

Wānaka-Upper Clutha Community Board

14 March 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [1]

Department: Planning & Development

Title | Taitara: Licence to Occupy application for 7A Morrows Mead (LO230047)

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to consider granting a Licence to Occupy Road Reserve to enable Karyn Lee Fleming, the owner of 7A Morrows Mead, to formalise the occupation of the reserve with a concrete step.

Recommendation | Kā Tūtohuka

That the Wānaka-Upper Clutha Community Board:

- 1 **Notes** the contents of this report;
- 2 **Grants a licence to occupy** 7A Morrows Mead road reserve to enable Karyn Lee Fleming to formalise the occupation of the reserve with a concrete step subject to the following conditions:
 - a. The licence shall remain at Council's pleasure.
 - b. It is the responsibility of the applicant to ensure that all works on the road reserve comply with both the Building Act, and the Resource Management Act 1991. Resource consent and building consents are to be obtained prior to works commencing, if required.
 - c. If the licence agreement is ended the licensee shall be responsible for reinstating all licence areas to Council's satisfaction.
 - d. All activities are to be undertaken in accordance with Worksafe New Zealand standards for the work environment.
 - e. All services including three waters, telecommunication, power and gas within the road reserve must be identified and catered for and no compromise shall be made to Council infrastructure or access to same.
 - f. All paving is to be maintained by the licensee to ensure it is kept in neat order and does not represent any safety risk to pedestrians or the safe use of the road. This means he applicant is solely responsible for maintaining the gravel/grass flush up to the step so that there is no trip hazard within the road reserve.

- g. The applicant consents to a Covenant in Gross being recorded against the title of **Lot 1 DP 19913** to ensure the recommended terms and conditions of the Licence continue in perpetuity for all future owners of the property.
- h. Should Council disturb the area at any time any reinstatement shall be the responsibility and cost of the licensee.

Prepared by:



Name: Brooke Allan
Title: Subdivision Officer
21 December 2023

Reviewed and Authorised by:



Name: Dave Wallace
Title: GM Planning and Development
29 February 2024

Context | Horopaki

1. Karyn Lee Fleming (herein referred to as the “the Applicant”) owner of 7A Morrows Mead legally described Lot 1 DP 19913 has applied for a Licence to Occupy to keep a concrete step providing pedestrian access to the property.
2. The applicant has completed some landscaping on the property and has completed a set of concrete steps leading from the footpath to their front door. The purpose of the steps is to discourage foot traffic away from the driveway and avoid any safety concerns relating to vehicular movement.
3. At the time of construction, the applicant was unaware the step was within the Council road reserve. On 12 October 2023 the applicant received correspondence from Queenstown Lakes District Council (QLDC) Monitoring & Enforcement team requesting the step to be removed.
4. The applicant would like to avoid having to remove the step and has therefore applied for a retrospective Licence to Occupy.

Analysis and Advice | Tatāritaka me kā Tohutohu

5. Council’s engineers have been consulted and have voiced disappointment to be retrospectively considering this occupation. However, they have advised that they do not see there being any adverse impact to anyone by allowing this step to remain in place, and there is no obstruction/hazard with the road reserve due to the step’s large flat nature. They have therefore confirmed support for the proposal subject to the following:
 - The step can and will be removed in the future if required. This is covered by the licence remaining at Council’s pleasure.
 - As prescribed in proposed condition (f) the applicant is solely responsible for maintaining the gravel/grass flush up to the step so that there is no trip hazard within the road reserve.
6. It is to be considered that this type of occupation is not generally supported, and this application should not provide a precedent for similar application for occupation of Council’s road reserve. It is also not accepted that it is reasonable to complete works and seek consent after the fact.
7. 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.
8. Option 1 The Board agrees to grant the Licence to Occupy Road Reserve application subject to the conditions proposed above.

Advantages:

- The applicant can retain the step and continue to provide pedestrian access to the property without needing to traverse the driveway.

- The applicant will not incur the cost of removing the step and reinstating the berm.

Disadvantages:

- The road reserve will be encumbered with private infrastructure.
- A precedent may be set for similar occupation in the future.

9. Option 2 The Board declines the Licence to Occupy Road Reserve application.

Advantages:

- The road reserve will remain free of private infrastructure.
- No precedent will be set for future occupation.

Disadvantages:

- The applicant will incur the cost of removing the step and reinstating the berm.
- The only access to the property will be via the driveway.

10. This report recommends **Option 1** for addressing the matter as the step is already in place and provides a safer access to the property than from the driveway. Council's engineers agree that on this occasion it is an acceptable compromise.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

11. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it relates to Council's roading network which is identified as a significant asset.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

12. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10021 Ineffective operations and maintenance of property or infrastructure assets within the QLDC Risk Register. This risk has been assessed as having a low residual risk rating. Residual risk is the estimated level of risk that will exist after the recommended treatment plans are implemented.

13. The approval of the recommended option will support the Council by allowing implementation of additional controls for this risk. This shall be achieved by the condition proposed for the licence to occupy.

Financial Implications | Kā Riteka ā-Pūtea

14. The applicant has paid a fee for the application to be processed which includes the preparation of the licence document if successful.
15. Should legal review of the licence be required, Council's legal costs will be recovered from the applicant.
16. Council's legal costs to have the Licence recorded against the applicant's title by a Covenant in Gross will be recovered from the applicant.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

17. The following Council policies, strategies and bylaws were considered:
 - a. *Significance and Engagement Policy 2021* – 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.
 - b. *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.
 - c. Council's Urban Verge Mowing Policy 2007 - assumes most verges are grassed and places the civic responsibility of maintaining grassed verges on the adjacent property owner.
18. The recommended option is consistent with the principles set out in the named policies.
19. This matter not included in the Long-Term Plan/Annual Plan

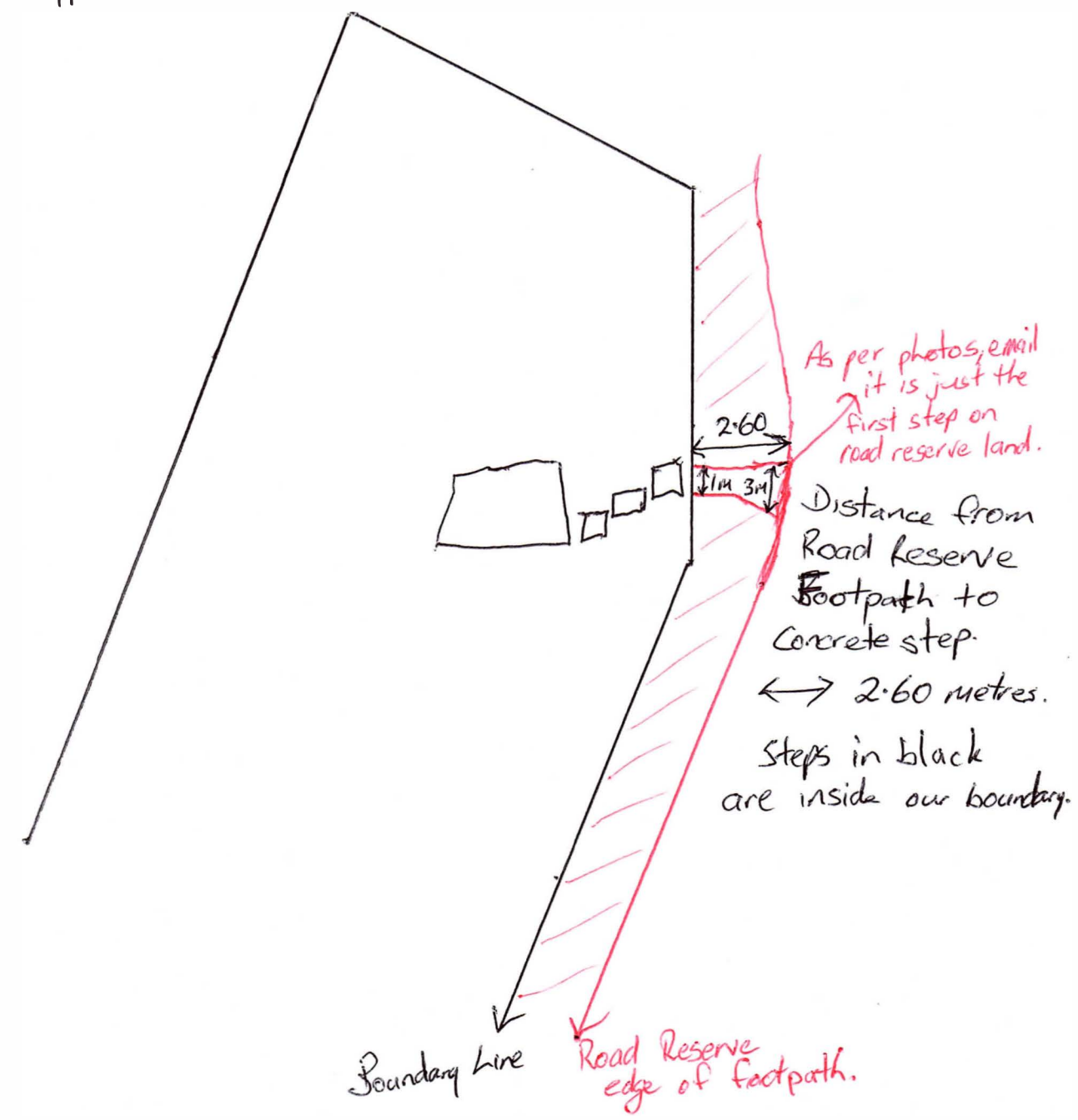
Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

20. 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. Approval of this report's recommendation will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by allowing the occupation to remain with no cost to the community;
21. The recommended option:
 - Is consistent with the Council's plans and policies; and
 - Would not significantly alter 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 | Kā Tāpirihaka

A	Site Plan
B	Photos of occupation

License to Occupy = 7A Morrows Mead
Footpath access.



Attachment B: Photographs of area of occupation



