frankton Road,
 PO Box 2645,
 Queenstown 9349.
 T 03-441 4775
 E queenstown@ppgroup.co.nz

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**PROPOSED RIGHT OF WAYS
 AND EASEMENTS TO BE
 CANCELLED AND CREATED
 SHEET 2 of 2 SHEETS**

Prepared by	14/07/2015	Original Size	Scale
Designed by	20/05/2015		N/A
Drawn by	20/05/2015	A3	
Checked by			DO NOT SCALE
Approved by			
Job No	Q4115K - 64	Sheet No	131
		Revised No	D
		Date	28/11/2018

**Hearing of Submissions
Application for easements for Skyline Enterprises Ltd
19 MARCH 2019
Page 1**

Minutes of a meeting to hear submissions on an application for a easements over Ben Lomond Reserve from Skyline Enterprises Ltd held in the Council Chambers, 10 Gorge Road, Queenstown on Tuesday, 19 March 2019 commencing at 1.00pm

Present:

Councillor Scott Stevens (Chair), Councillor John MacDonald

In attendance:

Dr Thunes Cloete (General Manager, Community Services), Mr Aaron Burt (Senior Planner - Parks and Reserves) and Ms Jane Robertson (Senior Governance Advisor)

Commencement of the hearing

The Governance Advisor called the meeting to order and asked the elected members to determine the Chairperson for the hearing.

It was agreed that Councillor Stevens would chair the hearing.

Councillor Stevens took the chair.

Declarations of Conflicts of Interest

No declarations of conflicts of interest were made.

Confirmation of Agenda

The agenda was confirmed without addition or alteration.

Officer's covering report

Mr Burt summarised his report:

- Skyline Enterprises Ltd (hereafter 'SEL') has applied for new easements over the Ben Lomond Recreation Reserve associated with the company's major upgrade of its operation. Easements sought were new Right of Way ('ROW') easements, new in-ground easements over existing services, new in-ground easements for new services and new easements for the right to store water (water pump stations). The application had been publicly notified with two submissions made.

Applicant's Presentation

The applicant (SEL) was represented by Graeme Todd (Legal Counsel), Sean McLeod (Surveyor, Paterson Pitts Ltd) and Sean Dent (Planner, Southern Planning Group.)

Mr Todd introduced the application. He raised a potential procedural issue in that the information pack used to publicly notify the easement application had omitted one of

Hearing of Submissions
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Page 2

the plans. Nonetheless, both submitters were aware of this issue meaning that there was no prejudice to anyone and the hearing could proceed. He also asserted that no questions of law were raised and the matters covered by the Environment Court did not need to be relitigated.

There had been an initial desire to have the matters covered by the RMA and Reserves Act to be heard together but this would raise questions about the ability to hear and determine vs. hear and make recommendation. This question had become academic because a direct referral to the Environment Court had been sought. Accordingly, it had not been possible to deal with these issues as one package.

Sean Dent read evidence on behalf of SEL. His evidence concluded as follows:

- Submitters' concerns that were within scope had either been adequately addressed or would be through resource consent conditions.
- The pleasantness, harmony and cohesion of the natural environment of the recreation reserve would not be adversely affected by SEL's proposal.
- Maintenance and enhancement of the public's freedom of entry to and across the recreation reserve would not be impeded by the proposal.
- The proposal was in accordance with the Reserves Act 1977 and could therefore be approved by Council.

Councillor Stevens asked about the rockfall notification. It was noted that the information pack had contained incorrect information about the rockfall mitigation park. Clarification was sought about the potential for interrupting Ziptrek's business and it was noted that construction works intended to be 24 hour.

Hearing of submissions

Mr Basil Walker

Mr Walker advised that he neither opposed nor supported the application but was an interested party who wished to protect the public. He considered that there was inadequate consideration of the potential effects of fire in the application, including options for rescuing people from the site. He was concerned about the risk to Queenstown tourism from a fire on the hill.

Ziptrek Ltd

Evidence on behalf of Ziptrek Ecotours Ltd was tabled and presented verbally by Mr Trent Yeo (Executive Director, Ziptrek Ecotours Ltd):

- SEL proposed a complex network of easements but no easement conditions were presented for consideration. Draft easement instruments with all relevant conditions should have been prepared and made available for all submitters to comment.
- It was incorrect to claim that the conditions applicable to the consents also applied to the easements, so it was essential for relevant conditions in the consent also to be recorded in the relevant easement.

Hearing of Submissions

Application for easements for Skyline Enterprises Ltd

19 MARCH 2019

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Mr Yeo provided further comment detailing his concerns:

- This was a very large scale development that was getting bigger. He had various concerns about the process wherein the application for easements had been separated from other parts of the proposal (e.g. carparking). He also questioned the role of the Council's agent, APL Property Ltd. He had only seen the public notification of the easement application in the newspaper on 29 January with submissions due on 10 February. This was a Sunday, meaning that submissions were effectively due on the Friday, with a day also lost through Waitangi Day and further delays because of the delivery of incorrect information. Mr Yeo did not believe that directly affected parties should have to find out about an application of this type through the newspaper.
- Ziptrek made use of trees and these were living structures which could be affected by overland water and erosion. He had particular concern with the easements shown KK and LL on the plan. This area was locally known as the 'Bowling Alley' and was an area vulnerable to overland water. It was above Ziptrek's operation and once a tree was removed it would not effectively be replaced for 30 years. Mr Yeo asked that any applicable RMA conditions also be written into the easement texts so that they stood alone and did not need to be cross referenced. He also asked the Council to create good fences between the Ziptrek and SEL operations so that affects would be easier to identify.
- Ziptrek was not SEL's competitor because if one did well, so did the other. He commended SEL for the way they worked with Ziptrek, adding that Ziptrek had sought access through SEL leased land to power Ziptrek preferred to work harmoniously with SEL but this was made harder because the Council would not put fences in place.
- Mr Yeo believed the application process was flawed and he was frustrated that the RMA and Reserves Act processes had been separated whilst SEL's multiple applications had also made it difficult for anyone to respond.

Mr Yeo confirmed that Ziptrek did not wish to increase beyond its existing footprint.

Applicant's Right of Reply

Mr Todd presented a Right of Reply:

- The application was not contrary to the Resource Management Act or the Reserves Act and both the RMA and RA issues had been dealt with. He disagreed with the assertion that all the conditions of the easements needed to be set out for discussion at the hearing. He also observed that it was not the applicant's fault that the incorrect material had been provided.
- The easement for Aurora was an easement in gross so that Aurora could provide for any third party so could therefore extend to Ziptrek.

Hearing of Submissions
Application for easements for Skyline Enterprises Ltd
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- There had been extensive consideration of fire risk in the consent decision. Further, the NZ Fire Service had not submitted or appealed and SEL had operated without any fire incident on the reserve for 60 years. He rejected the claim that fire was a case of “not if, but when”.
- Although SEL admittedly occupied public land it had a lease giving it the right of occupation for another 48 years.
- Ziptrek could have challenged the ORC decision on water discharge but had chosen not to.
- SEL challenged the suggestion from Mr Yeo that the consent conditions should also be applied to the easements.

The public part of the meeting concluded at 2.20pm and reconvened for deliberations at 2.21pm.

Deliberations

It was agreed that the scope of this hearing panel was to consider easements to activate the RMA decisions. The panel agreed to accept the written and verbal submissions presented at the hearing as being within scope, noting that it was a hearing convened under the Reserves Act and not the RMA.

In light of Mr Walker’s concerns about fire risk, regard was had to what, if any, risk the proposed easements posed to the public. In response to this the panel determined that SEL’s health and safety plan should be available to the public at all times.

There was extensive discussion about scope to apply the RMA conditions to the easements.

Staff questioned this direction as it was unusual for easements to be excessively prescriptive. Further if such conditions were varied two arms of Council could be enforcing different conditions.

The panel asked staff to obtain advice from legal team if it was permissible to apply the RMA conditions to the easements

There was further discussion about the concerns raised by Ziptrek about Stormwater run-off. The panel noted that Ziptrek had not chosen to appeal the ORC decision and it was reasonable to rely on the integrity of the decision.

It was noted that neither submitter had objected in a major way to the mistake with the information pack. Further, suggested conditions had been referenced in the officer report.

The meeting adjourned at 3.00pm pending legal advice.

Hearing of Submissions
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The hearing reconvened on Thursday, 6 June in the Mezzanine Meeting Room, Queenstown Events Centre, Joe O'Connell Drive at 11.53am.

Councillor Stevens was present with Councillor MacDonald joining via telephone. In attendance were Aaron Burt (Senior Planner – Parks and Reserves) and Jane Robertson (Senior Governance Advisor).

Councillor Stevens summarised the process to date. He noted that a public hearing had been held on 19 March with the panel deciding to adjourn pending legal advice on whether conditions of consent could be carried over to the easements in order to protect the interests of submitter Ziptrek Ecotours Ltd which had expressed concern that future variations could erode SEL's consent conditions.

The legal advice was that the panel could include consent conditions in an easement but there was limited value in doing so because conditions of resource consent were already enforceable and it was preferable to use enforcement powers under the RMA than under the terms of an easement. In any case, if Ziptrek was concerned about resource consent conditions not being enforced then including them in an easement would not allay these concerns as Ziptrek would not be a party to the easement.

The legal advice had also noted that if Ziptrek had concerns to any future variations to consent they could simply object to the variation as an affected party.

Accordingly, the legal advice had recommended that the addition of consent conditions to the easements was unnecessary

In regard to the concerns raised by Mr Walker, the panel noted that there had been substantial assessment of the fire risk in the consent decision.

Mr Burt was asked to circulate standard easement conditions for review by the panel.

On the motion of Councillor Stevens and Councillor MacDonald the hearings panel resolved the hearings panel:

- 1. Note the contents of this report;**
- 2. Consider the submissions received on the proposed intention to grant a series of easements to Skyline Enterprises Limited as detailed in the plans prepared by Paterson Pitts Group entitled 'Proposed easements' and dated 23 October 2018;**
- 3. Determine that the easements are to be granted and recommend on that basis to Council.**

The meeting concluded at 12.03pm.