

**Wanaka Community Board**  
**22 June 2017**

**Report for Agenda Item: 2**

**Department: Property & Infrastructure**

**Licence to Occupy Road Reserve – 59 Stratford Terrace, Wanaka**

**Purpose**

The purpose of this report is to consider granting a Licence to Occupy Road Reserve to enable the owner of 59 Stratford Terrace, Wanaka to install a fence in road reserve.

**Recommendation**

That the Wanaka Community Board:

1. **Note** the contents of this report;
2. **Grant** a Licence to Occupy Road Reserve to Brian Kreft, the owner of 59 Stratford Terrace, Wanaka, for a period of 10 years to enable the installation of a fence subject to the following conditions;
  - a. Any works within the road reserve to be undertaken to the specification and approval of Council's Engineers.
  - b. Any damage as a result of the works within the road reserve to be resolved to the satisfaction of Council Engineers at the cost of the applicant.
  - c. The structures must not compromise roading or services maintenance activities.
  - d. Ongoing maintenance of the structures are to be the responsibility of the Licensee.
  - e. Landscaping within the road reserve, enclosed by the fence, is to be maintained by the Licensee.
  - f. The applicant consents to the Licence being encumbered against Section 1 & Part Section 2 Blk XLII Wanaka to ensure the recommended terms and conditions continue in perpetuity for the duration of the licence.
  - g. The licence shall remain at Council's pleasure and may be terminated at any stage.

- h. Upon termination or expiration of the Licence, the Licensee shall remove the structures from the road reserve and rectify any damage.

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30/05/2017

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Queenstown Lakes District  
Council

30/05/2017

## Background

- 1 Brian Kreft, the owner of 59 Stratford Terrace, Section 1 & Part Section 2 Blk XLII Wanaka (herein referred to as “the applicant”) has lodged an application with QLDC seeking a Licence to Occupy Road Reserve in order to install a fence.
- 2 The property is triangular in shape bordered to the east by a road reserve containing a public pathway, private property and dwellings to the south east and Stratford Terrace to the west.
- 3 From the intersection at Chalmers Street heading south, Stratford Terrace provides access to seven residential dwellings including the applicant’s property. The Wanaka Golf Club is on the western side of the road, however access to it is provided from Ballantyne Road.
- 4 The applicant’s property contains existing consented dwellings and residential curtilage which, due to historical anomalies, has resulted in an encroachment of the adjacent road reserve. When the property was acquired some 31 years ago, alterations were undertaken to the house and guest house and it became evident then that part of the house and landscaping encroached over the boundary.
- 5 Encroachments include part of the main dwelling, a rock wall, gates and landscaping.
- 6 It is advised by the applicant that they had addressed the encroachments with Council at the time of purchasing the property however documentation confirming this cannot be located.
- 7 The applicants are seeking to install a suitably designed fence (with gates) to contain the boundaries of their property safely while ensuring that the amenity of the property and road reserve are maintained and enhanced.

- 8 The fence will be fabricated with metal, be 1200mm high and be made up of 2400mm wide panels. The fence will be satin black and have a flat top.
- 9 The applicants have advised that a primary reason to install the fence is to protect the safety of their young grandchildren who reside at the property frequently.
- 10 The applicants further advise that it is not practical to fence the cadastral boundary of the property adjoining the road reserve given the extensive and mature landscaping and consented building which has already occurred on the property.
- 11 Through the installation of the fence as proposed by the applicants, a strip of road reserve measuring 367.8m<sup>2</sup> will be enclosed within the residential property.
- 12 In the opinion of the applicant, granting a Licence to Occupy will not adversely affect the public interest in use of the road reserve given that the area sought to be occupied by the fence is minimal i.e. a 2m wide strip, has been landscaped for a number of years and is unlikely to be used for road widening / extension purposes.
- 13 The applicant further contends that granting the Licence to Occupy will be in accordance with the Local Government Act 2002 i.e. the Licence will not adversely affect public use rights and passage on the road reserve and will not detract from the amenity of the environment.
- 14 Stopping the strip of road reserve for the purposes of acquiring the land has been considered by the applicants however they are still assessing this option.

### **Comment**

- 15 The applicant is a long-term resident (30yrs+) and ratepayer of Wanaka.
- 16 The existing encroachment is considered a minor issue as it does not affect Council or public use of the area to any meaningful extent at this time.
- 17 Wishing to fence the property in order to improve the safety of their family is valid and, given the existing vegetated nature of the actual boundary, fencing within the road reserve appears logical.
- 18 This proposed further encroachment is not supporting a commercial activity and no monetary benefit will be realised if QLDC were to grant a temporary Licence to Occupy.
- 19 QLDC can ensure the maintenance of the existing landscaping is undertaken by the applicant at their cost, thereby reducing their own potential maintenance costs.
- 20 Council Officers have been consulted on the proposal and have confirmed that the area of road reserve is not currently required by QLDC. They have further advised that should an application be received to stop the road for the purposes

of the applicant acquiring the land, they would have no issue in principle at this point in time.

- 21 Providing a medium term licence of 10 years will allow the applicant to install a fence now and provides time to consider options around road stopping should they see fit.
- 22 Council may require the road to be stopped and acquired by the applicant at some point in the future.
- 23 Should Council wish to grant a Licence to Occupy, this report recommends the following conditions;
  - a. Any works within the road reserve to be undertaken to the specification and approval of Council's Engineers.
  - b. Any damage as a result of the works within the road reserve to be resolved to the satisfaction of Council Engineers at the cost of the applicant.
  - c. The structures must not compromise roading or services maintenance activities.
  - d. Ongoing maintenance of the structures are to be the responsibility of the Licensee.
  - e. Landscaping within the road reserve, enclosed by the fence, is to be maintained by the Licensee.
  - f. The applicant consents to the Licence being encumbered against Section 1 & Part Section 2 Blk XLII Wanaka to ensure the recommended terms and conditions continue in perpetuity for the duration of the licence.
  - g. The licence shall remain at Council's pleasure and may be terminated at any stage.
  - h. Upon termination or expiration of the Licence, the Licensee shall remove the structures from the road reserve and rectify any damage.

## **Options**

- 24 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.
- 25 Option 1 Council can approve the Licence to Occupy Road Reserve application subject to the conditions proposed above.

### *Advantages:*

- 26 The applicants will be able to fence their property and provide a protective barrier for their family.

- 27 The fence can be installed without removing / damaging any existing vegetation.
- 28 Maintenance responsibilities for vegetation within the road reserve can be passed to the applicants.
- 29 Council will have the opportunity to terminate the licence should it require the land in future.

*Disadvantages:*

- 30 Further private structures will encumber the road reserve.
  - 31 Council may face delays in accessing the land should they require it for alternative purposes.
- 32 Option 2 Council can approve the Licence to Occupy Road Reserve application subject to the conditions proposed above in addition to a further condition requiring the Licensee to acquire the area of road reserve through a road stopping process prior to the expiration of the initial term of the licence or some other reasonable timeframe.

*Advantages:*

- 33 Similar to Option 1, however this option provides a long-term strategy to address the existing and proposed new encroachments within road reserve.

*Disadvantages:*

- 34 Similar to Option 1, however the licensee will be under time pressure to acquire the land.
- 35 Option 3 Council can decline the Licence to Occupy Road Reserve application

*Advantages:*

- 36 The road reserve will not be encumbered with further private structures.
- 37 Council will not be hindered in accessing the strip of road reserve should they require.

*Disadvantages:*

- 38 The applicant will not be able to install a protective fence as proposed and may need to consider alternative options.
  - 39 Vegetation in the road reserve may require maintenance at Council's expense.
- 40 This report recommends either **Option 1** for addressing the matter in order to allow a fence to be erected in the near future. The Wanaka Community Board may also consider whether it feels it appropriate to require the applicant to

acquire the land at some stage in the future if they wish to continue to occupy it into the future.

## **Significance and Engagement**

- 41 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy as it relates to Council's roading network which is identified as a significant asset.

## **Risk**

- 42 This matter relates to the strategic risk SR3 Management Practice - working within legislation, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because a variety of operational risks (such as meeting levels of service, regulatory compliance and the health and safety risks associated with parties using roads) are triggered when the Council considers whether or not to grant the Licence to Occupy.
- 43 This matter also relates to strategic risk SR6a – assets critical to service delivery (infrastructure assets) with the risk classified as low. This is because the impact of the occupation is minimal for the public and does not have a significant permanent impact on Council's infrastructure.
- 44 This matter also relates to operational risk SR27 levels of service, as documented in the Council's risk register. This risk is classed as moderate. This matter relates to this risk as it requires a decision from Council for a private activity.
- 45 The recommended option treats the risks by ensuring conditions are included in any licence which address the risks.

## **Financial Implications**

- 46 There are no cost implications resulting from the decision. The applicants have paid a fee for their application to be processed and the cost of the licence document will be met by the applicant.

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

- 47 The following Council policies, strategies and bylaws were considered:
- *Significance and Engagement Policy 2014* – providing clarity on Council's decision making processes and assessing the extent to which individuals, organisations, groups and sectors in the community are affected by the Council's decisions.
- 48 The recommended option is consistent with the principles set out in the named policies.
- 49 This matter is not included in the 10-Year Plan/Annual Plan as the cost of the licence will be met by the applicant.

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

50 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 a member of the community to provide protection to his family at no cost to Council;
- 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**

51 Council Engineers have been consulted about this application and their comments are contained within this report.

Attachments

A Location Plan

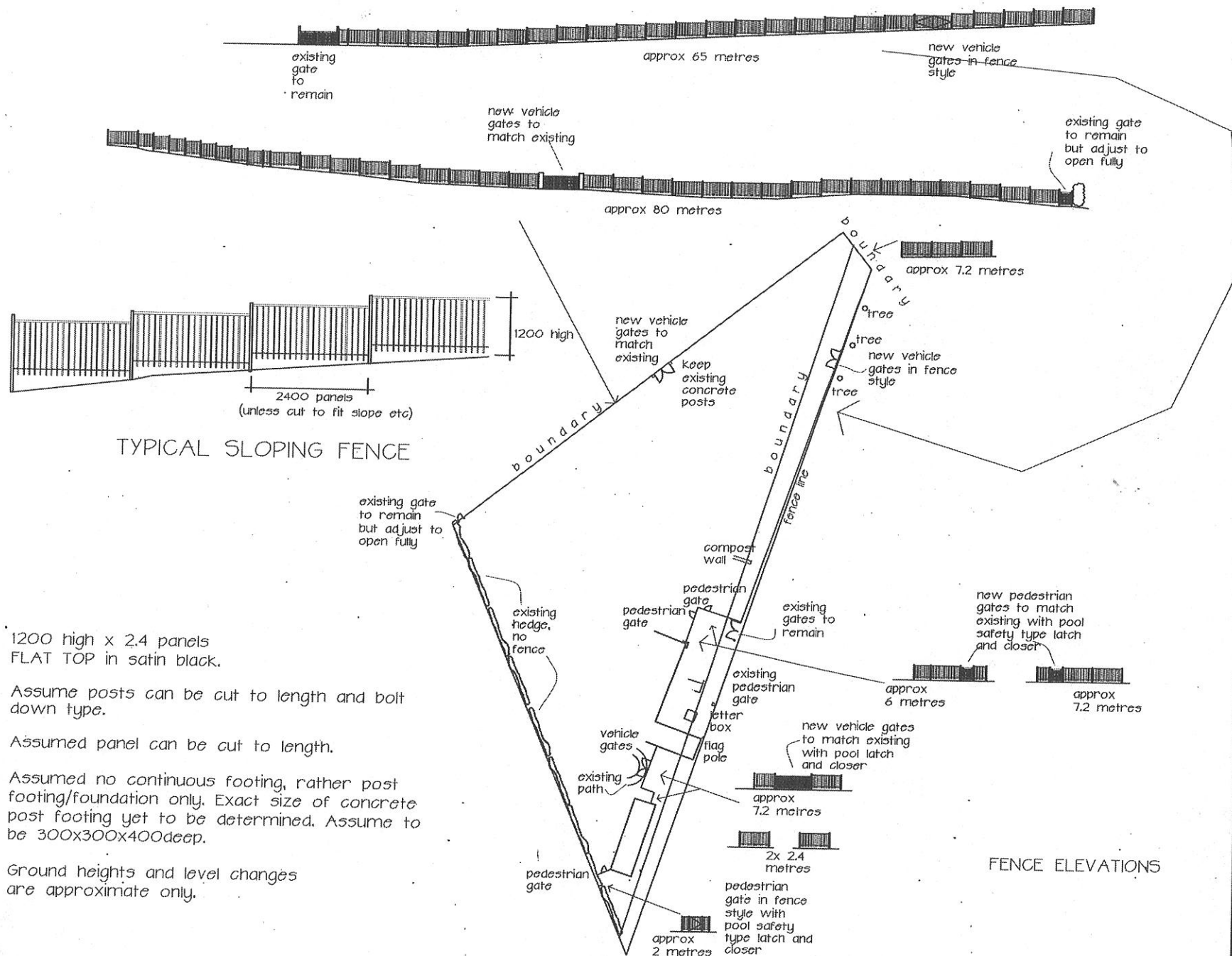
B Survey Plans showing proposed fence design and location





The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Queenstown Lakes District Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented by the GIS data. While reasonable use is permitted and encouraged, all data is copyright reserved by Queenstown Lakes District Council. Cadastral information derived from Land Information New Zealand. CROWN COPYRIGHT RESERVED





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PLANS  
ELEVATIONS

PROJECT  
NEW FENCING  
AT  
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STRATFORD, TCE  
MANAKA


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- extent of encroachments



HOUSE

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### Blue Line Shows Proposed Fence

Red Shaded  
Area Shows  
Public Land  
to be Enclosed

