

QLDC Council
11 August 2022**Report for Agenda Item | Rīpoata moto e Rāraki take [5]****Department: Community Services****Title | Taitara: Application by Queenstown Commercial Limited, for an Electrical Services Easement in favour of Lakeland Network Limited, over the Jones Avenue reserve, Lower Shotover.****PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO**

The purpose of this report is to consider an application for an underground electrical services easement, over the Jones Avenue recreation reserve, in Lower Shotover. Council is being asked to exercise the Minister of Conservation's delegation to grant the easement.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Approve** an underground electrical services easement over recreation reserve Lot 206 DP 471696 (RT640788) for the benefit of Lakeland Network Limited, with the location identified as Area A in **ATTACHMENT A**;
3. **Require** that easement fees are charged; and
4. **Agree** to the exercise of the Minister's consent (under delegation from the Minister of Conservation) to the granting of the identified easement over Council Reserve Land.
5. **Delegate** signing authority to the General Manager Community Services

Prepared by:

Aaron Burt
Senior Parks &
Reserves Planner
14/07/2022Reviewed and Authorised
by:Briana Pringle
Parks & Open Spaces
Planning Manager
19/07/2022

Approved by:

Meaghan Miller
Acting General
Manager Community
Services
14/07/2022

CONTEXT | HORPOAKI

- 1 Council administers the recreation reserve legally described as Lot 206 DP 471696 on RT640788. The locale of reserve subject to this application is a triangular area that contains part of the existing formed access to the Kawarau Park development, a public pathway, landscaping and part of the Kawarau Park entrance feature. The location plans included as **ATTACHMENT B** illustrate the reserve and its context.
- 2 Queenstown Commercial Ltd (QCL) have constructed the Southern Cross hospital, adjacent to the reserve. The easement now requested is to accommodate the electrical power supply to that hospital.
- 3 The easement (shown as Area A in Attachment A) occupies an area of 110m², and follows the line of the underground electrical infrastructure. The easement width varies from 1.5m to 3.3m wide.
- 4 Full Council has previously considered and approved easements for QCL over this reserve, in the immediate locality now sought. The most recent easements approved by Full Council were at the 16 September 2021 meeting. That report included the following advice:

Whilst not part of this current consideration and recommendation of this report, QCL have signalled that they would like to purchase the area of reserve that contains the easements and a small element the Kawarau Park entrance. This will ultimately involve a public process, and the application is perceived at this point to be uncontentious given the small area and the fact that it is an unusable piece of land and has no recreational value or purpose. There would be a benefit to Council in not maintaining this small area of reserve.

- 5 For context, plans illustrating the other easements in the immediate vicinity that have previously been considered (and approved) by Council are included as **ATTACHMENT C**. The area of reserve containing the approved easements, and easement request subject to this report, is triangular in shape, with an area of 133m². That area of reserve contains landscaping (established by the applicant), an entrance feature/wall, the Kawarau Park access road and a variety of in-ground infrastructure. The area of reserve has no material recreation values, given its location immediately adjoining a large development, accesses road, and dimensions. Persons would instead be aware of the land in passing, and its value would be that it can contain landscaping that would contribute to the amenity of the adjacent public trail, and provide a landscape buffer to the hospital development to the northwest.
- 6 Having regard to the above, it is highlighted that a separate application by QCL seeks to initiate the reserve disposal and acquisition process mentioned above. The 133m² area of reserve identified to be potentially disposed, includes that now requested to contain most of the electrical services easement. Should the area of reserve ultimately be disposed, that land would contain a variety of easements and the entrance structure, to be owned and managed by QCL, or its successors.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 7 The Reserves Act 1977 requires that easements be notified unless it can be shown that the easements will not have permanent effect on the reserve or the public's ability to enjoy the reserve.
- 8 The underground electrical services will not affect the public's ability to use or enjoy the reserve, which in this location has minimal if any potential recreational value. Public access along the pathway will not be affected. Notification is not triggered.
- 9 As the easement will be a perpetual property right to Lakeland Network Ltd, the Council will charge an easement fee if the easement is approved. This fee will be set in accordance with Council's Easement Policy 2008.
- 10 QCL now seek acquire the area of reserve that contains this proposed easement, their previous easements and a small element the Kawarau Park entrance. This will involve a public process.

11 Option 1 To grant the easement.

Advantages:

- 12 Council Officers support the easement now sought, as the infrastructure is below ground and consequently does not affect the landscaping that enhances the amenity of the adjacent public trail.
- 13 The electrical infrastructure and easement have been assessed as not affecting the public's use and enjoyment of the reserve. The area of reserve does not have significant recreational values, and instead best serves as a buffer area between the trail and the Kawarau Heights development, where landscaping provides a public benefit.
- 14 The area of reserve might ultimately be disposed, in which case the infrastructure would be under the direct control of QCL or its successors.

Disadvantages:

- 15 An additional area of the reserve will be encumbered by an easement that provides property rights to the applicant. The area of reserve does not have a particularly beneficial recreational use, and the underground infrastructure will not affect public use.

16 Option 2 To decline the easement.

Advantages:

- 17 The reserve will not be encumbered by another easement, which will provide property rights to the applicant. However, as the area of reserve already contains a significant extent of infrastructure and easements, any particular advantage is minimal.

Disadvantages:

- 18 New locations for the infrastructure and associated easements would need to be determined and reassessed.
- 19 Council would not receive easement fees.
- 20 This report recommends **Option 1** for addressing the matter, because the proposed infrastructure and easement will not affect the practical use and function of the reserve, which is to provide a landscaped buffer area between the public trail and the Kawarau Heights development. The landscaping contributes to the amenity of the greater reserve area, and experience of the trail.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 21 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it involves Council recreation reserves. The impact of the decision however is minor, as associated infrastructure is below ground and the particular location has minimal public recreational benefit.
- 22 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

- 23 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 is related to this risk because a perpetual property right contained in the reserves does carry risk to Council for any future development, and this risk needs to be highlighted when considering an easement. This is mitigated by the area of reserve either not being affected by infrastructure, or not having high recreational values.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 24 Council will receive an easement fee, and the costs of registering the easement will be met by the applicant.

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

- 25 The following Council policies, strategies and bylaws were considered:
 - Council's Easement Policy, 2008
 - Significance and Engagement Policy, 2021
 - Lake Hayes Estate, Shotover Country and Bridesdale Reserve Management Plan
- 26 The recommended option is consistent with the principles set out in the named policies.

27 This matter is not included in the Ten Year Plan/Annual Plan, but has no effect upon it.

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

28 In order to grant an easement of reserve land, Council must follow the required process set out under the Reserves Act.

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

29 Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act because it will serve to enable private infrastructure at no cost to Council or disruption to the community;

30 The recommended option:

- 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	Electrical Easement over Reserve beside Jones Avenue
B	Location and Overview Plan
C	Plan of proposed subdivision (including reserves)