

**QLDC Council
26 July 2018****Report for Agenda Item: xx****Department: Community Services****Consider an Underground Services Easement for Drivers Road Trust Company Limited (445 Peninsula Road) and S Hodgson (451 Peninsula Road) to drain stormwater over reserve****Purpose**

To consider granting an underground services easement for the right to drain stormwater over Section 21 Block I Coneburn SD, being Recreation Reserve along Kelvin Heights waterfront, to the owners of 445 and 451 Peninsula Road, being Drivers Road Trust Company Limited and S Hodgson respectively.

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Grant** an underground services easement for right to drain stormwater over Recreation Reserve, Section 21 Block I Coneburn SD, to Drivers Road Trust Company Limited and S Hodgson, henceforth referred to as the applicants, subject to the following conditions;
 - a. The applicants notify and liaise with QLDC Infrastructure Department in advance of any onsite works so they can approve the design of headwall and oversee and provide input relating to existing inground infrastructure;
 - b. The conditions of rule 12.B.1.8 of the Regional Plan: Water for Otago are adhered to at all times.
 - c. A \$2000 bond payable to QLDC prior to installation of pipes and structures commencing;
 - d. The work site to be evidenced by before and after photographs or video to be provided by the applicant to APL Limited;
 - e. 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 during duration of works and make specific reference to signage along the track. All activities are to be undertaken in accordance with Worksafe New Zealand's standards for the work environment.

- f. Certificate of adequate public liability cover to be held by persons undertaking the works.
 - g. A Reserves Permit must be obtained from QLDC via APL Property prior to commencement of physical works.
 - h. Reinstatement of the area to be completed immediately following the works, to the satisfaction of QLDC's Community Services Department.
 - i. Reinstatement of the track immediately following the works to the confirmed satisfaction of the Queenstown Trails Trust.
 - j. Within 3 months of completion of the work, the applicant to provide QLDC with a surveyed easement and signed Deed of Easement.
3. **Agree** that notification to grant the easement is not required as a statutory test in Section 48(3) of the Reserves Act 1977 is met for the reason set out in this report.
 4. **Delegate** authority to approve final terms and conditions, and execution authority to the General Manager Community Services; and
 5. **Agree** to the exercise of the Minister's prior consent (under delegation from the Minister of Conservation) to the granting of the easement to the applicants over Section 21 Block 1 Coneburn SD.

Prepared by:

Reviewed and Authorised by:



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Property Advisor
APL Property
Limited

12/07/2018



Aaron Burt
Senior Planner: Parks
& Reserves

12/07/2018



Thunes Cloete
General Manager
Community Services

12/07/2018

Background

- 1 Council administers the recreation reserve known as Kelvin Heights Lakeside Reserve, legally described as Section 21 Block 1 Coneburn SD. The Kelvin Peninsula Track runs through the reserve.
- 2 The applicant's request the easement so they may discharge stormwater from their properties located at 445 and 451 Peninsula Road (above and upslope of the reserve), into Lake Wakatipu. It is understood that several other properties along the Kelvin Peninsula use this method for draining stormwater, although it is unclear if easements are in place to accommodate such.

- 3 The first pipe will take stormwater from 445 Peninsula Road through 447 Peninsula Road. The pipe will then enter 451 Peninsula Road and follow a route over which a sewerage easement already exists. A second pipe, solely taking water from 451 Peninsula Road, will be laid next to the first.
- 4 Both stormwater pipes are intended to be laid side by side through the reserve under the existing Kelvin Peninsula Track, with a minimum of 300mm cover before disposing of stormwater via a headwall just above lake level, with the stormwater then travelling by overland flow into Lake Wakatipu.
- 5 Access to the location on the Recreation Reserve where the pipes are to be installed will be along the Kelvin Peninsula Track. There will be a disturbance to use of the Track while the trench is being excavated, refilled then compacted.

Comment

- 6 The area where the proposed easement crosses the Recreation Reserve comprises of the Kelvin Peninsula Track and surrounding vegetation.
- 7 The houses on properties 445 and 451 Peninsula Rd sit below street level, making disposal of stormwater to existing roading connections difficult. The proposed solution has apparently been applied to other houses in the area, although this could be an ad hoc historic situation.
- 8 The extent of Recreation Reserve sought for the easement is 26.84m long and 3m wide, with a total area of 80.52 square meters.
- 9 As per the Easement Policy 2008, both the application fee along with a one off underground services easement fee are applicable. In accordance with the policy, the easement fee is calculated at \$423.43 plus GST:

Land value of property	\$2,270,000
Size of property	129,499 m ²
Easement length	80.52 m ²
Calculation:	
\$2,270,000/129,499 m ²	\$17.53
30% of \$17.53	\$5.26
\$5.26 x 80.52	\$423.43 plus GST

- 10 Existing infrastructure may already be present in the recreation reserve, which might be crossed by the pipes to be laid in the proposed easement. The applicant will need to liaise with QLDC's Infrastructure Team to ensure existing infrastructure is not damaged during installation.
- 11 The Sunshine Bay to Kelvin Heights Reserve Management Plan considers drainage into Lake Wakatipu. Policy G12 of the Plan states that Council should decline any right of way or easement over reserve land for the purposes of drainage or effluent discharge that would result in a pollution hazard.
- 12 Under the Regional Plan for the Otago Regional Council, discharging of stormwater from a house into the lake is a permitted activity subject to a series of

conditions which serve to prevent pollution hazards. A condition of approval for the proposed easement is that the requirements under the regional plan are adhered to in order to satisfy the Management Plan.

- 13 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.
- 14 Granting an easement is permitted by the Reserve Act 1977, however, such easement must be publicly notified in accordance with Section 48(2), unless it can be shown that people's ability to enjoy the reserve is not affected and the reserve is not materially altered or permanently damaged. These matters are considered below:

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

- 15 While there will be temporary and minor disruption during the installation of the stormwater lines and during possible future repairs, long term there will be no permanent effects on the ability of the public to use and enjoy the reserve.

Does the easement create materially alter or permanently damage the reserve?

- 16 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 materially alter or permanently damage the reserve.
- 17 Taking into account the above, 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.
- 18 The proposal utilises the shortest route over the recreation reserve, and is considered a suitable location.

Options

- 19 Option 1 Grant the proposed easement.

Advantages:

- 20 Will allow for the disposal of stormwater from the applicant's land in a controlled manner.
- 21 Council will receive an Easement Fee of approximately \$423.43 plus GST

Disadvantages:

- 22 The installation and potential future repairs to the pipes and headwall may temporarily prevent the full enjoyment of the Kelvin Peninsula Track.

- 23 Option 2: Decline the proposed easement.

Advantages:

- 24 Would result in no disruption to the use of the track. There would be no initial installation or requirement for future repairs to the pipes or headwall.

Disadvantages:

- 25 The applicants would be required to consider alternate means to dispose of stormwater from their properties.
- 26 Council will not receive an easement fee.
- 27 This report recommends **Option 1** for addressing the matter as it manages stormwater runoff through the reserve and will only result in minor and temporary effects on people's ability to enjoy the Reserve.

Significance and Engagement

- 28 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 with minor, temporary disruption to the public is unlikely to be of interest to the general community, is consistent with policy and strategy and does not impact on Council's capability and capacity

Risk

- 29 This matter relates to the operational risk OR011A, 'Decision Making', as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because a perpetual property right contained in the recreation reserve does carry risk to Council for any future development, and this risk needs to be highlighted when considering approving the easement.

Financial Implications

- 30 All costs associated with the survey and registration of the easement on the Council's title will be paid for by the applicant. Maintenance of the easement will be borne by the applicant as per Council's easement policy and the Property law Act 2007.
- 31 An easement fee to compensate Council for the land impacted by the easement will be charged in accordance with the Easement Policy 2008 and is calculated at \$423.43 plus GST.
- 32 A fee to process this application has been paid by the applicant.

Council Policies, Strategies and Bylaws

- 33 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 aside from the headwall which will be above ground, subject to final design approval by Council's Infrastructure team.
- Sunshine Bay to Kelvin Heights Reserve Management Plan: The application is consistent with the Reserve Management Plan. The stormwater will be primarily from residential hardstand areas, surfaces that would not typically cause pollution hazard.
- Regional Plan: Water for Otago: Discharge of stormwater from a reticulated stormwater system to water, or onto or into land in circumstances where it may enter water, is a permitted activity subject to certain conditions.

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

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

Local Government Act 2002 Purpose Provisions

36 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 the activity at no cost to Council with little 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

37 Otago Regional Council have been consulted and the proposal under the Regional Plan is considered a Permitted Activity.

38 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, is not included in the 10-Year Plan/Annual Plan and, 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.

39 The applicant at 445 Peninsula Road has gained written permission from the neighbours at 451 Peninsula Road and the other applicant at 447 Peninsula Road to create an easement over their properties.

Attachments

- A Overview Plan
- B Plan of Easement layout
- C Photo of Reserve

Notes:

- a. Data sourced from LINZ Data Service and licenced for 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:

Overview Map



Date: 28/06/2018

Version: A

Sheet 1

Drawn By: ER

Legend

-  445-451 Peninsula Rd
Kelvin Heights
-  Recreation Reserve,
Gazette 1967/1787

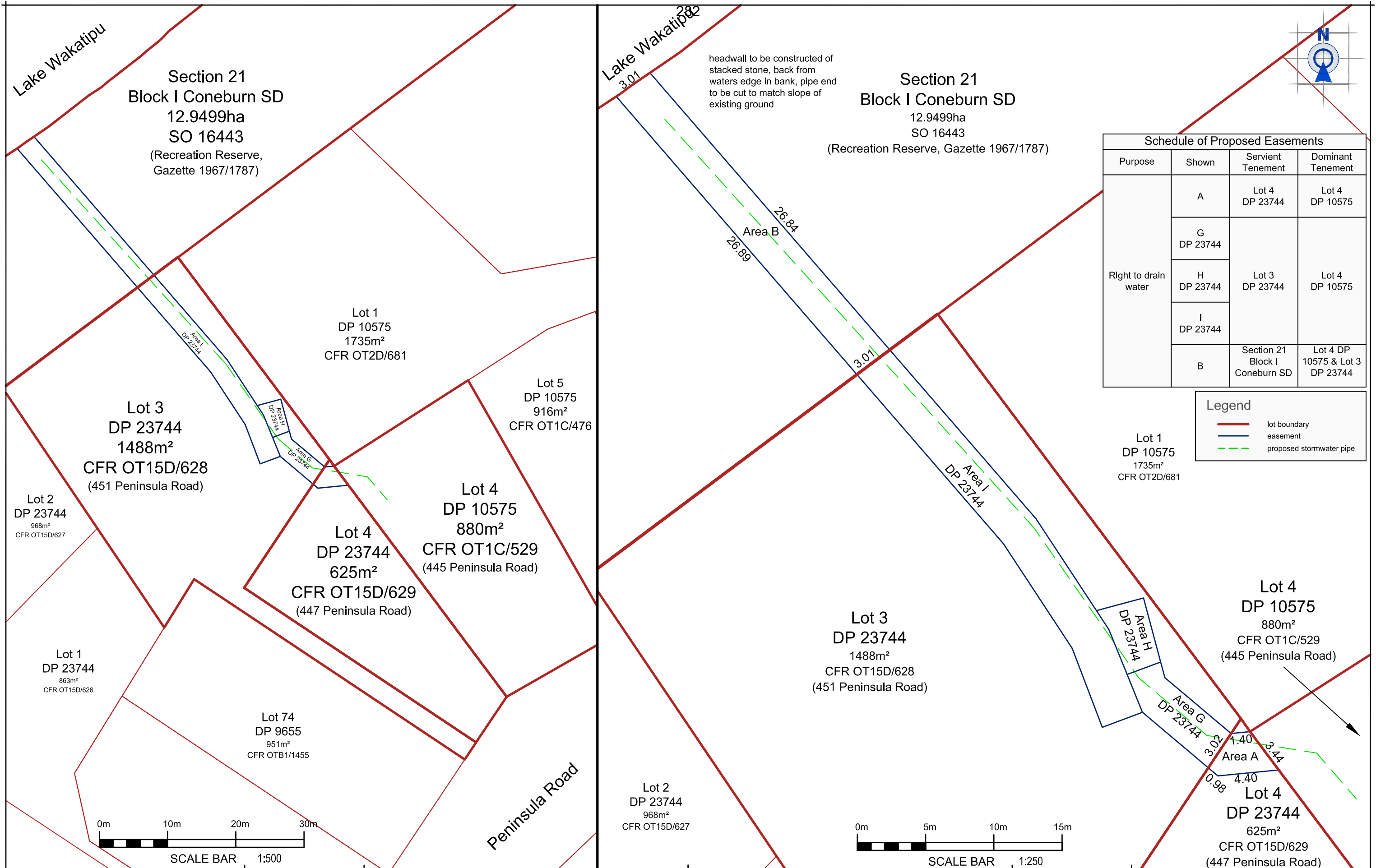
Prepared By:

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Prepared For:





Schedule of Proposed Easements			
Purpose	Shown	Servient Tenement	Dominant Tenement
Right to drain water	A	Lot 4 DP 23744	Lot 4 DP 10575
	G DP 23744	Lot 3 DP 23744	Lot 4 DP 10575
	H DP 23744		
	I DP 23744		
	B	Section 21 Block I Coneburn SD	Lot 4 DP 10575 & Lot 3 DP 23744

Legend	
	lot boundary
	easement
	proposed stormwater pipe

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Client/Location:

Geoff Thomas
445 Peninsula Road, Queenstown
Lot 4 DP 10575

Purpose/Drawing Title:

Proposed Easement Plan

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Surveyed by:	DB May 2016	Original Size: A3	Scale: As Shown
Designed by:			
Drawn by:	DB May 2018		
Checked by:	MA May 2018		
Approved by:			
Job Ref:	Q6256 - 12	Sheet No: 1	Revision No: B Date Created: 11/06/2018

PLOT DATE: 13 June, 2018 - 3:00 PM

BY: David Bryce

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Recreation Reserve – Location Photo

