

**QLDC Council  
17 December 2015**

**Report for Agenda Item: 6**

**Department: Operations**

**Skyline Enterprises Request for Lessor's Approval**

**Purpose**

To consider a request for Lessor approval for new tourism activities and also the earthworks associated with the new activities.

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Agree** to vary the lease, specifically clause 7 to include the words "*gold mining sluice and mini digger activity*" immediately after the words "*and operating a luge and ski lift for transporting customers,*" subject to the following conditions:
  - a. Rent to be agreed with the General Manager of Property and Infrastructure.
3. **Agree** to grant Lessor's approval to Skyline Enterprises for gold mining and mini diggers on recreation reserve legally described as Section 1 SO 24832 computer interest register 3417;
4. **Agree** to grant Lessor's approval to Skyline Enterprises for construction and related earthworks to install a gold mining sluice and mini diggers, on the lease area specified above, subject to the following conditions:
  - a. Resource and building consent to be obtained by the applicant and provided to the Council (as lessor) at completion of building work;
  - b. Building materials to be on site only once construction has commenced;
  - c. In accordance with the terms of the Lease, ownership of improvements will transfer to Council on expiry of the Lease;
  - d. Applicant to adhere to all other terms as deemed required by Council.
5. **Agree** to grant Lessors Approval for the earthworks required to form paths and a larger paved area on the lease area specified above, subject to the following terms:
  - a. Resource and building consent to be obtained by the applicant and provided to the Council (as lessor) at completion of building work;

- b. Building materials to be on site only once construction has commenced;
  - c. In accordance with the terms of the Lease, ownership of improvements will transfer to Council on expiry of the Lease;
  - d. Applicant to adhere to all other terms as deemed required by Council.
- 6. **Delegate** approval of Affected Party Approval under the Resource Management Act 1991 on behalf of QLDC to General Manager, Property and Infrastructure for the proposed works contemplated above to Skyline Enterprises over the lease area specified above;
- 7. **Agree** to the exercise of the Minister's consent (under delegation from the Minister of Conservation) for the new activities specifically mini diggers and a mining sluice to Skyline Enterprises over the reserve;
- 8. **Agree** to the exercise of the Ministers consent (under delegation from the Minister of Conservation) for the construction of the new activities, which include mini diggers and a mini sluice to Skyline over the reserve;
- 9. **Agree** to the exercise of the Ministers consent (under delegation from the Minister of Conservation) for the construction of the new pathways and paved area to Skyline over the reserve;
- 10. **Delegate** authority to approve final terms and conditions and execution authority to the General Manager, Property and Infrastructure.

Prepared by:



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Property Manager - APL  
25/11/2015

Reviewed and Authorised by:



Aaron Burt  
Parks & Reserves Planner  
4/12/2015

## Background

- 1 Skyline Enterprises Limited (Skyline) were granted a lease over Bob's Peak in April 1995 for five years, with the ability to renew for further five year periods (provided the total term of the lease does not exceed seventy five years). The Lease has been renewed through to 2015, and Council have recently approved renewal for a further five years. The lease area is legally described as Section 1 Survey Office Plan 22971 and Section 1 Survey Office Plan 24832 described in computer interest register 3417 (**Lease**), and is classified as recreation reserve (**Reserve**).
- 2 The current site includes gondola access and a restaurant building, containing a restaurant and function facilities, a cafeteria and souvenir shops, specialist

stargazing site, confectionary store and kiwi haka. The site has a luge track, with associated chair lift, a helicopter landing area and access to public walking and mountain biking tracks.

- 3 All leases on reserves include a permitted use clause that clarifies what activities the Lessee is permitted to carry out on the Reserve. Clause 7 of the Lease is justifiably restrictive to reflect the requirement of section 54(1)(d) of the Reserves Act 1977 and it is prudent for Council to retain control over the use. However, there are currently a number of Lessor approvals that are needed before any new activities can be undertake resulting in a level of duplication. They include the Lessee having to seek Lessor and Minister of Conservation approval (which has now been delegated to QLDC) for any buildings or improvements on the land, and for Council to consider any resource consent application as an affected land owner.
- 4 Council considered a report requesting a renewal of the Lease and change of use to the Lease to include "*other tourist activities*" on 27 August 2015, and the following resolution was passed:

**On the motion of Councillors Stammers-Smith and Forbes it was resolved that the Council:**

1. **Note the report;**
2. **Agree to renew registered lease L5014878.1 contained in Leasehold Title 3417 ("Lease") under section 54(1)(d) of the Reserves Act 1977 between the Council and Skyline Enterprises Limited for a further five year period from 1 April 2015 to 31 March 2020 on the following basis:**
  - a. **Rent will remain payable at the rate previously agreed between the parties and documented in the Deed of Renewal of Lease and Rent Review dated 30 June 2011;**
  - b. **All other terms and conditions express or implied in the Lease will continue to apply;**
3. **Approve the lease renewal as detailed above as a delegate of the Minister of Conservation.**
- 5 Members at the Council meeting, along with another private party, expressed concern around the use variation, and the broad terminology proposed; therefore it was agreed to clarify this use clause and present this request in a separate report. This report therefore addresses the new activities specifically.

## **Comment**

- 6 Skyline is considering ways to enhance the experience of their visitors by providing additional activities within the Lease. Skyline proposes to expand its tourism activities to include gold panning and mini diggers. They also propose to expand their paths network and a paved area to allow more outdoor seating for patrons, and specifically families.

- 7 The proposed gold mining sluice would only require minor ground works. The sluice would have 30 mining bays, and would be approximately two meters in height and five square metres in size (see Attachment D). The total area that the mining sluice would occupy is approximately 82m<sup>2</sup>. The sluice is intended to be an all age's activity that caters for both families and groups looking for low cost fun.
- 8 The mini diggers were installed in May, so this request is retrospective. No earthworks were involved in the installation of these diggers. Skyline proceeded on incorrect information from their planner that they didn't require lessor approval due to the size of the product. The primary market for this activity is young children, age 8 and younger. The diggers are currently located on the café deck. If the paths and extended paving area are approved, the diggers will be relocated to the future "family zone" where they will complement the mining sluice and seating created for the family focused area. The total area the mini diggers occupy is 21m<sup>2</sup>.
- 9 Skyline proposes to expand the path network and also increase the paved seating area at the rear of the main building. This area is proposed to increase by approximately 330m<sup>2</sup>. This area is designed to be family orientated, and will double the seating area that is currently onsite. As per the attached Site Management Plan (Attachment B), this area will be cobbled in pavers matching the existing on site, along with landscaping cohesive with what is currently onsite. As part of these works, several rock retaining walls will need to be constructed to facilitate the extension, as well as the additional paths. This construction will require supervision by a Geotech engineer, with certification on completion. Attachment A outlines where these retaining walls and paths will be constructed. These have been highlighted in orange for clarification. The sections highlighted in red will be landscaped.
- 10 The total earthworks are estimated to take between 3 and 4 weeks depending on weather. Earthworks will be undertaken during the hours of 6am to 6pm, Monday to Saturday. No works will be undertaken on public holidays.
- 11 The resource consent process will look more closely at the visual effects and consider which parties these impact on. Resource Consent may be publicly notified, however a determination on this won't be made until the full application has been lodged with QLDC planning department.
- 12 If the earthworks are approved, there will be a large amount of excess fill onsite. A separate report will be prepared so Council can consider options for its disposal.

### ***Options***

- 13 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:

### **New Activities (Mining Sluice and Mini Diggers)**

- 14 Option 1 The first option is to grant Lessor's approval for the mini diggers and mini sluices and associated construction and earthworks to Skyline Enterprises over Section 1 SO 24832.
- 15 Advantages: This would enable Skyline to broaden its tourism activities, and as a result support commercial recreational tourism in the district, enhancing opportunities for businesses and workers in the region. Any additional activities undertaken by Skyline could increase its turnover, thus increasing the rent paid to Council, which under the Lease is based on turnover.
- 16 Disadvantages: The recreation reserve becomes increasingly developed rather than an open space, passive reserve.
- 17 Option 2 The second option is to decline the request for Lessor's approval for the new tourism activities and associated construction and earthworks to Skyline Enterprises over Section 1 SO 24832.
- 18 Advantages: Development of the recreation reserve would be limited.
- 19 Disadvantages: Skyline would be unable to install two new tourism activities within their lease area. There is the potential of loss of increased rent paid to Council under the Lease, facilitated by increased turnover due to the new activities.
- 20 Option 3 The third option is to approve one of the new activities, but not the other.
- 21 Advantages: Advantages similar to those discussed in option 1, but with the added advantage of slightly less development on the reserve.
- 22 Disadvantages: Disadvantages similar to those discussed in option 2.
- 23 This report recommends option 1 for addressing this matter as it gives Skyline the ability to construct and operate new tourism activities within their lease area.

### **Earthworks (new path network, paved area and retaining walls)**

- 24 Option 1a The first option is to grant Lessor's approval for the earthworks required to form a new path network, paved area and associated retaining wall for Skyline over Section 1 SO 24832.
- 25 Advantages: Approval would enable Skyline to increase its path network and broaden its outdoor seating area, creating a family friendly paved zone.
- 26 Disadvantages: The recreation reserve becomes increasing developed rather than an open space, passive reserve.

- 27 Option 2a The second option is to decline Lessor's approval for the earthworks required to form a new path network, paved area and associated retaining wall for Skyline over Section 1 SO 24832.
- 28 Advantages: Development of the recreation reserve would be limited.
- 29 Disadvantages: Skyline would be unable to add to their path network and outdoor seating area.
- 30 This report recommends Option 1a for address this matter as it gives Skyline the ability to construct new path networks and a larger seating area, providing a larger outdoor area for patrons.

### ***Significance and Engagement***

- 31 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because while it does not involve a Council strategic asset, is not inconsistent with policy and strategy and does not impact on Council's capability and capacity, it is of medium importance to the Queenstown Lakes District and the general community. The future commercial use of the Ben Lomond reserve may be of interest to the Queenstown Lakes District Community.

### ***Risk***

- 32 This matter relates to operational risk SR 3 Management Practice – working within legislation. The risk is classed as low. The matter relates to this risk because the options highlighted require the Council to follow a statutory process in order to grant Lessor's approval. A variety of operational risks (such as meeting levels of service, regulatory compliance and the health and safety risks associated with parties using reserves land) are triggered when the Council considers whether or not to grant the approval. This report recommends that the risks associated with this matter are tolerated because the overall risk is considered to be low. Suitably qualified contractors will be used to complete the work and additionally the contractors will be required to provide a Health and Safety Plan.
- 33 This matter relates to the operational risk OR027, delivering levels of services as documented in the Council's risk register. The risk is classed as medium. This matter relates to this risk because it promotes the use of an open space for a specific purpose, requiring a different level of ground service for the community. This report therefore recommends that risk OR027 is tolerated and that the operational risks associated with granting these new activities are considered at the time a decision on the application is made, as detailed in this report.

### **Financial Implications**

- 34 Skyline's current rent is charged at 3.75% of gross revenue, increasing to 4% effective 1 April 2017. Rent for the new activities is to be negotiated based on gross revenue. Council have the ability to negotiate the level of rent as a condition of giving its consent to any new activity.

- 35 All costs associated with consents and earthworks will be paid for by Skyline. Council and the Districts ratepayers are likely to benefit from additional rental income if the use of the facility is increased as rent is charged as a percentage of income.

### **Council Policies, Strategies and Bylaws**

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

- Significance & Engagement Policy 2014 –the proposal is of medium significance as a change in activity is not considered significant as it does not impact Council's strategic assets, affect a large number of residents, ratepayers and the environment, but there may be community interest in this matter.
- This matter is not included in the 10-Year Plan/Annual Plan and does not have any known significant effect on income or expenditure.
- The Ben Lomond and Queenstown Hill Reserve Management Plan covers the area leased to Skyline. The plan contemplates the continuance of the Skyline activities. It refers to "provision for recreation and tourism activities that do not adversely impact on the landscape, recreation and natural values". It also states "commercial users and public utility activities will be permitted within the reserve where they are compatible with or do not unduly affect its primary purpose, and recreation, landscape and biodiversity values". It suggests "limited provision of commercial tourism based recreation activities that rely on the unique topography and location of Ben Lomond reserve, and are compatible with the reserves' wider values". Therefore the recommendations in this report are consistent with the policies of the plan.

### **Local Government Act 2002 Purpose Provisions**

37 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 supporting the improvement of tourist activities in the region.
- Can be implemented through current funding under the 10-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.

### **Consultation: Community Views and Preferences**

- 38 No consultation is envisaged or required by Council as all the works requested are within the applicants lease area. Council's approval is in accordance with the terms of the Lease and does not require a public process.

- 39 The Minister's powers to consent to the Council permitting the erection of buildings and structures that are not directly associated with outdoor recreation under a lease have been delegated to the Council, and therefore the Council is able to decide whether or not to consent to the construction of the new activities on the Minister's behalf.

### **Attachments**

- A Retaining wall and paving location
- B Site Management Plan
- C Mini Diggers location
- D Mining Sluice design
- E Mining Sluice location







# SITE MANAGEMENT PLAN

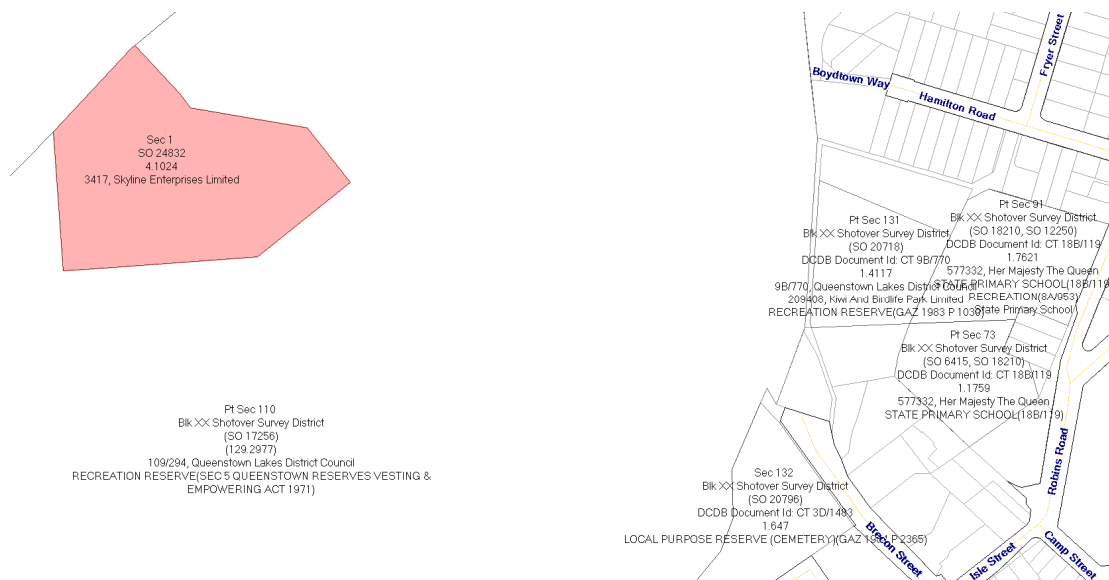
## Enterprises Limited

### Earthworks for access and additional paving area

#### 1. Introduction

This Site Management Plan has been prepared in accordance with the Queenstown Lakes District Council (QLDC) "A Guide to Earthworks in the Queenstown Lakes District". The purpose of this Site Management Plan is to outline the control of potential erosion, sediment and nuisance associated with the earthworks required for the construction of the proposed access and additional paving area at Skyline Queenstown.

#### 2. Location Plan



#### 3. Site Description

Skyline is located 450m above Queenstown on Bobs Peak, a south east facing slope which falls in elevation towards Queenstown and has no legal road frontage. Access is either by way of the Gondola whose base terminal is situated at 53 Brecon Street or by Right of Way access from Ben Lomond Track. The Right of Way has restricted vehicle access with a locked gate 150m from the start on Lomond Crescent. To obtain 4WD vehicle access a key can be requested by reporting to the ticket sales at the gondola terminal.

Skyline is a well-developed tourist attraction with gondola, café, restaurant, cultural entertainment, observatory, chairlift and luge tracks generally contained within a 4.1024ha lease area located in the Ben Lomond Recreation Reserve, administered by Queenstown Lakes District Council. Other activities including mountain biking, tandem parapente rides, hiking, and ziplines initiate from Skyline to extend over the Recreation Reserve.

Compared to this minor work, significant earthworks have taken place over a 30-40 year period on the hillside. Within the lease area there are two 800m concrete luge tracks, gondola top terminal, chairlift, a large building containing the Skyline restaurant and café, various minor buildings, outside seating areas, paths and walkways with significant landscaping of grassed areas, tussock plantings and trees. The Ben Lomond Recreation Reserve is a steep hillside which has been covered in wilding pines in the past. A large proportion of the trees have been removed by QLDC and these areas are now regenerating with wilding pines, broom and other noxious weeds although there are sections of native beech forest. In the last few years significant work has been done constructing a series of mountain bike tracks from Skyline back to Queenstown.

#### 4. Council Approvals

The applicant is applying for resource consent from the Council for the following elements of the proposal, which require resource consent:

- Earthworks associated with the construction of access and additional paving area.

#### 5. Proposed Earthworks

The additional paving area and cut material is within the boundary of Skyline Enterprises lease as shown in the applications plans. 70m<sup>3</sup> of excess fill material will be used to extend the helipad and back fill over the extended luge track tunnel if approval to the helipad extension is given by the Environment Court and the works proceed. The balance of excess material will either be used in small quantities to tidy some areas and by the Queenstown Mountain Bike Club on trial construction or if unsuitable for these purposes lost on a section of the access within the Ben Lomond Recreation Reserve as shown on the plans with the application. There is limited topsoil on the site but areas of tussock planting will be put to one side and reused to stabilise new batters. The cut batters for the additional paving area will be in rock similar to the back edge of the existing section of paved area. Some rock retaining walls are required and batters and walls will require supervision by a Geotech engineer, with certification on completion.

This proposal requires consent for a total volume of 2010m<sup>3</sup> of earthworks, comprised as follows:

Strip & place to one side planting areas:	50m <sup>3</sup>
Re-spread tussock plantings on batters:	50m <sup>3</sup>
Cut to fill in new paving area (250m <sup>3</sup> cut to 250m <sup>3</sup> fill):	500m <sup>3</sup>
<u>Cut to fill at Helipad (fill covered by Helipad consent):</u>	<u>70m<sup>3</sup></u>
<u>Cut to fill on access track (670m<sup>3</sup> cut to 670m<sup>3</sup> fill):</u>	<u>1340m<sup>3</sup></u>
<b>Total:</b>	<b>2010m<sup>3</sup></b>

The total area of bare soil exposed during the works will be 1400m<sup>2</sup> on the access and additional paving area and 700m<sup>2</sup> on the access in the recreation reserve, a majority of which is already bare soil.

The proposed earthworks are detailed in the plans and sections attached to the consent application.

## **6. NES ( National Environmental Standards) and soil contamination**

Although ORC and QLDC have not identified the site as previously being used for activities on the Hazardous Activities and Industries List the property has had previous building works and earthworks in the vicinity of the proposed earthworks. Although it is envisaged a majority of the cut material will be rock, if any unsuitable material or previously buried contaminants are discovered the material will be removed from site using covered trucks and disposed of at the Victoria Landfill or another site capable of taking trade waste rather than at a standard fill site.

## **7. Measures to Control and/or Mitigate Any Silt Run-Off and Sedimentation**

As there are no nearby streams, water courses or piped stormwater network and a majority of the material will be rock, limited stormwater controls are required. Any sediment runoff will be filtered by the needle-matter under the existing wilding pines surrounding the site. A small number of hay bales or a silt fence will be constructed by the contractor to collect any sediment contained in runoff.

Bare earth areas will either be landscaped or kept damp as soon as practicable after completing the fill deposition, until the site is rehabilitated with final landscaping.

Details of sediment capture methods are set out in the QLDC Guide to Earthworks in the Queenstown Lakes District.

## **8. Dust Minimisation**

The contractor will ensure the soil is kept damp and will avoid undertaking earthworks on dry days when the wind is strong. There is an existing fire hydrant or other irrigation supplies at the rear of the top gondola terminal that are not connected to the QLDC water supply which can be used for this purpose.

## **9. Measures to Stop the Spread of Dust to Surrounding Streets**

No material is to be transported off the hillside therefore no measures to prevent spread of dust to surrounding streets are necessary.

## **10. Work Programme Details**

The total earthworks extent over an estimated period of 3-4 weeks depending on weather

Earthworks will be undertaken during the hours of 6am to 6pm, Monday to Saturday, and will be weather dependant. No works will be undertaken on public holidays.

## **11. Re-vegetation of the Site**

A large portion of the site will be paved upon completion of the earthworks. Batters less than 1 in 1 will be replanted with the existing tussocks and the balance area regressed. Landscaping to match the existing will be completed over an extended period.

## 12. Traffic Management Measures

At this stage it is not envisaged traffic management measures are required for vehicles, as no material will leave the site and there is restricted vehicle access.

As the complex will be operational while earthworks are being completed traffic management to protect walkers, mountain bikers, sightseers, parapenters and luge riders will be required. The exact amount will be up to the contractor to determine and manage but some suggestions and possibilities to consider are:

- All barriers to be substantial and signage clear. With tourist guests cones and single barrier arms are likely to be insufficient.
- If Helipad consent approved then additional tunnel pipe installed first to allow more room past helipad for trucks, walkers and mountain bikers.
- Mountain bike assembly area moved to the grass area between luge tracks or up to beside last hairpin on the fast luge track on Hammys track.
- Excavation areas to be fenced off from guests and Skyline staff.
- Stage and complete areas in 3-4 sections ie 0-50, 50-80, 80-116.
- When working on area 0-50 use the Skyline building as safe pedestrian route from the café outdoor area to the mountain bike exit door and walkway. This may require a staff member to let people through or disabling the downward exit turnstile as required.
- While working on the new pedestrian path up the hill have luge riders restricted to walking down to the chairlift and create a temporary path up the hill at Ch85 to join the old track to the parapente area for parapenters and hikers to Ben Lomond or have them also use the chairlift.
- Stop luge riders and walkers on the access track below for short periods of time when rocks are being placed for the wall between Ch65-116.
- Limit speed of trucks to 5-10kmph where on the access road with walkers

## 13. Construction Noise

All construction noise will comply with the requirements of the QLDC District Plan.

As a large amount of material is likely to be rock, the noise may create some nuisance with the applicant being most affected. As it is close to the building breakout is likely to be carried out using an excavator and hydraulic rock breaker. The area 0-50 is likely to be softer rock and previously placed fill, so should require minimal breaker work. Area 50-80, requires minimal excavation. Area 80-116 will contain the hardest rock and will likely to produce the most noise although it is furthest from the building. To limit effects the contractor will be asked to:

- Use an acoustic blanket on any rock breaker used.
- Breaker to be used with a layer of soil and not on bare rock to lessen the sound where possible.
- Construct temporary mounds of excavated material between breaker and building when in use
- Attempt to do a majority of any rock breaking earlier in the day while less guests on site. An early start time of 6am has been requested as part of this consent to allow for work to be done before the complex opens and guests start arriving at 9am, although Skyline staff will be on site earlier.
- A 6pm finish time has been nominated to reduce the effects on diners.
- Any rock breaker work is to cease at the request of Skyline Management if staff feel the nuisance to their guests is too great.

## **14. Monitoring Requirements**

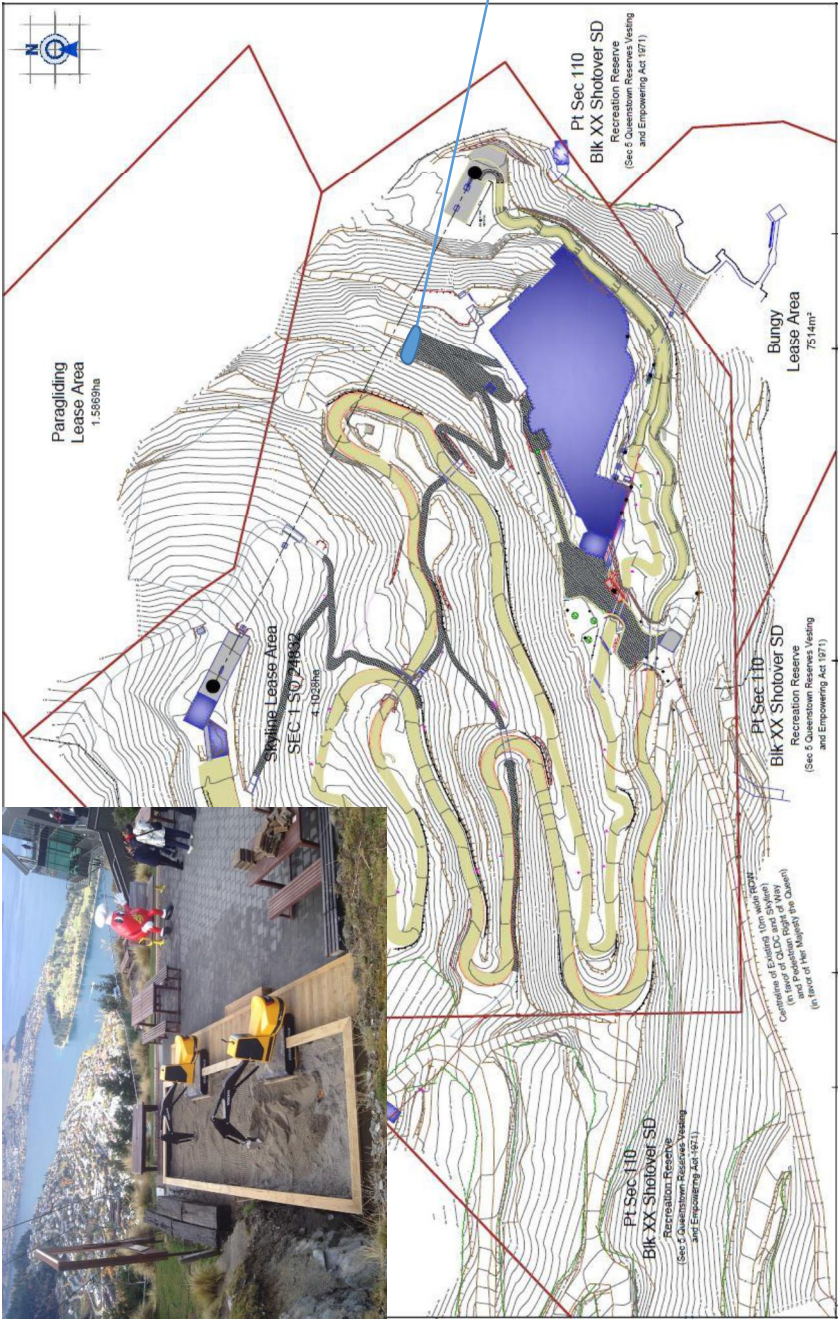
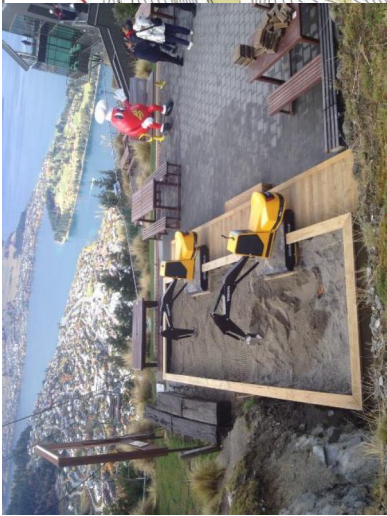
The following monitoring is required for the duration of the earthworks, to be undertaken by the Owner (or Owner's representative):

- Monitoring to ensure any silt mitigation is working after a significant rain event.
- Monitoring to ensure that the landscaping is established if work stops and/or at the completion of the bulk earthworks.
- Monitoring of the site during dry/windy periods to assess wind blown dust.
- Monitoring by a Geotech engineer during construction to ensure actual ground conditions match those anticipated, such that any remedial action can be instigated in a timely fashion.

## **15. Conclusion**

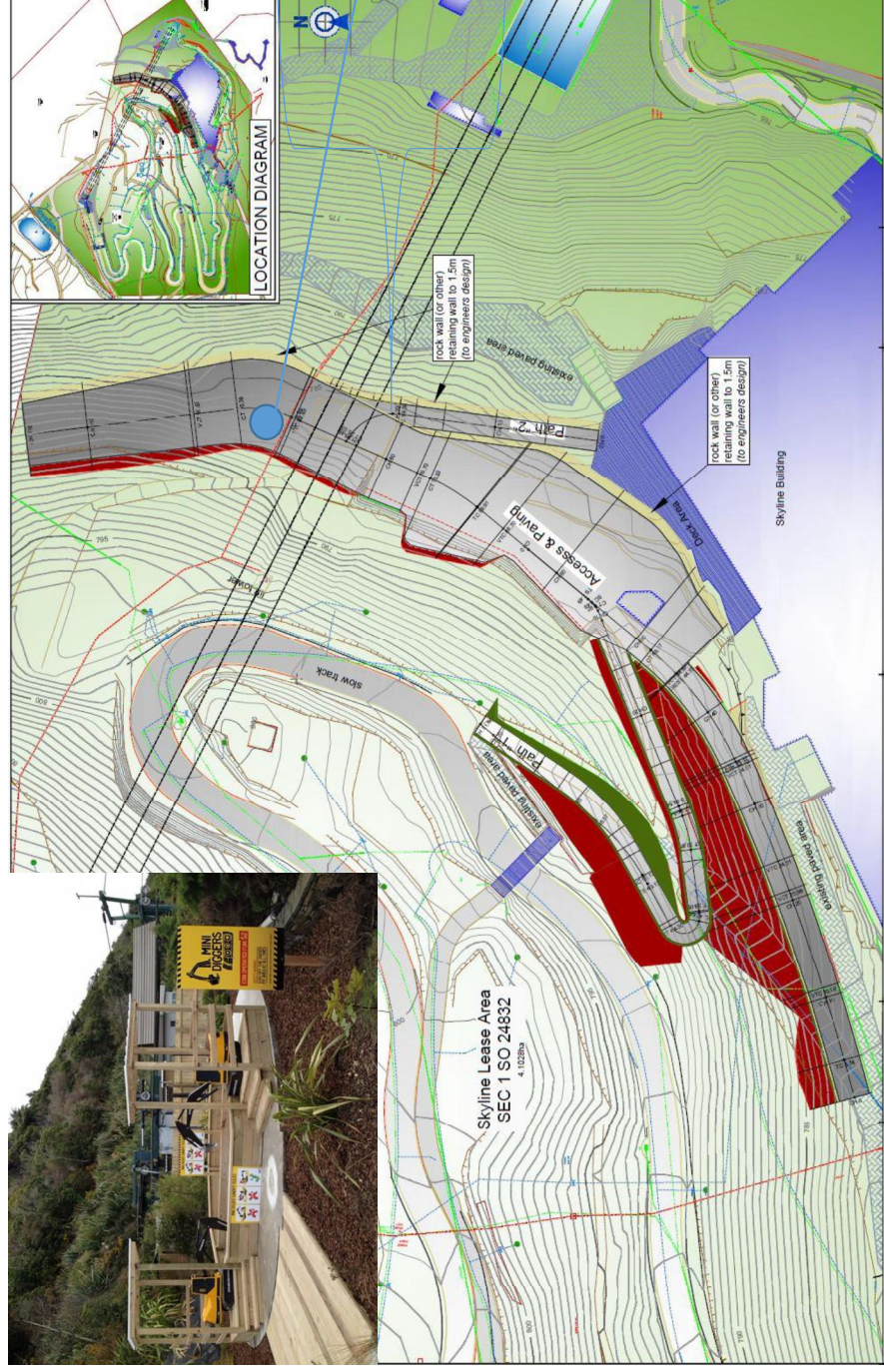
As stated above, the application covers a small amount of earthworks when compared to work previously undertaken on the hillside. With supervision by a Geotech engineer and an appropriately experienced qualified contractor utilised for the work, there should be minimal nuisance or long-term environmental effects.

# Digger location





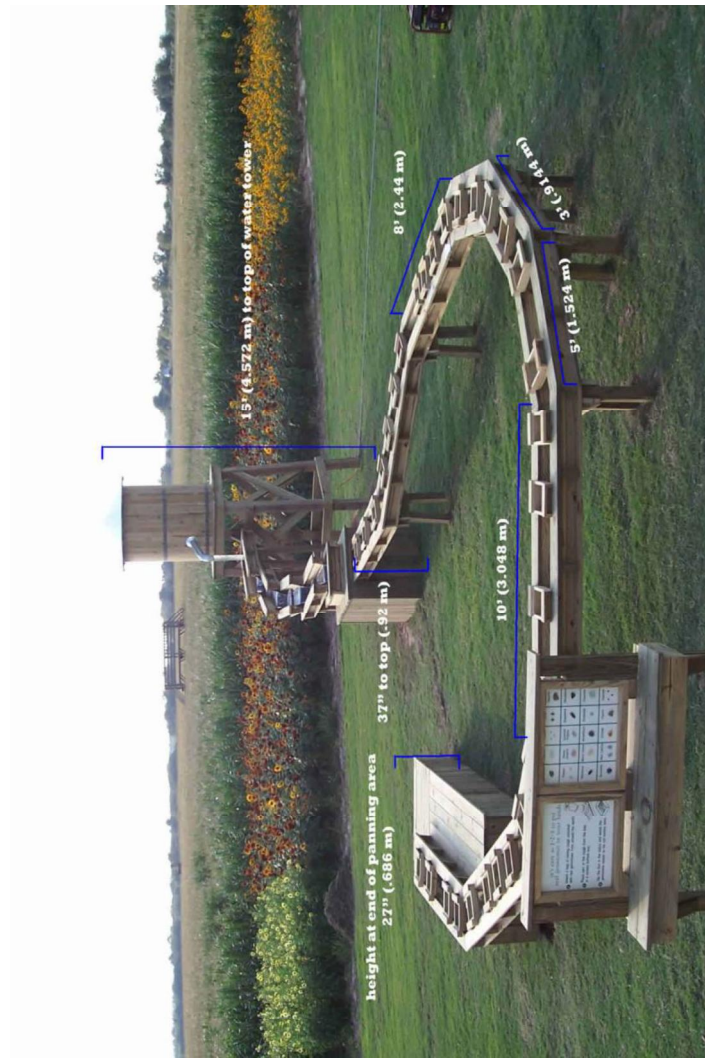
# Future location



New digger  
location  
22sqm with  
roof

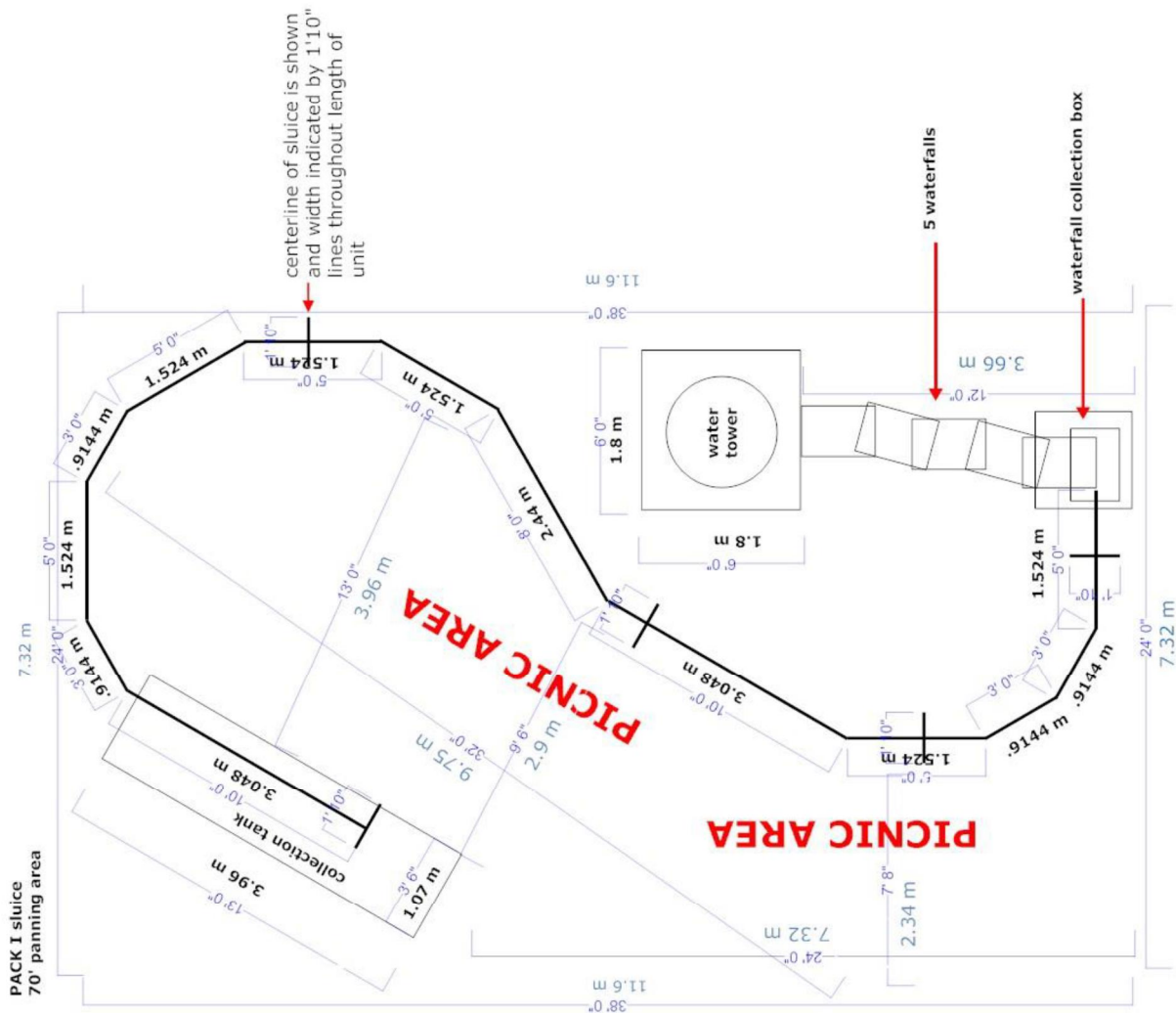


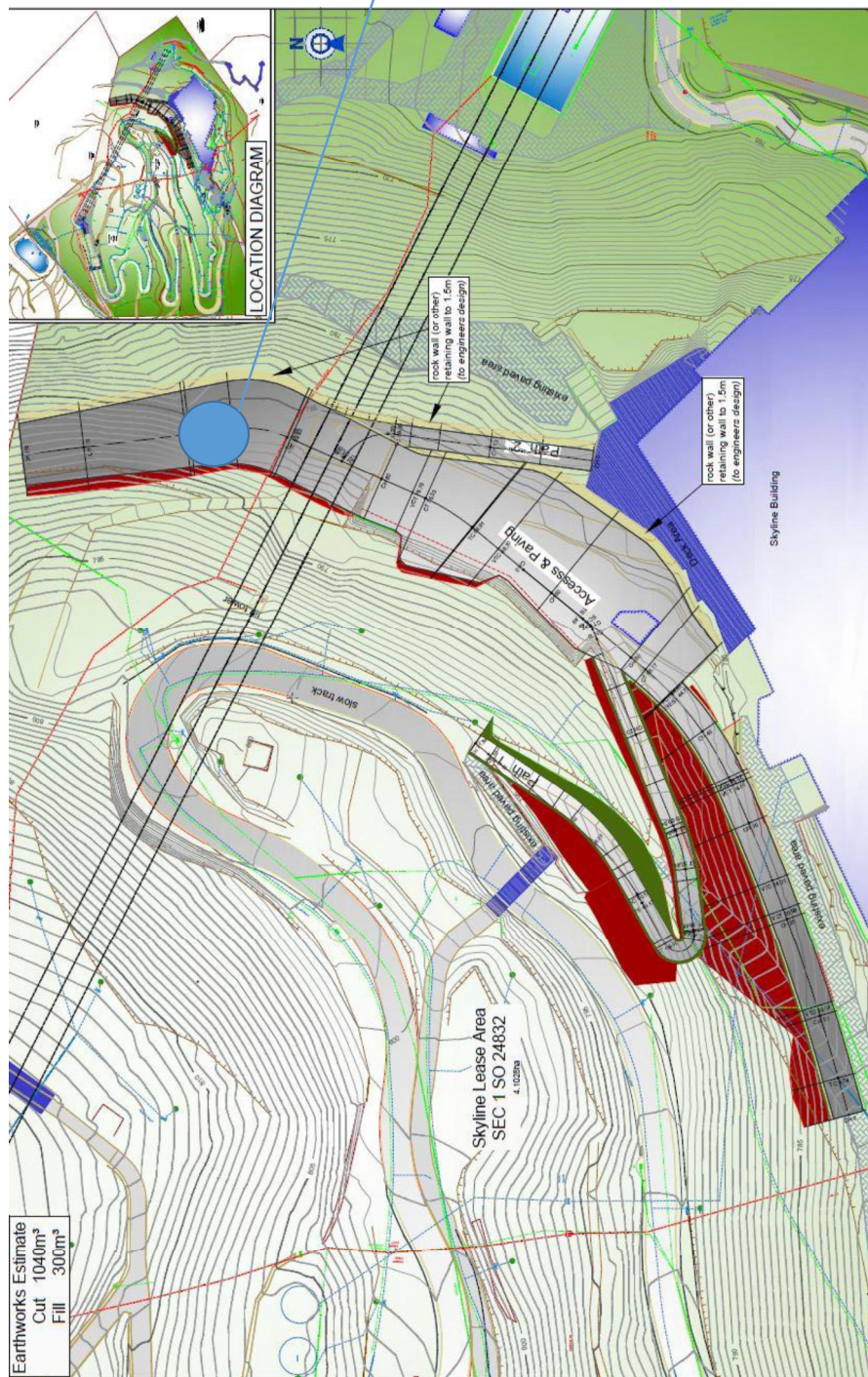
## Mining Sluice Layout



*This is a draft design that is currently being modified to fit the location to ensure we can integrate seating.*

The mining sluice will take up an approximate area of 82sqm.





This is the proposed location of the mining sluice. The excavation plan has already been submitted for approval.