

**QLDC Council
17 August 2017**

Report for Agenda Item: 13

Department: Property & Infrastructure

Easement to Aurora Energy Limited – 704 Malaghan's Road, Wakatipu Basin

Purpose

The purpose of this report is to retrospectively grant an electrical easement over Local Purpose (Esplanade) Reserve with legal description Lot 4 DP 460171 to Aurora Energy Ltd, to run underground power lines from Malaghan's Road to a private property.

Recommendation

That the Council:

- 1 **Note** the contents of this report;
- 2 **Approve** an electrical easement over Local Purpose (Esplanade) Reserve, Lot 4 DP 460171 subject to section 48(1)(d) of the Reserves Act 1977, to Aurora Energy Ltd subject to the following conditions:
 - a. Aurora Energy Ltd to notify and liaise with QLDC Infrastructure Department in advance of any onsite works so that they can oversee and provide input relating to existing in-ground infrastructure;
 - b. A bond of \$2,000.00 be payable to QLDC prior to any works commencing;
 - c. The work site to be evidenced by before and after photographs, video or similar to be provided by Aurora Energy Ltd;
 - d. A comprehensive safety plan must be prepared and implemented, at Aurora Energy Ltd's cost, to ensure a safe environment is maintained around the subject site;
 - e. Certificate of adequate public liability cover to be received;
 - f. Reinstatement of the area to be completed immediately following installation and to the satisfaction of QLDC's Infrastructure Department. Reinstatement to include any fencing or other structures.
 - g. Within 3 months of completion of the work, Aurora Energy Ltd to provide QLDC with a surveyed easement and signed Deed of Easement.
- 3 **Agree** that notification of the intention to grant the easement is not required, as the statutory test in section 48(3) of Reserves Act 1977 is met for the reasons set out in this report;

- 4 **Delegate** authority to approve final terms and conditions of the electrical easement, including location, and execution authority to the General Manager – Property & Infrastructure; and;
- 5 **Agree** to the exercise of the Minister's consent (under delegation from the Minister of Conservation) to the granting of an easement to Aurora Energy Ltd over Lot 4 DP 460171.

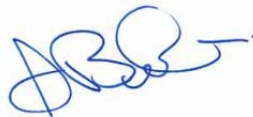
Prepared by:



Blake Hoger
Property Advisor
APL Property Limited

4/07/2017

Reviewed and Authorised by:



Aaron Burt
Senior Planner: Parks &
Reserves

28/07/2017

Background

- 1 Council administers the Reserve legally described as Lot 4 DP 460171, Certificate of Title 602703 and classified as Local Purpose (Esplanade) Reserve.
- 2 The reserve dissects two parcels of land owned by Queenstown Corporation Limited (herein referred to as "the **applicant**") and contains a watercourse known as Mill Stream. The parcels of land owned by the applicant are Lot 3 DP 460171 and Lot 1 DP 485618.
- 3 The applicant has applied to Aurora Energy Limited for a new electrical connection to an existing shed on their property. The current electrical connection to the property is fed from a 1 phase 30kVA transformer. The applicant requires a 3 phase 69kVA connection and as such there is insufficient capacity in the existing services to provide for the supply requirements requested.
- 4 It is proposed to run the new electrical connection underground from Malaghans Road to the applicant's shed. The pathway for the connection will pass through the Local Purpose (Esplanade) Reserve and as such, an easement from QLDC has been sought.
- 5 The attached Cable Location Plan shows the path of the connection. Easement B relates to the area of Local Purpose (Esplanade) Reserve.

Comment

- 6 The existing single phase power supply to the applicant's property is via a connection from the south via easement over neighbouring private land.
- 7 It is logical that a new connection from Malaghans Road be brought through the applicant's own property. However this does require access through the Local Purpose (Esplanade) Reserve.
- 8 Earthworks will be necessary to excavate a trench within the Local Purpose (Esplanade) Reserve 7m either side of Mill Stream. However, excavation will stop and the cables will be trenched under the stream.
- 9 Works are to be undertaken in accordance with QLDC's Guide to Earthworks in the Queenstown Lakes District with a focus on preventing any damage to the stream or its water quality.
- 10 The land will need to be reinstated by Aurora Energy Limited following the installation, along with replacement of any vegetation and fencing.
- 11 The underground cable will require a 3m wide easement channel and the width of the reserve strip is 40m, equating to a total area of 120m².
- 12 As per the Easement Policy 2008, both an application fee along with a one-off underground services easement fee are applicable. In accordance with the policy, the easement fee is calculated at \$70.80 plus GST.

| | |
|------------------------|------------------------|
| Land value of property | = \$55,000 |
| Size of property | = 28,069m ² |
| Easement area | = 120 m ² |

Calculation:

| | |
|----------------------------------|---------------------------|
| \$55,000 / 28,069 m ² | = \$1.96 / m ² |
| 30% of \$1.96 | = \$0.59 / m ² |
| \$0.59 x 120 m ² | = \$70.80 plus GST |

- 13 The Easement Policy 2008 allows for a bond of between \$1,000 and \$5,000 to be held by Council subject to the reinstatement of the property to Council's standards and satisfaction. Given the potential damage to the reserve (being potential damage to Mill Stream and potential damage to existing landscaping) this report recommends that a bond of \$2,000 be held.
- 14 Infrastructure may exist in the reserve which may be crossed by the easement. Aurora will need to liaise with QLDC's Infrastructure Team to ensure existing infrastructure is not damaged during the installation.
- 15 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 the easement being lodged with LINZ.

- 16 Granting an easement is permitted by the Reserves Act 1977, however, such easement must be publicly notified in accordance with Section 48(2) unless it can be shown that there is no long-term effect on the land and that people's ability to enjoy the reserve is not affected in accordance with section 48(3) below. These matters are considered below:

The reserve is vested in an administering body and is not likely to be materially altered or permanently damaged

- 17 The Council is the administering body. 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 mostly underground apart from the transformer, it is considered that the creation of the easement will not have any long-term effect on the reserve.

The rights of the public in respect of the reserve are not likely to be permanently affected

- 18 While there will be some temporary minor disruption during the installation of the underground power lines, long term there will be no detrimental effect on the ability of the public to use and enjoy the reserve. Once the installation is complete, users of the reserve will be unaware that any changes that have been made to the reserve.
- 19 Taking into account the above factors, it is not considered that the easement will permanently affect the reserve or the ability of people to use and enjoy the reserve, and therefore public notification is not deemed necessary.
- 20 This report recommends that any approval granted for an easement be subject to the following conditions:
- a. Aurora Energy Ltd to notify and liaise with QLDC Infrastructure Department in advance of any onsite works so that they can oversee and provide input relating to existing in ground infrastructure;
 - b. A bond of \$2,000.00 be payable to QLDC prior to any works commencing;
 - c. The work site to be evidenced by before and after photographs, video or similar to be provided by the Aurora Energy Ltd;
 - d. A comprehensive safety plan must be prepared and implemented, at Aurora Energy Ltd's cost, to ensure a safe environment is maintained around the subject site;
 - e. Certificate of adequate public liability cover to be received;
 - f. Reinstatement of the area to be completed immediately following installation and to the satisfaction of QLDC's Infrastructure Department. Reinstatement to include any fencing or other structures.
 - g. Within 3 months of completion of the work, Aurora Energy Ltd to provide QLDC with a surveyed easement and signed Deed of Easement.

- 21 Approval for the easement was granted by the Chief Executive on 23 June 2017 due to timing constraints. This report seeks to ratify the decision of the Chief Executive and formally approve the easement retrospectively.

Options

- 22 Option 1 Council grants the easement over Local Purpose (Esplanade) Reserve, Lot 4 DP 460171 retrospectively, subject to the conditions outlined above.

Advantages:

- 23 The power supply to the applicant's property will be upgraded and undergrounded at no cost to the ratepayers or community.

- 24 Council will receive an easement fee of approximately \$70.80 plus GST.

Disadvantages:

- 25 The easement area will not be available for other utility infrastructure, without the consent of Aurora Energy Limited.

- 26 Access to a small area of Local Purpose (Esplanade) Reserve will be temporarily limited during the undergrounding process.

- 27 Option 2 Council can grant the easement over Local Purpose (Esplanade) Reserve, Lot 4 DP 460171, retrospectively subject to alternative conditions.

Advantages:

- 28 Similar to Option 1 however Council may wish to amend the conditions proposed.

Disadvantages:

- 29 Similar to Option 1.

- 30 Option 3 Council declines the easement over Local Purpose (Esplanade) Reserve, Lot 4 DP 460171.

Advantages:

- 31 The easement area will be available for other utility infrastructure.

Disadvantages:

- 32 The power supply to the applicant's property would not be upgraded and undergrounded at no cost to the ratepayers or community.

- 33 Council will not receive an Easement Fee of approximately \$70.80 plus GST.

- 34 The CE's decision of 23 June 2017 would not be ratified and the applicant will be required to remove the electrical infrastructure from the reserve.

- 35 This report recommends **Option 1** for addressing the matter, as it will allow the applicant to improve their electrical supply at no cost to the ratepayers or community.

Significance and Engagement

- 36 This matter is of low significance, as determined by reference to the Council's Significance and Engagement policy because it does not involve a Council strategic asset, is of low importance to the Queenstown Lakes District, is not of interest to the general community, is not inconsistent with policy and strategy and does not impact on Council's capability and capacity.

Risk

- 37 This matter relates to operation risk OR011A, 'Decision Making'. The risk is classed as moderate.

Financial Implications

- 38 Council will receive an easement fee of approximately \$70.80 plus GST in accordance with the easement policy.
- 39 All costs associated with the survey and registration of the easement on Council's title will be paid for by Aurora Energy Limited.

Council Policies, Strategies and Bylaws

- 40 The following Council policies, strategies and bylaws were considered:
- Significance & Engagement Policy 2014 – the proposal is a matter with low significance in terms of this policy as it does not impact Council's strategic assets, affect a large number of residents, ratepayers and the environment and is not expected to create a community interest in the matter.
 - Easement Policy 2008 – the application is consistent with the policy.
- 41 The recommended option is consistent with the principles set out in the named policy/policies.
- 42 This matter is not included in the 10-Year Plan/Annual Plan, however can be met from existing property operating budgets.

Local Government Act 2002 Purpose Provisions

- 43 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 allowing improved electrical supply to a member of the public at no cost to Council;

- 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

44 No consultation is envisaged or required by Council as it has low significance with regard to the Significance & Engagement Policy 2014, is consistent with s10 of the Local Government Act and is not included in the 10-Year Plan/Annual Plan. Further, it is not considered that the easement will permanently affect the reserve or affect the ability of people to use and enjoy the reserve and, therefore, public notification is not deemed necessary in accordance with sections 48(2) and 48(3) of the Reserve Act 1977.

Legal Considerations and Statutory Responsibilities

45 This matter is subject to section 48 of the Reserves Act 1977, which prescribes the requirements for the granting of an easement over a reserve. It is considered that option 1 is consistent with these requirements.

Attachments

A Cable Location Plan



LEGEND

- WATERS EDGE
- TOP OF BANK
- DRIVEWAY
- FENCE
- TREE
- TREE & TRUNK
- BDY POINT (OLD PEG)
- STAKE ON BDY
- MAJOR CONTOUR (2m INTERVAL)
- MINOR CONTOUR (0.5m INTERVAL)

| PROPOSED SCHEDULE OF EASEMENTS IN GROSS | | | |
|--|-------------------|-------|-----------------------|
| PURPOSE | SERVIENT TENEMENT | SHOWN | GRANTEE |
| RIGHT TO CONVEY ELECTRICITY | LOT 3 DP 460171 | A | AURORA ENERGY LIMITED |
| | LOT 4 DP 460171 | B | |
| | LOT 1 DP 485618 | C & D | |
| RIGHT TO ESTABLISH AND MAINTAIN AN ELECTRICITY TRANSFORMER AND ANCILLARY EQUIPMENT | LOT 1 DP 485618 | D | AURORA ENERGY LIMITED |

TITLE:

PROPOSED POWER TRANSFORMER AND CABLE LOCATION PLAN

PROJECT:

704 MALAGHANS ROAD

DATUM:

MT NIC 2000
GPS DERIVED

SCALE:

1:1500 @ A3

DRAWING NO:

CN070-04_01

REV:

-

| Rev. | Date | Revision Details | By |
|------|----------|------------------------|----|
| A | 02.05.17 | New Easement Alignment | JK |
| | | | |
| | | | |
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| | | | |

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