

QLDC Council
23 April 2020**Report for Agenda Item | Rīpoata mot e Rāraki take 4****Department: Community Services****Title | Taitara: Underground Services Easement sought by Ngai Tahu Property on behalf of Queenstown Lakes District Council over Warren Park****PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO**

To consider an underground services easement for wastewater and stormwater, over Warren Park. The easement is sought by Ngai Tahu Property on behalf of Queenstown Lakes District Council, and is associated with the residential development of the adjoining land by Ngai Tahu Property, being the former Wakatipu High school site and the wider Gorge Road Catchment.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 1 This report relates to an application made by Ngai Tahu Property (NTP) on behalf of Queenstown Lakes District Council (QLDC) for an underground services easement over an area of QLDC administered recreation reserve, being Warren Park.
- 2 Ngai Tahu Property is developing the adjacent former Wakatipu High School site for housing (Te Pa Tahuna) and propose to install underground wastewater and stormwater infrastructure in Warren Park. The infrastructure services will then be vested in QLDC. The new network will service the Te Pa Tahuna development and will add additional capacity and resilience to the QLDC wastewater network.

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 Lot 48 DP 8591 for the purposes of the installation of underground wastewater and stormwater infrastructure [as detailed in the plans included as **Attachment A**];
3. **Agree** that public notification of the intention to grant the underground services (wastewater and stormwater) easement is not required, as the statutory test in Section 48(3) of the Reserves Act 1977 is met;
4. **Direct** that the approval of the proposed easements over Council Reserve Land is subject to the following terms and conditions:
 - a. Commencement: Upon vesting of the services from Ngai Tahu Property to QLDC, and subject to conditions of resource consent RM190805, including any variations to that consent;

- b. Extent of Easement: To be confirmed prior to commencement, and subject to conditions of resource consent RM190805, including any variations to that consents;
 - c. Any worksite in any easement area to be evidenced by before and after photographs, video or similar to be provided to QLDC by Ngai Tahu Property;
 - d. Comprehensive safety plans must be prepared and implemented, at Ngai Tahu Property's responsibility and cost, to ensure a safe environment is maintained around the subject easement sites for any physical works associated with the easement areas;
 - e. Certificate of adequate public liability cover to be received;
 - f. 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, reinstatement to include any landscaping, fencing or other structures;
 - g. Mitigation for replacement trees to be approved by the General Manager Community Services and recorded within a written agreement between QLDC and Ngai Tahu Property prior to construction works commencing;
 - h. Within 3 months of completion of the work in any easement areas for which easements are sought, Ngai Tahu Property to provide QLDC with a surveyed easement and signed Deed of Easement, unless otherwise authorised in writing by the General Manager Community Services;
5. **Delegate** authority to approve compliance with the terms and conditions set out at resolution 4, including commencement, location, extent, fees 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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9/04/2020

Reviewed and Authorised by:



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CONTEXT | HORPOAKI

- 1 Warren Park is a large flat Recreation Reserve at the edge of the Queenstown Town Centre between Gorge Road and Fryer Street. It is immediately south of the former Wakatipu High School site and was regularly used by the school. There are existing trees located around some of the boundaries of the site. There are cricket nets located within the southern portion of the park. Horne Creek extends along the southern boundary of Warren Park and is lined by trees. A site plan is included as **Attachment A**.
- 2 The grounds are currently used for informal recreation purposes. In recent years events have been held there such as the circus. The ground is also sometimes used as a landing area for paragliders flying from Bob's Peak.
- 3 Warren Park is a closed landfill.
- 4 The proposed works are to be undertaken as part of the larger development of the former Wakatipu High School site by the Ngai Tahu Property in conjunction with the Crown for the provision of affordable housing. This development is known as Te Pa Tahuna. Housing supply and affordability are identified issues within the District. It is anticipated the development will be for 3-4 level buildings and will be high density.
- 5 The proposal involves the installation of stormwater and wastewater services along and within the northern boundary of Warren Park. These underground services be will vested with QLDC as a part of Council's infrastructure network. These are to be undertaken as a result of the subdivision works approved under resource consent RM190805.
- 6 QLDC's Property and Infrastructure Department have agreed to the proposal, including the 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 Warren Park is currently undeveloped and is used for informal recreation. It is a very flat site and is sheltered from wind. There are good views up and down the valley towards Coronet Peak and Cecil Peak Mountains. Horne Creek runs along the southern boundary and it has excellent beech tree specimens and other native trees and shrubs. There is currently limited ability to enjoy and interact with the natural values of Horne Creek. Walkers and bikers cross the park between residential areas and the primary school and Gorge Road.
- 8 Future population density will create extra pressure on public open space in this area. The QLDC Parks Team envisage that an upgrade of Warren Park to a Community Park is appropriate, due to its strategic location and size.

Trees

- 9 There is a stand of mature exotic trees along the northern boundary of the site between Warren Park and the development. The proposed installation of services would involve the removal of over half of the existing trees. The QLDC Council Arborist has carried out a tree survey. Of the 23 trees proposed to be removed, 11 of these are very large healthy specimens. These are predominantly Silver Birch Trees. Nine trees will be retained at the

western end of the boundary and nine trees halfway along the boundary. A plan showing trees to be removed/retained is included within the Earthworks Plan as **Attachment B**.

- 10 Alternative designs have been discussed with Ngai Tahu Property that might retain more of the trees, however the arborist's advice is that as the trees grew together as part of a stand, removal of any of these would subject the remaining trees to wind throw and would pose a significant public health and safety hazard.
- 11 QLDC Parks Team and Ngai Tahu Property have agreed on a tree mitigation package whereby Ngai Tahu Property will fund the replacement of the trees within Warren Park. This tree mitigation is in addition to a separate Developer's Agreement being drawn up between the two parties for the future upgrade of Warren Park. QLDC Parks and Ngai Tahu Property have agreed to work in partnership to prepare a concept plan for the upgrade of Warren Park and this will be subject to public consultation. Replacement of the trees is proposed to occur as part of stage one of the concept plan implementation.

Proposed Infrastructure Works

- 12 A 241m long and up to 3m wide trench will be excavated along the northern boundary of Warren Park. The services will be installed approximately 3m underground. The new wastewater pipe will connect into the existing wastewater pipe within Warren Park. This section will be 33m long by 3m wide.
- 13 As noted above, the installation of services and associated trenching will necessitate the removal of a number of existing exotic trees along the northern boundary of Warren Park. Once complete, the land within the easement area will be reinstated as grass consistent with the remainder of the park. Earthworks plans including trees to be removed and retained are attached as **Attachment C**.
- 14 The Easements sought are described in the application as follows:
 - a) Right to Convey Wastewater (in Gross) for QLDC.
 - b) Right to Convey Stormwater (in Gross) for QLDC
- 15 The principal reason for the easements, is described as follows:
 - The Te Pa Tahuna development will create a new gravity wastewater network that will be vested in QLDC. This new network will connect into the existing wastewater trunk main that is already located within Warren Park. The new network has been designed to improve the current network, which includes a capacity constraint currently present in the QLDC network within Warren Park, immediately south of the site.
 - Existing QLDC owned wastewater pipes run through the Te Pa Tahuna site and service land to the north. These pipes will be removed and the wastewater redirected into the new wastewater pipes within Warren Park. Whilst one smaller QLDC wastewater lateral will remain within the Te Pa Tahuna site to service a small number of house lots, the new network results in no significant QLDC infrastructure being located within the Te Pa Tahuna site.

- There will also be a new stormwater pipe located alongside the wastewater main within Warren Park. This is located alongside the wastewater main to minimise environmental impacts and costs, and will also be vested in QLDC.

16 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

17 An analysis of the easement is as follows.

18 The proposed easement will be 241m long and 3m wide along the northern boundary of Warren Park. An additional section 33m long by 3m wide will connect the new line to the existing wastewater main within Warren Park. Once the services are installed the area will be grassed and relevelled. While there will be a number of trees removed, the reserve will remain fully accessible to the public. Locating the easement along the boundary of Warren Park largely confines the encumbrance to the edge of the large reserve. Future improvements to the Warren Park to create a Community Park (in accordance with QLDC's Parks and Open Spaces Strategy 2017) will include tree replacement and will not be adversely affected by the easement.

19 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?

20 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, users would be unaware that the pipes are buried below.

Does the easement materially alter or permanently damage the reserve?

21 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. Some trees will be removed but these trees will be replaced at Ngai Tahu Property's cost to mitigate the loss of these trees.

22 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.

23 Option 1 Grant the easement subject to the conditions.

Advantages:

- 24 The easement will allow for effective and improved management of QLDC's wastewater infrastructure network in the Gorge Road Catchment through the reserve.
- 25 Co-locating the stormwater and wastewater infrastructure within the same easement corridor on the proposed alignment is efficient and means less land is otherwise encumbered.
- 26 Infrastructure will be installed by Ngai Tahu Property at no cost to Council.
- 27 Ngai Tahu Property will be able to progress their development and maximise their site for housing density and affordability.

Disadvantages:

- 28 Access to the reserve may be temporarily limited in association with physical works.
- 29 The reserve areas will be encumbered.
- 30 Part of a stand of mature trees along the northern boundary of Warren Park will be removed. These trees will be replaced at Ngai Tahu Property's cost in conjunction with the implementation of a new concept plan for the upgrade of Warren Park that will be developed in partnership with Ngai Tahu Property.
- 31 Option 2 Council approves the easement along a different alignment within Warren Park that may retain some trees

Advantages

- 32 Some of the mature trees may be able to be retained
- 33 Ngai Tahu Property will still retain maximum development capability of their site

Disadvantages

- 34 More earthworks are required within Warren Park, where contamination from the closed landfill is more difficult to manage
- 35 More wastewater pipes and manholes are required, increasing the proposed easement area across the reserve and subsequently increasing the encumbrance on the reserve.
- 36 The easement will be more located centrally within Warren Park which would be more likely to impact future reserve upgrade works and the public's use of the reserve.
- 37 The remaining trees would likely be impacted by wind throw and would pose a public health and safety risk.
- 38 Option 3 Council declines the easement.

Advantages:

39 The reserve will not be encumbered by the easement as it relates to the wastewater and stormwater infrastructure.

40 The trees along the boundary would be retained.

Disadvantages:

41 QLDC would have QLDC infrastructure within a private site, thus necessitating easements.

42 The site would not be used to full capacity for housing density and affordability.

43 This report recommends **Option 1** for addressing the matter because it allows Ngai Tahu Property to complete the development works in accordance with the resource consent RM190805 with minimal impact to the public and to vest the infrastructure with QLDC.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

44 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.

45 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

46 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, and this risk needs to be highlighted when considering approving any easement.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

47 All costs associated with the survey and registration of the easements on Councils title will be paid for by Ngai Tahu Property.

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

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

- Significance and Engagement Policy.
- Easement Policy 2008.
- 10-Year Plan/Annual Plan

49 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

50 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

51 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 [explain how it will help];
- 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	Site Plan
B	Earthworks, Trees and Easements Plan