

**Wānaka Community Board
4 April 2019****Report for Agenda Item: 2****Department: Community Services****Notification of Right of Way and Underground Services Easements associated with 434 Domain Road, Hāwea****Purpose**

To consider an application for a right of way and underground services easements and whether an intention to grant the right of way easement should be notified.

Recommendation

That the Wānaka Community Board:

1. **Note** the contents of this report;
2. **Approve** notification of intent to grant right of way easement over Council recreation reserve (Hāwea Section 32 Block IV Lower Hāwea SD) in favour of the proprietors of 434 Domain Road, Hāwea (Lot 1 DP 491433) with any easement to be registered under Lot 2 of the proposed subdivision plan (Attachment B);
3. **Include** mention of service easements in the notification; and.
4. **Appoint** three Board Members (any two of which can form a hearing panel) to hear any submissions and make a recommendation to Council.

Prepared by:



Dan Cruickshank
Property Advisor - APL

21/02/2019

Reviewed and Authorised by:



Aaron Burt
Senior Planner:
Parks & Reserves
20/03/2019



Thunes Cloete
Community Services
General Manager
21/03/2019

Background

1. The proprietors of 434 Domain Road, Hāwea, being S&T Hewson (herein known as the applicants) have occupied the property for a number of years. Historically, access from Domain Road to the property has occurred via a sealed driveway over an area of Council recreation reserve. Over time the area has been incorporated into the property with landscaping and fencing. The context of the site and surrounds are illustrated in Attachment A.
2. The applicants wish to complete a two lot subdivision of the property and now seek to formalise access over the area of recreation reserve to service proposed Lot 2 of the subdivision plan. A second driveway will be formed directly from the road for Lot 1 of the subdivision plan included as Attachment B.
3. A resource consent for the subdivision is currently being processed. Upon completion of the subdivision, the easement if ultimately approved, may be registered against the newly created Lot 2.

Comment

4. The area of recreation reserve being considered is a 50m square triangular parcel of land that is not accessible to the public, because it is unlawfully fenced into the property at 434 Domain Road, Hāwea. It should be noted that the fence must be removed, and any fencing established along the legal property boundary of proposed Lot 2. The landscaping within the recreation reserve must also be removed, and the area instead sown in grass.
5. The proposed right of way will be over an existing sealed vehicle crossing to the proposed Lot 2 site.
6. Underground lateral connections to existing Council services are included in the request, and the application assumes underground services easements within the right of way easement might be necessary, albeit that the location of the services are not specifically identified. However, for completeness, it is suggested that any notification includes mention of service easements. Establishment of any services will involve excavating a trench, and installing the new services before backfilling and reinstating the surface to its original condition.
7. 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. An intention to grant a right of way easement must first be publicly notified.
8. By granting a right of way easement, the driveway will be formalised and the identified extent of reserve will enable access rights to the adjacent property. As mentioned, the existing fence will need to be removed, as only access rights are being considered, not an occupation which otherwise excludes the public. The reserve will need to be reinstated in grass throughout, excluding the formed accessway.
9. It is the recommendation of this report that public notification is required and that this occur before Council considers the application further.

10. As per Council's Easement Policy calculation of the easement fee has been undertaken by a registered valuer. The easement has been assessed as having a valuation of \$10,000 (ten thousand dollars) inclusive of GST. All other costs associated with surveying, consent, registration and legal fees will be at the cost of the applicant.
11. Final conditions of approval shall be determined and presented at a future Wānaka Community Board meeting.

Options

12. **Option 1** Approve notification to grant Right of Way easement.

Advantages:

13. Will allow the public to provide comment with respect to the use of the reserve.

If eventually approved,

- a. The applicants can access their proposed Lot 2 site directly from the road.
- b. QLDC will receive an easement fee.

Disadvantages:

14. An area of recreation reserve will contain a driveway.

15. **Option 2** Decline the Right of Way easement.

Advantages:

16. An area of recreation reserve will not contain a private driveway.

Disadvantages:

17. Council will not receive an easement fee.
18. This report recommends **Option 1** for addressing the matter because as it will enable Council to receive public submissions, assess any concerns and gauge the public's interest in the matter. Council will then be in a better position to make an informed decision as to whether to grant the easement or not.

Significance and Engagement

19. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it involves a Council recreation reserve, the impact of the decision is minor.

Risk

20. This matter relates to the strategic 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

recreational reserve does carry risk to Council for any future development, and this risk needs to be highlighted when considering approving any easement.

Financial Implications

21. The applicant has paid an application fee and has agreed to pay for all legal, consenting, LINZ and surveying costs to register the easement.
22. Council will receive an easement fee of \$10,000 incl GST, in accordance with the Easement Policy 2008.

Council Policies, Strategies and Bylaws

23. The following Council policies, strategies and bylaws were considered:
 - Significance and Engagement Policy
 - Easement Policy 2008
 - There is no reserve management plan for this reserve
24. The recommended option is consistent with the principles set out in the named policies.
25. This matter is not included in the 10-Year Plan/Annual Plan

Local Government Act 2002 Purpose Provisions

26. 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 and providing Right of Way easement to allow direct access to the subdivided lot from the road.
 - Can be implemented through current funding under the 10-Year Plan and Annual Plan; and
 - Is consistent with the Council's plans and policies.

Consultation: Community Views and Preferences

27. The persons who are affected by or interested in this matter are the general public.
28. The Council planning team have been engaged during the application for resource consent for the subdivision of the applicant's property.

Attachments

- A Overview 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:

434 Domain Rd, Hāwea Easements

Date: 11/10/2018
Version: A
Sheet 1
Drawn By: ER

Legend

- Easement Area
- Primary Land Parcels

Prepared By:



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Prepared For:



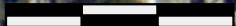
Timsfield Drive

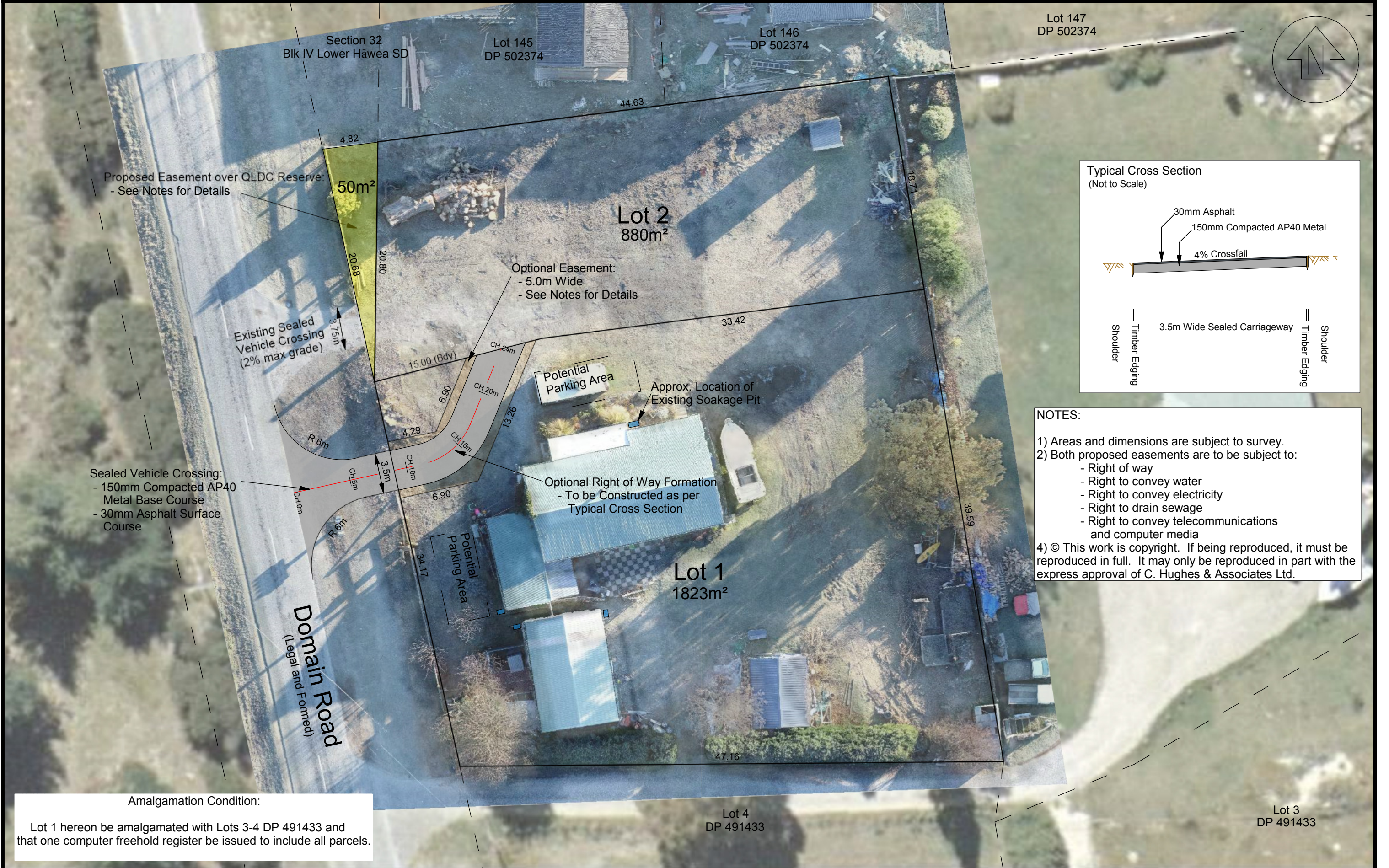
Domain Road

Easement Area

Cemetery Road

25 50 75 m





ISSUE	AMMENDMENTS	DATE
A	ROW, amalg. cond., easements	04/09/18
B	reduced reserve easement	21/09/18
C	edit reserve easement	26/10/18
D		
E		

Scale:
1: 300 (A3)

Datum:
-

Job No:
5727

Plan No:
W1040

Drawn:
TD

Date: **August 2018**