

**QLDC Council****27 August 2015****Report for Agenda Item: 14****Department: Operations****Easement – 21 Arrowtown – Lake Hayes Road****Purpose**

1. The purpose of this report is to consider two underground service easements through Recreation Reserve adjacent to 21 Arrowtown-Lake Hayes Road.

**Recommendation**

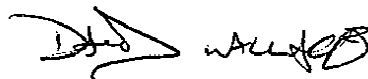
2. That Council:
  - a. Note the contents of this report;
  - b. **Approve** a foul sewer and stormwater easement over Section 65 Block IX Shotover Survey District subject to section 48(1) of the Reserves Act 1977, in favour of the Stark Family Partnership, Lots 1,2 & 3 DP 471486 with final terms and conditions and signing authority to be delegated to the Chief Executive, subject to the below terms:
    - i. Applicant to seek consent from Ngai Tahu
    - ii. Applicant to seek consent from ORC if required.
  - c. **Agree** that notification to grant the easements is not required as the statutory test in section 48(3) of the Reserves Act 1977 is met for the reasons set out below.
  - d. **Agree** to the exercise of the Minister's prior consent (under delegation from the Minister of Conservation) to the granting of the foul sewer and stormwater easements to Stark Family Partnership, grantee Lots 1,2 & 3 DP 471486 over Section 65 Block IX Shotover Survey District.

Prepared by:

Averil Kingsbury  
Property Manager

7/08/2015

Reviewed and Authorised by:

David Wallace  
Senior Planner – Parks and  
Reserves  
10/08/2015

## Background

3. Council administers part of the lakeside recreation reserve and sewage pump station reserve at Lake Hayes.

Lot 5 DP 8152 BLK IX Shotover Survey District, certificate of title OT378/249 has been subdivided by the Stark Family Trust into 4 lots; Lots 1-4 on DP 471486. As a result of the sub-division, the newly created Lots 1, 2 & 3 require stormwater and sewerage drainage. Lot 4 does not require an easement.

4. Resource Consent RM130346 has been sought with engineering approval being granted subject to various conditions.

## Comment

5. This paper considers a request made by Stark Family Partnership for Council to grant two separate underground service easements over part of Council administered Recreation Reserve, described as Section 65 Block IX Shotover Survey District, certificate of title OT 534518 in favour of lots 1, 2 and 3. The pipes have already been installed so this request is retrospective.
6. As per appendix A, Easement G is for the Right to Drain Sewerage and the Right to Drain Water. Easement H is for the Right to Drain Water only.
7. Each Easement is intended to run across the existing Lake Hayes Walking Track on Reserve Land and Bendemeer Bay Reserve which is administered by the Council.
8. As per the Property Law Act 2007, all maintenance and reinstatement responsibilities in regards to the easement will lie with the applicant.
9. 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.
10. Granting an underground easement is permitted by the Reserves Act 1977, however, such easement must be publicly notified unless it can be shown that people's ability to enjoy the reserve is not affected and that there is no long term effect on the land. Council's easement policy also requires a number of matters to be considered. These matters are considered below.
11. Does the easement(s) affect the ability of people to use and enjoy the reserve:
12. A small section of the Lake Hayes Walking Track and Bendemeer Reserve may be required to be excavated to allow for potential futures repairs on the Sewerage and Storm Water plumbing.
13. Easement H will run from the boundary of Lot 3 on DP 471486 to the water's edge of Lake Hayes and therefore there is no reasonable alternate path possible. The applicant will maintain the pipe and outfall area ensuring no long term effects on the land.

Taking into account the above factors, the easement will have a minor temporary effect on the ability of people to use and enjoy the reserve to its full extent. The request complies with Council's easement policy.

14. Are there any alternatives:

15. There are no other alternatives in relation to Easement G, as the pipes connect into existing Council sewerage infrastructure.

16. In relation to Easement H, as the applicant has already installed the pipes, and the request is retrospective, other alternative options are impractical.

17. Consultation

18. As the track is administered by the Department of Conservation, DOC have been consulted and have given their approval for the easement requested.

19. Approval of this easement as specified above has been recommended to be granted subject to the applicant consulting with both Ngai Tahu and ORC.

### **Options**

20. 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:

21. Option 1 The first option is to grant the proposed easements.

22. Advantages: Granting the easements will allow the applicant access to local infrastructure in close proximity at a reasonably low cost.

23. Disadvantages: The potential future repair disruption may temporarily prevent the full enjoyment of the Lake Hayes Walking Track and Bendemeer Reserve.

24. Option 2 The second option is to decline the easements.

25. Advantages: Declining the easement would result in less disruption to the track, as there would be no requirement for future repairs to the drains.

26. Disadvantages: The applicants may not be able to develop Lots 2 to 3 on DP 471486 as in accordance with the applicant's advisors, there are no suitable alternatives to run the sewerage away from the properties. Stormwater could be treated on site with a soakage pit but that option was considered and discounted by the applicants. They have now constructed the stormwater pipes through the reserve. There may also be unnecessary costs incurred by the developer if they are required to seek an alternative solution.

27. Option 3 The third option is to approve easement G for sewerage and water and decline easement H (stormwater).

28. Advantages: Advantages are similar to those discussed in option 1, but declining easement H would result in no stormwater draining into Lake Hayes.

29. Disadvantages: Disadvantages are similar to those discussed in option 2. There may be unnecessary costs incurred by the developer if they are required to seek out an alternative solution for the stormwater drain.

30. This report recommends Option 1 for addressing the matter as it will benefit the applicant and only result in a minor and temporary effect on people's ability to enjoy the reserve if repairs are required in the future.

### **Significance and Engagement**

31. This matter is of low significance as determined by reference to the Council's Significance and Engagement Policy as it does not involve a Council strategic asset, is of low importance to the Queenstown Lakes District, is not of interest to the general community, is consistent with policy and strategy and does not impact on Council's capability and capacity.

### **Risk**

32. This matter relates to operational risk OR003 - Deliver infrastructure services. The risk is classed as low to moderate. A variety of operational risks (such as meeting levels of service, regulatory compliance and the health and safety risks associated with parties using reserves land) are triggered when the Council considers whether or not to grant the approval. This report recommends that the risks associated with this matter are tolerable.

### **Financial Implications**

33. 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.

34. 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 \$556.92 plus GST. An easement application fee of \$600.00 plus GST has also been charged to the applicant, as per the easement policy.

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

35. The intention to grant an easement to a private entity over an existing Council reserve is consistent with s10 of the Local Government Act as it has low impact on the activity or quality of local government. The decision is also cost effective to households and businesses in the district by providing a cost effective solution for the owner.

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

36. The following Council policies, strategies and bylaws were considered:

- a. Significance & Engagement Policy 2014 – approving an easement over a reserve is not considered significant as it does not impact Council's strategic assets, affect a large number of residents, ratepayers and the environment or be expected to create a community interest in the matter.
- b. Easement Policy 2008 – the application is consistent with the Easement policy.
- c. Arrowtown-Lake Hayes Reserve Management Plan – the proposal is consistent with the terms and objectives of the Arrowtown-Lake Hayes Reserve Management Plan. The activity conforms to the Policy 7, providing for the implementation of utility services.
- d. This matter is not included in the 10-Year Plan/Annual Plan. Any future required excavation, installation and reinstatement of the reserve would be paid for entirely by the applicant.

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

37. The recommended option:

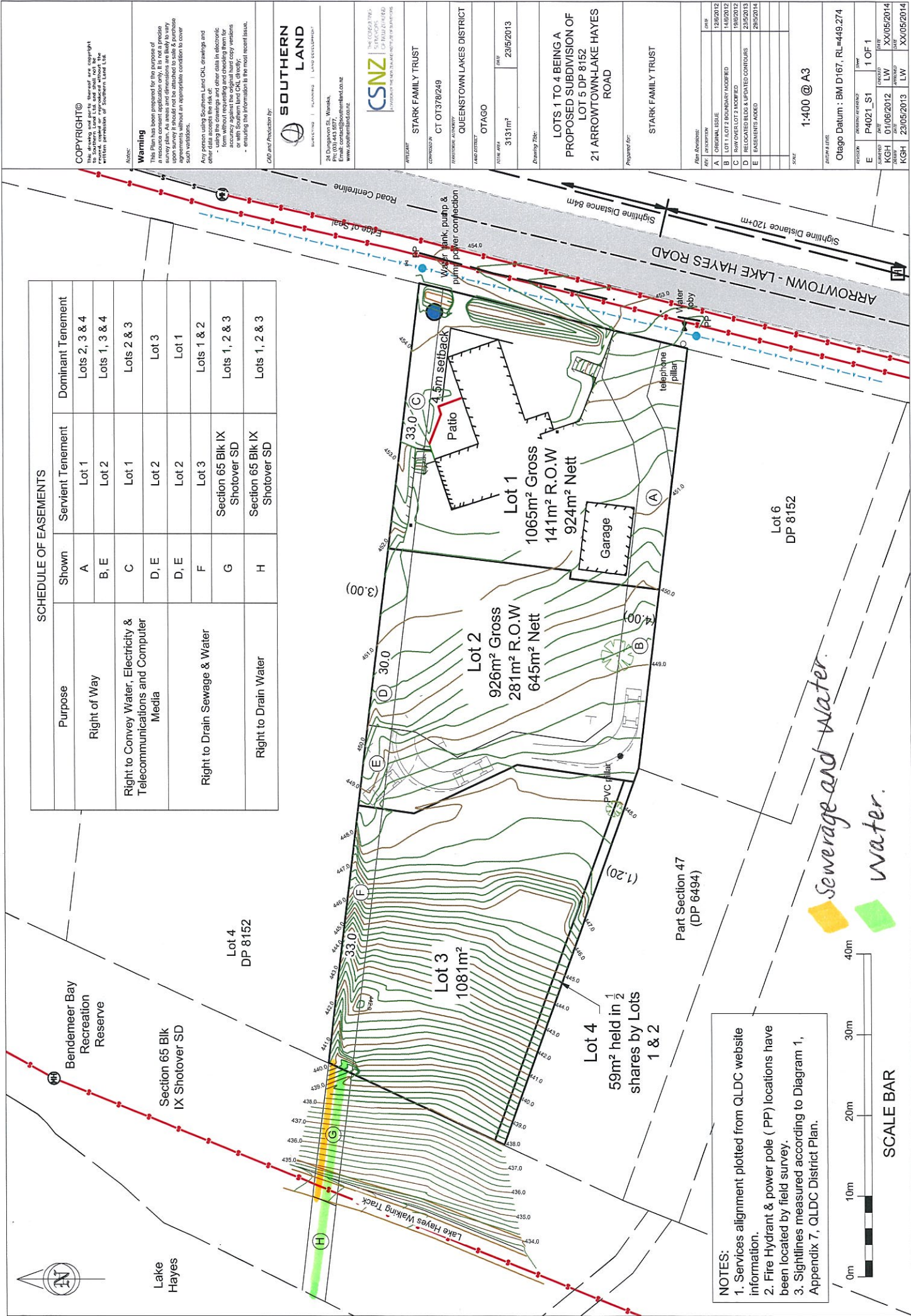
- a. Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses;
- b. Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- c. Is consistent with the Council's plans and policies; and
- d. 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**

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

### **Attachments**

Appendix A - Stark Family Partnership – Easement Drawing  
 Appendix B - Stark Family Partnership – Easement Application



SCHEDULE OF EASEMENTS			
Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way	A	Lot 1	Lots 2, 3 & 4
	B, E	Lot 2	Lots 1, 3 & 4
	C	Lot 1	Lots 2 & 3
Right to Convey Water, Electricity & Telecommunications and Computer Media	D, E	Lot 2	Lot 3
	D, E	Lot 2	Lot 1
	F	Lot 3	Lots 1 & 2
Right to Drain Sewage & Water	G	Section 65 Blk IX Shotover SD	Lots 1, 2 & 3
	H	Section 65 Blk IX Shotover SD	Lots 1, 2 & 3

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SURVEYING | PLANNING | LAND DEVELOPMENT  
24 Dungeness St, Waiwaka,  
Ph: (03) 443 5577,  
www.southernland.co.nz



**STARK FAMILY TRUST**  
CT 01378249

QUEENSTOWN LAKES DISTRICT

OTAGO

3131m<sup>2</sup>

23/5/2013

LOTS 1 TO 4 BEING A  
PROPOSED SUBDIVISION OF  
LOT 5 DP 8152  
21 ARROWTOWN-LAKE HAYES  
ROAD

STARK FAMILY TRUST

Scale: 1:400 @ A3

Olago Datum: BM D167, RL=449.274

Sheet 1 OF 1

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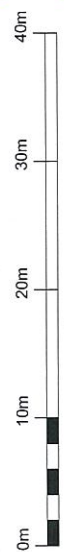
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- NOTES:**
1. Services alignment plotted from QLDC website information.
  2. Fire Hydrant & power pole (PP) locations have been located by field survey.
  3. Sightlines measured according to Diagram 1, Appendix 7, QLDC District Plan.

*Sewerage and water.*



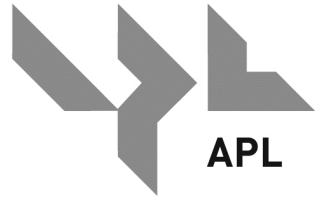
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Property, Project, Resource Management, Valuation

**APL Property Queenstown Ltd**

Level 1, 50 Stanley Street  
P O Box 1586  
Queenstown 9348  
New Zealand

**t:** + 64 (3) 442 7133  
**f:** + 64 (3) 442 7863  
**e:** queenstown@aplproperty.co.nz  
**www.aplproperty.co.nz**



## QLDC Easement Application Form

### 1. Applicant Details

Name (Company/Individual in full)

Stark Family Partnership (Alistair Stark)

Contact Person:

Luc Waite (Southern Land)

Postal Address:

P.O. Box 713, Wanaka

Residential Address:

Brownston House, 21 Brownston St, Wanaka

Full Names of Directors (if applicable):

Phone Day: 03 443 5577

Phone Night:

Cell Phone:

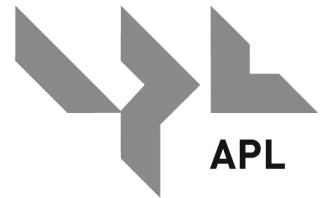


Property, Project, Resource Management, Valuation

**APL Property Queenstown Ltd**

Level 1, 50 Stanley Street  
P O Box 1586  
Queenstown 9348  
New Zealand

**t:** + 64 (3) 442 7133  
**f:** + 64 (3) 442 7863  
**e:** queenstown@aplproperty.co.nz  
**www.aplproperty.co.nz**



Email: luc@southernland.co.nz

## 2. Type of Easement

### 2.1 Type of Easement Sought

~~Right of Way~~/Underground Service(s) (delete where applicable)

2.2 Details of easement: (e.g. stormwater/telecommunications) please attach separate sheets if required

Two easements are sought over QLDC reserve land surrounding Lake Hayes as shown on the attached drawings. 21 Arrowtown-Lake Hayes Road is being subdivided into 4 lots and easements need to be created over the reserve land so that 3 of the lots can drain both sewage and stormwater. The easement shown as G is for the Right to Drain Sewage and the Right to Drain Water and the easement shown as H is for the Right to Drain Water.

## 3. Location of Activity

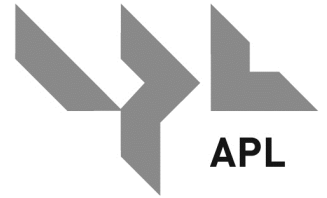
### 3.1 Activity Address

21 Arrowtown-Lake Hayes Road

### 3.2 Legal Description of affected property

Section 65 Blk IX Shotover SD





### 3.3 Rating Valuation Number of affected property

N/A

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### 3.4 Location of proposed easement (please supply a plan detailing the approximate location of easement)

The easements will run over QLDC reserve land neighbouring Lake Hayes.

See plan attached

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## 4. Description of Activity

4.1 What is the proposed activity? Please include a detailed description attaching any site photos, site plans and drawing. Please detail construction methods, transport means, please use additional sheets if required

As described above three of the news lots need to drain both sewage and stormwater.

Please refer to the engineering drawings and title plan attached.

Standard pipe construction methods will be utilised for all underground service installation. QLDC engineering approval has been obtained.

There is an existing QLDC sewage line running along the lakeside track as shown on the attached drawings. The sewerage system is conventional, utilising 150mm  $\varnothing$  uPVC piping running along the northern boundary and connecting to the existing network down at the Lake Hayes Track. A new maintenance structure will be constructed at this intersection and a drop structure employed within the manhole.

Stormwater from within the site will be discharged via a new 150mm ø uPVC outfall which will flow into Lake Hayes. Runoff from the accessway will be gathered via a single sump at the cul-de-sac head, discharged into this 150mm pipe. 100mm lateral connections from house sites on Lots 1, 2 & 3 will connect into this system. This system has double the capacity required by council.



View down to Lake Hayes along the pipe alignments.

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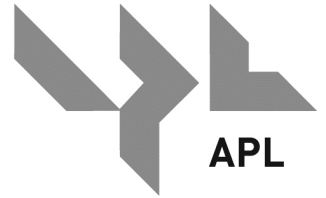
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#### 4.2 Proposed dates/months of construction

The proposed construction months are March/April.

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#### 4.3 Details of actual and Potential Effects of proposal, please attach separate sheets if required

The potential effects from this proposal centre on the stormwater system. There is a possibility that an unreasonable amount of sediment may enter Lake Hayes but this will be mitigated as detailed below in 4.7.

Overall it is considered that the proposed connections to services are appropriate and that they will result in a less than minor effect on the environment.

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#### 4.4 Details of alternative locations sought?

Our first option for the treatment of stormwater was to utilise soak pits on site. We consulted with Mr Nick Knowles from Asset Management Services to tell us whether or not this was feasible. The conclusion was that on site soak pits would not work on this site due to the unfavourable ground conditions that are present.

There were no other alternatives sought for the foul sewer system.

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#### 4.5 Is there any other route that may be reasonably used to obtain access? Please provide details

N/A

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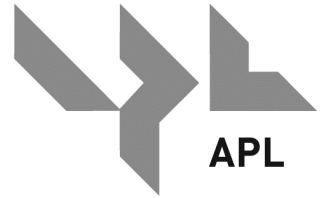
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#### 4.6 Details of negotiations with other landowners adjoining the property and along the proposed easement route

There are no other landowners adjoining the property that will be affected so no negotiations have taken place.

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#### 4.7 Details of any engineering designs to mitigate the impact of this easement?

Refer engineering drawings

The stormwater system has the greatest potential to cause an impact via unreasonable amounts of sediment entering the Lake. To mitigate potential impacts a number of things have been implemented. Firstly, the ROW from which a large portion of the runoff will flow is to be sealed which will minimise sediment entering the system. Also, the one and only sump required to capture the ROW runoff is a standard sump and calculated such that it has the capacity to store any sediment that does enter it.

Stormwater entering the system from the house connections will be free from any sediment so will not pose any impact.

The outlet for the stormwater into Lake Hayes will be surrounded by rip rap so as to slow the flow of the water and lessen the impact of potential scouring. This slowing of the water will also cause any sediment still in the system to drop out and collect within the rip rap.

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### 5. Consultation

5.1 Please describe the kind and level of consultation undertaken with affected parties in regards to this proposal. QLDC recommends that consultation be undertaken with Ngai Tahu and DOC.

N/A

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