

**QLDC Council
25 October 2018**

Report for Agenda Item: 9

Department: Community Services

Underground Service Easement – Bannister Street, Hanley’s Farm

Purpose

To grant an underground service easement in favour of Queenstown Lakes District Council over land previously vested through subdivision as Recreation Reserve Lot 97 DP 505055, by the developer of Hanley’s Farm, RCL Henley Downs Ltd.

Recommendation

That Council:

1. **Note** the contents;
2. **Approve** an underground stormwater easement, for right to drain water (in gross), over Recreation Reserve Lot 97 DP 505055 subject to section 48(1)(f) of the Reserves Act, to Queenstown Lakes District Council subject to the following conditions;
 - a. Any works to be undertaken to the specification and approval of Council’s Engineers in accordance with the current Land Development and Subdivision Code.
 - b. A comprehensive safety plan must be prepared and implemented, at the applicant’s cost, to ensure a safe environment is maintained around the subject site.
 - c. Certificate of adequate public liability cover to be held.
 - d. Reinstatement of the area to be completed immediately following installation and to the satisfaction of the Council.
 - e. Within 3 months of completion of the work, RCL Henley Downs Limited to provide QLDC with a surveyed easement and signed Deed of Easement.
3. **Agree** 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 easement, including location, and execution authority to the General Manager – Community Services;

5. **Agree** to exercise the Minister's consent (under delegation from the Minister of Conservation) to granting of an easement to Queenstown Lakes District Council over Lot 97 DP 505055.

Prepared by:

Reviewed and Authorised by:



Dan Cruickshank
Property Advisor - APL

2/10/2018



Aaron Burt
Senior Planner:
Parks & Reserves
2/10/2018



Thunes Cloete
Community Services
General Manager
10/10/2018

Background

- 1 As part of the Hanley's Farm subdivision, the Recreation Reserve legally described as Lot 97 DP 505055 is to be formally vested in Council as part of the DP1 Stage 2 works. This is shown on the Site Plan in Attachment A.
- 2 The Recreation Reserve and easement area are currently a construction site, associated with the ongoing Hanley's Farm development.

Comment

- 3 RCL Henley Downs Limited (herein referred to as "the applicant") are in the process of developing the Hanley's Farm subdivision Stage 3.
- 4 A stormwater pipe is required to be installed as part of the Engineering Acceptance for the approved subdivision consent RM161129. The pipe will be a 900mm concrete pipe and will be an asset vested in Council. It will take stormwater from a large portion of the Stage DP3 subdivision under the Recreation Reserve to an adjacent Local Purpose Reserve (Drainage), which is also to be vested in Council.
- 5 The route chosen for the pipe is the most practical and direct. It is not possible to locate the pipe in the adjacent future legal road (Lot 17 RM161129) as the location of an existing dam constructed under the previous Hanley's Farm consent prevents this.
- 6 The easement corridor is proposed to be 3m wide and 21m long and is shown on the Easement Plan (Attachment B) as 'Area YE' – Right to drain water (in gross), in favour of Queenstown Lakes District Council.
- 7 As per the Easement Policy 2008 a one off underground easement fee is applicable. In accordance with the policy, the easement fee is calculated at \$100.32 plus GST

Land value of property	\$5,000
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Size of property	855 m ²
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Easement area	57 m ²
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Calculation:

\$5,000 / 855	\$5.85 /m ²
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30% of \$5.85	\$1.76 /m ²
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\$1.76 x 57m ²	\$100.32
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- 8 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.
- 9 Granting an easement is permitted by the Reserves Act 1977, however, such easement must be publicly notified in accordance with Section 48(2) unless as per Section 48 (3) it can be shown that people's ability to enjoy the reserve is not affected and there is no long term effect on the land. These matters are considered below:

Does the easement affect the ability of people to use and enjoy the reserve?

- 10 The wider area is currently a construction site and will remain so during the installation of the pipe and is therefore not available for the public to use. Once installed the underground infrastructure will not impact on the public's use of the reserve.

Does the easement create any long term permanent effect on the reserve?

- 11 Being that the pipe is underground it is considered the creation of the easement will not have any long term effect on the reserve.
- 12 Taking into account the above factors, it is not considered that the easement will permanently affect the reserve of the ability of people to use and enjoy the reserve and therefore public notification is not deemed necessary.

Options

- 13 Option 1 Council can grant the easement over Lot 97 DP 505055, subject to the conditions outlined above.

Advantages:

- 14 The easement will allow for effective stormwater management through the reserve.
- 15 The applicant will be able to install the stormwater pipe as per Resource Consent RM161129.

16 Council will receive an easement fee.

17 Stormwater infrastructure will be installed as part of the subdivision and vested to Council at no cost.

Disadvantages:

18 The easement will encumber the reserve and future maintenance of the pipe may temporarily prevent full enjoyment of the reserve

19 Option 2 Council can decline the easement over Lot 97 DP 505055.

Advantages:

20 The reserve will not be encumbered by the easement and no future maintenance will be required.

Disadvantages:

21 The applicant would be required to amend their Resource Consent

22 Council would not receive an Easement Fee

23 This report recommends **Option 1** for addressing the matter, as it will allow the applicant to complete the subdivision works in accordance with the existing Resource Consent with minimal impact to the general public.

Significance and Engagement

24 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy. While all reserves are considered strategic assets, an easement in favour of Council with no disruption to the public is unlikely to be of interest to the general community, is consistent with policy and strategy and does not impact Council's capability and capacity.

Risk

25 The risk is classed as moderate. This matter relates to this risk because a perpetual property right contained in the recreational reserve does carry risk to Council for any future development, and this risk needs to be highlighted when considering approving the easement. This risk is somewhat mitigated as the easement is to favour Council.

Financial Implications

26 Council will receive an easement fee of approximately \$100.32 plus GST in accordance with the easement policy.

27 All costs associated with the survey and registration of the easement on Councils title will be paid for by the applicant.

28 A fee to process this application has been paid by the applicant.

Council Policies, Strategies and Bylaws

29 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.
- Easement Policy 2008 – the application is consistent with the policy for underground service easements.

30 The recommended option is consistent with the principles set out in the named policy/policies.

31 This matter is not included in the 10-Year Plan/Annual Plan

Local Government Act 2002 Purpose Provisions

32 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 enabling infrastructure installation at no cost to Council or disruption to the community;
- 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

33 No consultation is envisaged or required by Council as it has low significance with regard to the Significance & Engagement Policy 2014 and is not included in the 10-Year Plan. In accordance with the Reserves Act, people's ability to enjoy the reserve is not affected and there is no long-term effect on the land.

Attachments

- A Site Plan
- B Easement Plan




Notes:
a. Data sourced from LINZ Data Service and
licenced to re-use under Creative Commons
Attribution 4.0 Licence
b. This plan has been prepared for discussion
purposes only. Areas and measurements are
subject to LINZ approved cadastral survey and
are likely to vary from those shown herein.

Plan Name:

**Lot 97 DP 505055
Recreation Reserve**

Date: 26/09/2018
Version: A
Sheet 1
Drawn By: ER

Legend
 Lot 97 DP 505055

Prepared By:



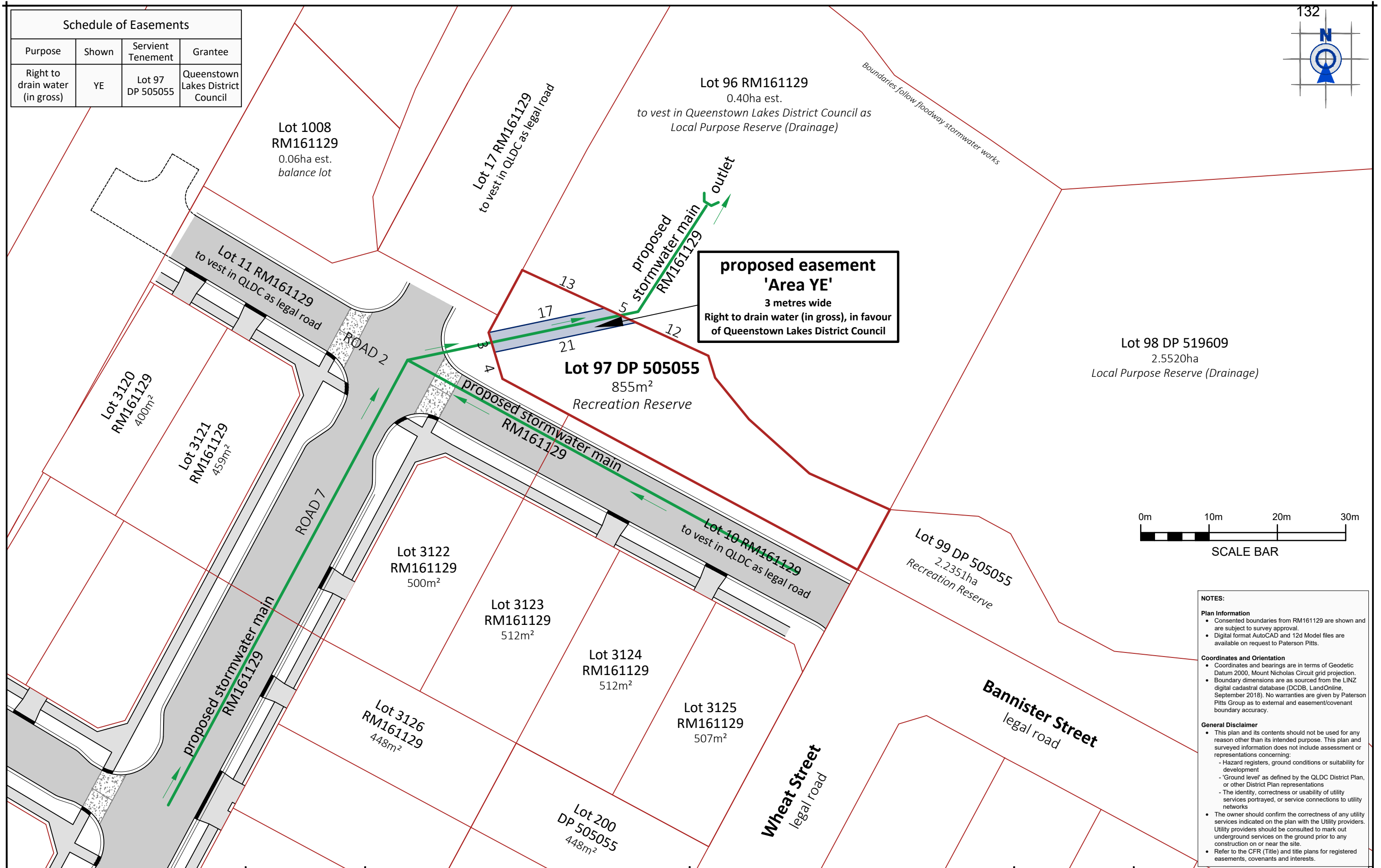
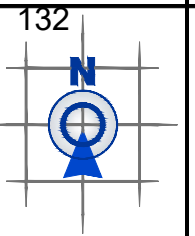
P: 03 442 7133
w: www.aplproperty.co.nz

Prepared For:



Attachment B: Easement Plan

Schedule of Easements			
Purpose	Shown	Servient Tenement	Grantee
Right to drain water (in gross)	YE	Lot 97 DP 505055	Queenstown Lakes District Council



NOTES:

Plan Information

- Consented boundaries from RM161129 are shown and are subject to survey approval.
- Digital format AutoCAD and 12d Model files are available on request to Paterson Pitts.

Coordinates and Orientation

- Coordinates and bearings are in terms of Geodetic Datum 2000, Mount Nicholas Circuit grid projection.
- Boundary dimensions are as sourced from the LINZ digital cadastral database (DCDB, *LandOnline*, September 2018). No warranties are given by Paterson Pitts Group as to external and easement/covenant boundary accuracy.

General Disclaimer

- This plan and its contents should not be used for any reason other than its intended purpose. This plan and surveyed information does not include assessment or representations concerning:
 - Hazard registers, ground conditions or suitability for development
 - 'Ground level' as defined by the QLDC District Plan, or other District Plan representations
 - The identity, correctness or usability of utility services portrayed, or service connections to utility networks
- The owner should confirm the correctness of any utility services indicated on the plan with the Utility providers. Utility providers should be consulted to mark out underground services on the ground prior to any construction on or near the site.
- Refer to the CFR (Title) and title plans for registered easements, covenants and interests.

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Surveying • Planning • Engineering
Your Land Professionals
www.ppgroup.co.nz
0800 PPGROUP

QUEENSTOWN:
Terrace Junction,
1092 Frankton Road.
PO Box 2645,
Queenstown 9349.
T 03 441 4715
E queenstown@ppgroup.co.nz

Client/Location:

RCL Henley Downs Limited
Bannister Street, Hanley's Farm
Lot 97 DP 505055

Purpose/Drawing Title:

Proposed Drainage Easement over Recreation Reserve

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Surveyed by:	MA	Original Size: A3	Scale: 1:500	
Designed by:	MA			
Drawn by:	MA			
Checked by:	DB			
Approved by:	SW			
			DO NOT SCALE	
Job Ref: Q6205 - 32		Sheet No: 9	Revision No: A	Date Created: 17/09/2018

PLOT DATE: 24 September, 2018 - 2:28 PM

BY: Michael Allan

J:\JOBS\Q 6205 RCL HANLEY DOWNS\CAD\180917 LOT 97 EASEMENT\PPQ6205-32 9A LOT 97 PROPOSED EASEMENT.DWG