

QLDC Council
4 June 2020**Report for Agenda Item | Rīpoata mot e Rāraki take: 3****Department: Community Services****Title | Taitara: Underground Services Easement sought by Queenstown Lakes District Council over Lismore Park****PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO**

- 1 To consider an underground services easement for wastewater, over Lismore Park. The easement is sought by the Queenstown Lakes District Council.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 The Queenstown Lakes District Council (QLDC) is undertaking a significant upgrade of wastewater services in Wanaka. The most cost effective and practical option is to locate some underground services in Lismore Park (location plan in Attachment A). Whilst installing the services can be enabled, creating an easement over the services requires the approval of Council, and is why this report and recommendation is being put forward. The easement is sought to always ensure that QLDC can lawfully access the services in perpetuity.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Approve** an underground services easement over Council Reserve Land legally described as Part Section 90 Block IX TN of Wanaka, as detailed in the plans included as Appendix B.
3. **Agree** that public notification of the intention to grant the underground services (wastewater) 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;
4. **Direct** that the approval of any easements over Council Reserve Land is subject to the following terms and conditions:
 - a. Commencement: Upon vesting of the services.
 - b. Extent of Easement: To be confirmed prior to commencement, and subject to advice from the QLDC arborist that no trees will be adversely affected by the infrastructure alignment;

- c. Comprehensive safety plans must be prepared and implemented, to ensure a safe environment is maintained around the subject easement sites for any physical works associated with the easement areas;
 - d. Certificate of adequate public liability cover to be assured;
 - e. Reinstatement and landscaping of any disturbed areas to be completed within two months following any associated excavation/construction, or to the satisfaction and timeframes communicated by the QLDC's Community Services Department.
 - f. Within 3 months of completion of the work in any easement areas for which easements are sought, a surveyed easement and signed Deed of Easement is to be provided, unless otherwise authorised in writing by the General Manager Community Services.
5. **Delegate** authority to approve final terms and conditions, including commencement, location, extent, and execution authority to the General Manager Community Services, provided all relevant requirements of the Easement Policy 2008 are addressed; and
6. **Agree** to the exercise of the Minister's consent (under delegation from the Minister of Conservation) to the granting of the identified easements over Council Reserve Land.

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CONTEXT | HORPOAKI

- 1 The Lismore Park Recreation Reserve is upon land legally described as Part Section 90 Block IX TN of Wanaka, and comprises an area of approximately 18.5 hectares. Its boundaries are clearly defined by Plantation Road, Beaumont Street, Lismore Street, Hedditch Street and the boundaries of the Hill View Place houses. The park contains a stand of Conifers, in addition to other tree species scattered throughout the reserve. The park is popular for casual recreation, particularly biking and disc golf.
- 2 This report deals with a request for a 3-metre wide easement to encompass proposed wastewater services. The establishment of the services can be addressed as an operational consideration by Council staff, but the creation of an easement to assure access in perpetuity requires a decision by Full Council, and is the purpose of this report.
- 3 The locations for the easement (and services) has been chosen because they are the most viable and efficient. However, there is a proviso that Council's arborist ensures that this will not have a detrimental effect on any important trees in the locales. In selecting the routes, the Property & Infrastructure team have chosen the locations because there are no trees in the proposed path.
- 4 If instead the reserve is to be entirely avoided, the alternative route is to install the pipe in the road reserve around the corner of Beaumont St and Lismore St. Whilst this would prevent the pipe being laid in the recreation reserve, the pipe would be longer which would cause a higher operational cost for as long as the pump station exists. Furthermore, a 90-degree bend would be required at the intersection which would increase the head loss in the pipe further. The alternative route would impact more greatly on the road and would cost more to install.
- 5 Another scenario is if the reserve was instead avoided in the vicinity of the corner of Lismore St and Hedditch St, and the infrastructure is to be located within the road carriageway. However, the road carriageway is also within the recreational reserve, meaning an easement would similarly be required, but installation costs would be greater. The benefits are similar to those described in the easement at the corner of Beaumont St and Lismore St.
- 6 QLDC's Property and Infrastructure Department are seeking the easement, and have identified their preferred location of the proposed services. It is advantageous to have QLDC infrastructure located within QLDC administered land and the new pipeline adds capacity and resilience into the wastewater network.
- 7 Under the Reserves Act 1977, Ministerial consent is required before an easement can be granted over a Reserve. This consent is now delegated to Council and must be granted prior to an easement being lodged with LINZ. Section 48 'Grants of rights of way and other easements' (Reserves Act 1977), allows for the consideration of the proposed easement.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

8 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 an easement being lodged with LINZ.

9 The Reserve Management Plan for Lismore Park makes provision for such easements as follows:

Permit the placement of Council utility services where the reserve is not likely to be materially altered or permanently damaged, or the rights of the public using the reserve are permanently affected. Any areas of works will be reinstated.

All utility services are to be placed underground unless it is impractical due to exceptional circumstances.

Underground services shall be carefully sited with existing features, including trees, waterways and paved surfaces.

10 Granting easements is permitted by the Reserves Act 1977, provided such easements must first be publicly notified unless it can be shown that public rights are not likely to be affected, and the reserve is not materially altered or permanently damaged. These matters are considered below.

Are the rights of the public in respect of the reserve, likely to be permanently affected?

11 While there will be temporary minor disruption during the installation of the underground pipes, long term there will be no detrimental effect on the ability of the public to use and enjoy the reserve. Once the area is reinstated and users would be unaware that the pipes are buried below.

Does the easement materially alter or permanently damage the reserve?

12 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 the creation of the easement will not have any long term effect on the reserve.

13 Taking into account the above factors, it is not considered the easement will permanently affect the reserve or the ability of people to use and enjoy the reserve, and therefore it is recommended public notification is not deemed necessary.

14 Option 1 Grant the easement subject to the conditions.

Advantages:

15 The easement will allow for effective and improved management of QLDC's wastewater infrastructure network.

Disadvantages:

16 Access to the reserve in the location of the easement will be temporarily limited in association with physical works.

17 Option 2 Council approves the easement along a different alignment within Lismore Park.

Advantages

18 None.

Disadvantages

19 The infrastructure will need to be redesigned, and advice from Council’s Property & Infrastructure team is that it will not be as efficient. This will create an increased operational cost.

20 Option 3 Council declines the easement.

Advantages:

21 The reserve will not have an easement.

Disadvantages:

22 QLDC would not have guaranteed access to its infrastructure.

23 QLDC would have to investigate an alternative solution for effective and improved management of QLDC’s wastewater infrastructure network.

24 This report recommends **Option 1** for addressing the matter because it allows for the infrastructure to be covered by an easement.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

25 This matter is of medium significance, as determined by reference to the Council’s Significance and Engagement Policy because it relates to a public recreation reserve.

26 The persons who are affected by or interested in this matter are the general public and users of the recreation reserve.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

27 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00009 within the QLDC Risk Register. This risk has been assessed as having a High inherent risk rating. This matter relates to this risk because a perpetual property right contained in the reserve does carry risk to Council for any future development. However, given the easement is required for Council infrastructure, and the purpose of the easement is to assure that Council can always access that infrastructure, the risk is assessed as being low.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

28 All costs associated with the survey and registration of the easements on Councils title will be addressed under the infrastructure program.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

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

- Wanaka Central Reserves Management Plan 2019
- Significance and Engagement Policy.
- Easement Policy 2008.
- 10-Year Plan/Annual Plan

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

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

31 The request for easements will be considered in accordance with Section 48 of the Reserves Act 1977, and any subsequent Council decision on whether or not to grant any easement, will be in accordance with Councils statutory responsibilities.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

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 providing efficient infrastructure;
- Can be implemented through current funding under the Ten 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.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Lismore Park Location Plan
B	Easement Plan

ATTACHMENT A – LISMORE PARK RECREATION RESERVE



ATTACHMENT B – EASEMENT PLAN

