

**Wanaka Community Board  
15 August 2019****Report for Agenda Item | Rīpoata moto e Rāraki take: 4****Department: Property & Infrastructure****Title | Taitara Licence to Occupy Road Reserve – 221 Lakeside Rd, Wanaka****PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO**

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The purpose of this report is to consider granting a Licence to Occupy Road Reserve to the property owners of 221 Lakeside Rd, Wanaka for landscaping within road reserve.

**RECOMMENDATION | NGĀ TŪTOHUNGA**

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That the Wanaka Community Board:

1. **Note** the contents of this report;
2. **Grant** a licence to occupy Lakeside Road road reserve to the property owners of 221 Lakeside Rd, Wanaka for landscaping subject to the following conditions;
  - a. All services including phone, power and gas within the road reserve and any water, sewer and storm water services must be identified and catered for and no compromise shall be made to Council Infrastructure or access to same.
  - b. Landscaping is to be maintained by the Licensee so that it remains in good appearance and no safety hazard is created from overgrown landscaping on to the footpath or road kerbing.
  - c. Any planting in the area marked with an 'X' on Appendix D (the area where sight lines can be blocked) shall be of a species that does not grow beyond a maximum of 1m in height at maturity – i.e. low lying shrubs or grass.
  - d. The Licensee consents to a Covenant in Gross being recorded against the title of Lot 17 DP 11990 to ensure the recommended terms and conditions of the Licence continue in perpetuity for all future owners of the property.
  - e. The licence shall remain at Council's pleasure.

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12/07/2019

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22/07/2019

## CONTEXT | HORPOAKI

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- 1 The owners of 221 Lakeside Road, Wanaka, legally described as Lot 17 DP 11990 have recently constructed a house on their property. As part of the construction they landscaped around the building, including an area of legal road reserve approximately 150m<sup>2</sup>.
- 2 This activity was noted by QLDC's Monitoring and Enforcement team who alerted the owners that such use of the road reserve was not permissible without Council's approval.
- 3 The owners, (herein referred to as "the Applicants"), have subsequently applied to QLDC for a Licence to Occupy the Road Reserve for their landscaping and, as part of that application, undertaken to maintain the landscaping going forward.
- 4 The applicants have apologised for undertaking the works before seeking approval and noted that they had not realise this was necessary.
- 5 The applicants have advised that the intention of the landscaping was to clean up the road frontage and leave it maintenance free for both themselves and QLDC. Prior to this work, they state that the area was difficult to maintain due to the unevenness of the land which contained weeds, rabbit holes, potholes and protruding rocks.
- 6 The landscaping installed consists of approximately 200 native ground cover plants and Griselinia. The area is irrigated and has had mulch added to suppress weed growth.

## ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

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- 7 Council's Engineers have been consulted in respect to the landscaping and have expressed no significant concern other than to note;
  - a. Council must retain the right to remove the landscaping should it need. It was considered possible that Council may need to improve the footpath in this area and possibly the drainage, both of which have the potential to affect the planting.
  - b. The applicants would need to undertake adequate maintenance of the landscaping to prevent the safety hazards, such as overgrowth onto the footpath.
- 8 Griselinia can grow up to 3m in height. As the property is on an intersection, it is possible that they may affect sightlines.
- 9 Council's Engineers have prepared an aerial photo plan with a line shown through the intersection where clear line of sight is required. To maintain sightlines no planting with a mature height greater than 1m should be planted in this area. The height of any planting must be relative to the pavement level so if the ground is elevated from the road planting shall be chosen to ensure no plant at maturity is higher than 1m above the pavement which is representative of the eye level of someone sitting in a car. The applicants have confirmed that they have not planted any Griselinia in this area however it is recommended that any licence granted contain a condition in regard to ensuring not planting will breach these requirements when it is mature.

- 10 Council's Urban Verge Mowing Policy 2007 assumes most verges are grassed and places the civic responsibility of maintaining grassed verges on the adjacent property owner. While the applicant notes that the landscaping has minimised the maintenance required by Council, if the area was grassed, the responsibility would have remained with the owner regardless, in accordance with the bylaw.
- 11 QLDC doesn't currently have a policy in place for Licences to Occupy Road Reserve. QLDC have however granted licences for landscaping in the past under similar conditions proposed in this report.
- 12 Option 1 Grant the Licence to Occupy Road Reserve application subject to the conditions proposed above.

*Advantages:*

- 13 The applicants will be able to retain their landscaping which will avoid the expense of removing it and replanting with grass.

*Disadvantages:*

- 14 Council may need to expend resources in enforcing the terms and conditions of the licence if not adhered to.
- 15 An area of public road will be encumbered for private purposes.
- 16 Option 2 Decline the Licence to Occupy Road Reserve application.

*Advantages:*

- 17 Private use of the road reserve will be removed.
- 18 Council will not need to monitor the licence area to ensure adherence with the terms and conditions.

*Disadvantages:*

- 19 A member of the public will need to go to the expense of reverting their landscaping to grass.
- 20 This report recommends **Option 1** for addressing the matter as approval can be granted under terms and conditions deemed appropriate by Council's roading engineers and it will avoid the expense of replacing the landscaping.

## CONSULTATION PROCESS | HĀTEPE MATAPAKI:

### > SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 21 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.

22 There are no persons, other than the applicants, identified who are adversely affected by or would be significantly interested in this matter.

23 The Council has not consulted members of the public or any other groups on this matter.

#### **RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA**

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24 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00009 within the QLDC Risk Register. This risk has been assessed as having a High inherent risk rating.

25 This matter relates to this risk because a property right contained in the road reserve does carry risk to Council for any future works. The risk has been mitigated by retaining the right to terminate the licence at short notice.

#### **FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA**

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26 The Applicants have paid a fee for their application to be processed which includes the preparation of the licence document if successful.

27 Should legal review of the licence be required, Council's legal costs will be recovered from the applicant.

28 Council's legal costs to have the Licence recorded against the applicant's title by a Covenant in Gross will be recovered from the applicant.

#### **COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA**

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29 The following Council policies, strategies and bylaws were considered:

- Significance and Engagement Policy 2014
- Council's Urban Verge Mowing Policy 2007

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

31 This matter is not included in the Ten Year Plan/Annual Plan as the cost of the licence will be met by the applicant

#### **LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA**

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32 The recommended option:

- 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.

## ATTACHMENTS | NGĀ TĀPIRIHANGA

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A	Location Plan
B	Site Aerials
C	Photographs of landscaping
D	Sightline Plan