

Wanaka Community Board
15 April 2015

Report for Agenda Item: 5

Department:
Infrastructure

Licence to Occupy – Existing Cardrona LPG Tank

Purpose

- 1 To obtain Wanaka Community Board's position on the proposal to issue a licence to occupy in respect of hazard zone around an existing LPG tank in Cardrona.

Recommendation

- 2 That the Wanaka Community Board:
 - a. **Agree** with the proposal to issue a licence to occupy in respect of a hazard zone around an existing LPG tank in Cardrona; and
 - b. **Confirm** that the proposal is appropriate for Property Subcommittee consideration provided that the planting and realignment of the footpath are consistent with the Cardrona Village Character Guidelines and are approved by the Chief Engineer before work commences.

Prepared by:



Denis Mander
Principal Planner, Infrastructure
23/03/2015

Reviewed and Authorised by:



Ulrich Glasner
Chief Engineer
1/04/2015

Background

- 3 Contact Energy has applied for a licence to occupy in respect of a section of Cardrona Road. Typically a licence to occupy is submitted directly to the Council's Property Subcommittee for consideration and decision. However given the community interest in LPG facilities, it is appropriate in this instance to obtain the Wanaka Community Board's position on the proposal to inform the subcommittee's consideration of the matter.

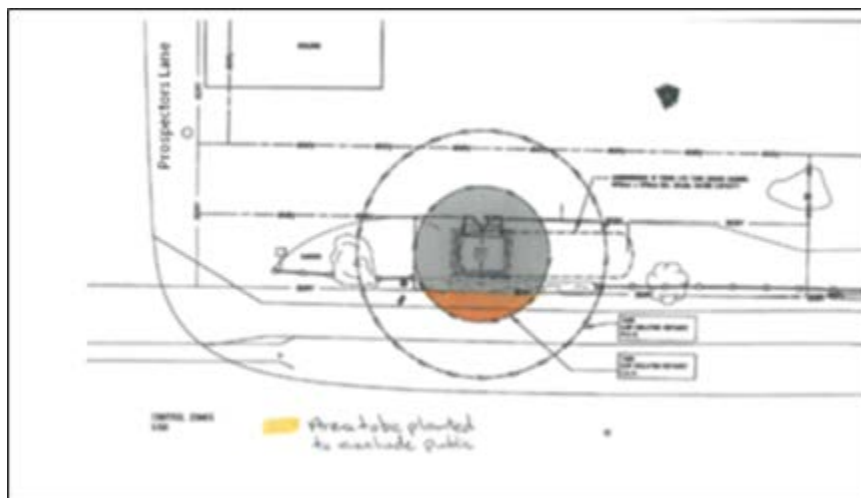
Comment

- 4 Contact Energy has contacted us regarding the hazard zone around an underground LPG tank on privately owned land in Cardrona. The tank was installed underground about 9 years ago in a property bordered by the Cardrona Road and Prospectors Lane. The location is indicated on the following aerial.



- 5 Although a stone fence was constructed on the property boundary, safety regulations established under the Hazardous Substances and New Organisms Act 1996 require set areas around LPG tanks to be managed to minimise public exposure to risk posed by the tanks.
- 6 The use of areas in isolated locations is restricted to manage the risk of exposure to incident. Because this is an underground tank, the inner-most isolation area should only be accessed by 'authorised persons' while the next level out might permit, for example, low levels of pedestrian and/or vehicular traffic.
- 7 The location of the tank and the hazard areas are shown in the plan on the next page. The inner hazard area extends approximately 1.3m into the road area. Of this most is presently planted in tussock, while there is a 200mm incursion into the footpath.
- 8 This LPG tank is not currently compliant with the regulations because the people walking along the footpath can pass through the inner isolation area. The area of non-compliance (coloured brown in the diagram) is very small – it is however preventing the tank from meeting safety requirements. Given the foreseeable

levels of pedestrian and vehicular traffic on this part of the Cardrona Road, the outer isolation area isn't an issue.



- 9 The Cardrona LPG tank site has been operating lawfully (and safely) since 2005 until a change of Location Test Certifier in 2013 highlighted this technical non-compliance. A Location Test Certificate is issued annually when an LPG tank is compliant with the relevant HAZNO regulations. In 2013 the incursion of this area into the road was raised as an issue, and Contact Energy (the owner of Rockgas Ltd) has been in touch with Council over potential solutions.

Options

A series of options available to Council have been explored. These, with advantages and disadvantages are set out in the following table

Advantages	Disadvantages
Option 1: Decline to authorise the incursion of the inner hazard area on to the road. This would most likely require Contact to decommission or relocate the tank.	
Would deal with the issue by removing isolation area off the road. Notional improvement to public safety.	The relocation of the tank would be an expensive exercise for Contact Energy (Contact estimates a cost of \$150k). The alternative would be to decommission the tank, with the resulting cessation of reticulated LPG within Cardrona.
Option 2: Council 'stop' the small section of road within the inner hazard area and sell that land to Contact Energy	
Would deal with the issue by enabling Contact to physically reduce access. Notional improvement to public safety because public will be prevented from passing over the area affected by the inner isolation area. Council/public would be compensated from transfer of land ownership. Relatively low cost	Loss (minor) of public road space – this may limit future opportunities for the use of the land (however likely or unlikely this may be). Council loses control of road space. Road stopping can be time consuming.

Advantages	Disadvantages
<p>Option 3: Council agrees to Contact planting vegetation¹ and if possible widening the footpath, with effect that people cannot easily pass through the isolation area. Agreement contains conditions for termination. Sub-options are: rent the land</p> <ul style="list-style-type: none"> • at a peppercorn rate or • at the market rate or • at no charge 	
<p>In practical terms, this option achieves the objective of excluding the public from accessing the isolation area.</p> <p>It would allow Council to rescind the agreement if land is needed.</p> <p>Planting would have low visual impact. Relocation of footpath should be satisfactory visually.</p> <p>Low cost.</p>	<p>Technically, this approach doesn't exclude the public from accessing the isolation area, but appears to be acceptable to the registered Location Test Certifier as a means to achieve compliance with the HAZNO Act and regulations.</p> <p>Council/public doesn't receive any recompense for loss of access to a small area.</p>

Given the extremely small amount of land affected the difference between a market and peppercorn rental is likely to be very small. The additional revenue likely to be earned by charging a rental for the land is likely to be outweighed by cost to Council of maintaining administering a rental over the period of the occupation. Accordingly no charge is proposed.

Option 3 appears to be the best approach for achieving the restricted access sought by the certifier, at no cost to Council and least cost to Rockgas. It also provides opportunity for Council to rescind the approval should circumstances change.

Licensing / Letters

From a Council perspective it is proposed that a licence to occupy be granted. Contact Energy, while happy to apply for a licence, also requires a letter that can be provided to the Certifier. Both sets of documents are consistent. Key points are:

- Rockgas would install planting and undertake minor re-alignment of the footpath as required by our Chief Engineer;
- Council can rescind the agreement, without constraint;
- Landscaping is to comply with the Cardrona Village Character Guidelines

Subject to the Community Board's decision on this report, it is proposed that a report be prepared to the Council's Property Subcommittee approving the granting of the licence to occupy (Attachment A) and authorising the Chief Executive to sign the attached letter to Contact Energy (Attachment B).

Financial Implications

10 There are no budget or cost implications for Council that would result from the licence to occupy being granted.

¹ Note that the vegetation would not affect traffic safety.

Local Government Act 2002 Purpose Provisions

- 11 The support for the proposed licence to occupy contributes in a minor way to the Local Government Act 2002 purpose provisions. The granting of a licence to occupy is the most cost effective means of the Cardrona LPG tank meeting safety requirements. (Refer Section 10(1)(b) of the Local Government Act 2002.)

Council Policies

- 12 The following Council Policies were considered:

- Council's significance and engagement policy. The proposal does not trip the thresholds for significance contained within the policy.

In addition, the Cardrona Village Character Guidelines have been reviewed. The proposed planting and changes to the footpath are not inconsistent with the guidelines. The materials used for the footpath would be the same as the existing path. The plant selection would need to be taken from the choices provided within the guidelines.

Consultation

- 13 Consultation has taken place directly with the Cardrona Valley Residents and Ratepayers Society. On 3 March I attended the Society's regular monthly meeting with Stuart Brown from Contact Energy. The Society had previously been provided with information on the proposal covered within the 'Comments' section of this report.
- 14 The Society expressed its support for resolving the issues through the licence to occupy approach put forward by this report.
- 15 At the meeting with the Society it was made apparent to us that the on-site manager of the Cardrona Valley Resort had not been consulted (the Auckland based owner of the property had been consulted by Contact Energy). Mr Brown subsequently got in touch with the on-site manager who – we are advised – has no objection to what is being proposed.
- 16 Given that this report is dealing with an existing minor incursion into Council road and both the Residents and Ratepayers Society and the Wanaka Community Board are being consulted, no further consultation is proposed.

Attachments

- A Licence to occupy
- B Letter to Contact Energy

Attachment A: Licence to occupy

LICENCE TO OCCUPY

**LICENCE TO OCCUPY
ROAD RESERVE****QUEENSTOWN
LAKES DISTRICT
COUNCIL**I/We (applicant): Rockgas LimitedOf (address) C/- Owen Graham, Contact Energy Ltd, PO Box 2222, Dunedin 9054

On behalf of (insert name of body/company if applicable): _____

Company/Trust/Entity Name: _____

As the owners/occupiers of (insert address location, legal description etc): _____

Underground LPG tank located at the Cardrona Alpine Village on the Cardrona Valley Road.**Hereby request the consent of the Queenstown Lakes District Council to occupy Council land namely:**(Name of Reserve): Public Road, Cardrona Valley Road

Type of Activity: encroachment of the adjacent underground LPG tank hazard zone onto pedestrian footpath (public land) by approx 200mm requires exclusion of the public from this area. Part of the hazard zone is already planted. Rockgas Limited proposes to plant the encroachment area consistent with adjacent landscape planting. This will form a natural barrier and the public will follow the footpath past the area. There may be a need for minor alteration to the footpath, subject to discussion with QLDC Chief Engineer. This approach provides a simple solution to satisfy EPA standards requiring public to be excluded from this hazard zone.

Start Date: 20 May 2015 Duration: Perpetuity**I/We Attach the following:**

- | | |
|---|--|
| <input type="checkbox"/> Application form and fee of \$562.50 | <input type="checkbox"/> Plans of the proposal (plans must be to scale) |
| <input checked="" type="checkbox"/> Location Map showing site of proposal and Council land affected | <input checked="" type="checkbox"/> Plans must clearly show measurements concerned with the proposal |
| <input checked="" type="checkbox"/> Photographs of the site (where relevant) | |

Signed Owen Graham Date 11 March 2015Phone Number (Work) 03 4550799 (Home) _____Email Address owen.graham@contactenergy.co.nz (Fax) _____

Signed for QLDC _____ Date: _____

Queenstown Lakes District Council
Private Bag 50072, Queenstown 9348
Gorge Road, Queenstown 9300

Phone 03 441 0499
Fax 03 442 4778
Email services@qldc.govt.nz
Website www.qldc.govt.nz

Attachment B: Letter to Contact Energy

[date]

Owen Graham
Land and Property Advisor
Contact Energy
PO Box 2222
Dunedin 9054

File:
Your Ref:

Dear Owen

NOTIFICATION OF ACCEPTANCE THAT A CONTROLLED ZONE MAY EXTEND ON TO PUBLIC ROAD RESERVE: CARDRONA VALLEY ROAD

The Queenstown Lakes District Council is the territorial authority responsible for the management and maintenance of Cardrona Valley Road which is a legal public road. Council is aware that part of a controlled zone for the underground LPG tank located at the Cardrona Valley Resort extends on to the public road reserve, by approximately 1.3 metres. Council has been approached by Rockgas Limited which owns the LPG tank and asked to provide agreement for the controlled zone to extend into the public road reserve.

Council understands that the controlled zone may only extend onto this public road if it agrees to this. The extent of the controlled zone and the encroachment area are shown on the plan attached and coloured orange. Council further understands that in this case, the public are required to be excluded from the encroachment area to meet regulatory requirements. Part of the encroachment area extends into the public footpath.

In order to achieve the 'public excluded' requirement and permit Council to give its agreement for the controlled zone to extend into the public road reserve, Rockgas Limited will undertake appropriate planting of the encroachment area (coloured orange) to form a visual and physical barrier to prevent the public from entering into the controlled zone. This planting is to be of the style and with species compatible with existing plantings and the Cardrona Valley Character Guideline, and sufficient to achieve the objective of safely 'guiding' public around the perimeter of the 3m zone. Such work to be completed before 30 June 2015.

Council has been informed that these landscaping works will meet the requirements of clause 37 Schedule 8 of the Hazardous Substance Transfer Notice 2004 (as amended) which refers to underground tanks complying with sections 7.3 and 7.5 of AS/NZS 1596 - The storage and handling of LP Gas (2014 edition) and will meet the requirements of these sections also.

Having regard to the above, Queenstown Lakes District Council agrees that the controlled zone may extend into the area of public road reserve shown coloured orange on the plan attached.

Council understands the importance of notifying Rockgas Limited of any change in the use or ownership of the public road reserve where the encroachment is located, and notes that Council may withdraw its agreement at any time by writing to Rockgas Limited.

Yours sincerely

Adam Feeley
Chief Executive

Plan of Encroachment Area

